



Practising Certificate Fees

Key Issue: Due to ongoing financial stresses within local authorities, some authorities are looking to reduce spending and consequently are making the decision to remove the funding of practice certificates.

LLG Position: All legally qualified practitioners - whether they are solicitors, barristers, or legal executives, **should** have a practising certificate (or equivalent), which their employing local authority should fund, for the reasons set out in this position statement.

Reserved Activities: Solicitors who undertake reserved activities must have a practicing certificate under the Legal Services Act 2007: These include prescribed tasks in the areas of civil litigation, some legal work in children's services, adult social care, licencing litigation, property litigation, supervising conveyancing transactions, Land Registry related tasks, housing litigation and judicial reviews. They must also have a practising certificate to supervise trainee solicitors, or to be the named person for the purpose of issuing claims on behalf of the council (normally the Director/Head of Legal Services who overwhelmingly also holds the designation of Monitoring Officer).

Unreserved activities: Where solicitors are undertaking unreserved activities, such as contract, procurement, planning advice, regeneration, transactional conveyancing work, a practising certificate is not prescribed under the Legal Services Act 2007. That said, it is desirable, not least because particularly in smaller teams, individuals without PCs may stray into reserved activities because there is no-one else to do the work. In any authority, it may not be spotted in the middle of a busy period and a lawyer may inadvertently stray into reserved activities which is a risk to them personally as well as the authority (see *R (On the Application of City of York Council) v AUH & Ors* (2023) for implications of undertaking reserved work without being authorised to do so).

Impact of withdrawing funding: Without a practising certificate:

- a. Solicitors are unable to refer to themselves as a solicitor. They must instead be referred to as non- practising solicitors. Even the title 'Lawyer', when taken together with other factors could in certain circumstances give rise to the allegation that a person has 'held themselves out' as a solicitor.
- b. Solicitors without a practicing certificate cannot continue to act if the matter becomes contentious. For example, whilst most planning work will be non-contentious, some will become contentious. There are many grey areas, and a particular legal matter could easily fall into the contentious bracket meaning the caseworker would need to cease work immediately.

- c. Implications regarding the giving and discharge of undertakings during a transaction should be considered carefully by the local authority.
- d. If local authorities choose to pass the cost of the practising certificate on to the employee, it erodes the pay and benefit package which is likely to impact on morale, recruitment, and retention in an already difficult and challenging market.
- e. There remains an administration cost to staying on the roll should a practising certificate not be funded.
- f. Employees may look to the local authority to indemnify them if they are working without a practising certificate as it carries a personal risk. Junior Lawyers may be more at risk of failing to spot when a matter becomes contentious or feel pressurised to undertake a task.
- g. Local Authorities may find retention of Junior Lawyers difficult if they are not then able to call themselves 'solicitors' at the end of their training, thereby losing the investment of 'home grown' lawyers.
- h. Removal of funding could create inequalities of pay across grades if some solicitors have a practising certificate funded whilst others do not.
- i. Some groups may be more disadvantaged than others by the adoption of such a policy including those from particular demographics and those in the early stage of their career.
- j. The restriction of legal work capable of being undertaken by any one employee could restrict resilience and/or ability to respond to pinch points.
- k. All lawyers have a responsibility towards governance within their authority which is of paramount importance in the current climate. Utilising professional titles assists in raising the professional standing of lawyers in local government which has been eroding over last 15 years.
- l. The sector is already suffering from unprecedented recruitment and retention issues. Authorities facing complex budgetary decisions and potential s114 notices need to retain experienced in-house legal staff to help them navigate the myriad of complex decisions before them.

Conclusion: LLG unreservedly supports the provision of practising certificates in both reserved and unreserved activities to ensure that lawyers and the local authorities who employ them are enabled and protected.