

<b>Approved Regulator (AR)</b>	<b>The Law Society SRA</b>
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Final application	Type of format received	Confirmed receipt of application?	Website link to the key documents on our webpage
Receipt of final application on 9 July 2012	Email	Email	<a href="http://internet/Projects/independent_regulation/2012_practising_fee_applications.htm">http://internet/Projects/independent_regulation/2012_practising_fee_applications.htm</a>

**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?	Yes		08/06/2012
Was there a pre-meeting between AR representatives and the LSB?	Yes	Two pre-meetings with LSB and SRA/TLS colleagues	22 May 2012 and 12 June 2012
Do we have any initial concerns arising from the application?	Yes	No major concerns. Some clarification sought and additional information requested at the meeting on 12 June 2012. More detail required in the Developing Policy section on the planned review of fees and charges, including the timetable for review. Suggestion of more in the section on Contingency Arrangements and Reserves, on the proposed cash calls for 2012, with perhaps some narrative on the planned approach to these reserves, including whether the amounts for each are adequate. LSB also asked if the application could provide more on the reasons for the compensation fund increase from the previous year, given that the increase is quite significant.	
Have the concerns or issues of clarification (if any) been resolved?	Yes	Most additional information was provided but further detail requested on the planned review of fees and charges. SRA responded giving further information as follows: "The review is a key priority for the SRA for the 2013-15 period. We are still developing the scope of this review, but it is intended to be a far reaching review of policy for charging for all regulatory activities. We are aiming to have this project finished in time for 2014/15 fee setting, however as the scope and therefore the full scale is not yet fully assessed, we may need to amend these timelines. This means that, due to the annual style of this activity, we may need to introduce the new policy for 2015/16. While we acknowledge there is an urgent need to conduct this review, at the same time we need to do it thoroughly to ensure we are fair and open, and therefore taking all the necessary time required."	
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	In the previous year's approval letter we raised concern about the lack of detailed evidence on how TLS's expenditure had been allocated between permitted and non-permitted activities in the main application. The TLS had said that an Internal Audit was to be considered by TLS on section 51 issues. We said that this seemed an appropriate vehicle to address the issue in a proportionate way. On timing we expected to receive an abridged report by February 2012. In the pre-application meeting we reminded the TLS of this and it promised a letter providing an update on the actions from the audit report on s51 was due to be provided by the Law Society. TLS wrote on 23 March 2012 to clarify that a delay in the introduction of a new finance system (Epicor 9) meant that it was not able yet to track expenditure in-year. However, Heads of Business Units were asked to confirm the assessments they had made at the time of the 2011/12 PCF application. There were two main changes in the estimate made of the proportion of activity properly funded from practising fees. The overall consequence was that the surplus of non-section 51 income over non-section 51 expenditure is now expected to be £2.4m rather than £2.6m - confirmed in a letter from TLS of 19 June 2012. The Law Society further clarified a discrepancy between the £2.6m figure and the application which suggested a £1.9m surplus. The reason given for this discrepancy is simply that the letter of 19 June reflected the changed apportionment of TLS expenditure while the practising fee application also reflects the fact that the surplus on its commercial activities is expected to fall short of what was anticipated last year.	

**Summary**

The LSB has the appropriate information in which to consider the application against the Practising Fee Rules 2009 and the LSB criteria. Additional information was provided by the SRA to allow the LSB to make a full assessment.

<b>Overall level of concern</b>	<b>No concern</b>
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**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	Relevant information
Is there a description of how the application was developed and settled?	Yes	<p>APPLICATION: The application was developed and settled with agreed arrangements between the SRA and TLS in setting the budget. Mentions that in 2010 the SRA changed the mechanism for collecting the net funding and Compensation Fund. LSB</p> <p>ASSESSMENT: Gives an account of the reasons why the total to be collected from practising fees has increased from that collected in 2011/12, as well as the reasons for an increase in the sum required for the Compensation Fund. Points out that while the budgets for the Law Society Group are not set until later in the year, they have provided anticipated figures for how the fee will be allocated between different parts of The Law Society Group. We were concerned about level of increase in the Compensation Fund - this will be dealt with in the Decision Notice on the SRA's Compensation Fund Rules Change Application.</p>

Criteria - budget	Yes or No	Relevant information
Is there a description of how the budget was developed and settled?	Yes	<p>APPLICATION: Set under agreed arrangements between TLS and SRA, TLS consult with SRA to determine the total PCF income to be realised. The SRA then determines the amount for regulation and how it will be apportioned between the different category of fee payers.</p> <p>LSB ASSESSMENT: Satisfied there is adequate description of how the budget was developed and settled.</p>

Is there sufficient detail to make an assessment of 'reasonable care' when settling the application?	Yes	<p>APPLICATION: The foundations of the budget and net funding requirement for the Law Society Group are submissions from the business based on expected activity in 2013. Where information is known it was used. Where information is not fully known at the time of creating the net funding requirement then assumptions were used based on a range of scenarios. The assumptions and scenarios were agreed by directors and CEOs prior to submission to the relevant Law Society and SRA decision making bodies for approval.</p> <p>LSB ASSESSMENT: While the Law Society Group budget is not approved until November 2012, there is sufficient information contained in the application to satisfy the LSB that reasonable care was taken when settling the application with all relevant parties and decision bodies involved in the process. There was a minor typo in paragraph 18 of the application which the SRA clarified. It stated that at the end of 2012 TLS had cash reserves totalling £56m and accounting reserves of £75.2m. The SRA confirmed that the year should have read 2011.</p>
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**Overall comments**

No comments.

**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

Is there evidence that the budget was settled in light of immediate and medium term budgetary needs?	Yes	<p>APPLICATION: The application is clear that the foundations of the budget and net funding of the requirement for the Law Society Group, were settled via submissions from the business based on their expected activity in 2013. The process was worked up through a bottom up process basis within both the SRA and the Law Society, starting with cost centres, business units and directorates, taking account of short and medium term activity based assumptions such as number of interventions into firms, claims on costs charged to the Comp Fund, impact of ABS, interest rates, inflation rates etc .</p> <p>LSB ASSESSMENT: Satisfied that the budget setting process, with its bottom up approach and considerations of forthcoming calls on the budget was undertaken with immediate and medium term budgetary needs in mind.</p>
Is there a description of contingency arrangements?	Yes	<p>APPLICATION: SRA can seek approval for additional funding. TLS has sufficient funds to meet reasonable demands if they can be justified. At the end of 2012 TLS had cash reserves totalling £56.5m and accounting reserves of £75.2 m. Calls on reserves total £29.9m, plus any proposed expenditure in excess of £11m Group Project Investment Fund budget (subject to approval). These calls on reserves to be partially mitigated by one-off asset sales and the inclusion of £3m contingency in the net funding requirement.</p> <p>LSB ASSESSMENT: Adequate description of arrangements.</p>
Does this include a section on the consultation with practitioners?	Yes	Refer to Section 4.

**Overall comments**

No comments.

**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	Relevant information
Is there evidence that the income raised through the PCF charge are applied <b>solely</b> to the <b>permitted purposes</b> ?	Yes	APPLICATION: The application gives assurance that it is only the costs for permitted activities which are included within the net funding requirement and the practising fee. [Refer to Section 3, page 8 of the application]. LSB ASSESSMENT: Satisfied that only permitted activities covered.
Does it include a budget that shows the anticipated <b>income</b> from practising fees?	Yes	APPLICATION: £103.5m (2012/13 budget year) compared to £94.8m (2011/12 Current year budget). LSB ASSESSMENT: No significant issues.

Criteria	Yes or No	Relevant information
Does it include an analysis of <b>expenditure</b> against the permitted purposes?	Yes	APPLICATION: The application gives a high level breakdown of total expenditure by permitted purposes. [Refer to Table 2, page 7 of the application]. For the budget year 2012/13, the total expenditure is £103.5m; consisting of the <b>SRA budget</b> (£52.8m); <b>TLS budget on permitted purposes</b> (£25.3m); <b>Levy</b> (£19.4m); <b>SDT budget</b> £3m) plus <b>contingency</b> £3m. LSB ASSESSMENT: Satisfied information provided in the application is adequate. The LSB have agreed following PCF process conducted for 2010, that it is difficult to accurately apportion costs to each permitted purpose as set out in the LSA 2007, as there are overlaps between each permitted purpose.
Does it include an analysis of income and expenditure related to <b>all other expected income</b> to be applied to permitted purposes?	Yes	APPLICATION: TLS indicate income and expenditure relating to non-permitted activities [see Table 3: pg8 of the application]. For the 2012/13 Budget year, <b>total non-s51 income</b> was £7.7m consisting of <b>TLS non-s51 income</b> (£7.8m) and <b>non-s51 income to permitted purposes</b> (-£0.1m). This is a small surplus that reduces the PC fee requirement relating to TLS permitted activities. It is included in the budget of total PCF income and expenditure allocated to non-regulatory functions as non-s51 income (TLS) [see Table 5; pg12 of the application]. For commentary on how TLS's work has been divided into permitted and non-permitted activities see pie charts at foot of page 12 of the application. LSB ASSESSMENT: No significant issues.

### Overall comments

To note that there was a delay in the introduction of a new finance system to be able to track expenditure in year. We expect the SRA to be in a better position in 2012/13 to estimate the proportion of activity funded from practice fees.

### 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	Relevant information
Is there clarity and transparency of how the PCF income collected by practising fees is applied to permitted purposes which are <b>regulatory functions</b> (not representative)?	Yes	APPLICATION: For the 2012/13 Budget year, the SRA's total income allocated to the permitted purposes for regulatory functions is £65.7m, consisting of total PCF income (£52.8m), recoveries (£6.7m; down from £8.1m in the 2011/12 current year due to a change in policy regarding recharges from the compensation fund will result in lower recoveries) and other income (£6.2m) (see below for explanation of other income). The total expenditure was £65.7m; consisting of the SRA CEO office (£4.4m), authorisation (£27.2m), legal (£11.6m), supervision (£17m) and Policy and Strategy (£5.5m) [see Table 4; page 10 in application]. For further clarity on the details of each expenditure category see page 11 of the application. LSB ASSESSMENT: No significant issues but checked with SRA what was covered in 'other income'. They confirmed that this covered mostly admission and enrolment. Specifically: Student registration, admission fees, student enrolment, qualified lawyer lawyers transfer test, authorisation of course providers, recognised partnership and sole practitioner, solicitor enrolment, cost directions, registration of training contracts, production of certificates and CRB enquiries.
Is there a description of shared services?	Yes	APPLICATION: The central costs and shared services between TLS & SRA have been allocated on the basis of a number of drivers, mainly headcount. The application did not include information on the SRA shared services allocation and we asked the SRA to clarify the position. SRA sent a table clarifying the position with the following figures: Total income allocated to shared services in 2012/13 is £34.9m of which £22.2m allocated to SRA and £11.1m allocated to TLS (permitted purposes) and £1.6m allocated to TLS (non-permitted purposes). LSB ASSESSMENT: Content with assessment.

Criteria	Yes or No	Relevant information
Is there clarity and transparency of how the PCF income collected by practising fees is applied to permitted purposes which are <b>not regulatory functions</b> ?	Yes	APPLICATION: For the 2012/13 Budget year, total income allocated to the permitted purposes for non-regulatory functions by TLS is £33.1m [see Table 5; page 12 of application] consisting of s51 income (£7.4m), non-s51 income (£0.1m refer to table 3: pg 9 of the application), total PCF income (£25.3m) and recoveries (£0.3m). The total expenditure on permitted purposes that are non-regulatory functions by directorate is £33.1m consisting of CEO/Private office (£4.5m), Govt Relations including General Counsel (£3m), Communications (£5.3m), Legal Policy (£7.3m), Law Society Services (£13m). For further clarity on the details of the contents of each expenditure category see page 7 of the application. LSB ASSESSMENT: No significant issues.

#### Overall comments

There was an issue that the SRA did not provide figures giving information on shared services allocation in the submitted application. They provided re-assurance on submitting the information subsequently that they would provide the information in the application in future.

#### 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	Relevant information
<b>Consultation with members</b>		
Does the application include a description of their consultation undertaken with their members mandated to pay practising fees?	Yes	APPLICATION: SRA Board decided to make no significant changes to its overall approach for 2012/13, and therefore it did not conduct a specific consultation. The significant changes to the fee structure made in 2010 were subject to considerable consultation with stakeholder groups. Detailed description of communications to ensure transparency in Section 5 of the application. LSB ASSESSMENT: Satisfied no major consultation required as there are no significant changes to fee structure.
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	APPLICATION: Following the decision of the SRA Board in February 2012 to maintain the fee structure for practising fees for 2012/13, SRA published a News Release on the SRA website and the decision was tweeted; received coverage in the trade press; online calculator was made available to allow firms to calculate expected fees for both individuals and firms. News Release for changes to Compensation Fund issued in June 2012. Placement article sent to key stakeholder groups. LSB ASSESSMENT: Satisfied that there was adequate transparency in communicating the decision not to radically change the fee structure and for members to understand indicative contributions via the on-line

Criteria	Yes or No	Relevant information
<b>Consultation with members</b>		
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	APPLICATION: PCF expenditure set out in accessible pie charts on page 14 of application. On-line calculator. LSB ASSESSMENT: Satisfied application covers this.
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?	Yes	APPLICATION: A communications plan has been put in place to support the fees exercise plus online calculator. LSB ASSESSMENT: No significant issues.

<p>If yes, does the application also include a description of how that feedback influenced the decision-making and policy development processes?</p>	<p>Yes</p>	<p>APPLICATION: No reference to feedback. Asked SRA for further details including whether there had been feedback from the on-line calculator. They provided the following response: The SRA considered the feedback from the regulated community gained through workshops and direct contact on the PC renewals exercise in 2011/12 year and the teething difficulties with the new online system. As a result, on top of the drive to refine the IT system, there was a strong focus on keeping the SRA's net funding requirement to as low a level as possible to still allow for further development of OFR but not lay too high a financial burden on the regulated community. The workshops and feedback was gained largely through quarter one in 2012. In addition to the coverage and publicity already noted in the application prior to submission to the LSB, the Council's decisions were reported in Professional Update, which is sent direct to tens of thousands of solicitors and also published on the Law Society's website. The Society also issued a Press Notice reporting the decisions. We have not received any comments from the profession on the decisions.</p> <p>LSB ASSESSMENT: Satisfied overall that information provided on feedback is now adequate.</p>
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**Overall comments**

Consultation quite limited as last year although in the context of no significant change in the fee structure this is probably adequate. We would expect significant consultation as part of the planned review of fees and charges.

**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	Relevant information
Does the application include a regulatory or diversity impact assessment?	Yes	APPLICATION: As with consultation, the significant changes to fee structure made in 2010 were the subject of an Equality Impact Assessment which indicated that while there would be winners and losers in relation to firms in different size groups, overall the new structure would be beneficial to all in in-house practice and that more firms would see an overall reduction rather than an increase in the total fees payable. Based on this analysis and the SRA decision not to change the fee allocation indicates it considers the impact to be the same as that assessed in the 2010 EIA. (See Section 6 paragraph 34 page 15). LSB ASSESSMENT: Content that given there are no significant changes to fee structure proposed, a new diversity impact assessment is not required.
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	APPLICATION: High level general view provided. LSB ASSESSMENT: Proportionate given no significant change in fee structure.
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	APPLICATION: Not in PCF application but yes in rules change application for alterations to compensation fund arrangements. LSB ASSESSMENT: No significant issues or risks.

### Overall comments

Expect that an Equality Impact Assessment will be undertaken as part of review of fees.

### 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	Relevant information
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?	Yes	APPLICATION: The SRA engaged with non-commercial bodies stakeholders from February 2012 through an early and public discussion. It notes that in future some non-commercial bodies may, as special bodies, become licensed bodies. Some are therefore represented on the ABS reference group. Key concern raised was whether it was appropriate to use turnover as currently defined, as the basis for charging a firm fee to special bodies. Regulatory scheme for special bodies still in early course of development, SRA currently considering the way forward on the issue in the context of the LSB's consultation on this matter. LSB ASSESSMENT: No significant issues. Seems reasonable that the SRA are considering the place of special bodies in the longer term and within the context of the LSB consultation.
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?	Yes	APPLICATION: Special bodies represented on the ABS reference group where issues were aired. LSB ASSESSMENT: No significant issues.
Have the non-commercial bodies provided any response to the details shared to them by the AR?	Yes	APPLICATION: See above. Key concern raised was whether it was appropriate to use turnover as currently defined, as the basis for charging a firm fee to special bodies. LSB ASSESSMENT: No significant issues.

**Overall comments**

Special bodies and turnover is issue the LSB will want to keep updated on.

**Evaluation**

The application meets the the criteria and evidence for Section 6: Consultation with non-commercial bodies that must be provided for this setion 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 2012/13 practising certificate fee (PCF) levels and the licensed body's periodical fees, as set out in the SRA/TLS PCF application for 2012/13 and supported documents of 9July 2012, be approved by the LSB. This decision is to be made under the authority delegated to the Chief Executive by the LSB Board.*

Criteria - others	Yes or No	Relevant information
Have we considered if we need to consult with anyone else on this application?	Yes	APPLICATION: LSB ASSESSMENT: We did not consider it necessary to consult with other groups.
If yes, what consultation has taken place and with whom?	Yes	APPLICATION: N/A LSB ASSESSMENT:
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?	Yes	APPLICATION: N/A LSB ASSESSMENT:

**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**