

alcd

Practising certificate fee 2011

Explanatory notes, fee note
with terms and conditions

4 October 2010

ALCD Practising Certificate fee for 2011
Explanatory notes accompanying the fee demand

1 Introduction

- 1.1 The 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.
- 1.2 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.
- 1.3 In 2010 ALCD established the Costs Lawyer Standards Board Limited (CLSB) to enable ALCD to separate its representational role from its regulatory role in accordance with the Legal Services Act, 2007(LSA).
- 1.4 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 duty to regulate and to raise practising certificate fees remains with ALCD. The duty to regulate is delegated to CLSB. 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.
- 1.5 Section 176(1) of the LSA obliges a regulated person to comply with the regulatory arrangements of the Approved Regulator.
- 1.6 Bye law 24 of the ALCD Bye-Laws provides as follows:
- “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.”***
- 1.7 Following modernisation of the bye-laws there will be up to 500 members of the ALCD regulated by CLSB on behalf of the ALCD.

2 Practising certificate fees

- 2.1 As an Approved Regulator ALCD has the duty to charge practising certificate fees (PCFs) which raise funds to meet the permitted purposes. The PCF year runs from 1 January until 31 December.

2.2 The Permitted Purposes are defined by section 51(4) LSA and rule C6 of the LSB's Practising Fee Rules 2009. Putting the 2 sets of statutory requirements together the Permitted Purposes may be summarised as follows:

- 2.2.1 The regulation of authorised persons
- 2.2.2 Accreditation of authorised persons
- 2.2.3 Education and training of relevant authorised persons including the maintenance and raising of professional standards and providing practical support about practice management
- 2.2.4 The payment of a levy due, under section 173 LSA to pay part of the costs of: the LSB, the Office for Legal Complaints (OLC) and part of any expenditure by the Lord Chancellor in related setting up expenses.
- 2.2.5 Law reform and related legislative process.
- 2.2.6 Enabling relevant authorised person to carry on reserved legal services;
- 2.2.7 Promoting the protection by law of human rights and fundamental freedoms;
- 2.2.8 The promotion of relations between the Approved Regulator and relevant national and international bodies, governments or the legal professions of other jurisdictions; and,
- 2.2.9 Increasing public understanding of the citizen's legal rights and duties.

3 What is the funding requirement for 2011?

3.1 In comparison to other Approved Regulators the historic levels of regulatory and complaints handling by ALCD has been relatively light. However, the raised profile of the role of CLSB together with its pro-active supervision of the regulated community may be expected to lead to increased regulatory activity of one kind or another leading to higher costs in this regard.

3.2 The modernisation of categories of membership to one (Costs Lawyer) which will be completed by the end of 2011 is also anticipated to lead to higher costs as those requiring further training and qualifications seek those additional qualifications. These costs will however be self-financing.

3.3 It is anticipated that further regulatory reform will be required during the course of at least 2011 and 2012 for a range of purposes as CLSB begins to establish itself as an effective, modern regulator. This activity will include one or more of the following:

- compliance supervision regime;
- costs drafting to become a reserved activity;
- moving toward an outcomes focused regulatory approach;
- regulating entities as well as individual costs lawyers; and,
- enabling the profession to take advantage of alternative business structures requiring CLSB to seek to become a licensing authority.

3.4 Whilst this activity will require more work on the part of CLSB (and therefore additional costs beyond those incurred in the past) the anticipated activities will also require greater activity

on the part of ALCD to ensure it fully represents the views of its members on these important issues.

3.5 The anticipated funding requirement for 2011 is approximately £575,000.

3.6 This is expected to be spent as follows (with the 2009 figures for comparison purposes):

Purpose	Actual expenditure 2009 (£ ex VAT)	Anticipated expenditure 2011 (£ ex VAT)
Regulation		
The regulation of authorised persons	13,400	60,000
Permitted purposes		
Accreditation of authorised persons	0	0
Education and training of relevant authorised persons/maintenance and raising of professional standards/providing practical support about practice management ¹	185,000	200,000
The Levy	0	15,000 ²
Law reform and legislative process	0	0
Enabling reserved legal activities	0	0
Promoting the protection by law of human rights and fundamental freedoms	0	0
The promotion of relations between the Approved Regulator and relevant national and international bodies, governments or the legal professions of other jurisdictions	0	0
Increasing public understanding of	0	0

¹ In the ALCD this element has historically been funded not by PCF but by course fees etc.

² This is an increased estimate based on the indication at para 4.29 of the LSB's consultation paper "The Levy: funding legal services oversight regulation" dated 8 July 2010. Nota bene: LeO has yet to determine the basis of charge and its annual expenditure is said to be of the order of £19.9m of which 90% is expected to be met via the Levy.

the citizen's legal rights and duties		
Purely membership functions		
Membership/representational activities e.g. work on consultations, member services etc	200,000	225,000

The net funding requirement for CLSB is in fact less than the total expenditure shown in the table above. This arises because significant elements of the permitted purposes (e.g. training) is delivered by ALCD Training Limited a commercial organisation which provides courses on a commercial basis for profit. The funding requirement for CLSB absent that element is therefore expected to be approximately £125,000.

4 The proposed fee

4.1 The fee which Council has determined for 2011 is £500 reflecting the above considerations and includes a contingency for unexpected events.

4.2 An analysis by authorised person is tentative at this time as there is limited data relating to the numbers of authorised persons paying the PCF. However, what is clear from the available historical records is that of the funding requirement approximately £452,000 of cost is covered by the commercial training and other activities of ALCD and ALCD Training Limited. The PCF therefore pays about £125,000 representing the cost of regulation, compliance work and related standards awareness activities.

4.3 Clearly by the time of the 2012 PCF approval application much greater clarity will be available both as to the allocation of funds together with the actual and anticipated work programme of CLSB and ALCD.

4.4 It is acknowledged that CLSB is a new organisation very much finding its feet as a regulator. As such should any expenditure arise which is unplanned in excess of the budgeted costs ALCD has agreed to meet such expenses for the first year of its activities.



**THE ASSOCIATION OF LAW COSTS DRAFTSMEN
2011 ANNUAL SUBSCRIPTION REQUEST
AND DECLARATION FORM**

Name
Address

Membership No:
Membership Category:
Insurance Category:

Annual Membership Subscription
1st January 2011 to 31st December 2011

If payment is not received by 1st January 2011 your membership will be placed before the membership sub-committee for sanctions and remedy.

Payment will not be accepted unless the Declaration overleaf is completed and specified documents supplied.

Please notify any changes in employment or home address. If you do not wish to renew your membership please return this form duly annotated.

P.T.O.

Terms & Conditions

Payment WILL NOT BE ACCEPTED in the absence of items (1) and (2) below:-

(1) PROFESSIONAL INDEMNITY INSURANCE

Please circle **A**, **B** or **AB** to indicate your insurance category

- A** Working exclusively in-house for a firm of Solicitors on a P.A.Y.E. basis
- B** Working freelance, either in sole practice, in partnership, or as an employee of a costs practice.
- AB** Working in-house and freelance

I attach proof of insurance cover from my insurers/brokers confirming that all freelance work I undertake is covered by professional indemnity insurance up to £100,000 to include loss of documents. (This applies to Categories B and AB only)

Signature..... Date

It is a breach of Association Rules for a member to conduct freelance business without the benefit of Professional Indemnity Insurance cover up to the correct prescribed minimum requirement being £100,000, to include loss of documents.

Failure to provide proof of insurance will prevent payment of your subscription being accepted. If payment is not made by 1st January 2011, your membership will be placed before the membership sub-committee for sanctions and remedy.

(2) CPD (Continuous Professional Development)

Please enclose completed CPD card for 2010 (Hours required: Costs Lawyers 12
Fellows and Associates 9, Students 7)

Failure to provide proof of CPD will prevent payment of your subscription being accepted. If payment is not made by 1st January 2011, your membership will be placed before the membership sub-committee for sanctions and remedy.

(3) BANKRUPTCY

Have you ever been adjudged bankrupt or the subject of an insolvency voluntary arrangement since becoming a member of the Association?

YES/NO (please circle as appropriate)

If YES please attach full details. The ALCD may undertake a bankruptcy and criminal records bureau check.

(4) AUTHORISED PERSONS

If payment is not received by 1st January 2011 your Practising Certificate will not be renewed.

Send payment to: Mrs S Chapman, Administrative Secretary, ALCD, Church Cottage, Church Lane, Stuston, Diss, Norfolk, IP21 4AG or DX: 42520 DISS.
Cheques made payable to The Association of Law Costs Draftsmen