

<b>Approved regulator (AR)</b>	<b>Costs Lawyers Standards Board (CLSB)</b>
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<b>Final application</b>	<b>Type of format received</b>	<b>Confirmed receipt of application?</b>	<b>Website link to the key documents on our webpage</b>
Receipt of final application on 10/09/12	Email	Yes	<a href="http://www.legalservicesboard.org.uk/Projects/independent_regulation/2012_practising_fee_applications.htm">http://www.legalservicesboard.org.uk/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**

	<b>Yes or No</b>	<b>Description</b>	<b>Date</b>
Did the LSB receive a draft application?	No		
Was there a pre-meeting between AR representatives and the LSB?	No		
Do we have any initial concerns arising from the application?	Yes	Application did not include budgetary information from last year nor total anticipated income for 2013. We have now been provided with further explanation of both. We also queried the CLSB's reserves policy, breakdown of spend on permitted purposes and approach to consultation.	
Have the concerns or issues of clarification (if any) been resolved?	Yes	See above.	
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	No specific section. Issues raised last year were that the levy payment had been omitted from the initial application and that the consultation paper was not clear about the fact that a practitioner may use the title 'Costs Lawyer' without paying the PCF or being regulated, so long as they do not undertake reserved legal activities. Levy has now been included in budget. Consultation paper explains that a CLSB practising certificate provides the right to conduct reserved legal activities.	

**Summary**

Following submission of additional information on 21 September 2012 and a subsequently revised version of this information on 30 September 2012 by CLSB, LSB has the required information to consider the application against the Practising Fee Rules 2009. The information provided on 30 September 2012 has been published on the LSB's website.

**Overall level of concern** No concern

**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	For 2013, CLSB and ACL will be invoicing separately for their respective fees. CLSB has kept its fee for a practising certificate at the same level for 2013 as it was for 2012 (£250). ACL will not be using any of the fee it charges for permitted purposes and will therefore be notifying members of the membership fee it will charge separately and outside of the PCF process.
Is there sufficient detail to make an assessment of 'reasonable care' when settling the application?	Yes	Fee for regulatory costs is being kept the same as last year and application assumes that the number of costs lawyers will remain the same.

**Overall comments**

The original application did not include the overall anticipated income from the PCF, however, this has now been clarified.

**Evaluation**

The application meets the criteria.

Level of concern **No concern**

Criteria - budget	Yes or No	Relevant information
Is there a description of how the budget was developed and settled?	Yes	Application states that CLSB believes that the proposed PCF 2013 is fair and reasonable and will provide CLSB with adequate funding.
Is there evidence that the budget was settled in light of immediate and medium term budgetary needs?	Yes	Some description in the consultation document submitted with the application about the proposed activities for 2013.
Is there a description of contingency arrangements?	Yes	CLSB has included a contingency sum in its 2013 budget of £5k. At year end 2011, CLSB had a reserve fund of £35k. This figure was £55k at the time of submitting the application. CLSB may also seek additional funding from ACL if required.
Does this include a section on the consultation with practitioners?		Refer to Section 4.

**Overall comments**

We sought and were provided with further details about the CLSB's approach to reserves. This clarified that at its July 2012 meeting, the CLSB board agreed that its approach to reserves would be based on potential exposure rather than annual income.

**Evaluation**

The application meets the criteria.

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	The PCF will be used by CLSB for permitted purposes only.
Does it include a budget that shows the anticipated <b>income</b> from practising fees?	Yes	Anticipated income from practising fees was not included in application. However, CLSB has since informed us that it has worked on the basis of income being £200x565 Costs Lawyers (£113k). An additional £50 per head of income will be set aside for the LSB and OLC levy and anything left over will top up the £113k.

Criteria	Yes or No	Relevant information
Does it include an analysis of <b>expenditure</b> against the permitted purposes?	Yes	The application includes percentage split of income by permitted purposes for 2012.
Does it include an analysis of income and expenditure related to <b>all other expected income</b> to be applied to permitted purposes?	N/a	No other income is expected.

### Overall comments

We sought and received clarification about total anticipated income from the PCF. The additional information has been published on our website.

### Evaluation

The application meets the criteria.

### 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	Yes, break down of percentage of fee spent on different permitted purposes included in application. 25% of 2012 spend was on regulation.
Is there a description of shared services?	N/a	N/a

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	Yes, break down of percentage of fee spent on different permitted purposes in 2012 included in application. However, we were surprised at the amount of resource spent on non-regulatory permitted purposes.

**Overall comments**

We were surprised at the amount of resources spent on non-regulatory permitted purposes. We have commented in the decision letter that we would be surprised and curious if the proportion of resources focused on regulation did not increase in future.

**Evaluation**

The application meets the criteria.

**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	The consultation paper and a summary of responses to it were provided with the application. CLSB confirmed in follow-up information submitted to us that all costs lawyers with a 2012 practising certificate had been emailed the consultation, and that the consultation had been published on its website.
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	Provides some information about arrangements for this year, including that ACL will invoice separately for a membership fee.
If yes, does the application also include a description of how that feedback influenced the decision-making and policy development processes?	No	Summary of consultation responses included in application but no assessment of how the responses have influenced the application. However, we note that there were only seven responses and that all agreed with the proposed fee level.

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?	No	However, consultation did include budget for 2013 and accounts for year ended 31 December 2011.
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?	N/a	

#### Overall comments

We queried how the comments received in consultation have been considered in the final application and noted the response from CLSB which stated that given that CLSB is not proposing to increase its fee for regulation, there was little to respond to. We have however suggested in the decision letter that CLSB provides a response to any points raised in consultation in future applications.

#### Evaluation

The application meets the criteria.

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?	No	N/a
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)?	No	N/a
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	Description of ROs included in application.

### Overall comments

Not necessary given the fee level is not changing.

### Evaluation

The application meets the criteria.

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	Provides a statement on why non-commercial bodies were not consulted with; there was no change to the fee from last year and CLSB believes that over 90% of costs lawyers' instructions come from professional clients.
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?	No	No
Have the non-commercial bodies provided any response to the details shared to them by the AR?	No	N/a

**Overall comments**

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**Evaluation**

The application meets the criteria.
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Level of concern:	No concern
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**Final assessment and decision**

Approved.

Criteria - others	Yes or No	Relevant information
Have we considered if we need to consult with anyone else on this application?	Yes	Did not consider it necessary to consult with anyone else.
If yes, what consultation has taken place and with whom?	N/a	N/a
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?	N/a	N/a

**Overall comments**

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**Evaluation**

The application meets the criteria.
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Level of concern:	No concern
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