

Approved regulator (AR)		Solicitors Regulation Authority (SRA) & The Law Society (TLS)	
Final application	Type of format received	Confirmed receipt of application	Document link
Receipt of final application on 15 July 2011	Email	Email through query responses	http://www.legalservicesboard.org.uk/Projects/independant_regulation/2011_practising_fee_applications.htm

Pre-draft application process including draft documents or correspondence received for assessment against the final application

	Yes or No	Description	Date received
Did the LSB receive a draft application?	Yes	-	20 June 2011
Was there a pre-meeting between AR representatives and the LSB?	Yes	Pre meeting with LSB and SRA/TLS colleagues	22 June 2011
Do we have any concerns arising from the draft application?		No major concerns; additional information requested at the meeting on 22 June 2011	-
Have these concerns been resolved?	Yes	Additional information received with the final application	15 July 2011
Have the concerns highlighted in the previous year's approval letter been dealt with to the satisfaction of the LSB in this year's application?	Yes	We noted two issues of concern in last year's application which we indicated that must be addressed in the 2011/12 application. The first issue was to give a breakdown of costs for each permitted purpose. In reference to this concern, the LSB has since conducted an evaluation of the PCF process for 2010/11 and agreed with ARs that this breakdown is difficult due to the cross-over of expenditure categories to more than one-permitted purpose and is no longer required. However, the LSB will require a breakdown of regulatory, non-regulatory and permitted purpose (SRA and TLS) activities. The second issue of concern last year was the lack of detailed evidence on how TLS's expenditure has been allocated between permitted and non-permitted activities in the main application. Additional information received as part of the approval process on 8 August 2011 has provided some assurance that the approach adopted by TLS is not prima facie unreasonable, although we would have expected an appropriate methodology to have been specified in greater detail. We understand that an Internal Audit is to be conducted by TLS on section 51 issues. This seems an appropriate vehicle to address this issue in a proportionate way. We therefore expect an opportunity to comment on the draft terms of reference for the report and to receive an unabridged copy of the final report by the end of February 2012.	-

Summary

The LSB has the appropriate information in which to consider the application against the Practising Fee Rules 2009 and the LSB criteria. For the first time the LSB will approve the Licensed Body (LB) periodical fee [refer out in pages 57-63 of the application]. The fee structure is similar to that for Recognised Bodies (firms or entities) and uses an identical turnover banding. The SRA's approach to the LB fee and the LB application fee level) has been considered under the rule approval process dealing with the SRA application to become a Licensing Authority. The application fees to apply to become a LB have been approved by the LSB under the rule approval process and will be enacted when the SRA becomes a Licensing Authority, therefore the section 51 process includes the approval of the LB periodical fee only.

Overall level of concern No concern

Section 1: Developing the application and setting the budget

This section of the criteria refers to D10a & D11a /D11d of the Practising fee Rules 2009.

Criteria - application	Yes or No	LSB Assessment
Is there a description of how the application was developed and settled?	Yes	The application was developed and settled with agreed arrangements between the SRA and TLS in setting the budget. It includes an equivalent consultation process.
Is there sufficient detail to make an assessment of 'reasonable care' when settling the application?	Yes	The application was developed and settled around the 2011 budget and looks forward to the next 3 years. The budget takes into account the cost of regulating licensed bodies as far as can be anticipated at this time.

Overall comments

No comments

Evaluation

The application meets the criteria and evidence for Section 1: Developing the application that must be provided for this section in each PCF application.

Level of concern

No concern

Criteria - budget	Yes or No	LSB Assessment
Is there a description of how the budget was developed and settled?	Yes	Set under agreed arrangements between TLS and SRA, TLS consult with SRA to determine the total PCF income to be realised. The SRA then determines the amount for regulation and how it will be apportioned between the different category of fee payers.
Is there evidence that the budget was settled in light of immediate and medium term budgetary needs?	Yes	Budget or net funding requirement for TLS is based around 2011 budget and looks forward to the next 3 years i.e. the 2011/12 PCF year and the following 2 years to take into account the short and medium term funding requirement. SRA Enabling Programme (new IT etc) and TLS Blueprint has also been taken account of so far as information is known.
Is there a description of contingency arrangements?	Yes	SRA can seek approval for additional funding. TLS has sufficient reserves to accommodate such requests if satisfied they are justified. Reserves at 31 Dec 2010 were c.£129m; some calls on reserves already proposed, the most significant being the buy-out of the pension scheme at £60m.
Does this include a section on the consultation undertaken with practitioners?	Yes	An equivalent consultation process was conducted [see Section 4 of this assessment summary].

Overall comments

No comments

Evaluation

The application meets the criteria and evidence for Section 1: Setting the budget that must be provided for this section in each PCF application.

Level of concern

No concern

Section 2: Permitted purposes

This section of the criteria refers to D10b & D11e/D11b of the Practising fee Rules 2009.

Criteria	Yes or No	LSB Assessment
Is there evidence that the income raised through PCF charge are applied solely to the permitted purposes ?	Yes	The application gives assurance that it is only the costs for permitted activities which are included within the net funding requirement and the practising fee [refer to Section 2: page 7 of the application].
Does it include a budget that shows the anticipated income from practising fees?	Yes	£94.8m (2011/12 Budget year) compared to £121.2m (2010/11 Current year budget) [refer to Table 2; page 6 of the application]

Criteria	Yes or No	LSB Assessment
Does it include an analysis of expenditure against the permitted purposes?	Yes	The application gives a high level breakdown of total expenditure by permitted purposes. After the evaluation of the PCF process conducted in 2010, the LSB agreed with ARs that it was difficult to accurately apportion costs to each permitted purpose set out in the Legal Services Act 2007 as there are overlaps between each expenditure categories and each permitted purpose. For the 2011/12 Budget year, the total expenditure was £100.4m; consisting of SRA budget (£53.4m), TLS budget on permitted purposes (£21.9m), Levy (£22.9m) and SDT budget (£2.2m) [refer to Table 2; page 6 of the application].
Does it include an analysis of income and expenditure related to all other expected income to be applied to permitted purposes?	Yes	TLS indicate income and expenditure relating to non-permitted activities [see Table 3; pg8 of the application]. For the 2011/12 Budget year, total non-s51 income was £9.7m consisting of TLS non-s51 income (£12.3m) and non-s51 income to permitted purposes (-£2.6m; this is a surplus that reduces the PC fee requirement relating to TLS permitted activities. it is included in the budget of total PCF income and expenditure allocated to non-regulatory functions as non-s51 income (TLS) [see Table 5; pg12-13 of the application]. For commentary on how TLS's work has been divided into permitted and non-permitted activities see paragraph in the middle of pg13 of the application.

Overall comments

The LSB highlighted a concern last year regarding the lack of detailed evidence on how TLS's expenditure has been allocated between permitted and non-permitted activities in the main application. Additional information received as part of the approval process on 8 August 2011 has provided some assurance that the approach adopted by TLS is not prima facie unreasonable, although we would have expected an appropriate methodology to have been specified in greater detail. We understand that an Internal Audit is to be conducted by TLS on section 51 issues. This seems an appropriate vehicle to address this issue in a proportionate way. We therefore expect an opportunity to comment on the draft terms of reference for the report and to receive an unabridged copy of the final report by the end of February 2012.

Evaluation

The application meets the criteria and evidence for Section 2: Permitted purposes that must be provided for this section in each PCF application.

Level of concern

No concern

Section 3: Regulatory functions

This section of the criteria refers to D10c D10d & D11c of the Practising fee Rules 2009.

Criteria	Yes or No	LSB Assessment
Is there clarity and transparency of how the PCF income collected by practising fees is applied to permitted purposes which are regulatory functions (not representative)?	Yes	For the 2011/12 Budget year, the SRA's total income allocated to the permitted purposes for regulatory functions is £68.2m, consisting of total PCF income (£53.4m), recoveries (£8.1m; down from £18.3m the 2010/11 current year due to a change in policy regarding recharges from the compensation fund will result in lower recoveries) and other income (£6.7m). The total expenditure was £68.2m; consisting of the SRA CEO office (£6.2m), authorisation (£23.3m), legal (£11.5m), supervision (£12.5m) and resources (£14.7m) [see Table 4; page 10-11 in application]. For further clarity on the details of each expenditure category [refer page 11 of the application]
Is there a description of shared services?	Yes	The central costs and shared services between TLS & SRA have been allocated on a number of drivers, mainly headcount [Table 2; page 6 of the application]. For 2011/12 Budget year, PCF income to SRA is £53.4m (of which £19.9m goes to central costs and shared services. PCF income to TLS for permitted purposes is £21.9m (of which £8.9m goes to central costs and shared services). Therefore, total central costs and shared services from PCF income is £28.8m PCF (this total corresponds with the total in PCF income of £28.9m (differs to rounding) set out in Table 6; page 13 of the application. For details on the allocation of central costs and shared services see commentary on page 13 and 15 of the application.

Criteria	Yes or No	LSB Assessment
Is there clarity and transparency of how the PCF income collected by practising fees is applied to permitted purposes which are not regulatory functions ?	Yes	For the 2011/12 Budget year, total income allocated to the permitted purposes for non-regulatory functions by TLS is £28.8m [see Table 5; page 12 of application] consisting of s51 income (£4.0m), non-s51 income (£2.6m refer to table 3; pg 8 of the application), total PCF income (£21.9m) and recoveries (£0.3m). The total expenditure on permitted purposes that are non-regulatory functions by directorate is £28.8m consisting of CEO/Private office (£1.7m), General Counsel (£4.3m), Govt Relations (£0.4m), Communications (£4.4m), Legal Policy (£3.8m), Law Society Services (£14.2m). For further clarity on the details of the contents of each expenditure category [refer page 9 of the application]

Overall comments

No comments

Evaluation

The application meets criteria and evidence for Section 3: Regulatory Functions that must be provided for this section in each PCF application.

Level of concern:

No concern

Section 4: Clarity and transparency

This section of the criteria refers to D10e of the Practising fee Rules 2009 & section 51(b) of the Act

Criteria	Yes or No	LSB Assessment
Consultation with members		
Does the application include a description of their consultation undertaken with their members mandated to pay practising fees?	Yes	On 30 June 2011, sections 1-3 of the application were published on TLS and SRA websites with a 'plain English summary of the fees' and an overview of how the money is being spent. The profession was given opportunity to make representation to the Council on 13 July. Other consultation from March to May 2011 include: a note on SRA website/letters sent to stakeholders on structure of fee and compensation fund; consultation on ABS fee structure; and the SRA Board had review of previous year's fee structure and published on SRA website; a letter was sent to firms with proposal to maintain fee structure; an online calculator was made available for calculating fees.
If yes, does the description of the consultation process include transparency and clarity of how the fee level has been set and how the money collected will be used?	Yes	A full consultation process on the structure of the fees was conducted last year; this year the structure will remain unchanged. The communications between TLS/SRA and those who pay a practising fee (as set out above) in terms of the fee levels are deemed as a sufficient level of equivalent consultation for this year. The fee level for individuals has reduced along with the total PCF income to be collected through recognised body fees.
If yes, does the application also include a description of how that feedback influenced the decision-making and policy development processes?	Yes	There were no major issues raised at the 13 July meeting. The ABS Fee Structure received 19 responses, the major issue raised was how to classify turnover of an ABS. It was decided that the SRA would review the turnover figure to reflect the legal services provided.

Criteria	Yes or No	LSB Assessment
Consultation with members		
In terms of the level of information provided to members, does the application include the recommended use of the 'Council Tax bill' analogy and/or another form of web-based linked information?	Yes	The information in the equivalent consultation have been made available online at the TLS and SRA websites.
If yes, when was this information issued to the mandated members paying the practice fees i.e. as the fee note issued or shortly afterward?	Yes	Upon the final fee decision by the LSB a similar level of information will be published on the TLS and SRA website.

Overall comments

The consultation undertaken this year was more limited than that undertaken in 2010. As a significant exercise was conducted last year on the structure of the PCF fee allocation which remains unchanged for this year and the fact of the reduction in both the individual PCF charges and the total PCF income to be raised through the recognised body fee means that we do not consider this a decisive issue in respect of this approval. However, we will usually expect more extensive consultation to be undertaken so that the SRA and TLS are in touch with stakeholder views on the levels and approach.

Evaluation

The application meets the criteria and evidence for Section 4: Clarity and Transparency that must be provided for this section in each PCF application.

Level of concern: **No concern**

Section 5: Regulatory and Equality Impact Assessment (EIA)

This section of the criteria refers to D11f of the Practising fee Rules 2009

Criteria	Yes or No	LSB Assessment
Does the application include a regulatory or diversity impact assessment?	Yes	The EIA includes the impact on potential ABS firms. There are no adverse impacts on any particular groups; with a small positive impact on BME and women solicitors who disproportionately concentrate as in-house solicitors due to the overall drop in the individual fee (and a decrease in the PCF income to be collected through the firm/entity fee). The EIA sets out monitoring and review processes [See appendix 2; page 33 to 37 of the application].
If no, does the application include a description of how the proposals may potentially impact on various groups (this include the impact of increased fees if appropriate)?		N/A
Does the application include a description of how the proposals have been developed in light of the Regulatory Objectives as set out in the Legal Services Act 2007 and Better Regulatory principles?	Yes	The SRA Board reviewed the new fee structure in early 2011 and concluded that the principles adopted to underpin the fee policy last year also reflected the relevant statutory regulatory objectives and principles of good regulation [refer to Section 5; page 17 of the application and paragraph 46 of the Conclusion on page 26 of the application].

Overall comments

No comments

Evaluation

The application meets the criteria and evidence for Section 5: Regulatory and Equality Impact Assessment that must be provided for this section in each PCF application.

Level of concern:

No concern

Section 6: Consultation with non-commercial bodies and others

This section of the criteria refers to D12 of the Practising fee Rules 2009 & Section 51 (7) (a) of the Act

Criteria - non-commercial bodies	Yes or No	LSB Assessment
Does the application include a description of steps the AR has taken to ensure the impacts of the persons providing non-commercial legal services have been considered when setting the fees?	Yes	The application details that the impact on the non-commercial sector of fee setting in 2011 would likely to be neutral or beneficial as the individual PCF has been decreased.
Has the AR shared details of the practising fee level with appropriate bodies such as the Law Centres Federation, Citizens Advice and Advice Service Alliance in advance of the submission of the application?	Yes	Yes, in June 2011 a letter was sent to each group.
Have the non-commercial bodies provided any response to the details shared to them by the AR?		One response was received by the Advice Service Alliance who were in favour of the proposals.

Overall comments

No comments

Evaluation

The application meets the criteria and evidence for Section 6: Consultation with non-commercial bodies that must be provided for this section in each PCF application.

Level of concern:

No concern

Final assessment and decision

Summary of LSB assessment - i.e. Approval and/or approval with conditions or rejection

We recommend that the 2011/12 practising certificate fee (PCF) levels and the licensed body's periodical fees, as set out in the SRA/TLS PCF application for 2011/12 and supporting documents of 15 July 2011, be approved by the LSB. This decision is to be made under the authority delegated to the Chief Executive by the LSB Board

Criteria - others	Yes or No	LSB Assessment
Have we considered if we need to consult with anyone else on this application?	Yes	We did not consider it necessary to consult any other group.
If yes, what consultation has taken place and with whom?		N/A
What was the outcome of this exchange i.e. Do we have any immediate concerns that has the potential to delay the approval of the application?		N/A

Overall comments

No comments

Evaluation

The application meets the criteria and evidence for Section 6: Consultation with others (if appropriate) that must be provided for this section in each PCF application.

Level of concern:

No concern