



THE FACULTY OFFICE

Application for approval of revised Practising Fees
2020/2021

Under Section 51 of the Legal Services Act 2007

I Summary and overview

Summary of the proposal and whether the proposal is for an increase, decrease or no change to the PCF relative to the previous year.

1. There are c750 registered notaries. Registration is currently of each individual notary. There is no "entity" registration regime. Last year we introduced a practising fee for each notary based on the turnover generated by their notarial practice which was designed to more fairly reflect the significant variation in turnover amongst the profession. This was broadly welcomed even by those whose turnover resulted in a significant increase in their practising certificate fee payable.
2. Application is again made this year for approval of a practising fee for each notary based on the turnover generated by their notarial practice in the same bands as for last year. The table of fees is set out in **Appendix 1** to the application.

How the current application addresses the matters (if applicable) raised in the LSB's decision letter approving the previous year's PCF application.

3. The LSB raised the following concerns in its letter dated 10 September 2019:

- **Debt to the Non-Regulatory Arm**

The LSB required the Faculty Office to provide information on the progress of its regulatory arm to become self-funding and to build and maintain reserves equal to a full year's operational cost and to develop a documented reserves policy.

The introduction of the new banded PCF did not produce as much as income as had been budgeted. In calculating the budget we used the turnover figures supplied on the 2018/19 renewal process but for 2019/20 there was a movement to a lower turnover figure particularly between the upper two bands resulting in a £24,340 reduction against the budgeted income contributing to a net shortfall in the end of year accounts of £33,194. We intend to provide clearer guidance on how to calculate turnover (see 17 below). As will be seen from the three year budgets, we are budgeting for surpluses over the next three years which, if the budgets hold up, will reduce the net deficit to a little under £70,000 by the end of March 2023. Clearly, a more significant rise in the annual practising certificate fee would see this reduced quicker but in the current economic climate the Faculty Office does not regard this as prudent but with a net no change to the practice authorisation fee, an additional £14,500 budgeted income will be achieved

- **Calls on the Contingency Fund**

The LSB required the Faculty Office to reduce the contribution required for the contingency fund if calls on the fund are sufficiently low in the next year.

This year the contribution has been reduced from £20 to £0. This has been made possible because the Faculty Office has not seen any significant call on the contingency fund

- **Transparency**

The LSB required the Faculty Office to consider a more detailed explanation of how consultation responses were considered and whether the feedback resulted in changes and if not, the reasons for their decision.

We have included a copy of our response to the consultation responses. An improved return was achieved this year as the profession become more used to direct consultation and the Faculty Office will seek to ensure that this trend continues year on year.

- **2020 Consultation on detail of PCF fees proposals**

The consultation on the proposed fees for 2020/21 together with the response by the Faculty Office to the consultation have both been published. All notaries were alerted by e mail to the publication of these documents.

- **2020 Consultation:**

<https://www.facultyoffice.org.uk/notaries/news/consultation-practice-fees-2020-21-july-2020/>
also attached as **Annexure 1**

- **2020 Response:**

<https://www.facultyoffice.org.uk/wp-content/uploads/2020/08/Practising-Certificate-Fee-Consultation-Response-August-2020.pdf>
also attached as **Annexure 2**

- **Review of bandings**

The LSB required the Faculty Office to provide information on how the new methodological approach to the PCF is progressing through a review of its bandings.

- **Allocation to permitted purposes**

To provide estimates on the allocation of PCF to each of the relevant permitted purposes

Pre-application discussions with the LSB prior to the submission of this application, and what (if any) issues were identified by the LSB and how this application addresses them.

4. There have been no pre-application discussions this year as the proposals do not represent a significant change of either the level of fee or the methodology.

II Developing the overall budget and application

A. The budget statement and figures

5. The budget for 2020/21 and projected budgets for the following two years are set out in **Appendix 2** to the application. The accounting year for the Faculty Office and the PCF year are not the same. PCF income is spread across two accounting years and the accounts are expected to produce a surplus for the accounting year beginning 1 April 2020 and for the two following years. There will still be an

accumulated deficit in the balance sheet, which is expected to be reduced to under £70k by the end of the 2022/23 accounting year. This is set out clearly in the consultation.

The budget setting process

6. The budget is initially produced for the Registrar by the Faculty Office's Finance Officer. This is then discussed internally and at one or more of the Faculty Office monthly meetings with the Master after which any amendments are agreed and signed off.
7. In addition to the wider consultation of the profession, the budget is shared with the two Societies at an annual meeting in July where attendees have the chance to discuss the budget and ask questions of the Registrar and Chief Clerk.

How the immediate and medium-term needs have been taken into account

8. Great care is taken to ensure that the budgets are accurate each year and include sufficient provision to enable the work of the office to be carried out well and efficiently and to meet the Faculty Office's obligations to the notarial profession, the public, the LSB, OLC and OPBAS etc.
9. The Faculty Office's Finance Officer has undertaken this task for over 30 years. The Master and the Registrar are aware that funding levels are tight but despite this has managed to set a budget which enables significant funding to be found for projects like the new IT system for online practising certificate renewals (NotaryPRO) and the complete overhaul of the Faculty Office website and the majority of the expenditure for these projects has already been expended and included in the accounts.
10. The Faculty Office is also looking to reduce its internal "indebtedness" (as described above) with the aim in the longer term to build up its working capital and develop a formal reserves policy.

Contingency /reserves arrangements

11. The formal Contingency Fund is topped up annually so that it generally holds funds of at least £100,000 to cover the costs of discipline cases. The fund currently stands at £154,000 as the majority of the costs for the last year's disciplinary hearings were recovered.
12. For the Faculty Office itself, the Master and the Registrar are seeking to grow the Faculty Office's regulatory arm reserves so that a full year's running costs (approximately £0.5m) are held in reserve but before that goal can be achieved the debt described above must either be paid or written off. Until this is achieved very precise budgets are set on an annual basis to include sufficient funding for all the Faculty Office's work streams.

B. A breakdown of budget in the current and budget year and how it was allocated or spent

13. As described, the Faculty Office has two main roles: notarial regulation and the issue of special marriage licences.

14. The notary budget for y/e 31st March 2021 and projected budgets for the following two years are set out in **Appendix 2**.

- The accounting year for the Faculty Office and the PCF year are not the same. PCF income is spread across two accounting years and the accounts will move into surplus in the accounting year beginning 1 April 2020
- The Faculty Office occupies serviced accommodation with associated other services. These costs (shown as "Management Charge") are shared 64% notaries and 36% licences. These percentage contributions do vary slightly from year to year dependent on the relative proportion of time spent by Faculty Office staff on each sphere of operation.
- The yearend accounts for the year to 31 March 2020 are attached as **Annexure 3**

C. Assurance that the regulatory arm has been given sufficient resources to carry out their functions in compliance with section 30 of the Legal Services Act 2007 and supporting Internal Governance Rules.

15. The finances of the Faculty Office are entirely independent. Practice Fees are levied directly. The Faculty Office determines its own budget to ensure the adequacy of its resources. The Faculty Office consults as appropriate but the budget is not subject to any approval by the representative bodies.

III Consultation on PCF

A Description of the consultation process with the fee paying regulated community

Consultation on PCF for 2020 (details)

16. The Faculty Office ran a month-long consultation in July on its proposals for the PCF for 2020/21 based on the turnover formula and bandings used last year (**Annexure 1**).

In this consultation the Faculty Office included the current budget and forecast budgets as published on the website. It set out the proposals for a reduction of £20 (to £0) in the required contribution to the contingency fund and a corresponding increase of £20 across all the bands in the practising certificate fee resulting in a net no change in the annual practice authorisation.

"Increasing the practising certificate fee element by £20, has been proposed for two reasons. The first is to recoup historic notarial deficit. The annexed budgets show how the Faculty Office proposes to reduce this to £72,000 in three years. The second reason is that the introduction of the new model banded system in 2019/20 did not generate as much income as the Faculty Office had anticipated. Rather than changing the bands themselves for 2020/21, the Faculty Office is proposing a small increase of £20 across all bands, which (in view of the reduction of the Contingency Fee contribution) would result in no net change in fee for the profession.

Response to the consultation:

17. The Faculty Office published a response to this consultation (**Annexure 2**). A total of 64 responses were received (an increase from the 23 responses received in 2019) representing about 9% of the profession. Two-thirds of those responding agreed with the proposal to increase the practising certificate fee by £20 across the bands and, perhaps unsurprisingly, 91% agreed with the reduction in the contingency fund contribution to £0.

Themes from the detailed comments (as described in the Faculty Office response) were:

- A number of responders to the consultation in 2020 raised concerns about the fairness of the banding system. [The system was designed to create improved parity across the profession (which has a very wide disparity of turnover income) and to provide some level of certainty of the projected income for the Faculty Office enabling further financial planning to be undertaken]
- Some responders suggested that the bands were too coarse and suggested additional bands be added to improve the equity of the fees incurred. [The system was only introduced in 2019/20 and, whilst both the number and level of bands will be kept under review the Faculty Office believes that it premature to make changes to the bands this year]
- Some responders suggested applying a flat % rate of turnover. [Whilst this would provide complete parity across the profession it would significantly reduce the certainty of projected income for the Faculty Office and be administratively difficult to 'police'. It may be something which the Faculty Office could consider further once a significant working capital reserve has been achieved to cushion any significant fluctuation in income for the Faculty Office]

Changes to the PCF Proposals:

The Faculty Office was encouraged by the significant (two-thirds) majority of responders who supported the proposals and does not therefore believe that it is necessary to amend the proposal upon which it consulted.

However, in response to the consultation more guidance will be given on how we define 'turnover'. Turnover, for this purpose, is the total professional fee or profit costs (however it is termed on the invoice to the client) element charged by the notary for the services of the notary but does not include disbursements charged by third parties (FCO/Consular fees/Courier fees etc) for which the client is charged. So it is not the total amount of the invoice to the client but, essentially, the element retained by the notary/firm for the work which they have carried out and out of which drawings, salaries, rates, rent, insurances and other business running costs and profit are met.

Non-commercial bodies

Notarial activities are reserved legal services and only registered notaries can provide these.

Summary

18. All PCF income is applied to permitted purposes.

19. PCF income is the only significant source of income for the Faculty Office although as will be seen from the budgets, some income is derived from our overseas jurisdictions as well as fees payable during the qualification and appointment process. The Faculty Office undertakes no commercial activities.

20. The two representative bodies are entirely distinct and have separate legal identities.

- The representative bodies collect their own membership fees.
- The two representative bodies make no claim on the PCF for permitted purposes.
- There are no services shared with the representative bodies. There are no shared staff, offices or other resources.

A. Allocation of total income (PCF and non-PCF) to permitted purposes

21. There is no significant non-PCF income.

22. There is no commercial income

B. PCF total income allocated to one or more permitted purposes

23. The Contingency Fund (which is collected separately) is ringed fenced to fund disciplinary activities. The amount of the Contingency Fund as at 31 March 2019 was £154,000.

C. Permitted purposes activities which were/will be undertaken

24. The Faculty Office consists of a small and agile team. There are no "departments" and detailed allocation of the costs between the activities (described below) undertaken by the Faculty Office in any year is not possible. However, we have provided an estimate below.

Operational Activities

25. The activities fall predominantly under s51(4) (a) (b) and (f) of the Legal Services Act 2007

s51(4) (a) [percentage of PCF income attributable – 85.8%]

- Admission into the profession
- Collection of PCF
- Supervision of newly admitted notaries
- Monitoring of Continuing Profession Education activities
- Annual inspections of notary practice and follow up including the issue of Guidance Notes
- Complaint & Disciplinary matters
- Development of enhanced data management to assist public records
- Development of website to enhance transparency

- Rule change activities including consultations

s51(4) (b) [percentage of PCF income attributable – 6.2%]

- Payment of the levies

s51(4)(f) [percentage of PCF income attributable – 8%]

- Attendance at meetings and correspondence with the LSB and with other legal regulators, in particular the editorial panel for Legal Choices and the Regulators Forum but also with the CMA Regulators Implementation Group.
- Attendance of the Notaries annual conference, and other events hosted by the two Societies.

26. The Faculty Office did not undertake in 2020 nor does it intend in 2021 to undertake any activities under:

- s51(4)(c) - law reform
- s51(4)(d) - pro bono legal services
- s51(4)(e) - promotion of human rights.

Strategic and Key Activities

Master's Priorities and Activities of the Advisory Board

27. In January each year the Master of the Faculty sets the priorities for the Faculty Office and these are published. The Advisory Board (under a lay Chair) supports the Officers and tracks progress.

<http://www.facultyoffice.org.uk/wp-content/uploads/2020/02/Master-of-the-Faculties-Priorities-for-2020-002.pdf>

- The LSB (Regulatory Standards and Diversity) action plans
- The OPBAS action plan
- Reduction of the notarial deficit
- Efficiency improvements (including introduction of KPI's and amended overseas admission procedures)
- To consider and implement recommendations of qualifications working group
- To take forward proposals for incorporation of the Faculty Office
- Practice Authorisation (entity regulation)
- To pursue the statutory changes required for proper regulation in the Channel Island

V. Transparency of PCF information to fee paying members

28. The PCF table (**Appendix 1**) will be published as an independent table and will be included in the request for certificate renewal and practice fee payment.
29. The detailed 2020 consultation and response has described the rationale for the current proposal.
30. There are no non-regulatory activities nor services shared with the representative body.
31. There is no commercial income.
32. The levies for the LSB and the OLC are already published as part of the response to the PCF consultation.

VI. Regulatory and Equality Impact Assessment

33. The new bandings better spread cost according to affordability. Last year 45.2% of the profession benefitted from a reduction in their annual certification fee – those with very modest (up to £15,000) turnover contributing around 33% of the total. The 6.2% with turnovers in excess of £150,000 did pay significantly more -contributing around 20% of the total PCF income.
34. It is hoped that the bands will also encourage part-time practice – not just for who have retired from full time practice elsewhere in the legal profession but also others with (for example) child and other care responsibilities.
35. The bandings were developed to be fair but also (despite a profession of fewer than 750 notaries with a very wide turnover range) to be clear and simple to understand and operate.
36. We continue to believe that producing a full regulatory and/or equality impact assessment would be disproportionate. However, given the impact of the Covid-19 pandemic, we did seek information from the profession as part of the consultation process on their estimates of the likely impact on turnover as a result of the pandemic. 76% of those responding indicated that they had seen an initial downturn in business and estimates of the corresponding impact on turnover range from 10%-70% reductions.

Some of these reductions may well see notaries moving to a lower band which may impact on the income generated through the PCF against budgeted income. However, when fixing the budget for the current year, we anticipated a 30% decrease in turnover across the board due to Covid-19 which has had an impact on the numbers anticipated within each band.

APPENDIX 1

The proposed fees for each notary for 2020/21 are set out below:

Turnover	Fees
Up to £15,000	£470
Up to £50,000	£580
Up to £150,000	£820
Up to £300,000	£1,020
Over £300,000	£2,270

APPENDIX 2

FACULTY OFFICE BUDGET YEAR ENDED 31 MARCH 2021

NOTARIES

Income:

Practising Certificates:

England & Wales & Overseas

Accrued income April-October 2020	268,963	
725 Certificates (Nov 2020-March 2021)	187,942	

		456,905

Channel Islands

Accrued income April-December 2020	9,375	
52 Certificates @ £275 (Jan 2021-Mar 2021)	3,575	

		12,950

UK Appointments		
30 x £625		18,750

Overseas Appointments		
10 x £700		7,000

Notarial Packs		3,200
Certificates of Exemption		9,000

Total Income		507,805
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Less Expenditure:

Management Charge (64%)	300,160	
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Direct Expenditure	171,000	

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Total Expenditure		471,160
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Projected Notaries Surplus 2020/21

£36,645

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**FACULTY OFFICE BUDGET
YEAR ENDED 31 MARCH 2022**

NOTARIES

Income:

Practising Certificates:

England & Wales & Overseas

Accrued income April-October 2021	263,118	
725 certificates (Nov 21-March 2022)	194,033	
	-----	457,151

Channel Islands

Accrued income April-December 2021	10,725	
52 Certificates £275 (Jan 2022-March 2022)	3,575	
	-----	14,300

UK Appointments		
30 x £625		18,750

Overseas Appointments		
10 x £700		7,000

Notarial Packs		3,200
Certificates of Exemption		9,000

Total Income	-----	509,401
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Less Expenditure:

Management Charge (65%)	280,800	
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Direct Expenditure	158,000	

Total Expenditure	-----	438,800
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Projected Notaries Surplus 2021/22	-----	£70,601
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**FACULTY OFFICE BUDGET
YEAR ENDED 31 MARCH 2023**

NOTARIES

Income:

Practising Certificates:

England & Wales & Overseas

Accrued income April-October 2022 271,647

725 certificates (Nov 2022-March 2023) 194,033

465,680

Channel Islands

Accrued income April-December 2022 10,725

52 Certificates @ £275 (Jan 2023-March 2023) 3,575

14,300

UK Appointments

30 x £625 18,750

Overseas Appointments

10 x £700 7,000

Notarial Packs 3,200

Certificates of Exemption 9,000

Total Income 517,930

Less Expenditure:

Management Charge (65%) 290,550

Direct Expenditure 160,250

Total Expenditure 450,800

Projected Notaries Surplus 2022/23

£67,130
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