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27 July 2012

Dear Peter,

**Application by the Faculty Office under section 51 of the Legal Services Act 2007 for approval of the level of the practising fee 2012/13**

Thank you for submitting an application on behalf of the Master of the Faculties under section 51 of the Legal Services Act 2007 (the Act) and the Legal Services Board's (LSB) Practising Fee Rules 2009 (the Rules).

I am pleased to inform you that the 2012/13 practising fee, including the contribution to the contingency fund, has been approved. This decision has been made under the authority delegated to me as Chief Executive by the LSB.

In reaching our decision, we had several observations, which I set out below and which you may wish to consider for future applications. I would like to extend my thanks to Neil Turpin for assisting with our queries.

*Two-tier fee*

We noted the reference in the application to the Faculty Office considering the possibility of a two-tier practising certificate fee. This would distinguish between those notaries who carry out pure notarial practice and those who undertake reserved instrument activities and probate activities. This may be a more proportionate approach to the setting of the practising fee.

*Fee level*

The application to the LSB stated that it was necessary to increase the level of the practising fee in order to meet both the LSB/Office for Legal Complaints (OLC) levies and the service levels required for LSB and OLC work. However, the overall LSB/OLC levy amount reduced in 2011/12 and will reduce further in 2012/13, while the budget for the Faculty Office's Management Charges and Direct Expenditure has increased from last year.

We now understand that the increase has been due to the necessity to take on additional staff in order to deal both with LSB and OLC requirements and the Faculty Office's other regulatory duties and that there have also been increases in general business expenses. This was helpful to further our understanding of the increases and perhaps future

applications could provide such detail as it could be potentially misleading to attribute such increases to LSB/OLC levies.

We note that the overall amount for the levies presented in the 2012 budget is partly based on an estimate given that some of the amount for 2012 has already been paid (as part of the 2011/12 charge) and some of it is not due to be paid until next year (as part of the 2012/13 charge). We would find it helpful if in future there is more clarity about how the levy figures are presented in applications so that we can better review these against our own figures. One way of doing this may be for the Faculty Office budget year to align with the financial year.

#### *Contingency Fund*

In its application, the Faculty Office stated its intention to build its contingency fund level up to £100k, meaning a 100% increase in notary contributions to the contingency fund, from £20 to £40. As you will be aware, we sought further clarity as to why £100k was considered an appropriate amount, based on the risks presented to the fund. We also asked for further detail of how the Faculty Office planned to reach the £100k level, from its 31 December 2011 balance of £43k.

I note that this figure has been arrived at after due consideration and assessment of the level of claims made against the fund over a number of years and that the number of disciplinary cases brought before the Court of Faculties has remained broadly similar in recent years, meaning that the £100k figure should be attained within the next two years. We were assured by the Faculty Office's commitment to consider reassessing the fund level should there be signs of an increase in the number of claims and likewise by the intention to consider whether there can be a longer term reduction in contributions once the fund reaches £100k. Although the purpose of the fund is not to compensate clients but to cover the costs of disciplinary processes, it is important that applications cover the detail behind any relatively significant increases, such as this.

I hope that this is helpful. We will be publishing a copy of this letter on our website in the next few days. Please contact Karen Marchant, Regulatory Associate, ([karen.marchant@legalservicesboard.org.uk](mailto:karen.marchant@legalservicesboard.org.uk) or 020 7271 0054) if you have any questions.

Yours sincerely,



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