

## Practising Certificate Fee (s51) application assessment

### The Council for Licensed Conveyancers

#### Part One: Summary and recommendation

##### Summary

- CLC Fees Framework remains unchanged.
- The fees payable for the year commencing for 2014/15 remain at the same rates as the rates for 2013/14 that is:
  - Licence Fee payable by licensed conveyancers remains at £400.
  - Base Rate Practice Fee payable by each CLC Practice remains at 1.4% of turnover based on tiered banding ranging from a minimum 0-100k turnover = 110% of Base Rate, to £3m plus turnover = 70% Base Rate.
  - Compensation Fund contribution paid by each CLC Practice remains at 0.4% of turnover.
- The other current fees levied by the CLC which are not PCF payments (Probate Licence; First Manager Licence; Duplicate licence; Amendment to licence; and Failure to submit Accountant's Report in time) also remain unchanged.

##### Recommendation

- That the application be approved
- The LSB approval decision letter notes that that the CLC is proposing to consult on the fee structure ahead of next year's practising certificate fee setting round and that the LSB looks forward to seeing the outcome of this and maintaining dialogue with the CLC to improve the PCF process.

#### 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?	There were no pre-meeting discussions.
Were there any areas for improvement or specific issues in the last approval letter?	<b>No.</b> The last approval letter welcomed the CLC's positive responses to the issues we raised for the 2012 application in respect of consultation and reserves policy.
Developing the application and budget	
Is it clear that the regulatory arm has the lead the development of the application?	<b>Yes.</b> CLC has an exclusively regulatory function.

*Budget*

- Is it clear how the budget has been arrived at?

**Yes.** Paragraphs 7-10 sets out how the annual budget was determined including:

- Staffing, member, contractor, service and supplier requirements are calculated in detail.
- Calculated fees, charges and other fees necessary to meet expenditure requirements.
- Arranged meetings with directors to discuss budget requirements.
- Forwarding draft budgets prepared by CLC Finance in consultation with the CLC's Executive to the Senior Management Team for approval.
- Draft budgets sent to Council members for challenge and subsequent sign off at the CLC's Council meeting.
- More generally the budget is a standing agenda item for auditors to have confidential discussions with the Audit Committee with no staff present and external auditors review and sign off the annual reports and accounts.

- Is there evidence that the immediate and medium terms needs have been taken into account?

**Yes.**

CLC considered resource needs to meet strategic priorities and business plan objectives.

Paragraph 10 states that the budget balances the CLC's need to provide an effective system of regulation which protects and promotes the interests of consumers with the need for the CLC to move forward with those it regulates to take advantage of the opportunities and to meet the challenges of its new regulatory framework.

- Are the contingency fund arrangements

**Yes.** Set out in set out in paragraph 25 of

<p>clear?</p>	<p>application. CLC Compensation Fund Operation Framework expressly reserves the CLC the right to make a specific levy. It is envisaged by the CLC that this will only be required when it is anticipated there is likely to be a substantial payment out of the Compensation Fund. This has not happened for nearly 20 years. CLC reserves the right to right to transfer the balance out of the Practice Fees collected before recouping the money from the profession. The CLC says this approach reduces the costs associated with the collection of regulatory fees.</p> <p>The LSB noted in its assessment that from 2014 all direct licensing costs, including those associated with interventions, will be applied to the Practice Fund rather than the Compensation Fund.</p> <p>Finally, it is worth noting that the CLC states in its application that it is in the process of reviewing its reserves policy. In the PCF assessment process the CLC confirmed to the LSB that the review is now part of a fundamental review of the Compensation Fund which may be completed by December 2015.</p>
<p><i>Consultation</i></p> <ul style="list-style-type: none"> <li>• Has the proposed fee been consulted on – if so summarise?</li> <li>• Was the consultation clear about the level of fee and how it will be collected?</li> <li>• Has feedback been fully considered?</li> </ul>	<p><b>Yes.</b> Paragraph 5 explains that at its meeting in May 2014 the Council agreed that the CLC should publish a consultation on the current fee structure. The Consultation Period ended on 27 June 2014. The CLC received 5 responses: 2 were in favour of the current charging structure, one respondent suggested that there should be additional charging bands in the £500,000 to £3 million range. All respondents were in favour of the number of instalments for payment of regulatory fees being increased from ten to twelve.</p> <p>We note that the response rate was low which is probably attributable to the fact that the fee has been set at the same level for the third consecutive year. We note that CLC are reviewing the fee structure and plan to consult on this before the 2015 fee setting exercise.</p>

<p><i>Clear and transparent</i></p> <ul style="list-style-type: none"> <li>Is the information provided to fee payers on the level of fee clear and transparent?</li> <li>When was/is this issued to fee payers?</li> </ul>	<p><b>Yes.</b> A detailed explanation of the structure of charges and details of the budget, which has determined the income, will be published to the profession. Details of the information to be published to the profession was included in the application at Annex 3. Information includes:</p> <ul style="list-style-type: none"> <li>The CLC’s licence and practice fee structure, and contributions to the CLC Compensation Fund.</li> <li>Fee and Compensation Fund contributions payable for year starting 1 November 2014.</li> <li>Details of budget and expenditure.</li> <li>Council tax style pie charts showing segmentation of actual and budgeted operational expenditure (included in Annex 1 of the published application).</li> </ul> <p>This will be issued to fee payers upon LSB approval.</p>
<b>Permitted purposes</b>	
<p>Is there evidence that the PCF income is used solely for permitted purposes?</p>	<p><b>Yes.</b> See Section on Permitted Purposes, paragraphs 21-24. Since the CLC has an exclusively regulatory function, none of the costs the CLC incurs fall outside permitted purposes. The CLC participates to a limited extent in law reform and legislative processes. But more as part and parcel of developing its regulatory framework and does not have a budget dedicated to that activity.</p>
<p>Is any other income to be applied to permitted purposes?</p>	<p><b>Yes.</b> Application sets out that the total budgeted income of £2,587,698 of which £1,690,932 is from Practice Fee, £499,200 from Licence Fee and £397,566 from other income.</p>
<b>Regulatory functions</b>	
<p>Is there evidence of how much of the PCF income is applied to permitted purposes that are regulatory functions?</p>	<p><b>Yes.</b> Covered in paragraph 24. Aside from the Levy, CLC's PCF income covers the entirety of the costs incurred in relation to regulation, accreditation, education and training of applicable persons and those either holding themselves out as or wishing to become such persons.</p>
<p>Are any shared services clearly explained?</p>	<p>Not applicable. No shared services.</p>

<b>Regulatory and equality impact assessment (optional requirement)</b>	
<ul style="list-style-type: none"> <li>• Completed and included?</li> <li>• If not included, is there an explanation of the potential impact?</li> <li>• Does the application contain commentary on the regulatory objective and the Better Regulation Principles?</li> </ul>	<p>No Equality impact assessment included. There was no change in fee level.</p> <p><b>Yes.</b> Commentary on regulatory objectives in paragraphs 7 and 8 of application. The CLC's Corporate Strategy 2011-2013 and its Business Plan 2013 (covering the period August 2013 to the end of 2014)<sup>1</sup> have been informed by the regulatory objectives, and are consistent with the approach developed by the Legal Services Board. The Business Plan builds on its previous plans and is in three sections.</p> <ul style="list-style-type: none"> <li>• Protecting the Consumer</li> <li>• Supporting Innovation</li> <li>• Strengthening Infrastructure</li> </ul> <p>Coverage of these three themes in the application.</p> <p>Paragraph 26 also covers the applicability of the ROs and paragraph 27 has commentary on the ways in which the setting the charges has taken account of the Better Regulation Principles.</p>
<b>Consultation with non-commercial bodies</b>	
<ul style="list-style-type: none"> <li>• Does the application include a description of the steps taken?</li> <li>• Have the proposed fees been shared with such bodies?</li> <li>• What was the response?</li> </ul>	<p><b>No.</b> Reason covered in paragraph 15. The CLC does not regulate any non-commercial body which undertakes either conveyancing or probate services.</p>
<b>LSB Review</b>	
Have we consulted with any other body on the application?	<b>No.</b> Not considered necessary.
Were any issues raised by LSB colleagues from the first review?	<b>No.</b>

**Paul Greening**  
**10 September 2014**