

## Practising Certificate Fee (s51) application assessment

**Approved Regulator:** Chartered Institute of Legal Executives (CILEx)/CILEx Regulation

### Part One: summary and recommendation

#### Summary

Since the last PCF application, CILEx has been designated as an approved regulator for two additional reserved legal activities (probate activities and reserved instrument activities) and has become a regulator of entities. These changes have introduced new groups of fee payers.

The CILEx Group total income is £9,244,357 which includes income to be raised from PCF totalling £2,826,715 for 2016 (£2,740,795 individual and £85,920 entity). Forecast PCF income for 2016 is 30% of total group income (2015: 28%).

All of the PCF income has been attributed to regulatory permitted purposes activities, in line with the LSB's PCF Rules

- The total forecast expenditure on permitted activities is £5,545,544; therefore PCF income will cover approximately 51% of the total cost of permitted activities
- For 2016, CILEx Regulation direct expenditure is £1,589,031 (£1,133,481 individual and £455,550 entity); this represents 56.2% of PCF income (2015: 39%)
- The remaining 43.8% of PCF income has been attributed to permitted purposes expenses (which includes the LSB/OLC levy fees) incurred by CILEx.

The proposed practising fees for 2016 for individuals are as follows (with 2015 figures for comparison where relevant):

Category	Proposed fee(s) for 2016 [2015]
Fellow	£355 [£318.50] £50 for each practice right
Members of CILEx who are not Fellows	£355 £50 for each practice right
Non-CILEx members who have practice rights	£366 for the first practice right £50 for each additional practice right
Associate prosecutors	£176 [159.75]

For entities the proposed fees are calculated by reference to turnover and whether client money is held. The proposed fees are:

Turnover	Client account	Escrow	No client money held
£100,000	1025	830	670
£200,000	1425	1230	1025
£300,000	1625	1430	1125
£400,000	1825	1530	1225
£500,000	2025	1630	1225
£750,000+	2825	2330	1825

The application also covers the proposed compensation fund contribution levels (which are calculated by reference to turnover, reserved legal activities undertaken and whether client money is held):

	Turnover amount	ENTITY TYPE		
		Client account	Escrow	No client money
Litigation Immigration	Up to £100,000	600	450	300
	£100,001 to £200,000	800	650	400
	£200,001 to £300,000	1000	750	500
	£300,001 to £400,000	1200	800	600
	£400,001 to £500,00	1400	1050	700
	£500,001 to £750,000	1700	1300	850
	£750,001 to £1,000,000	2500	1750	1250
	£1,000,000 +	5000	3500	2500
Probate Conveyancing	Up to £100,000	800	600	400
	£100,001 to £200,000	1000	750	500
	£200,001 to £300,000	1200	950	600
	£300,001 to £400,000	1400	1050	700
	£400,001 to £500,00	1600	1200	800
	£500,001 to £750,000	2000	1500	1000
	£750,001 to £1,000,000	3000	2200	1500
	£1,000,000 +	6000	4400	3000

These are the same levels as approved by the LSB in January 2015.

#### Recommendation

- That the application is approved
- That the approval letter comments in the following points
  - That CILEx is making progress towards fees that will allow full recovery of the cost of regulatory and permitted purposes activities
  - Recognise that CILEx/CILEx Regulation is in a transitional period following the designation for new reserved legal activities and the commencement of entity regulation; that experience is needed to build the data on the true cost of these activities and that we are likely to look at this in more detail next year
- Compensation fund contributions do not fit within the definition of permitted purposes as set out in the Act or the LSB rules. We therefore recommend that this element of the application is approved by the issue of an exemption direction (under paragraph 19 of Schedule 4 to the Act).

## Part Two: Assessment of the application against LSB acceptance criteria

<b>1. Pre-submission</b>	
Were there any pre-submission discussions or a draft application; were any issues identified	There were no pre-submission discussions.
Were there any areas for improvement or specific issues in the last approval letter	In the approval letter for the 2015 fees we noted that the amount raised through the PCF fell short of the permitted purposes expenditure. CILEx/CILEx Regulation are moving towards a model where all permitted purposes expenditure is met from PCF income. The proposed fee for Fellows will achieve this in 2016; for the new activities CILEX Regulation need to build some experience and data to fully understand the costs so that they can be reflected in fees.
<b>2. Developing the application and budget</b>	
Is it clear that the regulatory arm has led the development of the application?	The application has been submitted jointly by CILEx and CILEx Regulation.
<p><i>Budget</i></p> <ul style="list-style-type: none"> <li>Is it clear how the budget has been arrived at</li> <li>Is there evidence that the immediate and medium terms needs have been taken into account</li> <li>Are the contingency fund arrangements clear</li> </ul>	<p>Yes.</p> <p>CILEX Regulation has developed its own budget for both the historic and new activities independently, identifying separately the costs for individual and entity regulation.</p> <p>Having completed the lengthy process of securing designation for reserved legal activities (which has been the primary focus for the last few years) CILEx Regulation reviewed its strategic aims in December 2014, resulting in an update to its strategy to 2019. From this CILEx Regulation have identified the activities and resources it will need for 2016.</p> <p>CILEx holds considerable reserves. The application makes clear that CILEx will meet any requests for additional resources and that CILEx Regulation has no concerns that about securing such resources.</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>	Each group of fee payers were invited to comment on the proposed fee levels and the application shows how CILEx Regulation has considered it.

	<p>Consultation with Fellows took place between 5 May and 5 June through individual e-mails and letters (approximately 7800). 1086 responses were received (2014: 614). 55% agreed with the proposal to move to a full cost recovery through the PCF, even though this represented an increase in fee of 11.5%.</p> <p>The PCF for each Associate Prosecutor (AP) is paid by the Crown Prosecution Service (CPS) and so consultation is with CPS rather than individual APs. CILEx Regulation had proposed a fee of £197 (+23%). CPS response to this proposal reflected on the financial constraints on the public sector and the fact that the CPS facilitates regulatory work, thus reducing the burden on CILEx Regulation. Having considered the response, the PCF for APs should be set at £176; this represents a further move towards full cost recovery.</p> <p>Consultation with members who are not Fellows and regulated practitioners who are not CILEx members took place between 5 and 30 June. 30 responses were received. A small majority (52%) supported the proposition that non-Fellows should pay the same as Fellows. 48% agreed with the proposals for non-member practitioners.</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>Yes. The consultation papers set out the proposed fees clearly. A final copy of the fees will be sent to all fee payers.</p>
<p><b>3. Permitted purposes</b></p>	
<ul style="list-style-type: none"> <li>• Is there evidence that the PCF income is used solely for permitted purposes</li> <li>• Is any other income to be applied to permitted purposes</li> </ul>	<p>Yes. The total budget for permitted purposes (£5,545,544) exceeds the expected PCF income of £2,826,715. The balance is met from other income (including education and training and application fees)</p>
<p><b>4. Regulatory functions</b></p>	
<p>Is there evidence of how much of the PCF income is applied to permitted purposes that are regulatory functions</p>	<p>Yes. The CILEx Regulation Direct expenditure is separately identified in the draft budgets (total £1,589,031).</p>
<p>Are any shared services clearly explained</p>	<p>The application shows how much of CILEx departments expenditure is allocated to permitted purposes; this is in line with previous years.</p>

	<p>This budget includes a line for central resources of £715,753; CILEx Regulation have confirmed that £238,584 of this amount is CILEx Regulation costs and the balance (£477,168) is the amount of central resources that is allocated to other permitted purposes.</p>
<p><b>5. Regulatory and equality impact assessment (optional requirement)</b></p>	
<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 impact assessment submitted.</p> <p>The application contains commentary against the Regulatory Objectives and the Better Regulation Principles.</p>
<p><b>6. Consultation with non-commercial bodies (optional requirement)</b></p>	
<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>There was no specific consultation with non-commercial bodies other than the CPS (see section 2 above).</p> <p>The individual consultation included those working in non-commercial bodies; the application notes that those working in local authorities have again drawn attention to the ongoing pay constraints and the fact that their employers do not pay their practising fees.</p>
<p><b>7. LSB Review</b></p>	
<p>Have we consulted with any other body on the application</p>	<p>Not considered necessary for this application.</p>
<p>Were any issues raised by LSB colleagues from the first review</p>	<p>Colleagues noted the Fellows' and the APs' fee increases were relatively high; the LSB noted that CILEx are continuing to work towards a model where the cost of regulatory and permitted purposes activities is met from the PCF income. Given the increased scope of CILEx Regulation over the last year, it will take some time to collate the data to assess the cost of the new activities; this is something that the LSB may wish to examine more closely in future years.</p> <p>Colleagues also commented on the forecast increase in level of CILEx Group reserves and that it is significantly over the minimum level; the LSB note that no PCF income is used to increase reserves.</p>

**Dawn Reid**  
**Head of Regulatory Performance and Operations**  
**3 September 2015**