



Cost of regulation: transparency of reporting

The Faculty Office

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1. Introduction

Why are we doing work on the cost of regulation?

1. Establishing the cost of regulation in legal services is important because these costs are borne by businesses and ultimately by consumers. Establishing an evidence base about the cost of regulation can help the LSB and the approved regulators review any areas of regulation that appear disproportionately costly relative to any benefits derived from those regulations.
2. These reports do not set out to analyse the income and expenditure of each approved regulator, but simply to understand what information is made publicly available in this area. Alongside these reports the LSB is publishing a paper which summarises the overall findings of its cost of regulation project and sets out next steps.

What's this report about and how does it fit in?

3. Our research¹ has found concern among legal sector businesses about the cost of regulation, but little understanding about what these costs pay for. In particular, a number of respondents did not know what they paid for via their annual practising certificate fee, which makes up a significant element of the total regulatory burden. To help improve transparency around these costs, the LSB has produced a report for each regulator providing a basic analysis of its costs using information which is available in the public domain, but located in different places. We have used publicly available information only at this stage so we can understand what can be done with what is readily available, before discussing with each regulator what more may be required.
4. Specifically, each report aims to:
 - shine a spotlight on the publicly available information about the costs of the regulator concerned (including the LSB), to enhance accountability to the profession for these costs
 - show historic cost trends for each regulator over a five-year period
 - highlight where greater transparency of the regulator's costs is needed
 - help the board of the regulator hold its executive to account for the level of its spend, and for the level of information about its costs which is publicly available
 - provoke and inform wider discussion of what effective and efficient regulation should look like.
5. What this report does not do is seek to make any assessment of the benefits derived, proportionality of cost, compliance costs within a business or costs/benefits of being in one regulatory regime or another, whether there are quasi regulatory costs, differential costs of insurance or any other cost.

A key finding

6. Considering the approved regulators as a whole, compiling this information proved far more challenging and time-consuming than it should have been. The LSB recognises that it has not previously set requirements in this area, and further that each regulator will have reasons for deciding on the content and format of the financial information that it publishes. Nonetheless, the LSB was disappointed by the level of available information, which has frustrated our efforts to present as full a picture of the cost of the regulators as we would have liked.

Next steps

7. These reports are part of our wider project on the costs of regulation, which has also involved (as mentioned above) research asking providers for their views on the value for money of regulation and in-depth research to collect estimates from providers of their costs of compliance. Alongside the reports on each regulator on transparency of reporting the LSB is publishing its overall findings, drawing together the conclusions from the different strands of our work and setting out what we intend to do in light of these conclusions. It has been challenging to bring together the information on the cost of each regulator from publicly available sources. There is a clear need to improve the level and quality of published information about regulatory costs. Over the coming months, we will be working, together with the approved regulators to ensure more data is available.

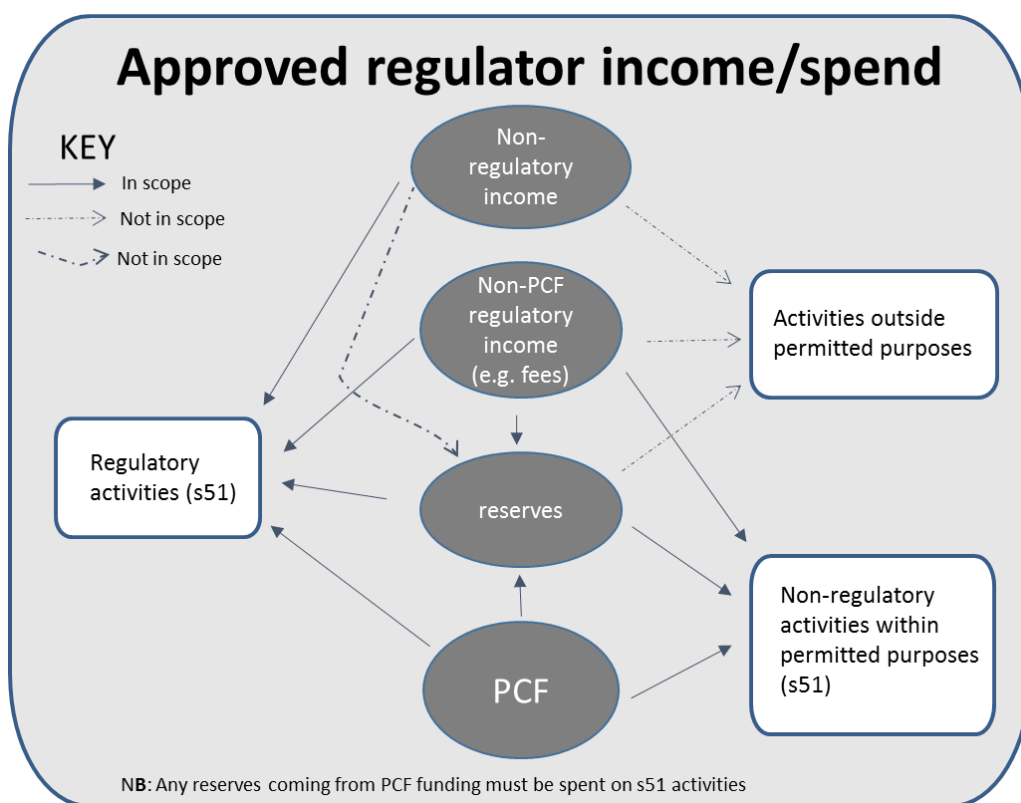
About the figures in this report

8. In this work, the LSB has focused on money raised via the practising certificate fee (PCF), other regulatory income and non-regulatory income which funds regulatory activities. As set out in the graphic overleaf, any non-regulatory income which funds activities outside of the permitted purposes of section 51 of the Legal Services Act 2007 is out of scope of this report. In the case of the Faculty Office there are no purposes that are out of scope.
9. The charts in this report cover the period between 2010 and 2014, as all regulators have published data for this period. The cost profiles of some regulators may have changed since then. The compilation of the charts was undertaken by the LSB and the regulators were given an opportunity to check the charts for accuracy and provide relevant additional contextual information prior to publication.
10. The structures of the regulators vary, their regulated communities are different and these bodies' activities differ in scope and complexity. Regulators' fee charging mechanisms also vary although all are scrutinised and approved by the LSB. This may change between years and may also affect year on year comparisons between regulators and within the regulatory regime. All this

means that it would be misleading to use the charts to compare one regulator directly against another.

11. A list of charts in the report is set out overleaf. References to the source material are highlighted in the data tables and can be found at the back of the document.

Diagram setting out scope of transparency of reporting analysis



List of charts used in this report

Ref	Name of Chart	Purpose of Chart
A1	Number of notaries holding practising certificate	This chart indicates the size of the regulator for contextual purposes based on the number of individuals it authorises. Notaries must have a current practising certificate to be authorised to carry out reserved legal activities.
B1	Individual PCF and contingency fund contribution	This chart indicates the direct cost to the profession of the regulator based on the annual PCF for individuals.
C1	Expenditure relative to PCF income and other income	This chart indicates operating cost relative to fee income and other income. Other income streams may be used to subsidise the cost of regulation.
E1	Spend on regulatory functions	This chart provides an overview of Expenditure for categories of regulatory activity.
F1	Unit cost	This chart gives an indication of the cost of the regulation per authorised person based on expenditure.

2. Background to the Faculty Office

12. The Faculty Office, which has its origins in the Ecclesiastical Licences Act 1533², currently regulates 794 notaries. It has no representative function. For more information about the Faculty Office, please see its website.³
13. The time series in this report covers the period between 2010 and 2014. However, the market that the Faculty Office regulates has continued to change since then.
14. The fact box below includes information about numbers and types of authorised individuals and bodies, staff numbers and reserved activities covered by the regulator as at January 2016. Each regulator in the legal sector is unique and varies significantly across these categories.

Faculty Office Fact Box (January 2016)

No. authorised persons*	794 notaries ⁴ (as of April 2015)
Reserved legal activities	<ul style="list-style-type: none"> • Reserved instrument activities • Probate activities • Administration of oaths • Notarial activities
Entity regulator	No
Licensing authority	No
Employees	7 ⁵ (as of February 2015)
Budget estimate (01 Jan 15 – 31 Dec 15)	Regulatory budget (including levies): £376,050 ⁶

* Individuals only

General notes to Faculty Office figures

15. Data from this report has chiefly been drawn from two main data sources. These are the annual reports of the Faculty Office and the Faculty Office's annual PCF applications to the LSB.
16. The data from the annual reports and the PCF applications refer to two different but largely overlapping time periods. The accounting year follows the calendar year, whereas the PCF year runs from 1 November to 31 October each year.
17. Where figures drawn from the two reports are used in the same table, this report has mapped the reports to each other based on maximising the overlapping time period as set out in the table below.

Annual Accounts	PCF applications
1 Jan 2010 - 31 Dec 2010	Nov 2009 – Oct 2010
1 Jan 2011 - 31 Dec 2011	Nov 2010 – Oct 2011
1 Jan 2012 - 31 Dec 2012	Nov 2011 – Oct 2012
1 Jan 2013 - 31 Dec 2013	Nov 2012 – Oct 2013
1 Jan 2014 - 31 Dec 2014	Nov 2013 – Oct 2014

18. The difference between the months included for the annual account and the PCF year means that in practice most of the income from PCF application for the e.g. 2010/11 PCF year will appear in the accounting year for 2010 as most notaries pay for the practising certificate at the beginning of the PCF year which is in November, towards the end of the period covered by the accounting year.

3. Transparency charts

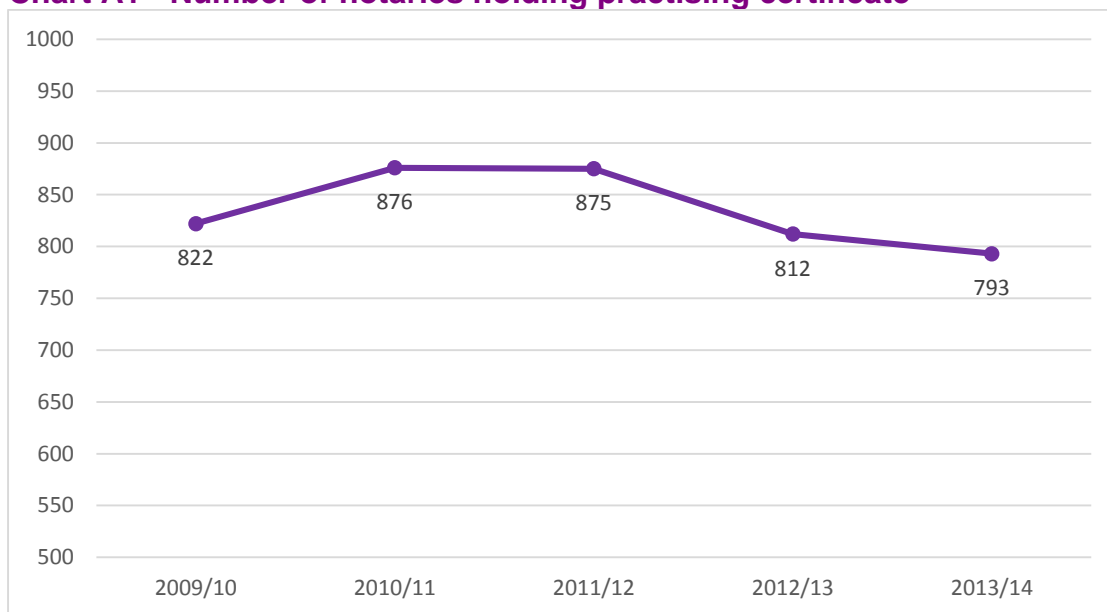
A. Number of authorised persons per regulator

19. The cost of a regulator must be considered relative to the number of individuals or firms that it authorises. Therefore, before this report sets out data on costs, the table below provides information about the number of notaries authorised by the Faculty Office during 2010 to 2014. The Faculty Office does not authorise firms. Costs drivers also include, where applicable, the volume of regulatory activity that is undertaken, infrastructure investment which may take several years to produce a return on investment, financial policies within regulators to create or reduce reserves and operation improvements. In this report we have not sought to investigate the factors, nor to analyse or comment on their impact in any particular regulator.
20. Every year notaries must renew their practising certificates with the Faculty Office to continue to be allowed to carry out reserved legal activities. The number of practising notaries decreased by 3.5% between 2010 and 2014 from 822 to 793 respectively.
21. All data for Table A1 has been sourced from Faculty Office annual reports for the relevant year.

Table A1 - Number of notaries holding practising certificate

	PCF year					% change 2010 - 2014
	2009/10	2010/11	2011/12	2012/13	2013/14	
Notaries holding PC	822 ⁷	876 ⁸	875 ⁹	812 ¹⁰	793 ¹¹	-3.53%

Chart A1 - Number of notaries holding practising certificate



B. Practising Certificate Fee (PCF)

22. A direct cost of regulation for notaries authorised by the Faculty Office is experienced when they renew their practising certificate. Income from this source is used wholly to fund the cost of regulation. Fee income is also used to fund statutory levies for LSB and the Legal Ombudsman.

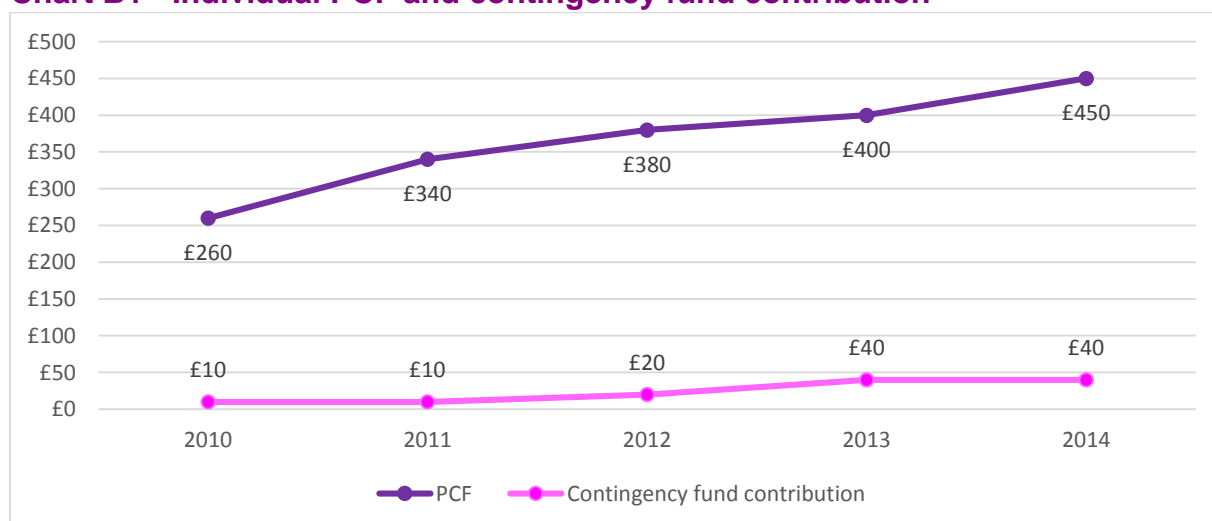
23. The Faculty Office charges a fee for the practising certificate which notaries must hold in order to carry out reserved legal activities in England and Wales. Notaries must also pay a contingency fund payment, which is obligatory on payment of the PCF. Overall the combined PCF and contingency cost increased by 81.48% between 2010 and 2014 from £270 to £490 respectively.

24. For Table B1 data on PCF and contingency fund contribution is from PCF applications to the LSB. Data on PCF income is from Faculty Office annual reports. As the two reporting periods are slightly different they have been matched as set out in the general notes on page 8.

Table B1 - Individual PCF and contingency fund contribution

	Accounting year					% change 2010 - 2014
	2010	2011	2012	2013	2014	
PCF income	£312,536 ¹²	£354,016 ¹³	£367,555 ¹⁴	£395,295 ¹⁵	£364,315 ¹⁶	+16.63%
PCF	£260 ¹⁷	£340 ¹⁸	£380 ¹⁹	£400 ²⁰	£450 ²¹	+73.08%
Contingency fund contribution	£10 ²²	£10 ²³	£20 ²⁴	£40 ²⁵	£40 ²⁶	+300.00%
Total	£270	£350	£400	£440	£490	+81.48%

Chart B1 - Individual PCF and contingency fund contribution



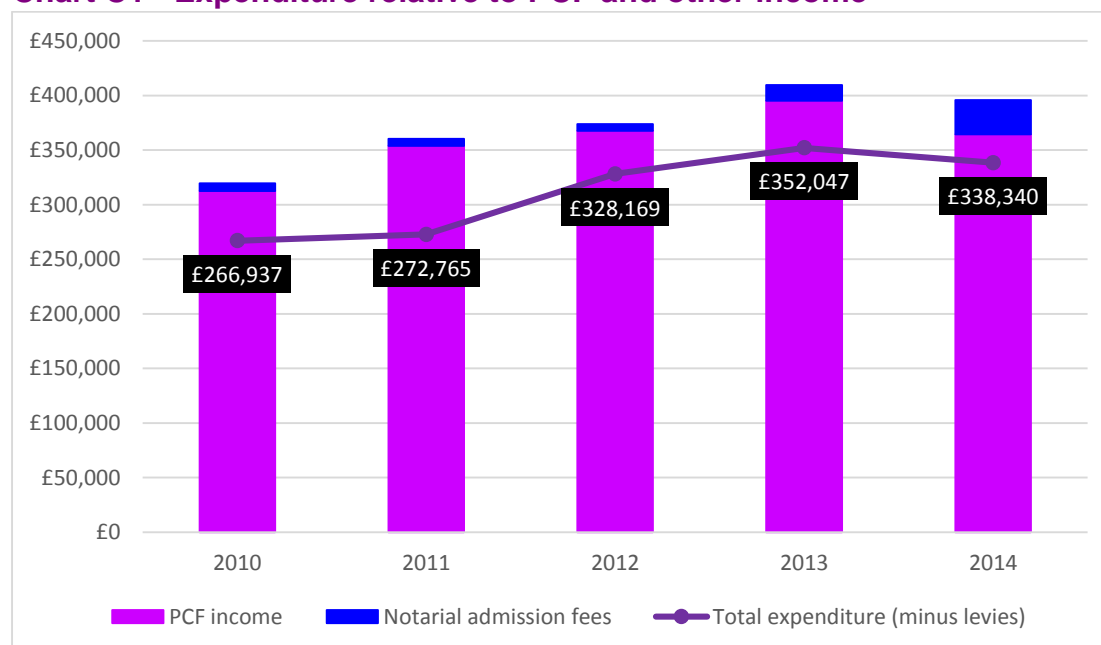
C. Operating cost relative to PCF income and other income

25. As well as income from practising certificate fees some approved regulators receive other income from sources such as training or corporate hospitality. This income may be used to reduce the cost of the PCF so that instead of collecting the entire cost of regulation from authorised individuals or authorised firms these regulators can collect less money from the profession than would otherwise have been necessary. Table C1 shows how much of the cost of regulation to the profession is reduced by other income generated by the regulator. This shows that the total fee income is between 92% and 98% of total income for the Faculty Office between 2010 and 2014. In all years, all other income was derived from notarial admission fees.
26. Table C1 uses data from the Faculty Office annual reports. To calculate total income the PCF income has been combined with notarial admissions fees. In order to calculate the cost of the Faculty Office direct and indirect expenditure has been combined.
27. For Table C1, the annual LSB and OLC levies have been subtracted from the expenditure figure but not from the PCF income figure. Figures for the Faculty Office's contribution for the set up costs of the LSB and OLC is published here for the first time. As the PCF income is set to cover the levy and Faculty Office expenditure this may mean that the PCF income appears disproportionately high. The LSB levy is presented differently in the accounts of each regulator. Focusing on Faculty Office expenditure minus the levies enables the Faculty Office's costs to be isolated. A separate report on the LSB's costs is being published alongside this one.

Table C1 - Expenditure relative to PCF and other income

	2010	2011	2012	2013	2014	% change 2010 - 2014
PCF income	£312,536 ²⁷	£354,016 ²⁸	£367,555 ²⁹	£395,295 ³⁰	£364,315 ³¹	+16.57%
Notarial admission fees	£6,900 ³²	£6,400 ³³	£6,150 ³⁴	£14,200 ³⁵	£31,575 ³⁶	+357.61%
Total Income	£319,436	£360,416	£373,705	£409,495	£395,890	+23.93%
Total expenditure	£306,017 ³⁷	£321,253 ³⁸	£366,868 ³⁹	£378,023 ⁴⁰	£363,729 ⁴¹	+24.00%
LSB and OLC set up costs	£16,242	£9,234	£9,233	-	-	
LSB and OLC running costs	£22,838	£39,254	£29,466	£25,976	£25,389	+11.17%
LSB and OLC total levy costs	£39,080 ⁴²	£48,488 ⁴³	£38,699 ⁴⁴	£25,976 ⁴⁵	£25,389 ⁴⁶	-35.03%
Total expenditure (minus levies)	£266,937	£272,765	£328,169	£352,047	£338,340	+26.75%
% PCF income to all income	97.84%	98.22%	98.35%	96.53%	92.02%	

Chart C1 - Expenditure relative to PCF and other income



D. Spend of the Approved Regulator on non-regulatory permitted purposes

28. In the case of some regulators part of the cost of regulation for providers is where income from the individual practising certificate fee pays for the cost of permitted non-regulatory activities. Reports on the other regulators, where relevant, include information setting out the proportion of the PCF spent on non-regulatory permitted activities. However, as the Faculty Office only performs regulatory permitted purposes no table has been produced for this report.

E. Spend on regulatory functions over time

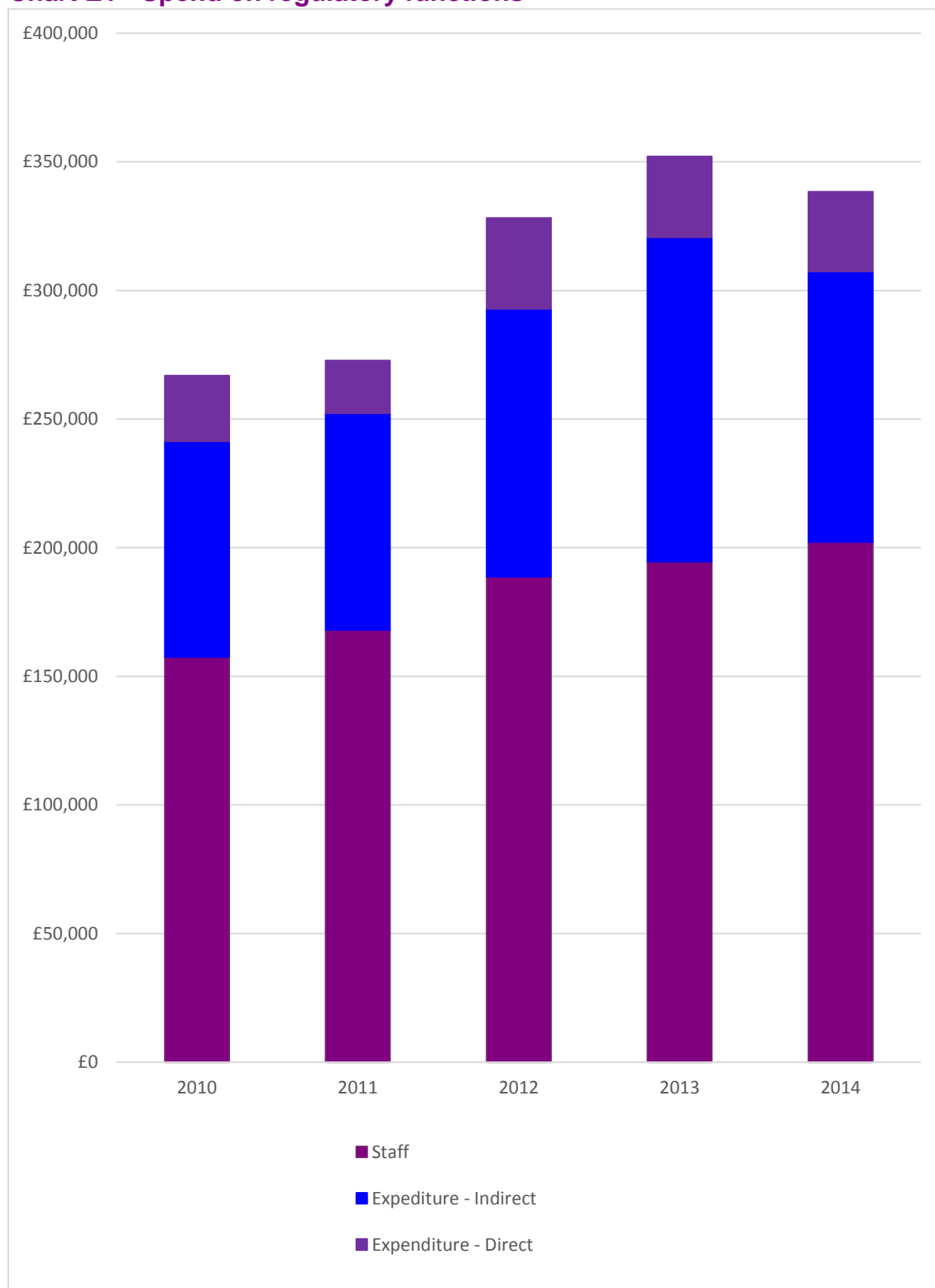
29. This report has so far attempted to establish the summary level costs of the Faculty Office. This section of the report seeks to provide a breakdown of how the Faculty Office divides its allocated expenditure between different regulatory activities. This section is included to give an understanding of the various activities that together add up to the cost of regulation. Some regulators publish more information about their regulatory functions than others and some regulators will change their reporting categories and change what is included within categories from year to year.

30. All figures in Table E1 are sourced from Faculty Office annual reports. Direct costs, in the annual reports, comprises the salary costs of the employed staff and the expenses paid directly from the Faculty Office. The indirect expenditure is the administration costs (apart from salaries) and the irrecoverable VAT thereon. In Table E1, direct expenditure is presented exclusive of staff costs and the LSB levy.

Table E1 - Spend on regulatory functions

	2010	2011	2012	2013	2014
Staff	£157,458 ⁴⁷	£168,003 ⁴⁸	£188,663 ⁴⁹	£194,570 ⁵⁰	£202,201 ⁵¹
Expenditure - Direct	£25,607 ⁵²	£20,480 ⁵³	£35,304 ⁵⁴	£31,330 ⁵⁵	£30,963 ⁵⁶
Expenditure - Indirect	£83,872 ⁵⁷	£84,282 ⁵⁸	£104,202 ⁵⁹	£126,147 ⁶⁰	£105,176 ⁶¹
Total	£266,937	£272,765	£328,169	£352,047	£338,340

Chart E1 - Spend on regulatory functions



F. Unit cost

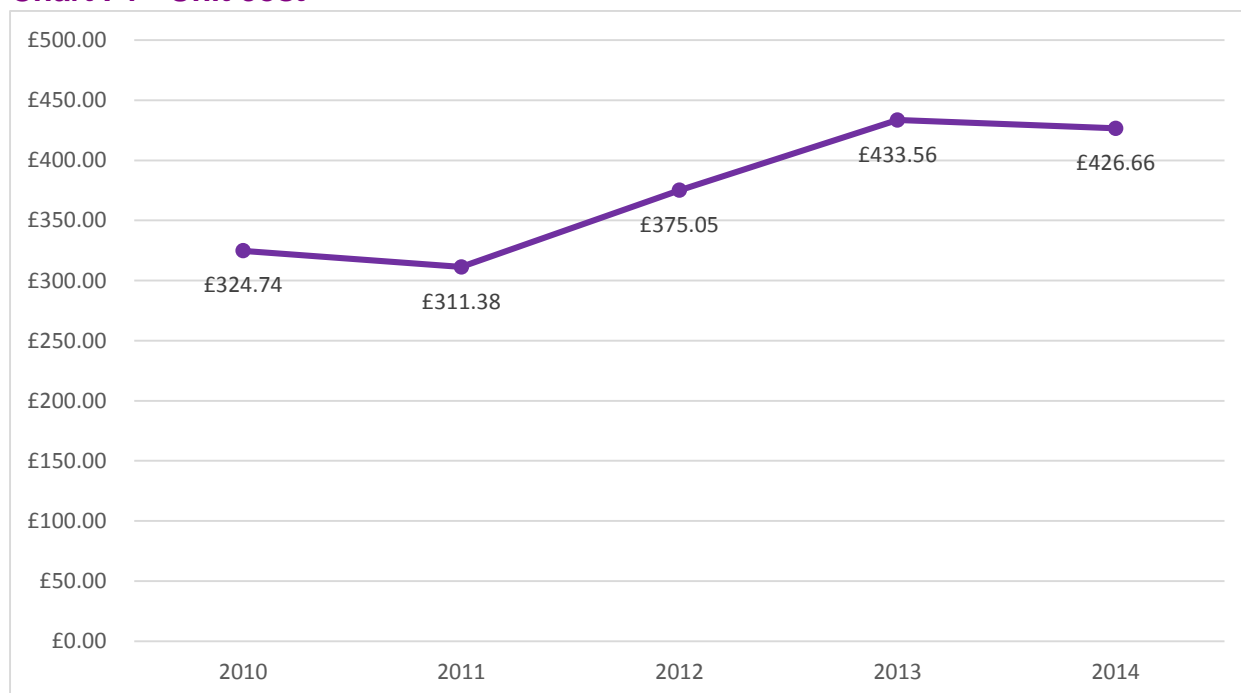
31. One way to analyse the cost of regulation to authorised persons is to calculate the unit cost of a regulator relative to the size of its regulated community. This is calculated by dividing the total expenditure by the number of authorised individuals. However, unit costs should be treated with a high degree of caution as they are not comparable from regulator to regulator as the scope and complexity of the activities of each regulator is different. The make-up of the regulated community can also be diverse.

32. Table F1 shows that the unit for the Faculty Office increased by 31% between 2010 and 2014. This table uses data previously included in tables A1 and C1.

Table F1 - Unit cost

	2010	2011	2012	2013	2014	% change 2010 - 2014
Notaries holding PC	822	876	875	812	793	-3.53%
Total expenditure (minus levies)	£266,937	£272,765	£328,169	£352,047	£338,340	+26.75%
Unit cost of Faculty Office	£324.74	£311.38	£375.05	£433.56	£426.66	+31.38%

Chart F1 - Unit cost



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