

Practising Certificate Fee (s51) application assessment

Chartered Institute of Legal Executives (CILEx) and ILEX Professional Standards (IPS)

Part One: summary and recommendation

Summary

The CILEx Group total income is £8,880,332 which includes income to be raised from PCF totalling £2,477,602 for 2015 (28% of CILEx's total group income which remains unchanged from the previous year). All of the PCF income has been attributed to regulatory permitted purposes activities, in line with the LSB's PCF Rules.

For 2015, IPS budgeted direct expenditure on regulatory activities is £959,600 (2014: £997,243) this equates to 39% of the total PCF income (2014: 43%). The remaining 61% of PCF income has been attributed to regulatory and non-regulatory permitted purposes expenses (which includes the LSB/OLC levy fees) incurred by CILEx; this is also in line with our PCF rules which allow the representative arm to use PCF income for one or more of the permitted purposes set out in the LSA 2007. It is important to note that although the IPS budget has decreased by 4%; the regulatory activities (e.g. membership) carried out in other CILEx departments has remained fairly static as the overall budget for these regulatory activities for 2015 is £1.164M compared to £1.169M in 2014. As stated the PCF income for 2015 is £2,477,602, an increase of £151,215 (6.5%). However, the other non-PCF income that is used for regulatory purposes is reduced £106,000. So the main part of the PCF increase is to cover this loss of other income.

The proposed fee level for 2015 for an **Authorised Person (Fellow) is £318.90**; this represents a £19.50 or a +6.5% increase from the fee levels for 2015. The proposed fee for an **Associate Prosecutor is £159.75**; an increase of £9.75 or +6.5% from the 2014 fee level. Fee paying members do not contribute to a compensation fund.

The fees budgeted for 2015 will help contribute towards delivering a break even budget. Similar to last year, the CILEx Group expenditure on permitted purposes exceeded the income from PCF but the shortfall will be subsidised by other CILEx Group income.

Recommendation

- That the application be approved.
- That the approval letter comments on the following points:
 - CILEx/IPS to be commended for increasing their response rate to their Fellow's PCF consultation by 72% compared to the previous year. IPS also confirmed that the consultation period lasted 4 weeks.
 - Acknowledge the additional information provided on reserves and the setting of the CILEx/IPS budgets but we may wish to make some specific comments [see draft PCF Approval Letter].

Part Two: Assessment of the application against LSB acceptance criteria

Pre-submission	
Were there any pre-submission discussions or a draft application; were any issues identified	No meeting or draft application.
Were there any areas for improvement or specific issues in the last approval letter	Yes, we indicated that the 2015 application should include:

	<ul style="list-style-type: none"> • Confirmation that the fee levels for Associate Prosecutors cover the cost of regulation of this group of individuals. <ul style="list-style-type: none"> ○ We note from the application that the PCF income covers the cost of regulatory permitted purposes, which would include those for Fellows and Associate Prosecutors. All other non-regulatory permitted purposes costs are covered by CILEx other income. • We asked for information on the current budget year figures including PCF income and expenditure, permitted purposes and regulatory functions. We also asked for a description of shared services which we received as an additional note to the 2014 PCF application. <ul style="list-style-type: none"> ○ We received the full Draft <u>CILEx Budget for 2015</u> with the 2015 PCF application and included information on shared services. • We noted that the PCF income falls short of the expected level of regulatory permitted purposes and other permitted purposes expenditure, and considered that this is not a major issue but we flagged some concern if this became a part of normal practice. <ul style="list-style-type: none"> ○ IPS/CILEx has adopted the same process for the 2015 Budget year. The PCF income of £2,477,602 will cover the regulatory permitted purposes at £2,342,672 but other non-regulatory permitted purposes expenses incurred by IPS and CILEx will be covered by other CILEx Group income. • We noted a low response rate and asked if IPS can look at ways to increase the response rate for the 2015 PCF. <ul style="list-style-type: none"> ○ IPS exceeded expectations here in that their response rate has increased by 70% on last year's consultation as a result of an online survey.
Developing the application and budget	
Is it clear that the regulatory arm has lead the development of the application?	Yes, see explanation below.
<i>Budget</i> <ul style="list-style-type: none"> • Is it clear how the budget has been arrived at • Is there evidence that the immediate and 	The application shows clear independence from CILEx as the representative body when setting the IPS budget. IPS sets its individual budget and

<p>medium terms needs have been taken into account</p> <ul style="list-style-type: none"> • Are the contingency fund arrangements clear 	<p>has its own strategy and business plan which are reviewed annually by the IPS Board. It undertook a review in January 2014 to determine 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.</p> <p>CILEx confirms that, if required, any additional resources requested by IPS will be met. IPS has no concerns about securing such resources.</p>
<p><i>Consultation</i></p> <ul style="list-style-type: none"> • Has the proposed fee been consulted on – if so summarise • Was the consultation clear about the level of fee and how it will be collected • Has feedback been fully considered 	<p>Yes, a consultation process was conducted from 20 May 2014 to 20 June 2014. The consultation explained how the income derived from the practising certificate fee is spent across regulated activities and permitted purposes. Practising Fellows were either emailed or sent a letter asking for responses to an online survey. IPS/CILEx received a total of 614 responses – a 70% increase on the response rate the year before. A total of 46% (276 Fellows) who responded to the survey agreed with OPTION 2: £318.50 – allows a balanced budget; 27% agreed with OPTION 1 – full cost of regulation at a fee of £341 and 27% agreed with OPTION 3 – an inflation increase only at £306.50.</p> <p>There was no direct consultation with individual Associate Prosecutors as the CPS pays their PCF. IPS met with CPS and proposed three fee level options for Associate Prosecutors. CPS indicated that it would agree to the highest increase of their fees of £176 (an increase of 17%) to cover the full cost of regulation but only if this was capped for two years. IPS responded that they were unable to cap the fee as it needs to be assessed against the regulatory costs on an annual basis. Therefore IPS/CILEx opted for a 6.5% increase in line with the increase in fees for Fellows.</p>
<p><i>Clear and transparent</i></p> <ul style="list-style-type: none"> • Is the information provided to fee payers on the level of fee clear and transparent • When was/is this issued to fee payers 	<p>Yes, the letter sent to members during the consultation period set out the fee levels and included a diagram of how the practising fee income will be spent. A final copy of the fee levels will be sent to members at the point of renewal.</p>
<p>Permitted purposes</p>	
<p>Is there evidence that the PCF income is used solely for permitted purposes</p>	<p>Yes, all the PCF income has been attributed to permitted purposes activities.</p>
<p>Is any other income to be applied to permitted purposes</p>	<p>Yes, IPS identified that other income applied to the permitted purposes was from awarding body income, assessment income and other income.</p>

	The costs for all permitted purposes activity (£4,994,241) exceed the income from practising certificate fees (£2,477,602); therefore the PCF income of £2,477,602 provides only 49.6% of the total required and the shortfall will be met by subsidised by other CILEx group income.
Regulatory functions	
Is there evidence of how much of the PCF income is applied to permitted purposes that are <u>regulatory functions</u>	Yes, IPS identified that the total spend on <u>regulatory</u> permitted purposes expenses will be £2,342,672. The PCF income of £2,477,602 will just cover these expenses and as mentioned above - other non-regulatory permitted purposes expenses incurred by IPS and CILEx will be covered by other CILEx Group income.
Are any shared services clearly explained	Figures were included in the 2015 budget and explained in further detail in the application.
Regulatory and equality impact assessment (optional requirement)	
<ul style="list-style-type: none"> Completed and included? If not included, is there an explanation of the potential impact Does the application contain commentary on the regulatory objective and the Better Regulation Principles 	<p>No, an impact assessment has not been included in the application. IPS note that members from local government cited difficult financial circumstances under which their local authority employers are operating (due to the lack of pay rises). Some indicated that their employer did not pay their PCF.</p> <p>Yes, the application indicates that the setting of fee levels has been a considered approach in line with the RO and BRP, PCF income is spent solely on regulatory activities and other permitted purposes.</p>
Consultation with non-commercial bodies	
<ul style="list-style-type: none"> Does the application include a description of the steps taken Have the proposed fees been shared with such bodies What was the response 	No consultation with non-commercial bodies or the Consumer Panel, but the consultation included CILEx members who work in non-commercial bodies i.e. those who work in local authorities.
LSB Review	
Have we consulted with any other body on the application	No, this was not required.
Were any issues raised by LSB colleagues from the first review	<p>Yes, the following issues were flagged to IPS for a response. In summary we asked for:</p> <ul style="list-style-type: none"> Confirmation on when the consultation started – IPS advised that the consultation began on 20 May and it ran until 20 June 2014. We noted that the PCF income falls short of the expected level of regulatory permitted purposes and other

	<p>permitted purposes expenditure. We asked for confirmation whether CILEx/IPS expect this to continue as normal practice in the short to medium term - IPS indicated that this is likely to continue in the short to medium term but should change over the next few years. Over the previous 3 years IPS regulatory costs have been increased by the need to be ready for entity regulation; implementation work will begin in 2015 and they expect the balance of direct regulatory and permitted costs to change after implementation has been completed.</p> <ul style="list-style-type: none"> • We noted that CILEx reserves are forecast to be nearly 3 times the PCF income in the 2015 budget but the reserves policy is to hold 12 months budgeted income. The 2015 indicates that the current reserves are at £7.2M – 7 times the minimum – does CILEx/IPS intend to keep reserves at this level? – IPS indicated a correction to the application; the reserves policy indicates that the level should be equivalent of 12 months PCF and membership subscription income. Therefore 2015 reserves are just over twice the combined PCF and membership income total. Reserves have been accumulated over many years by CILEx and because of the wide ranging nature of the purpose of reserves there are no plans to reduce them unnecessarily. Also PCF income is not diverted to maintain or increase reserves.
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