

Practising Certificate Fee (s51) application assessment

AR NAME **Costs Lawyers Standards Board (CLSB)**

Part One: **Summary and recommendation**

Summary

- The fee payable for the year commencing for 2015 remains at the same rate as for 2014 (£250 fee for a practicing certificate).
- CLSB’s fees framework remains unaltered.
- The budget (expected expenditure) for 2015 is £149,100, compared to the 2014 budget of £140,326.
- The CLSB has built up a reserve fund of £85k compared to 70k for the previous year.
- Application is for CLSB costs only. The Association of Cost Lawyers invoice for their membership separately.

Recommendation

- That the application be approved and that the approval letter:
 - acknowledges the improvements and intended improvements to the way the budget is presented; and
 - registers that the LSB believes the way in which the increase in the Legal Ombudsman levy was presented by the CLSB to its regulated community in consultation was misleading, in that it did not refer to the wider context of the rise, where the net combined LSB/Legal Ombudsman levy is much less than that implied by referring to the Legal Ombudsman increase in isolation.

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.
Were there any areas for improvement or specific issues in the last approval letter	<p><i>Three areas for improvement/specific issues referred to in the LSB’s approval decision letter of 4 October 2013 for the 2014 PCF:</i></p> <ul style="list-style-type: none"> • Transparency of levy. <i>4 October 2013 LSB letter:</i> We welcomed the CLSB’s inclusion of explanatory notes on the reverse of the PCF Note setting out how the PCF was used, and said we would like this to continue. CLSB application for 2015: <i>The CLSB has given a commitment to produce explanatory notes on fee allocation on the reverse of its Practising Certificate Fee Note for 2015.</i> • Budget. <i>4 October 2013 LSB letter:</i> The

previous year's application did not include any analysis of the 2012 budget and actual figures, compared to anticipated costs for 2013. We suggested a summary which showed all of the figures for the coming year's budget, against all of the budgeted and actual figures for the current year. This was not provided for the 2014 application submitted in 2013, and the October 2013 letter requested it should be for the 2015 application.

CLSB application for 2015: *The application says that going forward (i.e. from the application submitted next year) the budget will be presented in a different form (an example from the CLSB was included in this application). It is less detailed but under sections that accord with the book keeping records of the CLSB to enable a monitoring column. This means that while the CLSB were unable to provide the comparative presentation the LSB asked for in the year to date for this application, the CLSB has given a commitment to do so from next year (i.e. applications submitted from 2015). While not ideal, given it is making a commitment and has provided the form in which it will do so, the LSB judgement is that this is adequate.*

- **Breakdown of estimated spending.** *4 October 2013 LSB letter: We requested that for future applications, the CLSB present a breakdown of regulatory and non-regulatory activity as spend, rather than as a proportion of time allocated.*
- **CLSB application for 2015:** *The budget table for this application has assigned a more detailed permitted purpose column against spend compared to the presentation in previous years. Given the relative small size of the CLSB's budget we think this is adequate and an improvement on presentation in previous years. The LSB consider it would be disproportionate for it to request a more detailed analysis.*

Developing the application and budget	
Is it clear that the regulatory arm has led the development of the application?	Yes. PCF only used for CLSB costs
<p><i>Budget</i></p> <ul style="list-style-type: none"> Is it clear how the budget has been arrived at? Is there evidence that the immediate and medium terms needs have been taken into account Are the contingency fund arrangements clear 	<p>Yes. The budget breaks down expected spend and provides sufficient detail. While it does not provide an analysis of the 2014 budget, and actual figures compared to anticipated 2015 costs, as covered in the areas for improvement section, the CLSB say that from next year the budget will be presented in a different form to enable comparison. Therefore, the LSB is satisfied with the CLSB's commitment to address the presentation of the budget in future years. The LSB also noted that the CLSB's consultation attached the CLSB budget for 2015 together with the CLSB accounts for year ended 31 December 2013.</p> <p>Yes. CLSB provides assurance that the proposed fee level for 2015 enables adequate funding to provide for a regulatory framework that is proportionate, accountable, consistent, transparent and targeted.</p> <p>CLSB has included a contingency sum of £5k in its 2014 budget. CLSB currently has a reserve of £85k. The application explains that under the 2015 budget, the CLSB has provided for an income from entity regulation of £5k. If entity regulation is not implemented during 2015, the CLSB says this low level of income loss should have little or no impact on the CLSB due to the reserves held.</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 – there was a 7-week consultation with Cost Lawyers and the ACL on the proposed PCF from 24 July-12 September 2014. The consultation paper was also posted on the CLSB website. The CLSB emailed the consultation directly to its members.</p> <p>Yes. The level of fee is clear. It is also clear that this does not include ACL membership.</p> <p>Yes. Only three responses were received. Two</p>

	<p>from Cost Lawyers and one from the Association of Cost Lawyers (ALC) Chair. Both cost lawyer responses were supportive of the approach CLSB has taken. The ALC made several comments concerning the CLSB's approach, some of which were critical. The LSB is satisfied that the CLSB responded as comprehensively as it could to the ALC's concerns. Details, including the CLSB's Consultation Response Report, were published with the PCF application on the LSB's website.</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 	<p>Yes. The consultation set out the level of the fee.</p> <p>The presentation of the LSB/Legal Ombudsman levy was perhaps not as clear as it could have been and therefore presented a risk that fee payers could have misinterpreted how the levy was allocated. While there was a significant percentage increase in the Legal Ombudsman element of the levy (increased from £1043 to £5000), there was also a decrease in the LSB levy. The net LSB/Legal Ombudsman increase was therefore less than the £5000 Legal Ombudsman element. In the interest of transparency, we consider that in future years the allocation of the levy between LSB and the Legal Ombudsman should be made more explicit, including in the PCF explanatory notes for 2015.</p>
<ul style="list-style-type: none"> When was/is this issued to fee payers 	<p>July 2014</p>
Permitted purposes	
Is there evidence that the PCF income is used solely for permitted purposes	Yes – application is for CLSB costs only.
Is any other income to be applied to permitted purposes	N/A
Regulatory functions	
Is there evidence of how much of the PCF	Yes. Section 7 D.11(e) explains that all income

income is applied to permitted purposes that are regulatory functions	received under the PCF 2013 was spent on permitted purposes. Please also see issues to be addressed section on budget spend on permitted purposes.
Are any shared services clearly explained	N/A
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 	Yes. The application explains that as it is intended the PCF will remain the same for the fourth consecutive year, the CLSB does not consider there would be any impact on the diversity of the profession. The CLSB undertook a diversity survey in 2012, 2013, and 2014. As these did not indicate any significant change or need for CLSB action, its Board agreed in July 2014 that going forward a diversity survey would be conducted every other year. The next survey is scheduled for 2016. The LSB is satisfied this is an appropriate and proportionate approach given the size of the CLSB's regulated community.
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 – not relevant to CLSB
LSB Review	
Have we consulted with any other body on the application	Not considered necessary.
Were any issues raised by LSB colleagues from the first review	Yes. The way in which the increase in the Legal Ombudsman levy increase was presented to the CLSB's regulated community without reference to the context of a combined levy increase, which was much less.

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