

Approved regulator (AR)	The Master of Faculties (MOF)
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Final application	Type of format received	Confirmed receipt of application	Website link
Receipt of final application on 09 September 2011	Email	Emailed	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?		-	-
Was there a pre-meeting between AR representatives and the LSB?		-	-
Do we have any initial concerns arising from the application?		-	-
Have the concerns or issues of clarification (if any) been resolved?		-	-
Does the final application include a section on how the AR has dealt with the areas for improvement (if any) highlighted in the previous year's approval letter? If yes, have these issues been dealt with to the satisfaction of the LSB?		There were no issues areas for improvement highlighted in the previous year's decision letter.	-

Summary

The LSB have the required information to consider the application against the PF Rules 2009 and criteria.

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 MOF has no representative functions and therefore have settled the application in light of their regulatory needs which fall under the definition of the permitted purposes set out in the Legal Services Act 2007.
Is there sufficient detail to make an assessment of 'reasonable care' when settling the application?	Yes	The budget relies on the assumption that the number of Notaries reapplying for a notarial PC will remain similar to earlier years. The PCF Project team consulted with the LSB Finance Manager and although there was a small decrease (3%) in Notaries reapplying the numbers were a similar level to last year.

Overall comments

No comment

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	The MOF indicate that they operate on a calendar year accounting period. As the practising year differs to the accounting year the budget reflects fees to be collected from both periods.
Is there evidence that the budget was settled in light of immediate and medium term budgetary needs?	Yes	The MOF propose a 11.75% (£40) increase to the PCF compared to the previous year. This is required to reduce the accumulated deficit to nil, and takes into consideration the LSB and OLC levies which the MOF indicate constitutes a substantial proportion of the total proposed increase. The PCF Team consulted with the LSB Finance Manager and there has not been a significant increase in the MOF's LSB and OLC contributions this year. It is likely that the increase in the fee level is intended to cover the increase of expenditure on LSB and OLC related work rather than the increase in the levies.
Is there a description of contingency arrangements?	Yes	The MOF run a tight budget with almost no change to expenditure categories year on year with the exception of the levies raised for LSB and OLC costs. The MOF budget ran at a surplus of £2,412 year end 31 Dec 2010 (compared to a £15,767 surplus for the year end 31 Dec 2009). The £2,412 surplus reduces the accrued shortfall to £17,642. The proposed increase to the PCF is intended to reduce the accumulated shortfall from earlier years to nil.
Does this include a section on the consultation undertaken with practitioners?	Yes	Yes, please refer to Section 4 of this assessment tool summary.

Overall comments

The MOF proposes an increase to contributions to the Contingency Fund to £20 (compared to £10 the previous year) this additional fee is collected at the same time as the PCF. The Contingency Fund is not a part of the MOF's usual income but is a separate ring-fenced fund used to cover the cost of disciplinary procedures. Please note that all individual Notaries must be insured and therefore any compensation claims made by customers (should they arise) would be covered under the terms of their individual insurance policies.

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 MOF has no representative functions. The profession is served by two representative societies, namely, the Society of Scrivener Notaries and The Notaries Society. The distinction between these functions are clarified in the LSB Internal Governance Rules 2009 made by MOF. All MOF income from PCF is expended on the permitted purposes, and almost entirely on the regulation and accreditation of notaries.
Does it include a budget that shows the anticipated income from practising fees?	Yes	The total PCF income to be collected for year end 31 Dec 2011 is £323,000 (from a total overall income of £353,750). The 2011 figure is based on estimated renewals of 850 Notaries at the proposed PCF level of £380 per Notary (a 11.75% increase from £340 for the year end 31 Dec 2010). <i>See Page 4, Annex 1 of the application.</i>

Criteria	Yes or No	LSB Assessment
Does it include an analysis of expenditure against the permitted purposes?	Yes	The application includes an analysis of expenditure from 2010, which reflects the nature of the expenditure to be made in 2011. The MOF runs a tight budget with almost no change to expenditure categories year on year. The three largest expenditure items in 2010 (which reflects the nature of spend in 2011) includes: Salaries (£157,458), Registrar's Fees (£25,511) and Levy Fees (£39,080). <i>See Page 5, Annex 2 of the application.</i>
Does it include an analysis of income and expenditure related to all other expected income to be applied to permitted purposes?	Yes	The total overall income to be collected for year end 31 Dec 2011 is £353,750; this is made up of PCF income (£323,000), appointment fees (£27,000) and Certificate of Exemption fees (£3,750). The MOF have previously indicated that all of their income regulatory functions.

Overall comments

No comment

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	MOF has an exclusively regulatory function and none of the costs the MOF incurs fall outside permitted purposes as prescribed at rule 6 of the LSB Practising Fee Rules 2009.
Is there a description of shared services?		There are no shared services.

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 ?		There are no non-regulatory functions

Overall comments

No comment

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	The MOF consulted with their members by formally writing to the secretaries of the two representative societies. In April 2011, the Registrar attended a meeting with the Notaries Society Council where he submitted a report including the proposal to the increase in the PCF fee for the coming year. The secretaries of the two representative societies were then tasked with consulting with their members and reporting any feedback to the MOF.
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	The representative societies were given the accounts for the previous financial year and a note of how the PCF were determined.
If yes, does the application also include a description of how that feedback influenced the decision-making and policy development processes?		The MOF received no adverse comment in relation to the proposed PCF levels.

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 Master will inform members of the profession of the proposed fees during his speech at the Notaries Society annual conference on 23 September 2011 [subject to LSB approval].
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	Subject to LSB approval of the level of the PCF, the MOF will include a reference to an explanatory note on the level of the fees to be made available to access by members on the MOF website or the information maybe requested separately from the MOF.

Overall comments

No comment

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?		No
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)?	Yes	The MOF do not consider that the level of the fees will have any adverse effect on the diversity of the profession. The MOF also indicate that by adopting a flat fee as opposed to a variable fee, it would not be possible to effect a system which is any fairer.
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?		No

Overall comments

No comment

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?		No
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?		N/A
Have the non-commercial bodies provided any response to the details shared to them by the AR?		N/A

Overall comments

Similar to the process adopted last year, non-commercial bodies have not been included in the consultation process. The MOF have advised that almost all Notaries are members of the two representative notarial societies and the MOF are not aware of anyone who is practising in a non-commercial body.

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 level of the practising certificate fees as set out in the MOF application for 2011/12 and supporting documents received 26 August 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	The LSB 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**