

alcd

Consultation on ALCD's
practising certificate fee for
2011

4 October 2010

Response deadline:

29 October 2010

Consultation on the ALCD's 2011 practising certificate fee(PCF)

1 Executive summary

- 1.1 The Association of Law Costs Draftsmen has prepared an application to the Legal Services Board (LSB) for approval under section 51 of the Legal Services Act, 2007 of its PCF for 2011.
- 1.2 ALCD seeks to achieve a fee which will enable it to fund its new, independent regulatory arm, Costs Lawyer Standards Board Limited (CLSB), and provide a contingency for unexpected developments, which, being a new organisation, may be more likely to arise than might otherwise be the case.
- 1.3 In conjunction with this consultation paper the Association will also be consulting widely about its new rules relating to its Code of Conduct, disciplinary procedures, practising regulations and the manner in which it has chosen to separate its representational function from its regulatory function following the establishment of CLSB.

2 How to respond to this consultation paper

- 2.1 The deadline for responses is 29 October 2010.
- 2.2 The paper sets out the background to this consultation and addresses the issues which arise in the light of the approach taken to the drafting of the Code and its underlying principles.
- 2.3 Your responses should be sent to:

Post:

E-mail:

- 2.4 In the event of any questions arising please contact us by e-mail to the above address or telephone on 0.

3 Introduction

- 3.1 The Association of Law Costs Draftsmen (ALCD) was founded in 1977 with the object of promoting the status and interests of the profession of Law Costs Draftsmen and ensuring maintenance of the highest professional standards within its membership.
- 3.2 The ALCD regulates those of its members who have the right to conduct costs litigation and rights of audience in costs proceedings, pursuant to Sections 27 and 28 of the Courts and Legal Services Act, 1990. The authority to grant these rights to those regulated by the ALCD was vested in the ALCD by The Association of Law Costs Draftsmen Order, 2006 (SI No 3333 of 2006) (the Statutory Instrument) with effect from 1 January 2007.
- 3.3 In 2010 ALCD established CLSB to enable ALCD to separate its representational role from its regulatory role in accordance with the Legal Services Act, 2007(LSA).
- 3.4 ALCD however remains the Approved Regulator under section 20(2) of the LSA, Part 1 of Schedule 4 to the LSA and the Statutory Instrument. As such the duties imposed upon an Approved Regulator as set out in sections 20 and 21 LSA remain with ALCD. Those duties are being delegated to CLSB in order to achieve the necessary degree of separation required by the LSA. The relationship between the ALCD and CLSB is to be governed by a Protocol to ensure that in cases of difference between the bodies recourse may be had to the Legal Services Board (LSB) for the resolution of such differences at any time, subject to a mediation provision.
- 3.5 Section 176(1) of the LSA obliges an Authorised Person to comply with the regulatory arrangements of the Approved Regulator.
- 3.6 The application is made on the basis of regulation 24 of the ALCD's bye-laws. In due course this regulation will be modernised. Regulation 24 provides:
- “An annual subscription fee, in such sum as may from time to time be determined by the Council, shall be payable by all Members. A subscription fee shall be paid on admission to membership and thereafter on the first day of January each year.”***
- 3.7 Following modernisation of the bye-laws there will be up to 500 members of the ALCD regulated by CLSB on behalf of the ALCD.

4 Purpose of this consultation

- 4.1 To seek comments and constructive opinion about the level at which the practising certificate fee (PCF) is set for the practising year commencing 1 January 2011 and terminating 31 December 2011. For the purpose of the 2011 PCF the number of Authorised Persons liable to pay the PCF is assumed to be 350.
- 4.2 The regulatory objectives which the LSA requires ALCD to achieve are set out in section 1 of the LSA:

- (a) protecting and promoting the public interest;
- (b) supporting the constitutional principle of the rule of law;
- (c) improving access to justice;
- (d) protecting and promoting the interests of consumers;
- (e) promoting competition in the provision of services within subsection (2);
- (f) encouraging an independent, strong, diverse and effective legal profession;
- (g) increasing public understanding of the citizen's legal rights and duties;
- (h) promoting and maintaining adherence to the professional principles.

4.3 The professional principles which CLSB is required to promote are also set out in section 1 of the LSA:

- (a) that authorised persons should act with independence and integrity,
- (b) that authorised persons should maintain proper standards of work,
- (c) that authorised persons should act in the best interests of their clients,
- (d) that persons who exercise before any court a right of audience, or conduct litigation in relation to proceedings in any court, by virtue of being authorised persons should comply with their duty to the court to act with independence in the interests of justice, and
- (e) that the affairs of clients should be kept confidential.

4.4 The 2011 PCF is intended to provide adequate funding to enable the regulatory body to provide a regime which has the following characteristics:

- a) Proportionate;
- b) Accountable;
- c) Consistent;
- d) Transparent; and,
- e) Targeted¹.

CLSB will undertake its role in adherence to the Five Principles of Good Regulation set out above. The role of CLSB will be developed further in the ALCD consultation paper on Internal Governance. For the purpose of this consultation it is only necessary to make clear that in addition to providing a regulatory regime which ensures both regulatory and professional objectives are achieved it is intended that CLSB will undertake work with the regulated community to pro-actively assess the extent of Authorised Persons' compliance with the regulatory arrangements. An education programme will be developed to support authorised persons in developing their compliance systems.

¹ The Better Regulation Commission

- 4.5 Authorised Persons practice in a wide variety of different formats. A large number practice from home as sole practitioners whilst others spend their working lives as in house costs lawyers either for large firms of solicitors or institutions. Yet others practice in multi-office firms which have costs lawyers working for them in a traditional office context.
- 4.6 The professional conduct of Authorised Persons does not give rise to many service complaints or conduct breaches. Since 2001 there have been only 11 service complaints and 17 conduct issues. This is partly a reflection of the relatively small numbers of regulated individuals, there are unlikely to be more than 500 to be regulated initially, but also of the work ethic and high standards adopted by almost all Authorised Persons.
- 4.7 At this stage it is not intended to seek to regulate entities nor to seek a licence to regulate Alternative Business Structures. Both options may be pursued by ALCD/CLSB in the future but for the present the profession is keen to achieve full compliance within the terms of the LSA and, as part of that process, to provide a modern and transparent approach to the setting of the PCF.
- 4.8 The process of budget setting has therefore taken the characteristics of the profession into account with a fee and its associated regulation intended to provide a regime which is in proportion to the level of regulatory infraction experienced over the past 9 years being kept firmly in view.
- 4.9 In the light of responses to the consultation process it may be thought appropriate to amend this approach to reflect consultees' views. The draft attached to this paper does however represent a relevant starting point for a discussion about the appropriate PCF to facilitate regulation of a professional body of, initially, no more than 500 individuals.
- 4.10 Appended to this consultation paper are:
- a) ALCD's accounts for the year to 31 December 2008;
 - b) ALCD's internal profit and loss account for ALCD and ALCD Training for the year to 31 December 2009; and,
 - c) A draft of the pack to be sent to all authorised persons seeking payment of the 2011 PCF. This includes:
 - Explanatory notes;
 - Fee note;
 - Terms and conditions

5 Questions

1. Do you have any comments on the proposed activities of CLSB as outlined in this consultation paper? Should anything else be included?
2. Do you agree that the Five Principles of Good Regulation are appropriate to determine CLSB's approach and therefore its expenditure? Should there be others?
3. Do you consider the explanatory notes accompanying the fee note adequate to explain the rationale behind the fee determination? If not, why and what additional material should be included?
4. Is the presentation of the historic financial data and proposed budget easy to understand? If not what would make it easier to follow?

REGISTERED NUMBER: 01330762 (England and Wales)

ABBREVIATED ACCOUNTS
FOR THE YEAR ENDED 31 DECEMBER 2008
FOR
THE ASSOCIATION OF LAW COSTS DRAFTSMEN
LIMITED

TUESDAY



A11 *AJ77GEGH* 50
27/10/2009
COMPANIES HOUSE

**THE ASSOCIATION OF LAW COSTS DRAFTSMEN
LIMITED**

**CONTENTS OF THE ABBREVIATED ACCOUNTS
for the Year Ended 31 DECEMBER 2008**

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**THE ASSOCIATION OF LAW COSTS DRAFTSMEN
LIMITED**

**COMPANY INFORMATION
for the Year Ended 31 DECEMBER 2008**

DIRECTORS:

J C Hocking
W S Popplewell
G Newberry
J Williams
T A Ayliffe
V Hopkins
C Corrie
I L Stark
G W Edwards
A D Livingstone
B Collins
R Jack
M Kain
D Burke

SECRETARY:

J Hocking

REGISTERED OFFICE:

47 Church Street
Great Baddow
Chelmsford
Essex
CM2 7JA

REGISTERED NUMBER:

01330762 (England and Wales)

ACCOUNTANTS:

Alexandra Anthony Limited
47 Church Street
Great Baddow
Chelmsford
Essex
CM2 7JA

**THE ASSOCIATION OF LAW COSTS DRAFTSMEN
LIMITED**

**ABBREVIATED BALANCE SHEET
31 DECEMBER 2008**

	Notes	31.12.08 £	£	31.12.07 £	£
FIXED ASSETS					
Tangible assets	2		1,370		2,227
Investments	3		15,000		15,000
			<u>16,370</u>		<u>17,227</u>
CURRENT ASSETS					
Debtors		28,698		32,777	
Cash at bank and in hand		217,822		145,455	
		<u>246,520</u>		<u>178,232</u>	
CREDITORS					
Amounts falling due within one year		82,503		54,294	
				<u>54,294</u>	
NET CURRENT ASSETS			<u>164,017</u>		<u>123,938</u>
TOTAL ASSETS LESS CURRENT LIABILITIES			<u>180,387</u>		<u>141,165</u>
RESERVES					
Profit and loss account			<u>180,387</u>		<u>141,165</u>
			<u>180,387</u>		<u>141,165</u>

The company is entitled to exemption from audit under Section 249A(1) of the Companies Act 1985 for the year ended 31 December 2008.

The members have not required the company to obtain an audit of its financial statements for the year ended 31 December 2008 in accordance with Section 249B(2) of the Companies Act 1985.

The directors acknowledge their responsibilities for:

- (a) ensuring that the company keeps accounting records which comply with Section 221 of the Companies Act 1985 and
- (b) preparing financial statements which give a true and fair view of the state of affairs of the company as at the end of each financial year and of its profit or loss for each financial year in accordance with the requirements of Section 226 and which otherwise comply with the requirements of the Companies Act 1985 relating to financial statements, so far as applicable to the company.

The notes form part of these abbreviated accounts

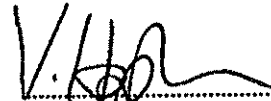
**THE ASSOCIATION OF LAW COSTS DRAFTSMEN
LIMITED**

**ABBREVIATED BALANCE SHEET - continued
31 DECEMBER 2008**

These abbreviated accounts have been prepared in accordance with the special provisions of Part VII of the Companies Act 1985 relating to small companies.

The financial statements were approved by the Board of Directors on and were signed on its behalf by:


.....
J C Hocking - Director


.....
V Hopkins - Director

**THE ASSOCIATION OF LAW COSTS DRAFTSMEN
LIMITED**

**NOTES TO THE ABBREVIATED ACCOUNTS - continued
for the Year Ended 31 DECEMBER 2008**

4. GUARANTEE

The company is limited by guarantee whereby every member of the company undertakes to contribute to the assets of the company in the event of a winding up while they are a member or within one year after they have ceased to be a member such amounts as may be required not exceeding £5.

At 31 December 2008 there were members 753 (2007: 768).

5. CONTROL RELATIONSHIPS

As the company is limited by guarantee no individual member or group of members control the company.

3:35 PM
 18/09/10
 Cash Basis

ALCD
Profit & Loss
 January 2009 through December 2010

	Jan '09 - Dec 10
Income	
Administration fees	615.00
ALCD Training income (transfer)	0.00
Commission	9,317.35
Costs Lawyer Course	400.00
Diary advertising	7,280.00
Exam	0.00
Interest	503.49
Journal advertising	49,500.00
Other income	2,500.00
Subscriptions	
Associates	52,055.00
Costs Lawyers	125,750.00
Fellows	127,623.00
Retired	870.00
Students	36,789.98
Subscriptions - Other	400.00
Total Subscriptions	343,487.98
Total Income	413,603.82
Expense	
Accountants	4,343.31
Advertising	24,611.06
Business Support Line	1,309.38
Complaints Tribunal	55.20
Council meetings	
Room hire	10,508.80
Travelling	32,117.25
Total Council meetings	42,626.05
Depreciation	342.49
Donations	100.00
Gifts	935.42
Government Consultation	
Meetings	315.41
Government Consultation - O...	922.25
Total Government Consultation	1,237.66
Insurance	
Events Insurance	720.83
Liability insurance	100.53
Professional indemnity Insur...	7,350.00
Insurance - Other	0.00
Total Insurance	8,171.36
Journal	
Contributors	250.00
Editor	31,134.00
Other	130.00
Printing	41,955.00
Proofreading	664.47
Total Journal	74,133.47
Legal & professional fees	1,108.61
Legal Services Board	4,831.00
LSB Consultancy fees	44,848.60
Marketing	
Meeting expenses	0.00
Total Marketing	0.00
Membership	
Diaries	5,228.23
Total Membership	5,228.23
Miscellaneous	59.77
Office expenses	
Computer	
Hardware	403.29
ISP	216.25
other	1,949.52

3:35 PM
18/09/10
Cash Basis

ALCD
Profit & Loss
January 2009 through December 2010

	<u>Jan '09 - Dec 10</u>
Total Computer	2,569.06
Copying	
Photocopier lease	409.08
Photocopies	227.28
Total Copying	636.36
Postage	
DX	1,144.67
Franking machine	421.57
Postage - Other	544.21
Total Postage	2,110.45
Stationery	987.19
Telephone	756.18
Total Office expenses	7,059.24
Rules	3,013.00
Staff payments	33,716.60
Statutory fees	376.93
Tax	6,900.57
Website	
Maintenance	1,764.46
Website - Other	113.85
Total Website	1,878.31
Total Expense	266,886.26
Profit for the Year	<u><u>146,717.56</u></u>

3:44 PM
 18/09/10
 Cash Basis

ALCD Training Profit & Loss January through December 2009

	Jan - Dec 09
Income	
ALCD Modular Course fees	
Module 1 fees	42,486.89
Module 3 fees	26,140.83
Seminar fees	5,088.18
Total ALCD Modular Course fees	73,715.90
ALCD old training course fees	
Exam fees	
Exam Revision	5,900.00
Exam fees - Other	13,550.00
Total Exam fees	19,450.00
Seminar fees	1,441.48
Total ALCD old training course fees	20,891.48
ALCD receipts	0.00
ALCD subs	0.00
CLT courses	3,175.00
Costs Lawyer Course fees	16,076.00
CPD Accreditation	1,704.35
National conference fees	
Sponsorship	5,815.77
National conference fees - Other	65,485.68
Total National conference fees	71,301.45
Seminars (non-course) fees	25,137.10
Student conference fees	18,401.92
Total Income	230,403.20
Expense	
Accountants	2,169.96
ALCD Modular Course costs	
Course materials	438.00
Exam	2,061.66
Seminars	
Printing	306.34
Room hire	8,035.29
Speakers	770.50
Seminars - Other	493.30
Total Seminars	9,605.43
Tutor's fees	2,451.50
ALCD Modular Course costs - ...	160.00
Total ALCD Modular Course costs	14,716.59
ALCD old training course costs	
Exam	300.00
Markers' fees	11,655.85
Tutors' fees	583.48
Total ALCD old training course co...	12,539.33
CLT course fees	3,735.00
Corporation Tax	12,176.43
Costs Lawyer course expenses	13,641.30
Credit card machine	
Cardnet	704.04
Credit card machine rental	208.80
Total Credit card machine	912.84
Depreciation	48.00
EDO	34,654.98
Insurance	85.44
Miscellaneous	278.47
National conference	
Annual dinner	19.80
Design & printing	3,209.83
Guests' expenses	678.76
Hotel	34,679.35
Other	3,894.70
Speakers' fees	85.20

3:44 PM
18/09/10
Cash Basis

ALCD Training
Profit & Loss
January through December 2009

	<u>Jan - Dec 09</u>
Total National conference	42,567.64
Office expenses	
Computer	
ISP	127.61
Total Computer	127.61
Copying	
Photocopier lease	353.80
Photocopies	210.40
Total Copying	564.20
Postage	
DX	1,460.87
Franking machine	360.99
Postage - Other	467.39
Total Postage	2,289.25
Stationery	978.78
Telephone	653.76
Total Office expenses	4,613.60
Seminars (non-course) expenses	7,482.80
Staff payments	19,995.96
Statutory fees	417.58
Student conference	
Hotel	11,303.96
Printing	685.00
Speakers	911.00
Student conference - Other	1,318.90
Total Student conference	14,218.86
Transfers to ALCD	0.00
Travelling	93.60
Website maintenance	250.00
Total Expense	184,598.38
Profit for the Year	<u><u>45,804.82</u></u>