

Costs Lawyer Standards Board

Application to the Legal Services Board for approval of Costs Lawyer Practising Certificate Fee 2016

S.51 Legal Services Act 2007 Practising Fee Rules 2009

1. Application

This application is made by the Costs Lawyer Standards Board (“CLSB”) under S.51 of the Legal Services Act 2007 (“LSA”) and Practising Fee Rules 2009 for approval by the Legal Services Board (“LSB”) of the Costs Lawyer practising certificate fee 2016 (“PCF 2016”).

2. Enclosures with this application

- (i) Consultation paper
- (ii) Consultation response report
- (iii) CLSB budget for 2016
- (iv) CLSB abbreviated accounts 2014

3. Independence

The CLSB has undertaken the role of Approved Regulator under the delegated authority of the Association of Costs Lawyers (“ACL”) since 31 October 2011. The fee for a Costs Lawyer practising certificate and the fee for membership of the ACL (the professions representative body) were separated from and including practising year 2013. The CLSB has its own strategy, business plan and governance structure (Costs Lawyer Handbook and CLSB Operations Manual) and sets its own budget without influence of the ACL.

The Costs Lawyer practising certificate fee history since 2012 has been as follows:

Year	PCF	Notes
2012	£450.00	One fee, apportioned £250 to CLSB and £200 to ACL
2013	£250.00	Fee for practising certificate and ACL membership separated
2014	£250.00	Fee for practising certificate through the CLSB only
2015	£250.00	Fee for practising certificate through the CLSB only
2016	£250.00	<i>Proposed fee for practising certificate through the CLSB only</i>

4. Proposed PCF 2016

The proposed PCF 2016 was determined by the CLSB board on 15 July 2015, following consideration of the cost of regulatory and permitted purposes activity during previous

years and anticipated spend for 2016. Through continued sound financial management the CLSB has been able to keep the fee at the same level for 2015 as it was for the previous four years. The CLSB considers the fee to be proportionate, fair and complies with the Regulators Code in that by remaining reasonable, it supports business growth. During a survey in 2015 by the LSB of the profession the outcome evidenced Costs Lawyers were of the view the CLSB offers regulation at the right price.

5. CLSB income for 2016

The PCF 2016 is the only form of income for the CLSB. For the purposes of this application the CLSB has worked on there being 610 authorised and regulated Costs Lawyers in 2016.

The PCF 2016 will allow the CLSB to achieve the following regulatory objectives:

- (a) Protect and promote the public interest.
- (b) Support the constitutional principle of the rule of law.
- (c) Improve access to justice.
- (d) Protect and promote the interests of consumers.
- (e) Promote competition in the provision of services.
- (f) Encourage an independent, strong, diverse and effective legal profession.
- (g) Increase public understanding of the citizen's legal rights and duties.
- (h) Promote and maintain adherence to the following professional principles in that:
 - (i) authorised persons should act with independence and integrity; and
 - (ii) authorised persons should maintain proper standards of work; and
 - (iii) authorised persons should act in the best interests of their clients; and
 - (iv) persons who exercise before any court a right of audience, or conduct litigation in relation to proceedings in any court, by virtue of being authorised persons should comply with their duty to the court to act with independence in the interests of justice; and
 - (v) the affairs of clients should be kept confidential.

The PCF 2016 will also enable the CLSB to meet its objectives as set out in detail under its 2016 business plan. These objectives include, inter alia:

- Setting and maintaining professional standards within the profession through defined rules and regulations.
- Complaint management through defined disciplinary processes and procedures.
- Managing risks (consumer, profession & business).
- Gathering, analysing and publishing statistical information about the profession.
- Continuing to consider options on entity regulation.
- Managing the mark of regulation under licence.
- Managing the accreditation of Costs Lawyers for the purposes of providing CPD.
- Random auditing of CPD records.

- Increasing awareness on the difference between a Costs Lawyer with a practising certificate and Law Costs Draftsmen/Costs Draftsmen.
- Auditing provision of the Costs Lawyer qualification by the CLSB accredited study provider.
- Communicating via the CLSB website, newsletters, Costs Lawyer Journal, two annual National Conferences.
- Engaging with other regulators and interested parties e.g. the LSB, LeO and the ACL.

6. The Costs Lawyer practising certificate

The PCF 2016 will cover the period 1 January 2016 inclusive to 31 December 2016 inclusive. A Costs Lawyer with a 2016 practising certificate issued by the CLSB will be authorised to undertake the following reserved legal activities during that period:

- The exercise of a right of audience
- The conduct of litigation
- The administration of oaths

7. Practising fee rules 2009

C.5: Permitted purposes

All monies raised by the CLSB through the PCF 2016 will be used for permitted purposes only. Separation of fees payable to the CLSB and the ACL provides clarity on the intended purpose of fees paid by a Costs Lawyer. Further, it affords Costs Lawyers the choice as to whether they become a member of their professions representative body.

D.10 (a)-(d) inc: Transparency

On 16 July 2015, the CLSB initiated an 8 week consultation with Costs Lawyers and the ACL on the proposed PCF 2016. The closing date for responses was set as being midnight on Friday 11 September 2015. The consultation paper was also made available through the CLSB website. A consultation response report is attached to this application with all responses received being in favour of the proposal.

D.10(e): Explanatory notes

The fee note for the PCF 2016 will sets out at a minimum:

- The amount of the PCF 2016.
- The period the PCF 2016 will cover.
- The benefits of holding a Costs Lawyer practising certificate.
- Tax relief provisions under SI 1126/2013: The Income Tax (Professional Fees) Order 2013.
- Closing date for applications.

Explanatory notes on the reverse of the fee note for the PCF 2016 will provide, at a minimum:

- Historical information.
- Clarity on the reserved legal activities of a Costs Lawyer and their basis in law.
- Clarity on what the PCF 2016 will be.
- The regulatory objectives to be achieved by the CLSB.
- The permitted purposes of the CLSB.
- The professional principles promoted by the CLSB.
- Clarity on the consultation process.
- Clarity on the LSB & Legal Ombudsman annual levy.

D.11(b): Budgets

The CLSB is of the view the proposed PCF 2016 is fair and reasonable and will provide CLSB with adequate funding to provide for regulatory arrangements that are proportionate, accountable, consistent, transparent and targeted during 2016. The CLSB operates on a low cost basis as it draws in specialist resource on a needs be rather than permanent employee basis. The CLSB has now been operative as an approved regulator since 31 October 2011 and has proven itself, during that time, to have exercised sound financial management for the benefit of the profession.

D.11(c): Breakdown of fee

Under the consultation process, the CLSB attached its budget for 2016 which set out how the proposed PCF 2016 had been arrived at. Costs Lawyers were advised that the proposed PCF 2016 of £250.00 included the annual per Costs Lawyer levy payable by the CLSB to the LSB & LeO. Explanatory notes on the fee note for the PCF 2015 stated "*The PCF 2015 includes sufficient sums to enable the CLSB to pay the annual LSB & LeO levy, historical details of which can be found on the CLSB website.*" The CLSB proposes a similar note on the PCF 2016 fee note to ensure availability of information and transparency.

D.11(d): Contingency funds

Whilst the CLSB can seek financial support of the ACL should it consider it necessary, it has always been the objective of the CLSB to be fully financially independent of the ACL. Through steady and sound financial management, the CLSB has continued to build on its financial reserves from any monies not utilised from its annual budgets until its financial reserve objective is achieved. The CLSB expects to have achieved its financial reserve target by the end of 2019 latest.

D.11(e): Spend on permitted purposes

All income received under the PCF 2014 was spent on permitted purposes and all income received under the PCF 2016 will likewise be spent on permitted purposes.

D.11(f): Regulatory & diversity impact assessment

As it is intended the fee will remain the same for the fifth consecutive year, the CLSB does not consider there would be any adverse impact on the diversity of the profession.

The CLSB undertook a diversity survey in 2012, 2013 & 2014. As this did not evidence any significant change or need for CLSB action, the CLSB board agreed in July 2014 that going forward, a diversity survey would be conducted every other year. The next scheduled diversity survey is therefore due to be conducted in 2016.

8. Request for approval of Costs Lawyer PCF 2016

The CLSB respectfully requests the LSB approves the Costs Lawyer PCF 2016 in the sum of £250.00.

9. Contact

Any request for clarification on this application should be addressed to:

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