



## **CILEX AND IPS PRACTICE CERTIFICATE FEE (PCF) APPLICATION FOR 2015 FEES**

### **Introduction**

CILEx is an Approved Regulator under the Legal Services Act 2007 for Chartered Legal Executives and Associate Prosecutors. IPS has been established by CILEx to undertake its regulatory functions.

This submission sets out the Practice Certificate Fees proposed to be charged to CILEx Fellows and Associate Prosecutor Members of CILEx for the subscription year of 2015. It also sets out the process by which the proposed fees have been determined.

CILEx Council agreed its proposals for 2015 Practice Certificate fees at its meeting on 11 July 2014, having considered the 2015 budget agreed by IPS at its Board meeting in March 2014.

### **Independence**

We confirm that IPS set its budget independently. IPS has its own strategy and business plan which are reviewed annually. The review it undertook in January 2014 determined the strategic aims for 2013-18 and the key activities to be met by the end of 2015 and thereby the resource needs of IPS for 2015.

CILEx confirms that requests for additional resources will be met. IPS has no concerns about securing such resources.

IPS and CILEx consulted jointly with Fellows regarding alternative levels of Practising Certificate Fee. Associate Prosecutor Practice Certificate Fees are paid by the Crown Prosecution Service. There has been correspondence with the CPS regarding the proposed fees, rather than with individual Associate Prosecutors.

Signed

Ian Watson  
IPS CEO

Diane Burleigh  
CILEx CEO

## SECTION 1: DEVELOPING THE APPLICATION/SETTING THE BUDGET

The Practising Certificate Fee levels that have been proposed are set out in the table below. The fees were agreed by CILEx Council at its meeting on 11 July 2014 for submission to the LSB.

**Table 1: Fee levels**

<b>PC Fee</b>	<b>2015 Budget Year</b>	<b>2014 Current Year</b>	<b>Increase (£ &amp; %)</b>
Authorised Person (Fellow)	£318.50	£299	+£19.50 (+6.5%)
Associate Prosecutor	£159.75	£150	+£9.75 (+6.5%)

The level of the 2015 Practising Certificate Fee was determined, having identified the costs of regulatory and permitted purposes activities proposed for 2015.

The CILEx Group develops three year budgets and business plans, which are described below. The business and strategic planning enabled resource needs to be identified from which budgets for 2015 were produced.

### IPS

IPS took the lead in setting the 2015 budget for regulatory costs for IPS.

In January and May 2014 IPS reviewed its strategic aims which led to the update to its 5 year strategy spanning the period 2013 to 2018. The Board has set the key activities IPS must achieve by the end of 2015 towards meeting its strategic aims. From this IPS has identified the activities and ensuing resource needs for 2015 to enable it to achieve its key aims.

The draft budget was prepared by the CEO of IPS in the light of expected maintenance of regulatory work, the projects to be undertaken during the year and the implementation and development activity to be undertaken in respect of existing projects. The IPS Board considered the draft budget at its meetings on 29 January and 18 March 2014, at which it was finalised and agreed by the Board.

In May 2014 the CILEx Director of Group Services produced details of the costs of permitted purposes activities, following identification by each team of the permitted purposes work they undertake. The analysis of permitted purposes costs appears at **table 2**. The Board was satisfied that the costs were a fair reflection of the permitted purposes costs incurred by IPS and reflected the activities undertaken by CILEx staff under the IPS/CILEX service

level agreement, as well as the costs of permitted purposes activities carried out by CILEx as the Approved Regulator.

The budget and regulatory costs agreed by IPS were provided to CILEx to inform its budgeting process and to enable the Practice Certificate Fees for 2015 to be agreed.

## **CILEx**

The CILEx Group budget process incorporates 3 main phases.

- A strategy development period
- A detailed draft budget for the next financial year incorporating the IPS budget
- Production of a three-year budget incorporating the IPS three-year budget

The strategic phase considers the political, economic, regulatory and competitive context of the sectors and markets the CILEx group operates in. This informs the development of the three year financial projection.

Assumptions are made regarding inflation, resource requirements, the number of authorised persons and other grades of member and the likely income and expenditure from awards (ie examinations) and commercial activities carried out by the CILEx group.

CILEx considers the activities it undertakes which are classified as permitted purposes under the Legal Services Act 2007, and a breakdown is shown at **table 2**.

The CILEx Council considered an outline draft budget and business plan in May 2014 and proposals for consulting with Fellows and Associate Prosecutor Members on the Practice Certificate Fee, which had been developed.

### **CILEx Fellows - options**

Council agreed to consult on three options. These were, on a per capita basis:

- £341 – the full cost of regulatory and permitted purposes activities;
- £318.50 – the break even amount; or
- £306.50 – a 2.5% inflationary increase.

IPS was content that Fellows be asked for their views on these alternatives. The consultation letter sent jointly by IPS and CILEX Chief Executives is attached at **appendix 1**. It was sent by email wherever possible and by post where members had not registered an email address.

## **Associate Prosecutors - options**

There was no direct consultation with individual Associate Prosecutors as the Crown Prosecution Service pays their Practice Certificate Fees. IPS met with the CPS on 27 March 2014. The meeting included notification of the proposed fee work. This was followed by correspondence on 20 June 2013 which formed the formal consultation. This sought views of the CPS policy lead on proposals to increase the Practising Certificate Fee for Associate Prosecutors. The consultation gave three options:

- £153.75 – a 2.5% inflationary increase;
- £159.75 – an uplift based on a break even budget representing a 6.5% increase; or
- £176 – to cover the full cost of regulation representing a 17% increase.

## **Reserves Arrangements**

IPS does not hold any reserves itself. The CILEx reserves policy prescribes that it should hold the equivalent of a minimum of 12 months budgeted membership income in reserve. Protocols between IPS and CILEx provide that CILEx will meet the reasonable funding requirements of IPS; which would include exceptional costs – for example, in relation to staffing or legal claims or new regulatory developments. In fact CILEx has built up reserves over a considerable period of time, which currently stands at £7.2 million (which is nearly three times the level of PCF income in the 2015 budget). Whilst those reserves are available to the whole CILEx group, not just IPS, IPS is confident that the resources are available should it need them.

As will be seen from the analysis of regulatory and permitted purposes costs in **table 3**, the fees budgeted for 2015 are intended towards delivering a balanced budget; those costs exceed the income from Practising Certificate and permitted purposes fees; and those costs will be subsidised by other CILEx group income. Practising Certificate and permitted purposes fees will not go towards increasing the Group reserves.

## **Contingency Arrangements**

As mentioned above, the CILEx Group has accumulated considerable cash reserves in accordance with its Reserves Policy. This policy was developed specifically so that CILEx can meet unexpected needs of a varying nature, including regulatory needs. Therefore IPS believes that there are sufficient resources in CILEx, should it need to access additional funds from the representative body.

## **Consultation Process and responses - Fellows**

The consultation process started with an e-mail sent to 6,333 Practising Fellows and a hard copy letter to 365 Practising Fellows who did not have an

e-mail address. A further 337 Fellows were also surveyed by post as their email returned the survey undeliverable.

Copies of the communication appear at **appendix 1** which clearly demonstrates IPS' and CILEx's approach to how the options were arrived at and how the income derived from the Practising Certificate Fee is spent across regulated activities and permitted purposes.

The email and letter invited Fellows to complete a survey which was available online. The email provided a link to the survey. The Fellows who were contacted by letter were invited to complete the online survey or make a response by post.

Of those who received the survey by email 44% opened the first email. 20% of those who opened the first email clicked on a link to the survey.

On 30 May a reminder was sent electronically to 3,568 Fellows who had not yet opened the consultation. 16% of Fellows who received the reminder opened it. 31% of those who opened the reminder clicked on a link within it. The consultation closed on 20 June.

### ***Consultation Outcomes:***

All respondents were invited to complete the survey on line via Survey Monkey. A total of 614 responses were received made up of 606 electronic, 6 email and 2 responses by post. This represents a 70% increase against the 182 responses received last year. Ease of response via SurveyMonkey is likely to have been a factor.

Of the total number of respondents 606 voted for one of the fee options. The voting was made up of the 601 votes via SurveyMonkey plus 3 votes by email and 2 by post. The votes were split as follows:

Option A	£341.00	Full Cost regulatory and permitted purposes	165	27.23%
Option B	£318.50	break even	276	45.54%
Option C	£306.50	inflation @ 2.5%	165	27.23%
		<b>TOTAL</b>	<b>606</b>	<b>100.00%</b>

240 respondents commented on the proposals. The comments were wide ranging with an austerity theme. There were comments in earlier consultations from members in local authorities on the impact of pay freezes. There is some suggestion in the comments this year that employers in the private sector might also react less favourably to an increase in the Practice Certificate Fee. Other respondents recognised the importance of ensuring enough provision is made for expenditure to meet organisation development needs.

## Consultation process and response - Associate Prosecutors

The Memorandum of Understanding between the CPS, IPS and CILEx states that Practice Certificate Fees will be agreed by the parties each year. The proposals were communicated to the CPS with background information regarding the basis on which the proposed fee options had been arrived at. Attention was drawn to the work which IPS undertakes and that an amount of permitted purposes costs proportionate to the work carried out for Associate Prosecutors be included.

The CPS brought to IPS' attention the financial constraints that it and the public sector face, leading to it needing to find cost reductions. However, it stated that it would not object to a 17% increase to £176 provided it could be capped for two years. IPS responded that it was unable to cap the fee as it needs to assess regulatory costs on an annual basis.

CILEx Council considered the analysis provided to the CPS and the CPS response. It recommended that the Practice Certificate Fee for Associate Prosecutors should be £159.75, representing a break even budget, the same as for Fellows.

## SECTION 2: PERMITTED PURPOSES

In setting its Practice Certificate Fee for 2015 the CILEx group considered which activities were permitted purposes. **Table 2** sets out the allocation to permitted purposes by department in CILEx. In total, CILEx identified that £4,994k was the required budget to cover regulatory activities and other permitted purposes expenditure for 2015, and therefore the income from budgeted Practice Certificate Fees of £2,478k provides only 49.6% of the total required. Practice Certificate Fee income is expected to just cover the regulatory activities expenditure of the Group, but not other permitted purposes expenditure. This is provided from other sources, and as such, these other sources of income subsidise the full cost of permitted purposes activities.

**Table 2: CILEx Departments Permitted Purposes Allocation**

CILEx Department	All Permitted Purposes Activities	Other Activities	Total
Membership	86.1%	13.9%	100.0%
Awards	100.0%	0.0%	100.0%
Intl. & Paralegal	60.0%	40.0%	100.0%
Journal	21.0%	79.0%	100.0%
Corporate Affairs	84.7%	15.3%	100.0%
Comms & Marketing	90.0%	10.0%	100.0%

<b>Central Resources</b>	81.8%	18.2%	100.0%
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The permitted purposes percentages are based on an assessment by CILEx staff of the amount of departmental time they spend on all permitted purposes activities or in providing services to IPS under the service level agreement. The 'other' column relates to work carried out by CILEx staff which does not relate to regulatory or permitted purposes activities; for example, in relation to the Journal the content aimed at CILEX members as members or, in relation to international and paralegal work, work which does not relate to the professional membership programmes.

Those activities that CILEx identified as permitted purposes include:

- CILEx membership department – provides and maintains the Fellows, Associate Prosecutors and members database; issues PCF invoices; liaises with authorised persons; maintains CPD records; provides information to IPS about authorised persons and members.
- CILEx Awards and International department – provides support to ensure that standards of qualification, training and assessment are fit for purpose; provides details of assessment results by candidate, centre and student; provides reports and minutes of relevant committee meetings; liaison with Ofqual; provides details of any alleged misconduct; maintains relations with overseas CILEx centres; attendance at stakeholder meetings; attendance at professional institute forums.
- CILEx Journal department – provides the use of the Legal Executive Journal publication; editorial support; educational articles; direct mailing to authorised persons and members.
- CILEx Regulatory Affairs department – provides representation, liaison and support in the areas of law reform, policy, lobbying, equality and diversity, pro bono and judicial appointments. Manages relationship with LSB, other Approved Regulators and government.
- CILEx Communications and Marketing department – maintains and supports the IPS website; IPS publications; press releases; marketing plan and strategy; supports the marketing of new regulatory activity; and liaison.
- CILEx central resources– provides HR; finance and accounting; procurement facilities.

The proposed budgeted income from practice certificate fees in 2015 of £2,477.6k will meet the £2,342.7k regulatory expenses. The remainder, together with the cost of other permitted purposes activities will be funded by the CILEx Group from other activities, which include membership and training.

Table 3 (which appears as a separate document) shows the total CILEx Group draft budget for 2015, and analyses income and expenditure by regulatory-related activity, other permitted-purposes activity (with a sub-total for total permitted purposes activity), other activities that are not regulatory or other permitted purposes activities and then a final grand total for the Group.

### **SECTION 3 – REGULATORY FUNCTION**

IPS sets its budgets independently. The Board of IPS determined its resource requirements for the 2015 budget period by considering the projected budget against its strategic aims for 2015. The budgets were considered at the IPS Board meeting on 18 March 2014. The budget was thereafter incorporated into the CILEx group budget.

Table 3 shows how the Practice Certificate fee income is spent on regulatory activities including IPS.

### **SECTION 4 – CLARITY AND TRANSPARENCY**

A letter was mailed to each member who would be responsible for paying Practice Certificate Fees. This is the Fellows of CILEx. A copy of the letter appears at **appendix 1**. Where a Fellow did not have an email the letter was posted.

Associate Prosecutor members are also responsible for paying the Practice Certificate Fee. This fee is paid by the CPS. Therefore in the case of Associate Prosecutors IPS consulted directly with the CPS Headquarters. A summary of the discussion appears above.

Chartered Legal Executives are the voting members of the company. They receive the CILEx Annual Report, which incorporates the annual audited accounts, in time to attend the Annual General Meeting and may raise issues there or in advance. The Annual Report and Accounts are available at ([www.cilex.org.uk](http://www.cilex.org.uk)). No member attended the AGM held on 11 July 2014 to raise any issue regarding Practice Certificate Fees or raised any matter in advance of it.

### **SECTION 5 – REGULATORY AND DIVERSITY IMPACT ASSESSMENTS**

The CILEx Group has a Single Equality and Diversity Scheme and Action Plan. This identifies ways in which the group can continue to improve access to its services. The plan encompasses the requirement of the Equality Act 2010, sets out the equality and diversity objective and action plans for the CILEx Group for 2011 to 2015.



The CILEx Group will actively promote equality against the required protected characteristics. The CILEx Group has due regard to advancing equality of opportunity when taking action to achieve the objectives. It identifies the potential impact on various groups within its membership through the consultation with Fellows and the CPS.

Members from local government cited the very difficult financial circumstances under which their local authority employers are operating. Some indicated that their employer did not pay their PCF.

### **Regulatory Objectives and better regulatory principles**

IPS and CILEx are aware of the importance of ensuring that the Practice Certificate Fee covers the budget for activities that support the regulatory objectives set out in the Legal Services Act. IPS and CILEx believe that the Practice Certificate Fee income will be spent solely on regulatory activities and permitted purposes that aim to promote adherence to the regulatory objectives e.g. emphasising work on new practice rights, the regulation of entities, implementing a modernised CPD scheme, together with providing advice and support to members to be able to meet new requirements.

IPS and CILEx acted in accordance with the principles of proportionality, accountability, consistency, transparency and targeted in determining and developing the Practice Certificate Fee for 2015.

Transparency and accountability have been ensured through the manner in which consultation was carried out with each affected member and the CPS. The process has been described earlier in this report.

The processes in determining the Practice Certificate Fee have been targeted solely at the regulatory and permitted purposes and a proportionate approach, in line with CILEx's original 3 year budget plans, has been taken to determining the activity and thereby budgetary needs.

### **SECTION 6: CONSULTATION WITH NON-COMMERCIAL BODIES AND THE CONSUMER PANEL**

Neither IPS nor CILEx has consulted with non-commercial bodies or the consumer panel. Section 51(7) provides that the LSB may consult with such bodies as it considers appropriate about the impact of proposed fees on persons providing non-commercial legal services. The term 'persons' includes organisations or entities. CILEx members are regulated and pay Practising Certificate Fees as individuals rather than entities and there is no direct impact on non-commercial bodies, which requires IPS to consult with them. All CILEx Fellows have been consulted, including those who work in non-commercial bodies. As the responses to the consultation show, Fellows who

work in local authorities have drawn attention to the difficulties they face because of pay constraints over a number of years and the fact that their employers do not pay their practising fees. However those views have to be set against the value to them of their Practising Certificate and the views of Fellows as a whole. In the event that IPS regulates entities in future it will need to have regard to the impact of regulatory fees on non-commercial bodies.