



# THE CITY OF LONDON LAW SOCIETY

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Natalia Szablewska  
Information Unit  
Solicitors Regulation Authority  
DX 19114 Redditch

By email: consultation@sra.org.uk

Dear Natalia

***Re: CLLS response to Consultation Paper 19; "Moving towards a fairer fee policy"***

The City of London Law Society ("CLLS") represents approximately 13,000 City lawyers through individual and corporate membership including some of the largest international law firms in the world. These law firms advise a variety of clients from multinational companies and financial institutions to Government departments, often in relation to complex, multi jurisdictional legal issues.

The CLLS responds to a variety of consultations on issues of importance to its members through its 17 specialist committees. This response in respect of Consultation Paper 19 "Moving towards a fairer fee policy" has been prepared by the CLLS Professional Rules and Regulation Committee.

Our views on your 23 numbered questions are as follows:

1. Yes, except in one respect. While we agree fees should not be an excessive deterrent to new entrants, we do not support the suggestion that there should be leniency for small businesses based on ability to pay. Our understanding is that a very high proportion of the costs associated with SRA enforcement and monitoring relates to very small firms when they are struggling financially. While such firms can enhance access to justice, some in such circumstances damage the reputation of the profession. In some cases, we suspect it would be better for such firms to cease to practise (or become part of larger firms) and the Law Society should not help to prolong them by giving them preferential treatment on fees. However, we see no objection to the Law Society offering instalment arrangements for new firms.
2. Yes, subject to one important point. The culture in at least the larger firms is that the firms handle the administration associated with practising certificates on behalf of all their lawyers. If your proposal is that 'fees charged to individuals' will be handled direct with the individual, then there will be chaos. Under your proposed reform, it must be possible for a firm to state in advance that it will handle this on behalf of its individual solicitors and the Law Society/SRA will then deal with the firm rather than the individual. In the absence of such an arrangement (as in the past), there is an unacceptable risk that an individual solicitor will fail to renew on time and the firm, unaware of this, will face criticism (at least) for unknowingly holding an employee out as a solicitor when, technically, he/she is not qualified to practise.

3. Yes.
4. No. The principle is based on the assumption that it is impractical for a risk-based approach to regulation to influence fee policy – see paragraphs 42- 44. We find these paragraphs very unconvincing. In relation to the profession, we disagree with the assertion in paragraph 44 that a firm's scale of business is proxy for the potential risk posed by the firm. The quote from the FSA is unintelligible, with no context given and is probably irrelevant to the solicitors profession. Without knowing what data is available (and we suspect that in fact there is a good deal), we cannot be expected to endorse paragraph 43, which is simply conclusionary. At the very least, the consultation should investigate whether, as further data becomes available (and it must be increasing all the time), a risk-based approach should be applied.
5. We are unclear what you mean by 'the PC fee'. Are you referring to the Recognised Body fee divided by the number of total fee earners in the firm? The position of the question under 'Recognised Body fees' suggests this is the case. If so, it depends on what 'special cases and reductions' you are referring to; the issue is not raised in the consultation paper. If, on the other hand, you are referring to individual fees and this relates to paragraph 40, our answer would be 'yes'.
6. Yes.
7. Without further clarification, the definition could include all local lawyers practising around the world within a recognised body, even though their practises may have nothing to do with English Law or practise within England & Wales. It needs to be made clear that this is not the case. It may be best to limit 'fee earner' to those who are generating fee income for a firm in respect of advice on the laws of England & Wales.
8. Not necessarily; see the answer to question 10 below.
9. Subject to the issue raised in 7 above, we anticipate 'easy' for most CLLS member firms.
10. Subject to further consultation on the issue, we believe the fairest solution is a risk-based approach (see 4 above); those who need the greatest regulation should bear the cost of it. Until a risk-based approach is adopted, we do not favour Model 2 over Model 1; this will simply transfer more of the cost onto firms which recover higher rates, and this will tend to be firms focussing on higher end work and, generally speaking, the larger firms. All the evidence suggests that these are the firms which require *least* regulation. That in part is because such firms already incur costs in internal compliance functions. The effect of Model 2 is, therefore, for the large firms to subsidise the profession and reduce the costs for firms which, in reality, account for a disproportionate element of the cost of regulation. Model 1 is therefore preferable to Model 2. Depending on how it would be structured, Model 1 with bands would probably be fairer than straight Model 1. Model 3 is a fudge between Models 1 and 2 and is unlikely to be better than Model 1, but further modelling would be needed before a definitive view could be expressed.
11. In general, CLLS firms are likely to pay more under Model 1 than now, but they would view this as fairer than Model 2 (or 3).
12. Model 2; see 10 above.
13. Yes.
14. Yes.

15. We assume you are referring to Recognised Bodies which operate outside England & Wales. If so, yes. If you are referring to overseas branch offices of a Recognised Body which also practices in England & Wales, we do not agree.
16. Yes.
17. We do not understand how this question is different to question 15.
18. Yes.
19. Yes.
20. Yes.
21. All firms should contribute, unless a full risk-based approach is to be adopted.
22. Risk of causing a claim.
23. Yes.

Yours sincerely

**Chris Perrin**  
**Chair**  
**Professional Rules and Regulation Committee**

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