

FACULTY OFFICE

APPLICATION TO LEGAL SERVICES BOARD FOR APPROVAL OF PRACTISING FEES 2016/17

Introduction

On behalf of the Master of the Faculties ('the Master') we are making the above application under section 51 of the Legal Services Act 2007 ('LSA 2007') and the Practising Fee Rules 2016 made by the Legal Services Board ('LSB') under that Act.

Background

Notaries are required to apply for a certificate to practise from 1st November to 31st October in the following year. Following approval by the LSB, the Master made new rules governing the issue of a practising certificate to a notary (Notaries (Practising Certificates) Rules 2012) which came into force on 1st October 2013. The Rules set out a clear timetable for applying to renew a practising certificate and make it clear that it is both an offence under S.14 of the LSA 2007 and Notarial Misconduct under the Notaries (Conduct and Discipline) Rules 2011 to practise otherwise than in possession of a current valid practising certificate. A fee is required to be paid for the practising certificate, and a contribution must be paid to the Faculty Office Contingency Fund at the same time. The level of the fee and contribution is determined from time to time by the Master. If a notary applies for a practising certificate part-way through a practising year he/she must pay the full amount which was due on 1st November of that period.

Proposals

- In the practising year 1st November 2015 - 31st October 2016 notaries paid the following fee and contribution:-

Practising certificate - £450
Contribution to Contingency Fund - £80

- In the practising year 1st November 2016 - 31st October 2017 the Master intends to set the following fee and contribution:-

Practising certificate - £490 (an increase of £40)
Contribution to Contingency Fund - £30 (a reduction of £50)

Permitted purposes

Rule 5 of the Practising Fee Rules requires that monies raised through practising fees must not be applied for any purpose other than one or more of the permitted purposes. The Faculty Office has never had any representative functions. The profession is instead served by two representative societies, the Society of Scrivener Notaries and The Notaries Society. The distinction between these functions is clarified in the statement of compliance with the LSB Internal Governance Rules 2009 made by the Master. As such, all Faculty Office revenue from notarial practising fees is expended on the permitted purposes, and almost entirely on the regulation and accreditation of notaries. The Faculty Office expenditure for the financial years 2014 and 2015 are

attached and itemise the purposes to which Faculty Office revenue has been applied (annex 2).

The items included in the 2015 expenditure reflect the nature of the expenditure which is likely to be made in 2016 save as outlined below.

Reasons for proposed fee and contribution

The Faculty Office operates a calendar year accounting period. The 2016 budget is also attached (annex 1). As the practising year does not coincide with either the LSB/OLC financial levy year or the Faculty Office accounting year the budget reflects that fees will be collected from both practising years. The budget relies on the assumption that the number of notaries reapplying for a notarial practising certificate will be slightly up on last year. This information is derived from the numbers of individuals known to have passed the Notarial Practice course this summer (28 in total) and entitled to apply for admission as notaries, and from appointments and retirements in 2015.

The Master was pleased to note that the charges levied by the LSB and the Office for Legal Complaints (“OLC”) have reduced slightly over the last couple of years in real terms and hopes that this trend will continue.

Notwithstanding the anticipated slight increase in practising notaries, there has been significant pressure on the budget last year with some £11,000.00 spent on the preparation of the draft Code of Practice which is due to be introduced this year. The Master therefore intends to increase the practising fee by £40.00 to £490.00. You will note that, at this level, the budgeted surplus for the current year is a little under £13,500.00 which, with the accrued surplus, is thought to be workable.

The 2015 accounts for the Faculty Office Contingency Fund are attached (annex 3). This fund exists to provide cover for costs arising from disciplinary cases which are otherwise not recoverable from the notaries concerned. For several years claims on the Contingency Fund were low. However, over the last three years there have been a small number of relatively low claims on the Fund and one very significant one. We now have new disciplinary rules in place and their related Costs Order which are intended to avoid a repeat of the very significant costs expenditure in the event that another major disciplinary case comes to the Court of Faculties.

As anticipated last year, the Master is pleased to be able to reduce significantly the contribution level from £80.00 for the last two years down to £30 this year as the Contingency Fund reserve is thought to be sufficient in order to provide for extraordinary expenditure on discipline related matters from time to time.

Form of consultation with the profession

The Faculty Office has consulted with the profession by formally writing to the secretaries of the two representative societies, the Society of Scrivener Notaries and the Notaries Society which together represent nearly 97% of the practising members of the profession. The then Joint Registrars attended a meeting of the Notaries Society Council in April to which they submitted a report including the practising certificate fee proposal for the coming year. In turn the secretaries are able to consult their members and report back to the Faculty Office. The representative societies are

provided with the accounts for the previous financial year, the attached budget (annex 1) and an indication of how the level of the fees has been determined.

Although the Practising Certificate fee has had to be increased slightly, as a result of the reduction in the Contingency Fund contribution, there has been a net decrease of £10 in the annual cost of authorisation to practise for the forthcoming practising certificate year.

Reasons for maintaining a fixed fee

As in previous years, we have opted to retain a fixed practising certificate fee as we are not yet persuaded that there is any practical alternative system which could be introduced which would be both fair and acceptable to the profession whilst at the same time not being a disproportionately burdensome exercise to try to calibrate notarial fees on some form of 'means-tested' basis. In addition, given the small size of the profession, any apportioned fee system would result in a significantly more uncertain budgetary income calculation which would be likely to mean budgeting for a much larger surplus to ensure financial security; this would mean increased fees to the profession and, ultimately, to the consumer.

Diversity impact

We do not consider that the level of the fees will have an adverse impact on the diversity of the profession or those seeking to enter the profession. Additionally, without a variable fee (which remains discounted for the reasons above) it would not be possible at this time to effect a system which is any fairer than requiring a single fee for each notary.

Contact information

Further information relating to this application is available from:-

The Registrar, The Faculty Office, 1 The Sanctuary, Westminster, London, SW1P 3JT

email. faculty.office@1thesanctuary.com

telephone. 020 7222 5381 (please ask to speak to Neil Turpin, Clerk)



H.J. DELLAR
REGISTRAR

1 July 2016

ANNEX 1

FACULTY OFFICE NOTARIAL BUDGET YEAR ENDED 31 DECEMBER 2016

NOTARIES	£	£
Income:		
4 certificates @ £450 (balance 2015/16)	1,800	
790 certificates @ £490	387,100	
Appointments (30 @ £575)	17,250	
Overseas Appointments (10 @ £625)	6,250	
Jersey Exam Fees	0	
Notarial qualification information packs	2,250	
Certificates of Exemption (80 @ £100)	8,000	422,650
Less Expenditure:		
Management Charge	296,725	
Direct Expenditure	92,045	
LSB/OLC levy fee 2015/16	20,388	409,155
Projected Notaries Surplus		£13,495

SUMMARY OF NOTARIAL SURPLUS/SHORTFALLS 2011-2015

b/f from 2011	2012	2013	2014	2015	Retained Surplus/Shortfall in 2015 Accounts
£28,280	(£3,534)	£20,119	£21,326	£7,720	£56,249*

*Although the accumulated surplus at 31/12/2015 stands at £56,249, £24,000 of that is a fund to pay for the inspections, so that the accumulated surplus of unrestricted funds stands at £32,249.

ANNEX 2

FACULTY OFFICE NOTARIAL FEES AND EXPENSES YEAR ENDED 31 DECEMBER 2015

	2015		2014	
	£	£	£	£
Notarial and Practising				
Certificates Fees		363,950		364,315
Notarial Admission Fees		23,362		31,575
		<u>387,312</u>		<u>395,890</u>
LESS:				
Expenditure – Indirect				
Registrar’s Fees	18,364		13,275	
Rent and rates	37,359		33,370	
Light and heat	1,912		2,055	
Stationery & Copying	4,471		4,726	
Postage	2,034		1,999	
Telephone	3,259		2,641	
Repairs and maintenance	12,951		15,923	
Insurance	3,471		2,973	
Sundries	6,669		6,423	
Cleaning	3,347		3,051	
Catering	1,117		1,211	
Irrecoverable VAT	18,991		17,529	
	<u>113,945</u>		<u>105,176</u>	
Expenditure - Direct				
Salaries & N.I. (jointly employed staff)	202,485		202,201	
Recovery of Staff Costs on complaints	(13,922)		(13,376)	
Entertaining	4,403		3,705	
Travel	1,191		2,278	
Crown Office fees	560		315	
Audit & Accountancy	2,344		2,464	
Printing and stationery	5,779		5,892	
Counsel’s Opinion (Scottish Notaries) net of contribution from the Notaries’ Society & The Scriveners.	600		600	
Code of Practice expenses	3,513		-	
Website	2,314		5,524	
Sundries	26		205	
Inspections Expenses	11,002		10,386	
Admission Expenses	1,043		4,075	
Legal Services Board Levy	23,538		25,389	
Insurance	9,095		8,895	
	<u>253,971</u>		<u>258,553</u>	
		(367,916)		(363,729)
		<u>19,396</u>		<u>32,161</u>
Retainer due to the Master of Faculties		(11,676)		(10,835)
Surplus		<u>£7,720</u>		<u>£21,326</u>

Although the accumulated surplus at 31/12/2015 stands at £56,249, £24k of that is a fund to pay for the Inspections, so that the accumulated surplus of unrestricted funds stands at £32,249. The income from Practising Certificates of £363,950 shown in these accounts arises from the Notarial practising year which ends on 31/10/2016 and will be used towards the running of the Notarial Profession.

ANNEX 3

FACULTY OFFICE - CONTINGENCY FUND INCOME ACCOUNT YEAR ENDED 31 DECEMBER 2015

	£	2015	£	£	2014	£
CONTRIBUTION FROM NOTARIAL PRACTISING CERTS			63,280			62,400
Bank deposit interest			23			7
Less:						
Expenses for Disciplinary Hearings	28,363			83,312		
Provision for income tax	-			2		
Fees re Income tax payment	-			300		
			<u>(28,363)</u>			<u>(83,614)</u>
Surplus/(Shortfall) for year			<u>£34,940</u>			<u>(£21,207)</u>
BALANCE SHEET						
AS AT 31 DECEMBER 2015						
	£	2015	£	£	2014	£
ASSETS						
Deposit and current accounts	36,463			16,708		
Sundry Debtors	70,969			56,086		
LESS LIABILITIES			107,432			72,794
Sundry creditors	-			300		
Income tax payable	-			2		
NET CURRENT ASSETS			-			(302)
			<u>£107,432</u>			<u>£72,492</u>
REPRESENTED BY:						
Contingency Fund Capital Account						
Balance as at 1 January	72,492			93,698		
Surplus/(shortfall) for year	34,940			(21,207)		
Balance at 31 December			<u>£107,432</u>			<u>£72,492</u>