

Approved regulator (AR)	CLSB
--------------------------------	-------------

Final application	Type of format received	Confirmed receipt of application	Website link
Receipt of final application on 19 October 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
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?	Yes	The LSB was asked to provide comment on queries from both ACL and CLSB on the structure of the PCF application. Among other issues raised the LSB were asked if the ACL and CLSB could submit two separate PCF applications for LSB approval. The LSB advised that one application would be preferred, as two applications would be administratively more burdensome for both the LSB to process and the ACL/CLSB to submit in two parts. The LSB also emphasised that it may also cause confusion with authorised persons charged with paying the fee as to why they are being charged two sums of money. This concern has been resolved and the LSB received one application for approval.	-
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?	Yes	The application has addressed the concerns set out in the previous year's decision letter: i.e. independence protocols between ACL and CLSB to jointly develop the application and the CLSB to submit to the LSB; a more detailed analysis of the number of authorised persons when setting the final fee; to meet/liaise with LSB staff when prior to submitting the application to ensure all the information is provided in line with the LSB's criteria for approving the level of the PCF; there was no consultation with non-commercial bodies as the CLSB have indicated that the vast majority of Costs Lawyers are instructed by solicitors (see section 6 of the assessment tool for further information).	-

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 ACL and CLSB have agreed protocols on independence to develop and submit the 2011 PCF application. The application was made by the CLSB on the basis that CLSB will be the approved regulator of Costs Lawyers under delegated authority of ACL for 2012. The ACL have been consulted on the level of fund required to carry out activities which meet the definition of the permitted purposes as set out in the 2007 Act.
Is there sufficient detail to make an assessment of 'reasonable care' when settling the application?	Yes	The CLSB have provided data on the number of authorised persons in order to calculate the proposed level of the PCF; for the 2012 budget the CLSB have worked on a conservative estimate of 500 Costs Lawyers.

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 ACL and CLSB budgets have taken into account the aims and objectives of both CLSB and ACL during 2012. Both acknowledge financial expectations are difficult to predict as the new structure will take a year or so to settle down.
Is there evidence that the budget was settled in light of immediate and medium term budgetary needs?	Yes	The Consultation Paper included in the application sets out CLSB and ACL activities/objectives for 2012 which give an indication of the immediate and medium term budgetary needs.
Is there a description of contingency arrangements?	Yes	CLSB's contingency for 2012 is £5k or 4% of its budget. in 2011 the CLSB Board agreed a reserve policy of £35k which was deposited into a CLSB Reserve Account (remains as a reserve going forward). CLSB has also deposited the sum of £25k paid by ACL for the 15,000 ordinary £1 shares on issue. CLSB may also seek additional funding from ACL if required. As at year ended 31 Dec 2009, ACL had reserves of £231,547 and ALCD (Training) at £105,430.
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

Prior to the submission of the CLSB application, the LSB advised the CLSB and ACL to submit a joint application for the level of the PCF as opposed to two separate applications. In terms of transparency to those charged with paying a PCF, the application includes a section explaining the breakdown of the proposed PCF for 2012 (which totals £450). The breakdown is as follows: CLSB fee of £200 for regulation activities + the ACL fee of £200 for representation activities that fall within the permitted purposes + the CLSB fee for the LSB/LEO levy of £50. The whole amount will be payable to the CLSB.

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 CLSB give a helpful breakdown of the budget by each permitted purpose showing how the entire CLSB and ACL budgets apply solely to the permitted purposes.
Does it include a budget that shows the anticipated income from practising fees?	Yes	The total PCF budget for 2012 is: £227,260 (CLSB 2012 budget = £112,540; ACL 2012 budget = £114,720). This is based on a £450 proposed PCF to be charged to approximately 500 Costs Lawyers.

Criteria	Yes or No	LSB Assessment
Does it include an analysis of expenditure against the permitted purposes?	Yes	The allocation of 2011 PCF revenue expressed as a broad % is as follows:- Rule 6(a) regulation/training/maintaining professional standards (55%); Rule 6(f) relations with other bodies (25%); Rule 6(c) law reform (10%); Rule 6(b) Levy (5%); Rule 6(g) increasing public understanding (5%). The CLSB and ACL also provide a separate budget for each body indicating a breakdown of expenditure by the permitted purpose.
Does it include an analysis of income and expenditure related to all other expected income to be applied to permitted purposes?	Yes	There was no indication of any other income to be applied to the permitted purposes.

Overall comments

ACL have agreed to look at an alternative funding model during 2012, identifying what areas of its revised role falls in and outside the definition of permitted purposes. This will be reflected in the s.51 application for PCF 2013 approval. It is important to note that the CLSB application included the Financial Statements for ALCD (Training) Ltd Year End 31 Dec 2009 (main headline figures are: turnover of £230,402 and Net Profit of £57,980).

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	The application indicates that 55% of the allocation of 2011 PCF revenue is for permitted purposes which fall under Rule 6(a) regulation/training/maintaining professional standards. The ACL budget also indicates that they have delegated their regulatory functions to the CLSB.
Is there a description of shared services?		There is no indication of shared services; the ACL and CLSB budgets have been submitted to the LSB as two separate documents.

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	The application indicates that 45% of the allocation of 2011 PCF revenue is for permitted purposes which fall under non-regulatory functions. For example: Rule 6(f) relations with other bodies (25%); Rule 6(c) law reform (10%); Rule 6(b) Levy (5%); Rule 6(g) increasing public understanding (5%)

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	A three week consultation process was conducted with Costs Lawyers, Trainee Cost Lawyers and those Law Costs Draftsmen (Fellow) who had not yet converted to Costs Lawyer status.
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 consultation was drafted in plain English and included: the level of the proposed PCF for 2012, how the PCF had been arrived at, how the fee would be spent, the level of reserves. It also attached the budgets for 2012 for both CLSB and ACL, the accounts for Year End 31 Dec 2009 for both ACL and ALCD (Training) Ltd.
If yes, does the application also include a description of how that feedback influenced the decision-making and policy development processes?		The proposals were broadly agreed by respondents. However, one respondent indicated that the ACL's proposed PCF of £200 was too high (students already pay a £100 fee to ACL and that ACL hold significant reserves). Other issues raised were that ACL's proposed activities/objectives for 2012 lacked reference to Trainee Cost Lawyers; further reserved activities should be considered & ACL must give an explanation of their high level of reserves.

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 consultation paper and supporting documents were posted on the CLSB website. The consultation paper was printed in the October issue (no.28) of the Costs Lawyer Journal, posted beginning of October 2011.
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?		The Costs Lawyer Fee note will include an explanatory note on the role of the ACL and CLSB, the permitted purposes, the regulatory objectives, the professional principles and the consultation process.

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 (NB: this is optional).
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 application indicates that both budgets for 2012 take into account issues relating to equality and diversity. By not increasing the PCF 2012 from that paid in 2011, it ensures that those paying do not experience a fee which deters any qualified Trainee Costs Lawyer from applying (i.e. barrier to entry).
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 application gives an indication that the PCF 2012 is set at a level that will allow the CLSB achieve the regulatory objectives, the professional principles and its own strategic objectives.

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?		N/A
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

The CLSB have indicated that non-commercial bodies are not applicable to the work of Cost Lawyers as the vast majority of Costs Lawyers are instructed by solicitors. It is possible that individual litigants may instruct a Cost lawyer but this rarely happens. The CLSB therefore felt it appropriate to only consult with Costs Lawyers, Trainee Cost Lawyers and those Law Costs Draftsmen (Fellow) who had not yet converted to Costs Lawyer status. The CLSB have indicated that if the LSB prefers that consultation with non-commercial bodies is insisted upon, it will be included in the application for 2013.

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 CLSB application for 2012 and supporting documents received 19 October 2011 is approved. This decision is to be made by the Chief Executive who has delegated powers from the LSB Board to approve PCF applications.

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