



THE FACULTY OFFICE

THE FACULTY OFFICE OF THE ARCHBISHOP OF CANTERBURY

NOTARIES (PRACTISING CERTIFICATE) RULES 2012

Consultation on Practice Fees 2023/24 and Business Plan Update – July 2023

FACULTY OFFICE RESPONSE TO THE CONSULTATION

The Faculty Office (FO) launched its consultation on the proposed level of practising certificate fees on 18th July 2023 which ran until 14th August 2023. The consultation document (annexed to this response at Appendix A) was emailed to every practising notary in England & Wales together with other stakeholders and it also appeared on the FO website.

The consultation elicited 34 responses from individual notaries and one from the Legal Services Consumer Panel (LSCP). Anonymised copies of the responses received are included in Appendix B to this response.

The Headlines

We are pleased that the number of responses from notaries has more than doubled from last year and we were delighted to receive the LSCP response. There was overwhelming support for the PCF proposals and, whilst few of the respondents had any substantive comment on the progress to date against our Business Plan of those who did, much of what was said will be helpful as the FO moves forward.

The PCF proposals, received overwhelming support from notaries with 31/34 **(91%)** expressing support, 1/34 **(3%)** expressing dissent and the other two respondents not commenting directly either way but did express concern at the costs of practise overall.

We also asked respondents to let us know whether they thought that the PCF proposals would, or might, adversely impact equality, diversity or inclusion within the notarial profession. One newly qualified notary thought there would be some impact for potential new entrants but other respondents believed that there would be no impact, expressed no view or indicated they did not feel informed enough to express a view.

The Detail

Practising certificate fee and levy

The FO proposals are set out in the table below:

Turnover	Practising Certificate Fee (Excluding the levy)	Practising Certificate Fee (including the levy)	Contingency Fund contribution	Proposed PCF for 2023/24	Net change from 2022/23
Up to £15,000	£470	+ £75 = £545	£0	£505	-£40
Up to £50,000	£580	+ £85 = £665	£0	£625	-£40
Up to £90,000	£615	+ £135 = £750	£0	£665	-£85
Up to £150,000	£895	+ £135 = £1,030	£0	£965	-£65
Up to £300,000	£1,020	+ £250 = £1,270	£0	£1,100	-£170
Over £300,000	£2,270	+ £300 = £2,570	£0	£2,450	-£120

As indicated above, the overwhelming majority (91%) of respondents agreed with the proposal with a simple 'Yes'. But to complete the picture, there were some other general comments from notaries who did not express a view in favour, or against, the PCF proposals but are worth noting:

- *I'm sure those of us with a low turnover would all like to pay less but I am pleased to see a reduction this year as compared to last. We need to be mindful that those with a low annual turnover will perceive that £505 is a significant amount. Added to the need to maintain insurance and the costs of CPD/CPE is there a risk that some notaries will decide the fee is simply too high and leave the profession as a result?*
- *I am considering not renewing my practising certificate in October as the costs of renewal are becoming too onerous and the regulatory compliance too onerous for a sole practitioner. My turnover is on average £2,000 per annum from which I pay Practising Certificate, Notary Society Membership, Data Protection, CPE etc. The numbers are not adding up. I have been in practice since 2008 and rarely exceeded a turnover of £3,500. Please can you advise me what length of time I can be without a practising certificate before some sort of requalification is needed.*

Contingency fund

As regard the proposal to maintain a nil contribution to the Contingency Fund for the fourth year running, the overwhelming majority of respondents (94%) agreed with the others expressing no view. That said, a couple of notaries, whilst supporting the nil rate did comment:

- *Yes. I note that the Contingency Fund is just above target but also that there are a number of cases and investigations pending. Whilst I welcome the nil contribution in principle, I wonder whether taking everything into account and given the cost of living/inflation in the economy a small contribution now (say £5) might be helpful to limit any more significant increase next year or the year after.*
- *Yes. However, there is something to be said for charging something to keep building up the "war chest" in light of inflation, even if just a nominal amount. However, having consulted on the basis of £0, possibly the genie is already out the bottle and it would not be possible this year. A reduction (even if not quite to £0) ought to be welcomed by the profession in light of the current economic climate.*

Equality, Diversity & Inclusion impact

Of those who responded to the question or expressed a view, 76.5% did not believe that the proposals would unduly impact equality, diversity or inclusion in the notarial profession and 20.5% expressed no

view. Of the 3% who thought that there might or would be some impact, the focus was on those newly qualified:

- *Yes – it makes it difficult for new notaries to get started. It will have an adverse impact on the number of new notaries qualifying and going into practice.*

A couple of comments from people who thought there would be no impact are also worth noting:

- *No. As the PCF structure is based on turnover I don't think it would have any adverse effect but I think it is right and necessary to monitor this as the figures may demonstrate that particular groups fall into a particular category of the PCF structure which could inadvertently be discriminatory. I think more detailed analysis would be necessary to determine whether this may be the case.*
- *No. I think this would only have an effect if the fees at the lowest level were too high. However, it works out to around £42 per month which does not seem too onerous.*

Business plan update

The majority of respondents had no general comments on the priorities set out in the Business Plan or the update which we provided as part of the consultation. One respondent provided some very detailed feedback on certain aspects and this will be very helpful as we take matters forward. We are grateful, too, for the response from the LSCP which was most helpful as regard the issues of PII and diversity and will certainly feed into our thinking in these areas.

The full anonymised responses to the consultation are included in the Appendix but some general and some specific comments are included here:

- *I am broadly in favour of a better funded regulator so that investigations/disciplinary action can be taken and counsel instructed where necessary. Inspections/'visits' should be the norm every year or so and this could perhaps become a full time role. Many notaries (not me!) are quite isolated and that can cause wellbeing issues which, in turn, might impact upon a notary's health and their ability to provide a proper service.*
- *No real comments – my only concern is the recent disciplinary case that was reported about a notary doing work without seeing the client or checking the degree. I would suggest that the Faculty Office carries out regular enquiries as was done in the case reported with agents such as Blairs and others to keep the standing of the profession high and to try and stop "rogue" notaries.*

Our response

Given the overwhelming support for the PCF proposal the FO believes that the table of proposed fees does represent the most acceptable solution to maintaining our ability to effectively regulate the profession whilst at the same time securing the financial stability and resilience of the regulatory arm of our operation.

It is worth repeating the definition of notarial turnover for the purpose of charging a practising certificate fee: that is all the fee income of the notarial practice (and whether or not notarial services) but excluding VAT and excluding disbursements and before deduction of expenses.

We continue to hold that the banding system allows the expense of regulation to be shared in a more equitable way which can help shield those notaries whose fee income is low from the highest burden. That is designed to help those notaries, for example, who are in rural areas whose work may be more occasional or less lucrative but who still provide an important service to their local community. We recognise that both practising fee levels and regulatory requirements can precipitate the retirement of such notaries and we are engaged in a balancing act between trying to set a fee which is proportionate while being realistic to achieve the aim of regulating all notaries robustly.

We have also included a specific response to some of the points made in Appendix B.

The Faculty Office

August 2023

ANNEX A – THE CONSULTATION DOCUMENT



THE FACULTY OFFICE

THE FACULTY OFFICE OF THE ARCHBISHOP OF CANTERBURY

NOTARIES (PRACTISING CERTIFICATE) RULES 2012

Consultation on Practising Certificate Fees 2023/24 & Business Plan Update – July 2023

The Faculty Office is consulting on its proposals for the annual practising certificate fee for the year 2023/24 to fund the regulatory work of the Faculty Office. We are also providing an update on the three-year Business Plan on which we consulted last year.

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

Introduction and background

- [Business Plan](#)

You will recall that last year, for the first time in this format, we consulted on our proposed Business Plan for the three years ending 31 March 2025 which set out eleven priorities for the work of the regulatory arm of the Faculty Office to run alongside the day-to-day work. We are providing an update on the progress we have made against the Business Plan, a brief outline of the work undertaken to date and, where necessary, an explanation for where timing has slipped.

- [Practising Certificate Fee \(PCF\) for the 2023/24 practising year](#)

Notaries will know that one of the priorities which the previous Master, Charles George QC, set for the Faculty Office in his last six months in office was a reduction in the historic ‘notarial deficit’ in the Faculty Office accounts and the building up of an operating reserve equivalent to approximately six months operating costs. In order to achieve this more quickly, the Faculty Office 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 £79,400 in 2022/23) and prudent budgeting and expenditure controls has resulted in a net surplus in the year end accounts (year ending 31 March 2023) of £182,643. The deficit having been cleared by the end the financial year ending 31 March 2022, the accrued surplus now stands at £272,716 – which is broadly in line with our operating reserve policy goal of six months expenditure which we have achieved a year early.

Following a review of the banding system for PCF, Notaries will recall that we introduced an additional band for the current practising certificate year splitting the original £50,000 to £150,000 band into two: namely £50,000 - £90,000 and £90,001 to £150,000 – a move which was welcomed by the profession.

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

The principal source of income to fund the regulatory work of the Faculty Office is, of course, the annual practising certificate fee (PCF) – amounting to some 78% of our income in 2022/23 (excluding the levy). PCF income may only be spent on one or more of the permitted purposes¹ 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.

The majority (in excess of 90%) of the PCF income is spent on (a); the levy paid to the LSB and OLC accounts for 4.4% and the levy paid to OPBAS accounts for a further 1.6% with the remainder split between (c) and (f).

Current position

The introduction of an additional turnover-based fee band for the practising certificate year 2022/23 (following consultation) was welcomed.

The fees for 2022/23 were:

Table 1

¹ See S.51(4) Legal Services Act 2007

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 £90,000	£615	£135	£0	£750
Up to £150,000	£895	£135	£0	£1,030
Up to £300,000	£1,020	£250	£0	£1,270
Over £300,000	£2,270	£300	£0	£2,570

This generated an income of £566,717 (up slightly from £551,830 the previous year).

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. We are pleased to report that non-recoverable expenditure on disciplinary cases has remained low and we are once again not proposing to seek a Contingency Fund contribution.

Proposals for practising certificate year 2022/23

Contingency Fee

The Faculty Office Contingency Fund balance at 31 March 2023 stands at £160,239, a net reduction of £5,255 on the previous year but still above our target minimum fund of £150,000. Although there are a small number of disciplinary cases and investigations pending, as indicated above, 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. In the PCF year 2021/22 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). As already indicated above, due to prudent budgeting and controlled expenditure, we have achieved our aim a year ahead of schedule and the operating reserve currently stands at £272,716 which is a little over six months of the budgeted expenditure for the current year.

Draft budgets for 2023/24, 2024/25 and 2025/26 are annexed to this consultation (Annex II). Since the budget forecasts were prepared for last year we have, of course, seen significant inflation and which, despite record high interest rates, remains stubbornly high and well above the Government's target figure. The budgets have therefore assumed an anticipated inflation figure of 5% for 2024/25 and 3% for 2025/26. Clearly, if inflation can be brought under control more quickly, the budgets can be revised. However, given the current rate of inflation the Master, in consultation with the senior management team and her Audit Committee, has reluctantly determined that an 8% increase in the level of the PCF should be applied for the current year. However, as the levy was only applied for two years, even taking into account the increase, there will be a net reduction of the total PCF payable across all bands.

The Master is therefore proposing the following fees for 2023/24:

Table 2:

Turnover	Practising Certificate Fee (Excluding the levy)	Practising Certificate Fee (including the levy)	Contingency Fund contribution	Proposed PCF for 2023/24	Net change from 2022/23
Up to £15,000	£470	+ £75 = £545	£0	£505	-£40
Up to £50,000	£580	+ £85 = £665	£0	£625	-£40
Up to £90,000	£615	+ £135 = £750	£0	£665	-£85
Up to £150,000	£895	+ £135 = £1,030	£0	£965	-£65
Up to £300,000	£1,020	+ £250 = £1,270	£0	£1,100	-£170
Over £300,000	£2,270	+ £300 = £2,570	£0	£2,450	-£120

We are keen to hear from notaries as to whether the suggested PCF fee is appropriate.

UPDATE ON OUR BUSINESS PLAN FOR THE TRIENNIUM ENDING 31 MARCH 2025

The Master's Priorities for the Faculty Office were, for the first time, developed into a more formal Business Plan for the three year period ending in March 2025 which we consulted on this time last year. Respondents were largely supportive of the proposals as presented. A small number of suggestions for additional changes, principally to aspects of the Notaries Practice Rules 2019 were made and these will be taken forward as changes to the Rules will be needed as other aspects of the Plan are progressed.

The Priorities were been grouped under the headings of the Regulatory Objective² 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.
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.

² The Regulatory Objectives are set out in [Section 1 of the Legal Services Act 2007](#)

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.

Attached to this consultation at Annex III is a schedule setting out where we are up to against each of the priorities.

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

18 July 2023

HOW TO RESPOND

Please respond in writing by 5pm on 14 August 2021 to The Faculty Office:

By email to: consultations@1thesanctuary.com

Please put "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 agree with the overall proposal for the PCF set out in Table 2? If not, please outline your reasons.
2	Do you agree the continued nil rate contingency fund fee? If not, please outline your reasons.
3	Do you consider that the proposed PCF 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?
4	Do you have any comments on any aspect of this consultation or the progress update against our business plan?

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 3pm on Monday 31st July. A link to the meeting is set out below.

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

Time: 31st July 2022 2:00 PM – 3:00 PM BST

Join Zoom Meeting

<https://us06web.zoom.us/j/85301472475?pwd=L0ErL1JnVy9RYnAyV2d6eDVUSFVYZz09>

Meeting ID: 853 0147 2475

Passcode: 999764

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)	207,279.00
Y/e 31/03/2023	Surplus (incl. yr. 2 levy)	182,643.00
Accumulated surplus @ 31/3/2023		£272,716.00
Y/e 31/03/2024	Projected Surplus	58,098.00
Y/e 31/03/2025	Projected Surplus	54,340.00
Y/e 31/03/2026	Projected Surplus	40,540.00
Projected accumulated surplus @ 31/3/2026		£425,694.00

Annex II - Faculty Office Budgets 2023/24, 2024/25 & 2025/26

FACULTY OFFICE BUDGET YEAR ENDED 31 MARCH 2024

NOTARIES

Income:

Practising Certificates:

England & Wales & Overseas

Accrued income April-October 2023	279,300	
760 certificates (Nov 2023-March 2024)	220,354	
Balance 2022/23 renewal	1,410	
Balance Levy 2nd instalment (from 2022/23 renewal)	225	
		501,289

Channel Islands Registrations:

Accrued income April-December 2023	12,169	
52 Registrations @ £300 (Jan-March 2024)	3,900	

		16,069

UK Appointments

50 x £625		31,250
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Overseas Appointments

5 x £700 + 5 x £770		7,350
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Fee for calligraphy (56 x £165)		9,240
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Certificates of Exemption (70)		10,500
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Total Income		575,698
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Less Expenditure:

Management Charge (60%)	294,600	
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Direct Expenditure	223,000	
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Total Expenditure		517,600
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Projected Notaries Surplus 2023/24		£58,098
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**FACULTY OFFICE BUDGET
YEAR ENDED 31 MARCH 2025
NOTARIES**

Income:

Practising Certificates:

England & Wales & Overseas

Accrued income April-October 2024	308,496	
760 certificates (Nov 2024-March 2025)	220,354	

528,850

Channel Islands Registrations:

Accrued income April-December 2024	11,700	
52 Registrations @ £300 (Jan-March 2025)	3,900	

15,600

UK Appointments
50 x £625

31,250

Overseas Appointments
10 x £770

7,700

Fee for calligraphy (56 x £165)

9,240

Certificates of Exemption (70)

10,500

Total Income

603,140

Less Expenditure:

Management Charge (60%)	322,800	
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Direct Expenditure	226,000	

Total Expenditure

548,800

Projected Notaries Surplus 2024/25

£54,340
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**FACULTY OFFICE
YEAR ENDED 31 MARCH 2026
NOTARIES**

Income:

Practising Certificates:

England & Wales & Overseas

Accrued income April-October 2025	308,496	
760 certificates (Nov 2025-March 2026)	220,354	

	528,850
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Channel Islands Registrations:

Accrued income April-December 2025	11,700
52 Registrations @ £300 (Jan-Mar 2026)	3,900

	15,600
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UK Appointments 30 x £625	18,750
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Overseas Appointments 10 x £770	7,700
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Fee for calligraphy (56 X £165)	9,240
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Certificates of Exemption (70)	10,500
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Total Income	590,640
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Less Expenditure:

Management Charge (60%)	320,100
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Direct Expenditure	230,000
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Total Expenditure	550,100
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Projected Notaries Surplus 2025/26	£40,540
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Annex II - Faculty Office Business Plan Update:



The Faculty Office action plan to accompany the Business Plan 2022-2025 - the Master's Priorities

Following the publication of our business plan we have produced this Action Plan to assist in keeping the Faculty Office team on track in delivering the Master's Priorities over the next three year period.

The following four points are central to demonstrating the Faculty Office's commitment to delivering the Master's priorities on time and within the Faculty Office's agreed budgets for the period.

1. In order to place the action plan, its delivery and its monitoring at the heart of the Faculty Office's work stream, it has become (from 1 September 2022) a very substantial aspect of our Master's Quarterly Council meetings and will be a standing item on the agendas of the following boards and committees:
 - Master's Council
 - Master's Audit Committee
 - Advisory Board
 - Qualifications Board
2. Each item in the action plan has a designated staff lead, and also a board or committee with designated oversight of each item.
3. Where any new or amended policy documents are referred to, these will be formally included within the Faculty Office's governance manual.
4. The timescale for the completion /development / introduction of the priorities are included in this Action Plan.

The Faculty Office acknowledges that there may be a need for additional external expertise in some areas and that will be put in place as required. The Faculty Office is well used to engaging outside expertise, and that will be the case to address the challenges of the action plan, should additional assistance be needed.

Other items have their own delivery timescale noted within the action plan.

Action plan 2022-2025							
Priorities	Protecting and promoting the interests of the consumer			Staff lead / oversight	Committee lead / oversight and ongoing review	Timescale for delivery	Status at 14.7.22
1. Entity Regulation & S69 Order	We will aim to complete the next phase of the Faculty Office's Entity Regulation project. We will continue to work with the Ministry of Justice and other stakeholders for the Order under section 69 of the Legal Services Act 2007 to enable the Faculty Office to have the legislative underpinning and begin its implementation. Brexit and Covid has delayed this project but this is an important priority for us and necessary for consumer protection. We	In active development This remains a sizeable project and the Faculty Office is dependent on the MOJ in particular to progress the s 69 Order and the timetable remains uncertain. The Deputy Registrar is heading this work stream and will report on progress at each Quarterly Board meeting. The S69 order will also be reviewed by:		Deputy Registrar	Master's Council	March 2025	

	will look to work with other regulators as entity regulation for the notarial profession is rolled out.	<ul style="list-style-type: none"> • Advisory Board • Master's Audit Committee • Master's Council 					
2. Insurance minimum terms	Insurance minimum terms, run off cover and the level of cover all need consideration and relevant changes made to our rules following a suitable consultation and after taking into account the findings of the LSB's research into the state of the professional indemnity market.	<p>Consultation will be undertaken in the 2nd Quarter of 2023 with a rule change application 4th Quarter 2023/1st Quarter 2024</p> <p>Progress will be reviewed at:</p> <ul style="list-style-type: none"> • Master's Advisory Board 		Chief Clerk	Master's Advisory Board	March 2024	Work has started and a paper has been presented to the Master's Advisory Board. Formal consultation delayed until later in 2024
Protecting and promoting the public interest and promoting and maintaining adherence to the professional principles.							
3. Discipline system review	The Faculty Office discipline system is due for a review and there will be a Call for Evidence. We will start with a listening and consultation exercise with the expectation that some changes could be made to it. Given most	Call for evidence will take place in the 2 nd Quarter of 2023; Consultation in the 1 st Quarter of 2024; Rule Change application in the		Deputy Registrar	Advisory Board	Dec 2024	

	notaries are non-contentious practitioners there is a potential shortage of suitably qualified “nominated notaries” (who act as investigators/prosecutors) for the range of disciplinary cases brought.	3rd/4 th Quarter of 2024.					
4. Review of our regulatory arrangements – Modernisation of accounts rules	We will continue to review our regulatory arrangements with particular emphasis on the three sets of accounts rules: the Notaries Accounts Rules 1989 (as amended), the Notaries’ Accounts (Deposit Interest) Rules 1989 and the Notaries Trust Accounts Rules 1989, as they are in need of modernising and consolidation.	Consultation will take place in the 1 st Quarter of 2023 with a Rule Change application in the 3 rd /4 th Quarter of 2023.		Chief Clerk	Master’s Council	December 2023	Draft rules have been prepared and presented to the Advisory Board. Technical advice being sought from an accountant prior to formal wider consultation.
5. Sanctions	The Faculty Office will continue to re-inforce the sanctions regime as outlined in its sanctions action plan and keep this work stream under review.	Ongoing and will be reviewed at each Master’s Quarterly Board Meeting		Risk, Compliance and Investigations Officer and Deputy Chief Clerk	Master’s Council	February 2022	

6. Reserves	At the Faculty Office we will continue to build up the Faculty Office's reserves to the equivalent of six month's expenditure. Some additional funding will be allocated towards governance improvements at the Faculty Office particularly around the clerking of meetings.	Ongoing and will be achieved by 31/03/2024 provided the FO budgets remain on track. Progress will be reviewed at the Master's Quarterly Board meetings.		Registrar	Master's Audit Committee	31/03/2024	Due to prudent budgeting and controlled expenditure, we have achieved our aim a year ahead of schedule. The operating reserve currently stands at £272,716 which is a little over six months of the budgeted expenditure for the current year
Encouraging an independent, strong, diverse and effective legal profession							
7. Diversity	Diversity – we will work with the profession and, in particular, with projects like the Notaries Society bursary scheme to widen the access to the notarial profession. We are committed to reviewing how to widen and diversify pathways into the profession and	Initial meeting with the Notary Society to discuss Notaries Society bursary scheme (4 th Quarter 2022). The Master will consider appointing a		Chief Clerk	Advisory Board	December 2024	The Master has appointed a diversity champion to assist with this work. Our triennial diversity data collection will

	developing a proposal as to how this might be achieved and its impact on our regulatory arrangements.	diversity champion in 1 st Quarter of 2023 to help the Faculty Office think through this workstream and to work with the Qualifications Board to suggest any rule changes. Consultation 1 st Quarter 2024 with rule change 3 rd Quarter 2024 (if required).					be undertaken in the Autumn.
8. Post-qualification requirements – Conveyancing, wills and Probate.	Post-qualification requirements: we will consider the post-qualification environment for notaries who wish to practice in conveyancing and in wills, probate and administration to ensure that the right level of supervision is in place.	Plan: Qualifications Board to consider and report to the Master in the 1 st Quarter 2023.		Deputy Registrar	Master's Council	March 2024	
9. Well Being	Wellbeing: we will consider how to better promote wellbeing amongst notaries, seeking to mitigate poor mental health and decision making, for example	In the 4 th Quarter of 2022 the Registrar will seek a meeting with the CEO of LawCare to explore how as a regulator		Registrar	Master's Audit Committee	March 2025	The Registrar has met with the CEO of LawCare and discussions are under way

	through the regime of continuing professional education.	The Faculty Office can better support LawCare and to further raise its existence amongst Notaries. By 1 st Quarter of 2025 the Qualifications Board will have considered whether to require a CPE module on Well being and if so how often that should take place.					with a view to a CPE module for notaries
Supporting the constitutional principle of the rule of law							
10. Rule of Law lecture	The Faculty Office is committed to education initiatives on this regulatory objective and we are looking to hold a high-profile seminar to explore the importance of notaries in upholding the rule of law.	Sir Keith Lindblom (Senior President of Tribunals) has been invited and accepted the invitation to speak at an event in Westminster in February 2023 on the rule of law.		Registrar	Master's Council	February 2023	The planned lecture took place in March 2023 and was very well received. A second lecture giving the European perspective is being considered

Increasing public understanding of the citizen’s legal rights and duties and improving access to justice. Legal Education.							
11. Legal Choices	We remain committed to the Legal Choices project and developing it further	The Registrar will encourage notaries to write articles for Legal Choices to widen the public’s understanding of notarial services and their offering to the legal sector. He remains chair of Legal Choices.		Registrar	Master’s Audit Committee	March 2025	The regulators have shown through the Legal Choices project that they can work effectively together for the public's benefit. The registrar has used the Notaries Society Conference 2022 and will do again in September 2023 to remind the profession of the importance of engaging with Legal Choices and using it to widen the public's understanding

							of notarial services.
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Status key:

Purple – not yet started

Red – under way but off track

Amber – under way

Green – under way and fully on track

Black – completed

ANNEX B – THE RESPONSES

Response #1

1 Do you agree with the overall proposal for the PCF set out in Table 2? If not, please outline your reasons. **I AGREE WITH THE PROPOSAL**

2 Do you agree the continued nil rate contingency fund fee? If not, please outline your reasons. **I AGREE WITH THIS.**

3 Do you consider that the proposed PCF 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? **I DO NOT BELIEVE SO.**

4 Do you have any comments on any aspect of this consultation or the progress update against our business plan? **NO COMMENT.**

Thanks.

Response #2

I am happy with the proposals.

Kind regards

Response #3

In response to your proposals:

1 Do you agree with the overall proposal for the PCF set out in Table 2? If not, please outline your reasons. – I agree

2 Do you agree the continued nil rate contingency fund fee? If not, please outline your reasons. – I agree

3 Do you consider that the proposed PCF 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?
- No

4 Do you have any comments on any aspect of this consultation or the progress update against our business plan? – No

Yours faithfully

Response #4

1. Yes
2. Yes
3. No
4. No, not at this time

Response #5

I confirm that my replies to your enquiries are as follows:

1 Do you agree with the overall proposal for the PCF set out in Table 2? If not, please outline your reasons. YES

2 Do you agree the continued nil rate contingency fund fee? If not, please outline your reasons. YES

3 Do you consider that the proposed PCF 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? NO

4 Do you have any comments on any aspect of this consultation or the progress update NO

Kind regards

Response #6

Thank you for your email of the 18th July with attachments and I am happy with what is proposed.

Yours sincerely

Response #7

Please see my replies below:

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

1. Do you agree with the overall proposal for the PCF set out in Table 2? If not, please outline your reasons. Yes
2. Do you agree the continued nil rate contingency fund fee? If not, please outline your reasons. Yes
3. Do you consider that the proposed PCF 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? No
4. Do you have any comments on any aspect of this consultation or the progress update. No

Kind regards

Response #8

My response to your consultation questions is outlined in bold below:

1 Do you agree with the overall proposal for the PCF set out in Table 2? If not, please outline your reasons. **Yes**

2 Do you agree the continued nil rate contingency fund fee? If not, please outline your reasons. **Yes**

3 Do you consider that the proposed PCF 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? **No**

4 Do you have any comments on any aspect of this consultation or the progress update against our business plan? **No**

Kind regards

Response #9

I have read your consultation paper.

I don't mean to be rude or speak out of turn but I do find this to be somewhat disingenuous. The faculty office for whatever reason has turned into, in my opinion, somewhat of a draconian oversight entity. No doubt thanks to the additional red tape oversight imposed by the legal services board imposed by government - for which incidentally I blame you not. Be that as it may and it is what it is. The direct knock on effect from these impositions are an added burden and therefore costs on the administration of said imposed oversight. Now, whereas, naturally I'm in no way opposed to regulatory oversight, I feel the balance between the importance and reach of notarial practice in this country within our legal framework and the added burdens (and costs) imposed upon us all is wildly disproportionate. Not that I'm opposed to CPD but it seems to me that understanding by the lay regulators of what notarial practice entails and the general changes within the profession is utterly misunderstood, I cite this as an examples of added burden to comply with extraneous rules, as an example, in the CPD which we must undertake we spend more time looking at the regulations that the FO imposes than substantive changes to notarial practice, and subject matters that have no relation to the profession in the slightest- such as money laundering regulation - when most full time notaries don't usually entertain transactions with a financial transaction or hold client moneys (the argument that solicitors would be covered by their regulator anyway the law society).

But to the point in hand it's disingenuous because it's hardly like we have a choice! We need to practice: you issue the practising certificate and so it won't matter a jot what our opinions or views are, other than the added cost to practice.

Again I don't mean to sound ungrateful unprofessional or rude but I hope you understand from a professional practice standpoint how the continued added administrative burdens and costs are unwelcome for a dubious benefit to the profession or client alike, but again it's irrelevant what we think as you have the monopoly on affording us the opportunity to continue in practice.

I trust you accept my thoughts with an open mind and no ill intent or malice.

Many thanks

FO COMMENT – The points made in this response are noted and taken in the manner that they were intended. We accept that the burden of regulation has increased over the years and the balance between burden and benefit may need to be addressed. However, we disagree that the consultation is 'disingenuous' as, although we are the sole regulator of notarial services, we do value

and act on, as necessary, the views of those we regulate. If there had been significant opposition to the proposals we would have re-considered the proposals.

Response #10

1. Yes
2. Yes
3. No
4. No

Thank you

Response #11

1 Do you agree with the overall proposal for the PCF set out in Table 2? If not, please outline your reasons. **Yes**

2 Do you agree the continued nil rate contingency fund fee? If not, please outline your reasons. **Yes**

3 Do you consider that the proposed PCF 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? **No**

4 Do you have any comments on any aspect of this consultation or the progress update against our business plan? **No**

Kind regards,

Response #12

1. Yes
2. Yes
3. No
4. No

Response #13

Thank you for this. I respond as follows:

1 - Do you agree with the overall proposal for the PCF set out in Table 2? **YES I AGREE** If not, please outline your reasons.

2 - Do you agree the continued nil rate contingency fund fee? **YES I AGREE** If not, please outline your reasons.

3 - Do you consider that the proposed PCF structure will have an adverse affect on equality, diversity or inclusion within the notarial profession. **NO** If 'yes' what do you consider the impact will be?

4 - Do you have any comments on any aspect of this consultation or the progress update against our business plan? **I AM BROADLY IN FAVOUR OF A BETTER FUNDED REGULATOR SO THAT INVESTIGATIONS/DISCIPLINARY ACTION CAN BE TAKEN AND COUNSEL INSTRUCTED WHERE NECESSARY. INSPECTIONS/'VISITS' SHOULD BE THE NORM EVERY YEAR OR SO AND THIS COULD PERHAPS BECOME A FULL TIME ROLE. MANY NOTARIES (NOT ME!) ARE QUITE ISOLATED AND THAT CAN CAUSE WELLBEING ISSUES WHICH, IN TURN, IMPACT UPON A NOTARY'S HEALTH AND THEIR ABILITY TO PROVIDE A PROPER SERVICE**

FO COMMENT – Thank you and we note the comments about inspections being the norm. The Master is keen to increase the number of inspections/visits undertaken annually. We note, too, the comments about the risk of isolation amongst the profession and wellbeing is something which we are keen to address.

Response #14

Having read the material, my response is

1. Yes
2. Yes
3. No
4. You are doing a good job, thank you

Response #15

Here are responses:

1. **1 Do you agree with the overall proposal for the PCF set out in Table 2? Yes**
2. **2 Do you agree the continued nil rate contingency fund fee? Yes**
3. **3 Do you consider that the proposed PCF 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?**
4. **4 Do you have any comments on any aspect of this consultation or the progress update against our business plan?**

Response #16

I am grateful for the opportunity to comment on matters contained in your Consultation. My responses are:

1 Do you agree with the overall proposal for the PCF set out in Table 2? If not, please outline your reasons. YES. It looks a fair way of dealing with PCF's over a wide variety of turnover figures.

2 Do you agree the continued nil rate contingency fund fee? If not, please outline your reasons. YES.

3 Do you consider that the proposed PCF 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? No.

4 Do you have any comments on any aspect of this consultation or the progress update against our business plan? No.

Kind regards

Response #17

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

1 Do you agree with the overall proposal for the PCF set out in Table 2? If not, please outline your reasons. Yes I agree

2 Do you agree the continued nil rate contingency fund fee? If not, please outline your reasons. Yes I agree

3 Do you consider that the proposed PCF 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? No

4 Do you have any comments on any aspect of this consultation or the progress update against our business plan? No real comments – my only concern is the recent disciplinary case that was reported about a notary doing work without seeing the client or checking the degree. I would suggest the Faculty Office carries out regular enquires as was done in the case reported with agents such as Blairs and others to keep the standing of the profession high and to try and stop “rogue” notaries.

FO COMMENT: Noted re the need to ensure that the standing of the profession remains high. This is partly the responsibility of the FO in ensuring *standards* but the *standing* of the profession is largely one for the representative bodies and the profession itself. We will certainly continue to monitor the activities of third party agents and act on information received.

Response #18

Questions about the proposed business plan and the proposed practising certificate fee level:

1 Do you agree with the overall proposal for the PIF set out in Table 2? If not, please outline your reasons. YES

2 Do you agree the continued nil rate contingency fund fee? If not, please outline your reasons. YES

3 Do you consider that the proposed PCF 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? NO

4 Do you have any comments on any aspect of this consultation or the progress update against our business plan? NO

Response #19

1 - YES	Do you agree with the overall proposal for the PCF set out in Table 2? If not, please outline your reasons.
2 - YES	Do you agree the continued nil rate contingency fund fee? If not, please outline your reasons.
3 - NO	Do you consider that the proposed PCF 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?
4 - YES	Do you have any comments on any aspect of this consultation or the progress update against our business plan?

Nominated notaries

I am keen to understand how “nominated notaries” are appointed and why it is felt that non-contentious notaries are not suitable. **FO COMMENT:** Nominated notaries are appointed pursuant to the Conduct & Discipline Rules as required. As the disciplinary process is almost invariably contentious it is helpful if the nominated notary has an appropriate level of experience in the conduct of litigation.

Bursary Scheme

I do not think that the Notaries Society Bursary Scheme will have any impact on improving diversity in the profession. I think that the new notaries would benefit more from practical business-development training so that they can see how to create a great, profitable practice and become a long-term asset to the profession. **FO COMMENT:** noted. However, we warmly welcome any assistance that is available to assist applicants from more socio-economically disadvantaged backgrounds into the profession.

Lawcare

In my opinion, based on my interactions with notaries throughout England and Wales, the thing that causes the greatest anxiety for notaries is the way that disciplinary matters are handled and the underlying worry about whether they are doing anything wrong. Lawcare does not seem to be of any comfort to notaries in this respect. A more useful scheme would be a safe advice “helpline” that notaries can use when they are not sure what to do or when something is worrying them. I take many calls from notaries that need a non-judgmental “sanity check”. **FO COMMENT:** we agree that an advice helpline would be a useful innovation and would encourage the representative bodies to consider the practicalities (and costs) of providing such a service to their members.

Response #20

I am broadly in agreement with the proposal for the fees for Practising Certificates for Notaries.

However, I have a question. Is the annual turnover to be for the preceding year or an estimate of expected turnover for the following year? I cannot remember how I calculated this in the past.

Kind regards,

FO COMMENT: we have responded direct but confirm that the turnover figure upon which the fee is based is that for the preceding year rather than based on an estimate of expected turnover for the current/following year.

Response #21

In response to the consultation, I would advise as follows -

1 – YES	Do you agree with the overall proposal for the PCF set out in Table 2? If not, please outline your reasons.
2 – YES	Do you agree the continued nil rate contingency fund fee? If not, please outline your reasons.
3 – NO	Do you consider that the proposed PCF 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?
4 – NO	Do you have any comments on any aspect of this consultation or the progress update against our business plan?

Many thanks

Response #22

1. Yes
2. Yes
3. No
4. No

Response #23

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

1. **1 Do you agree with the overall proposal for the PCF set out in Table 2? If not, please outline your reasons. YES**

2. **2 Do you agree the continued nil rate contingency fund fee? If not, please outline your reasons. YES**
3. **3 Do you consider that the proposed PCF 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? NO**
4. **4 Do you have any comments on any aspect of this consultation or the progress update against our business plan? NO**

Response #24

As a recently qualified notary, I (and my colleagues) have already had to pay a large amount of fees to the Faculty Office (i.e. certificate of exemption fee of £150, and £625 for the admitted notary application fee which only lasts up until 31 October.

It therefore seems unreasonable that after just 3 months, I will be expected to pay another £505. When you consider a solicitors practising certificate costs circa £300 annually, this does seem extremely high.

In terms of your questions, I am responding below:

1 Do you agree with the overall proposal for the PCF set out in Table 2? If not, please outline your reasons. As stated above, the table does not factor in new notaries who may only be earning a small amount (well below £15k) and have already incurred high fees from the Faculty Office.

2 Do you agree the continued nil rate contingency fund fee? If not, please outline your reasons. Yes

3 Do you consider that the proposed PCF 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? Yes - it makes it difficult for new notaries to get started. It will have an adverse impact on the number of new notaries qualifying and going into practice.

4 Do you have any comments on any aspect of this consultation or the progress update against our business plan? No.

Kind regards

FO COMMENT: the admission fee of £625 is wholly unrelated to the annual practising certificate fee (PCF). The admission fee is a one-off payment to cover the costs of administrating the admission to the Roll of newly qualified notary applicants. By way of an encouragement to apply early, the FO offer a free practising certificate from the date of admission to the Roll to the end of the current practising year (31st October) for the year in which the applicant qualifies (subject to insurance being in place). There are, of course, some 167,000 solicitors paying an annual PCF to fund their regulator as distinct from around 750 notaries funding the FO regulatory arm.

Response #25

Thank you for your email and for taking the time to seek our input. As per your request, I shall reply to your questions in their same order:

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

1. **1 Do you agree with the overall proposal for the PCF set out in Table 2? If not, please outline your reasons. YES, I DO**
2. **2 Do you agree the continued nil rate contingency fund fee? If not, please outline your reasons. YES, I DO**
3. **3 Do you consider that the proposed PCF 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? NO, I TRUST THAT IT WILL NOT**
4. **4 Do you have any comments on any aspect of this consultation or the progress update against our business plan? NO, I DO NOT**

Thank you again and

Kind regards,

Response #26

- | | |
|---|---|
| 1 | <p>Do you agree with the overall proposal for the PCF set out in Table 2? If not, please outline your reasons.</p> <p>YES</p> |
| 2 | <p>Do you agree the continued nil rate contingency fund fee? If not, please outline your reasons.</p> <p>YES</p> |
| 3 | <p>Do you consider that the proposed PCF 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?</p> <p>NO</p> |
| 4 | <p>Do you have any comments on any aspect of this consultation or the progress update against our business plan?</p> <p>NONE</p> |

Thank you and kind regards

Response #27

Thank you for this email.

Please note that I accept the proposal.

Response #28

1. Do you agree with the overall proposal for the PCF set out in Table2?
Yes.
2. Do you agree the continued nil rate contingency fund fee?
Yes. I note that the contingency fund is just above target but also that there are a number of cases and investigations pending. Whilst I welcome the reduction to 0 in principle, I wonder whether taking everything into account and given the cost of living/inflation in the economy a small contribution now (say £5) might be helpful and limit and more significant increase next year or the year after.
3. Do you consider that the proposed PCF structure will have an adverse effect on equality, diversity or inclusion within the notarial profession?
No. As the PCF structure is based on turnover I don't think would have any adverse effect but I think it is right and necessary to monitor this as the figures may demonstrate that particular groups fall into a particular category of the PCF structure which could inadvertently be discriminatory I think more detailed analysis would be necessary to determine whether this may be the case.
4. Do you have any comment on any aspect of this consultation or the progress update against our business plan?
No.

Response #29

Here is my response to the questions about the proposed business plan and the proposed practising certificate fee/levy:

Q1 Yes I agree

Q2 Yes I agree

Q3 No, I do not think the proposed structure will have an adverse effect on equality, diversity or inclusion within the notarial profession

Q4 I have no comments.

Kind regards

Response #30

Thank you for your email below.

I am considering not renewing my practising certificate in October as the costs of renewal are becoming too onerous and the regulatory compliance too onerous for a sole practitioner. My turnover is on average £2,000 per annum from which I pay Practising Certificate, Notary Society Membership, Data Protection, CPD etc. The numbers are not adding up. I have been in practice since 2008 and rarely exceeded a turnover of £3,500.

Please can you advise me what length of time I can be without a practising certificate before some sort of requalification is needed. Also, what if any steps I must take should I choose not to renew. I do not have an independent website or any employees.

With kind regards,

FO COMMENT: we have replied direct to this respondent. There is a very wide divergence in notarial turnover and our banding system introduced 5 years ago sought to address this. It is always a concern when a notary decides that the costs of practise are too high as the likelihood is that those with very low turnovers serve areas of the country where demand is low but nevertheless offer a local notarial service meaning that consumers do not have to travel too far to find a notary. We will consider whether there is a need to create an additional band below the £15,000 threshold for those notaries (which may well include the newly qualified (Response #24 above)) whose turnover is very low.

Response #31

My replies to the questions in your recent business plan paper are as follows:-

- 1 Yes
- 2 Yes
- 3 No
- 4 No

Yours faithfully,

Response #32

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

- 1 Do you agree with the overall proposal for the PCF set out in Table 2? If not, please outline your reasons.**

I'm sure those of us with a low turnover would all like to pay less but I am pleased to see a reduction this year as compared to last. We need to be mindful that those with a low annual turnover will perceive that £505 is a significant amount. Added to the need to maintain insurance and the costs of

CPD is there a risk that some notaries will decide the fee is simply too high and leave the profession as a result?

- 2 Do you agree the continued nil rate contingency fund fee? If not, please outline your reasons. Yes
- 3 Do you consider that the proposed PCF 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? What a daft question. Of course not.
- 4 Do you have any comments on any aspect of this consultation or the progress update against our business plan? See above

FO COMMENT: see above response #30

Response #33

Please see my response below.

1. Do you agree with the overall proposal for the PCF set out in Table 2? If not, please outline your reasons. response: I agree
2. Do you agree the continued nil rate contingency fund fee? If not, please outline your reasons. response: I agree
3. Do you consider that the proposed PCF 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? response: No
4. Do you have any comments on any aspect of this consultation or the progress update against our business plan? response: No

Best wishes,

Response #34

Please find below my responses to the consultation questions of the above consultation:

	Question	Response
1.	Do you agree with the overall proposal for the PCF set out in Table 2? If not, please outline your reasons.	Yes. It seems broadly correct.

2.	Do you agree the continued nil rate contingency fund fee? If not, please outline your reasons.	<p>Yes. However, there is something to be said for charging something to keep building up the “war chest” in light of inflation, even if just a nominal amount.</p> <p>However, having consulted on the basis of £0, possibly the genie is already out of the bottle and it would not be possible this year. A reduction (even if not quite £0) ought to be welcomed by the profession in light of the current economic climate.</p>
3.	Do you consider that the proposed PCF 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?	<p>No. I think this would only have an effect if the fees at the lowest level were too high. However, it works out to around £42 per month which does not seem too onerous.</p>
4.	Do you have any comments on any aspect of this consultation or the progress update against our business plan?	<p>Yes, I set these out below individually with the relevant topic listed on the left under the question.</p>
	1. Entity Regulation & S69 Order	<p>Having had some concerns initially over entity regulation, having gained a greater understanding of the history of the profession and its function in England and overseas, this must be the correct approach.</p> <p>There are the obvious benefits of greater protection for consumers by allowing more effective intervention by the Faculty Office in notarial practice.</p> <p>However, more fundamentally, notarial services being offered either through unregulated entities or entities that are principally regulated for the provision of legal services on a basis that is fundamentally incompatible with the notarial practice (i.e. the</p>

		<p>provision of legal services by private legal practitioners to only one party to a transaction whose interests must be prioritised versus the provision of legal services through the production of notarial acts recording juridical acts and other matters which carry probative force as a public service on the same independent and impartial basis as other public legal services such as the judiciary) undermines the profession both nationally and internationally. Therefore, the introduction of entity regulation on the basis of requiring notarial practices to be wholly owned by notaries can only be the correct approach and the Faculty Office should be commended for its approach in this regard which ought to improve the reputation and standing of the profession.</p> <p>There is a question as to whether individual notaries should be allowed to practice through corporate structures at all or whether they should either practice independently or in unincorporated groupings similar to barristers' chambers as appears to be the case in some civil law jurisdictions. However, that is a matter of detail that could be addressed later if considered appropriate.</p>
	<p>4. Review of our regulatory arrangements – Modernisation of accounts rules</p>	<p>These rules date from the 1980s and it is clearly correct that they should be updated and consolidated. There is no need for separate sets of rules and consolidation would help to reduce the long list of separate sets of rules to which such a niche profession is subject.</p> <p>However, in my view, there should be a wider review of the practice rules. The core practice rules, for example, are based on the 1990 Solicitors' Code of Conduct and a lot is missing which undermines the profession internationally and leave the profession seeking to imply standards in order to justify</p>

		<p>equivalence with overseas notaries and in places the rules are inconsistent. Inconsistency can be most clearly seen for example, in relation to the impartiality rules; notaries are required to be impartial, but then subsequent rules allow notaries to act for only one party to a conveyancing transaction. Acting for one party only and placing their interests above those of others is fundamentally contradictory to the <i>raison d'être</i> of the notary which is to be an independent, impartial public legal official whose core duty is to the public in general.</p> <p>The rules have been tweaked over the years but as they approach their 35th anniversary, the time has come for the introduction of a new, more appropriate code of practice for notaries which should be clearer, more comprehensive set of rules, focussed on notaries as an independent profession rather than an adjunct to the solicitors profession and based on international standards and best practice including those matters set out by UINL in its Principles of the notarial function (https://www.uinl.org/en_GB/principios-de-la-funcion) and Deontology and Rules of Organization for Notariats (https://www.uinl.org/en_GB/organizacion-de-la-funcion).</p>
	<p>8. Post-qualification requirements – Conveyancing, wills and Probate.</p>	<p>This is clearly and important goal and the Faculty Office should be complemented on keeping this in focus.</p> <p>However, what should be avoided is any move towards prohibiting notaries from practising in these areas. They are fundamental areas of practice for notaries and any move to remove them from a notary's competence would cause irreparable damage to the profession internationally in circumstances where the profession (though its representative bodies) are constantly battling to justify equivalence with overseas notariats who look down on</p>

		<p>both English notaries and English law in general as inferior, in part as a matter of protectionism and in part for other reasons.</p> <p>What should be considered is how to bring these areas of practice within the notaries' core duties. For example, notaries should not be acting in relation to these matters for only one party. That is fundamentally at odds with an independent, impartial notariat made up of regulated public officials, except in circumstances where that core duty can be maintained (e.g. in France it is possible for each party to have a notary involved but they must maintain their core duty to the public good and the administration of justice). International best practice should be followed in this regard and could form part of the wider updating of the practice rules referred to at point 4 above.</p> <p>In addition, the core qualification rules should also be considered in light of the changing nature of the UCL Notarial Practice Course with consideration given to expanding on the list of core required subjects and other less direct methods of influencing UCL so that standards are not falling which is a serious concern for the profession in light of how the course is now delivered and assessed. There is a real danger that new notaries are not sufficiently rigorously assessed and/or are being allowed to pass without meeting necessary standards which is a real danger to the reputation and standing of the profession but also to the Master and the Faculty Office in the increased time and costs of dealing with the almost inevitable increase in complaints arising for the practice of notaries who are not properly qualified.</p>
	10. Rule of Law lecture	The lecture was great and the drinks afterwards was a great way to bring members

		<p>of the profession together. It should certainly be repeated.</p> <p>The main thing I took away from the lecture was the similar function of the notariat and the judiciary in seeking to act impartially and independently, and to promote the rule of law and contribute to the administration of justice. These core matters, so eloquently set out by Lord Justice Lindblom should be the impetus for the revision of the practice rules referred to at point 4 above.</p> <p>It would be great if in future, the societies could give some information about the history and role of the profession that could add to the speaker's understanding of the profession both as a way of promoting the profession and its role amongst the judiciary but also allowing the speaker to draw the notary more into the core parts of the lecture.</p>
	<p>11. Legal Choices</p>	<p>The schedule refers to encouraging notaries to write articles. An call for articles should be made in this regard.</p> <p>For example, I along with another member of the Notaries' Society Council recently wrote an article for an international legal publication with the aim of promoting the profession which could be adapted. In addition, articles could be written on specific topics.</p> <p>I would, however, ask that any draft articles are run past the representative bodies for comment as, unfortunately, I find that notaries often do not quite appreciate some fundamental matters relating to the profession (concentrating instead on practical matters in relation to dealing with documents) and can inadvertently write things that undermine the standing and reputation of the profession that</p>

	<p>the societies then have to spend huge amounts of time and money trying to address and correct the record. One principle example is an article written by a member of the Scriveners Company in the early 2000s if which you are no doubt aware which is constantly referred to in German courts and academic writings in concluding that English notaries are not sufficiently qualified in company law to be able to deal with any German company documents. To allow the publication of such articles without proper peer review from the societies would have the opposite effect intended, namely misleading the public (and other professionals) and damaging the profession.</p>
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Please do let me know if you have any questions in relation to the above.

Kind regards

FO COMMENT: we are very grateful for this detailed and considered response which will assist us greatly as we progress the action plan.

Response #34

From the Legal Services Consumer Panel

Sent by email only to consultations@1thesanctuary.com

14 August 2023

The Faculty's Office Consultation on Practising Fee Certificates and Business

Plan Update

Dear Sir/Madam,

The Legal Services Consumer Panel (the Panel) welcomes the opportunity to respond to The Faculty's Office (FO) consultation.

The Panel does not consider itself best placed to interrogate changes to the Practising Certificate Fees, therefore, we have confined ourselves to assessing the progress that has been made against FO's business plan.

We note that one of the overarching aims of the plan is to 'protect and promote the interests of the consumer', to this end we would like to draw attention to our recently

published research on how Approved Regulators can be more consumer-focused³
The Panel commissioned independent research to develop a set of indicators to serve as guidance on good practice in consumer-focused regulation. The aim is to encourage and support legal services regulators to be thorough and consistent in how they prioritise the interests of consumers across their regulatory activities. We are pleased that the Legal Services Board has decided to add this research to its performance review sourcebook, and we hope to see all regulators use and reference the report in its work.

The FO will find our Consumer-Focused Regulation research particularly useful when developing its thinking on Professional Indemnity Insurance (PII). Financial protections like PII are designed to protect consumers from identifiable financial loss due to dishonesty, fraud, negligence or failure to account. These arrangements also benefit the profession, covering practitioners for civil liabilities and helping to maintain public confidence.

The Panel considers it important to reiterate the points it has raised with other regulators, when assessing PII. There is a clear need for joined up working amongst Approved Regulators and greater openness and sharing of data. Overall, we want to see consistent consumer protection across the landscape, with risks monitored, and mitigated against adequately. That said, the Panel appreciates the reality of commercial insurance and accepts that trade-offs will be necessary when balancing varying interests.

Overall, a consumer-focused approach will help to drive up the quality of services and professional standards, thereby supporting the FO's other objectives.

We also note the commitment to diversity matters outlined in the consultation document. However, there ought to be better defined outcomes and workstreams for achieving the goals described. We are not convinced that the workstreams as described will address the problems identified.

Moreover, we would like the FO to consider how those from diverse backgrounds are faring with the services being delivered by the FO's regulated community. Our annual tracker survey consistently shows a disparity between the satisfaction levels of those from ethnic minority backgrounds, in comparison to those from a white background. We would like to see all regulators begin to explore and address this issue where necessary.

Should you have any questions pertaining to this response, please contact Lola Bello, Consumer Panel Manager (lola.bello@legalservicesconsumerpanel.org.uk)

Yours sincerely,
Sarah Chambers

Chair, Legal Services Consumer Panel.

³ Consumer focused regulation report (legalservicesconsumerpanel.org.uk)