



THE FACULTY OFFICE

THE FACULTY OFFICE OF THE ARCHBISHOP OF CANTERBURY

NOTARIES (PRACTISING CERTIFICATE) RULES 2012

Consultation on Business Plan and Practising Certificate Fees 2022/23 – July 2022

The Faculty Office is consulting on two important aspects of its activities:

Firstly, we are consulting on the Priorities which the Master intends to set for the Faculty Office for the next triennium which have been formulated as a Business Plan; and

Secondly, in order to fund the regulatory work of the Faculty Office, the intention to maintain the current practising certificate fees and deficit/reserve levy at 2021/22 level (subject to the introduction of one additional turnover band) for the practising certificate year 2022/23.

The consultation will close at 5pm on 12 August 2022.

Introduction and background

- **Business Plan**

The current Master, Morag Ellis QC, has now been in post for a little over two years. In that time, the Faculty Office (FO) has been the subject of a review of its governance arrangements by the Legal Services Board (LSB) which reported in September 2021. This has led to a codifying of the FO governance arrangements in a published Governance Manual available to view on the FO website. Alongside this work, the Master has also met regularly with the senior officers of the FO to formulate a vision for the continuation of the work commenced by her predecessor to ensure the financial stability of the regulatory arm of the FO and for the ongoing work of modernisation and transparency of the profession for the benefit of the consumers of notarial services and for the profession itself.

The resulting Business Plan (Appendix 1) sets out eleven priorities for the work of the FO over the next triennium. A number of those priorities will be the subject of individual Calls for Evidence and/or Consultations as the work proceeds which will be the opportunity for detailed comments on the individual items. This consultation will provide an opportunity for Notaries and other stakeholders to offer high level comment on the proposals set out in the Plan and the general direction of travel.

- Practising Certificate Fee (PCF) for the 2022/23 practising year

Notaries will know that one of the priorities which the previous Master, Charles George QC, set for the FO in his last six months in office was a reduction in the historic 'notarial deficit' in the FO accounts and the building up of an operating reserve equivalent to approximately six months operating costs. In order to achieve this more quickly, the FO introduced an additional levy over and above the normal PCF to be paid in two instalments in the practising certificate years 2021/22 and 2022/2023.

The combined effect of the collection of the levy (amounting to £76,315 in 2021/22) and prudent budgeting and expenditure controls has resulted in a net surplus in the year end accounts (year ending 31 March 2022) of £208,904. This has now cleared the deficit (which stood at £117,206 at the end of March 2021) and the accrued surplus now stands at £91,698 - some way to our target operating reserve of around £250,000.

The second portion of the levy will be collected this coming practising certificate year. We are not proposing any increase in the annual PCF next year and nor will we be collecting any contribution to the Contingency Fund. We are proposing one change to the PCF bands following feedback from notaries whose turnover fell within the £50,000 to £150,000 band and that is to split this banding into two: namely £50,000 - £90,000 and £90,001 to £150,000. Clearly, wherever a band boundary is set, there will always be people whose turnover sits close to one side or the other but we have taken note of representations that, in respect of this band in particular, there is a very wide divergence between those with a turnover of just over £50,000 and those earning nearly £150,000. We are therefore consulting on a PCF structure made up of six bands rather than five.

BUSINESS PLAN FOR THE TRIENNIUM ENDING 31 MARCH 2025

The proposed Business Plan accompanies this consultation document as Appendix I. The Plan sets out 11 priorities for the Faculty Office during the period up to 31 March 2025. A number of these priorities represent a continuation of work which has already commenced and which we are seeking to conclude (specifically Priorities 1, 9 and 11). Others are new projects designed to enhance consumer protections (Priorities 2, 3, 4 and 7) and to benefit individual members of the profession and the profession as a whole (Priorities 6, 8 and 10). Priority 5 is, *inter alia*, a reflection of the current geo-political situation in eastern Europe.

Collectively, the Priorities are primarily part of the ongoing responsibilities of any Regulator of a legal profession to keep its regulatory framework under review and, as such, will be funded by PCF contributions and within existing budgetary provision although an additional £10,000 annual figure has been included in the budgets for 'Strategic Regulatory Expenses' which acknowledges that there will be additional expenses in relation to some of the projects over and above 'normal' expenses.

The Priorities have been grouped under the headings of the Regulatory Objective¹ to which it most closely aligns (although many will encompass more than one of the Objectives).

The Priorities are:

1. Entity Regulation and the conclusion of the required Order under Section 69 of the Legal Services Act.

¹ The Regulatory Objectives are set out in [Section 1 of the Legal Services Act 2007](#)

2. Professional Indemnity Insurance – minimum terms and conditions and run-off cover.
3. A review of the Conduct and Discipline system.
4. A review and consolidation of the Notaries Accounts Rules.
5. Reinforcement of the sanctions regime as outlined in our action plan.
6. To build-up and maintain an appropriate level of operating reserves.
7. Work to increase the diversity of the profession.
8. A review of the post-qualification environment.
9. Promotion of wellbeing amongst the profession.
10. Promotion of the notarial profession's rôle in upholding the Rule of Law.
11. Promoting and developing the Legal Choices project in conjunction with the other Regulatory Bodies.

The Master and the FO will review progress against these 11 Priorities at the Quarterly Master's Council meetings and will prepare an Annual Assessment Report detailing the progress we have made. Additional Priorities may well be added through the triennium to respond to other regulatory requirements as they arise or as a result of our ongoing horizon scanning project.

We understand that these are very much headlines and that 'the devil will be in the detail' as these projects progress at which point more detailed consultations on the individual projects will be issued. However, we would be grateful for any feedback at this stage from notaries and other interested stakeholders on the Priorities as set out in the Plan.

PRACTISING CERTIFICATE FEE PROPOSALS FOR THE 2022/23 PRACTISING CERTIFICATE YEAR

The principal source of income to fund the regulatory work of the FO is, of course, the annual practising certificate fee (PCF) – amounting to some 77% of our income in 2021/22 (excluding the levy). PCF income may only be spent on one or more of the permitted purposes² which are:

- (a) the regulation, accreditation, education and training of relevant authorised persons and those wishing to become such persons, including—
 - (i) the maintaining and raising of their professional standards, and
 - (ii) the giving of practical support, and advice about practice management, in relation to practices carried on by such persons;
- (b) the payment of a levy imposed on the approved regulator under section 173;
- (c) the participation by the approved regulator in law reform and the legislative process;
- (d) the provision by relevant authorised persons, and those wishing to become relevant authorised persons, of reserved legal services, immigration advice or immigration services to the public free of charge;
- (e) the promotion of the protection by law of human rights and fundamental freedoms;
- (f) the promotion of relations between the approved regulator and relevant national or international bodies, governments or the legal professions of other jurisdictions.

² See S.51(4) Legal Services Act 2007

The majority (in excess of 90%) of the PCF income is spent on (a); the levy paid to the LSB and OLC account for a further 4.5% with the remainder split between (c) and (f).

Current position

The introduction of five turnover-based fee bands for the practising certificate year 2019/2020 (following two consultations) had been broadly welcomed recognising, as it does, the very wide divergence in turnover across the profession. The bands were based on turnover in the notary's accounting year immediately preceding practice renewal. The vast majority of notaries (81%) were in the two lowest bands. However, we have taken account of feedback that band 3 is too wide and that there is a significant difference between a turnover of just over £50k and one of nearly £150k. We are therefore consulting on splitting this band in two to create an additional band of up to £90k turnover.

The fees for 2021/22 were:

Table 1

Turnover	Practising Certificate Fee	Deficit/Reserve Levy contribution (for 2 years)	Contingency Fund contribution	Total
Up to £15,000	£470	£75	£0	£545
Up to £50,000	£580	£85	£0	£665
Up to £150,000	£820	£135	£0	£955
Up to £300,000	£1,020	£250	£0	£1,270
Over £300,000	£2,270	£300	£0	£2,570

This generated an income of £554,268 (up from £470,777 the previous year but including £76,315 made up of the levy – net of the levy, the figure was £477,953).

In the practising certificate year 2020/21 the Faculty Office lowered the contribution to the Contingency Fund for all notaries from £20 to £0. This was possible due to the recovery of costs in disciplinary cases ordered to be repaid to the Contingency Fund resulting in the fund maintaining a healthy balance as at 31 March 2020 of £154,414. We were able to maintain the zero contribution in 2021/22.

Proposals for practising certificate year 2022/23

Contingency Fee

The Faculty Office Contingency Fund balance at 31 March 2022 stands at £165,494, a net reduction of £652 on the previous year. Although there are a small number of disciplinary cases and investigations pending, the Master does not consider it necessary to add to the Contingency Fund balance in this practising certificate year and intends to maintain the Contingency Fund contribution at £0 across all bands.

Practising Certificate Fee (PCF)

Notaries will recall that, in 2016, the Faculty Office changed its accounting policy from a cash basis to an accruals basis and the year end was changed to 31st March. Prior to the change income was recognised in the accounts when it was received with the result that practically the entire income arising from the practising certificate fees was included in the year in which the income was received

when in fact only 2 months (Nov & Dec) related to that accounting year and 10 months to the following year. The Faculty Office considered that to be an inaccurate reflection of the income generated from the practising certificate fees and so the decision to change to an accruals basis was made. The Legal Services Board have also stipulated that, unless good reason can be shown, Approved Regulators ought to be accounting on an accruals basis. As a result of the change, a prior year adjustment was made to years 2014 and 2015 which resulted in a deficit of £268,549 in 2014 and which, at 31st March 2021, stood at £117,206. Last year, the FO introduced a levy, payable over two years, and provided budgets in which it proposed to clear the deficit and build up an operating reserve amounting to approximately six months operating costs by 31 March 2024 (see Annex I).

Draft budgets for 2022/23, 2023/24 and 2024/25 are annexed to this consultation (Annex II). These have been prepared by our accountant on the basis of no further change to the PCF or the banding structure and make a number of other reasonable assumptions (based on her many years of experience). They show surpluses of £137,563, £39,070 and £36,720 for each respective year. Clearly, if current inflationary pressures persist, it may well be necessary to review the assumption of no change to the level of PCF over the course of the period covered by the budgets.

The Master is therefore proposing the following fees for 2022/23:

Table 2:

Turnover	Practising Certificate Fee	Deficit/Reserve Levy contribution (year 2 of 2 annual contributions)	Contingency Fund contribution	Total	
Up to £15,000	£470	£75	£0	£545	No change
Up to £50,000	£580	£85	£0	£665	No change
Up to £90,000	£615	£135*	£0	£750	£205 reduction
Up to £150,000	£895	£135*	£0	£1,030	£75 increase
Up to £300,000	£1,020	£250	£0	£1,270	No change
Over £300,000	£2,270	£300	£0	£2,570	No change

*this is the level of the levy applied to the turnover band £50k - £150k in year 1 and we are proposing to maintain the levy contribution at the same level for both new bands.

We are keen to hear from notaries as to whether the suggested PCF fee and levy, and the addition of an up to £90,000 band is appropriate.

Working with the Faculty Office

The Faculty Office will welcome enquiries from individual notaries on how they are to calculate their annual turnover. In essence we define turnover as gross fees/profit costs received net of disbursements charged to clients for the provision of notarial services and other legal services when acting *qua* notary.

Sole practitioners practising through a company (or other corporate structure) will be treated as having generated the declared turnover personally.

The Faculty Office is confident that notaries will act with integrity when assessing their own turnover and agreeing the amount with those notaries with whom they are in partnership. But we are seeking your views.

THE FACULTY OFFICE

8 July 2022

HOW TO RESPOND

Please respond in writing by 5pm on 12 August 2021 to The Faculty Office:

By email to: consultations@1thesanctuary.com

Please put "BUSINESS PLAN & PRACTICE FEES CONSULTATION RESPONSE" in the subject line of your email

By post to: The Faculty Office, 1 The Sanctuary, Westminster, SW1P 3JT

Questions about the proposed business plan and the proposed practising certificate fee/levy

1	Do you have any comments on the proposed FO Business Plan/Master's Priorities as a package for the next triennium?
2	Do you have any comments or specific concerns over any of the individual Priorities?
3	Do you agree with the overall proposal set out in Table 2? If not, please outline your reasons.
4	Do you agree with the proposed splitting of the original band 3 into two (ie £50,001 to £90,000 and £90,001 to £150,000)? If not, please outline your reasons.
5	Do you agree the continued nil rate contingency fund fee? If not, please outline your reasons.
6	Do you consider that the proposed PCF/levy structure will have an adverse affect on equality, diversity or inclusion within the notarial profession. If 'yes' what do you consider the impact will be?

ZOOM – Consultation Drop-in meeting

Howard Dellar (Registrar) and Neil Turpin (Chief Clerk) will be available at an online 'drop-in' via Zoom to discuss any aspect of the proposals set out in this Consultation between 2pm and 4pm on Monday 25th July. A link to the meeting is set out below.

Topic: Faculty Office Business Plan and PCF Consultation - drop-in

Time: 25 July 2022 2:00 PM – 4:00 PM BST

Join Zoom Meeting

<https://us06web.zoom.us/j/89403088844?pwd=UkdsWUFseFE3bU1zR3djS0tvcVE5UT09>

Meeting ID: 894 0308 8844

Passcode: 722179

Annex I– Faculty Office breakdown of the notarial deficit

BREAKDOWN OF NOTARIAL ACCUMULATED (DEFICIT) SURPLUS @ 31/3/2022 & PROJECTED SURPLUSES FOR YEARS 2022/23; 2023/24; 2024/25

		£
Retained surplus @		
31/12/2006		6,033.00
Y/e 31/12/2007	Deficit	-15,764.00
Y/e 31/12/2008	Deficit	-26,090.00
Y/e 31/12/2009	Surplus	15,767.00
Y/e 31/12/2010	Surplus	2,412.00
Y/e 31/12/2011	Surplus	28,260.00
Y/e 31/12/2012	Deficit	-3,534.00
Y/e 31/12/2013	Surplus	20,119.00
Y/e 31/12/2014	Adjusted Deficit following change to accruals based accounting	-268,549.00
Y/e 31/12/2015	Surplus	6,220.00
15 months ended 31/03/2017	Surplus	26,383.00
Y/e 31/03/2018	Surplus	9,886.00
Y/e 31/03/2019	Deficit	-10,945.00
Y/e 31/03/2020	Deficit	-33,194.00
Y/e 31/03/2021	Surplus	125,790.00
Y/e 31/03/2022	Surplus (incl. yr. 1 levy)	208,904.00
Accumulated surplus @ 31/3/2022		£91,698.00
Y/e 31/03/2023	Projected Surplus (with yr. 2 levy)	137,653.00
Y/e 31/03/2024	Projected Surplus	39,070.00
Y/e 31/03/2025	Projected Surplus	36,720.00
Projected accumulated surplus with levy @ 31/3/2025		£305,141.00

Annex II - Faculty Office Budgets 2022/23, 2023/24 & 2024/25

FACULTY OFFICE BUDGET YEAR ENDED 31 MARCH 2023

NOTARIES

Income:

Practising Certificates:

England & Wales & Overseas

Accrued income April-October 2022	281,324
725 certificates (Nov 2022-March 2023)	200,946
Levy - 2nd Instalment	76,215

558,485

Channel Islands Registrations:

Accrued income April-December 2022	11,343
52 Registrations @ £275 (Jan 2023-March 2023)	3,575

14,918

UK Appointments 30 x £625	18,750
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Overseas Appointments 10 x £700	7,000
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Certificates of Exemption (55)	8,250
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Total Income **607,403**

Less Expenditure:

Management Charge (60%)	278,550
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Direct Expenditure	191,200
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Total Expenditure **469,750**

Projected Notaries Surplus 2022/23 **£137,653**

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**FACULTY OFFICE BUDGET
YEAR ENDED 31 MARCH 2024**

NOTARIES

Income:

Practising Certificates:

England & Wales & Overseas

Accrued income April-October 2023	281,324	
725 certificates (Nov 2023-March 2024)	200,946	

		482,270

Channel Islands Registrations:

Accrued income April-December 2023	10,725	
52 Registrations @ £275 (Jan-March 2024)	3,575	

		14,300

UK Appointments		
30 x £625		18,750
Overseas Appointments		
10 x £700		7,000
Certificates of Exemption (55)		8,250

Total Income **530,570**

Less Expenditure:

Management Charge (60%)	285,300	
Direct Expenditure	206,200	

Total Expenditure		491,500

Projected Notaries Surplus 2023/2024 **£39,070**

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**FACULTY OFFICE BUDGET
YEAR ENDED 31 MARCH 2025
NOTARIES**

Income:

Practising Certificates:

England & Wales & Overseas

Accrued income April-October 2024	281,324	
725 certificates (Nov 2024-March 2025)	200,946	

482,270

Channel Islands Registrations:

Accrued income April-December 2024	10,725	
52 Registrations @ £275 (Jan-March 2025)	3,575	

14,300

UK Appointments
30 x £625

18,750

Overseas Appointments
10 x £700

7,000

Certificates of Exemption (55)

8,250

Total Income

530,570

Less Expenditure:

Management Charge (60%)	289,680	
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Direct Expenditure	204,170	

Total Expenditure

493,850

Projected Notaries Surplus 2024/2025

£36,720
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