

## Practising Certificate Fee (s51) application assessment

Approved Regulator: **The Council for Licensed Conveyancers**

### Part One: Summary and recommendation

#### Summary

The CLC has estimated that its budget (including interest earned and tax liabilities) for 2016 will be £2,703,745 (97% of 2015 forecast of £2,779,356). Licence and practice fees are expected to produce income of £2,584,789.

The CLC has determined the following practising certificate fees for the year commencing 1 November 2015:

- Individual licence fees: £400
- Practice fees:

Turnover banding	Minimum Fee		
0 - £100,000	£1,070	or	1.5% of turnover (whichever greater)
£100,001 - £500,000	£1,500	plus	1.4% of turnover in excess of £100,000
£500,001 – £3m	£7,100	plus	1.2% of turnover in excess of £500,000
Over £3m	£37,100	plus	1.1% of turnover in excess of £3,000,000

These are the same level as set since 2012.

The application also covers the Compensation Fund Contribution payable by each CLC Practice as follows:

Turnover banding	Minimum Fee		
0 - £100,000	£500		
£100,001 - £500,000	£500	plus	0.4% of turnover in excess of £100,000
£500,001 – £3m	£2,100	plus	0.3% of turnover in excess of £500,000
Over £3m	£9,600	plus	0.2% of turnover in excess of £3,000,000

Again, this is the same level as set since 2012.

#### Recommendation

We recommend that the practising certificate fee is approved under section 51 of the Legal Services Act.

Compensation fund contributions do not fall within the definition of permitted purposes 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

1. Pre-submission	
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	While not an area for improvement, we commented on the planned review of the fee structure. Having considered other options and consulted with the fee payers as to whether a structure based on something other than turnover should be considered (a consultation that did not generate any responses), the CLC has decided to not make any changes to the fee structure.
2. Developing the application and budget	
Is it clear that the regulatory arm has led the development of the application?	Yes – the CLC has only regulatory functions
<p><i>Budget</i></p> <ul style="list-style-type: none"> <li>Is it clear how the budget has been arrived at</li> </ul>	<p>The final budget for 2016 has yet to be agreed; an estimate of £2,703,745 has been produced based on the 2015 forecast of £2,779.356.</p> <p>There is an established budget and financial control process which is described in paragraph 9 of the application. Having set its strategy and business plan the CLC develops a budget based on</p> <ul style="list-style-type: none"> <li>Resources needed to deliver the strategy/plan (including human resource)</li> <li>Known commitments (e.g. LSB levy)</li> <li>Known exceptional/ad hoc items</li> </ul> <p>Fees are calculated after taking into account other income and charges.</p> <p>The budget is approved by the CLC Council and subject to formal review after six months.</p>
<ul style="list-style-type: none"> <li>Is there evidence that the immediate and medium terms needs have been taken into account</li> </ul>	<p>Budgetary controls were reviewed by Internal Auditors in June 2014 which concluded that management could take “reasonable assurance” that the controls mitigate the risks.</p> <p>The application sets out the CLC’s strategy and Business Plan commitments for 2015.</p>
<ul style="list-style-type: none"> <li>Are the contingency fund arrangements clear</li> </ul>	<p>Yes. The key risk is that the Compensation Fund has insufficient funds to meet</p>

	<p>approved claims. In these circumstances the CLC can make a specific levy but can also transfer any surplus licence/practice fee income to the Compensation Fund thus mitigating the risk of a call for funds outside the normal levy collection cycle.</p> <p>The CLC also maintains both operating and compensation fund reserves above the minimum levels set in the reserves policies.</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>A consultation document was issued on 28 May 2015 (closing on 26 June 2015). The consultation paper was widely promoted (newsletters, direct e-mail and on the CLC website) but did not generate any responses.</p> <p>Yes</p> <p>No responses were submitted; this may be a reflection of the fact that fees have remained at the same level since 2012.</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 (Annex 3 of the application). This is largely the same information as was contained in the consultation paper and includes</p> <ul style="list-style-type: none"> <li>Description of the fee structure</li> <li>Confirmation that fees remain unchanged from last year</li> <li>A summary of the strategy and business plan priorities</li> <li>A summary of the budget and expenditure</li> </ul> <p>The information is issued to fee payers once the fee is approved by the LSB.</p>
<b>3. Permitted purposes</b>	
Is there evidence that the PCF income is used solely for permitted purposes	Yes; the CLC has solely regulatory functions
Is any other income to be applied to permitted purposes	Yes; the estimated budget assumes other income (predominantly education) of £126,168
<b>4. Regulatory functions</b>	
Is there evidence of how much of the PCF income is applied to permitted purposes that are regulatory functions	100%; the CLC has solely regulatory functions
Are any shared services clearly explained	Not applicable
<b>5. 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> </ul>	Not included and no further information given

<ul style="list-style-type: none"> <li>Does the application contain commentary on the regulatory objective and the Better Regulation Principles</li> </ul>	Yes; regulatory objectives paragraph 27 and Better Regulation Principles paragraph 28
<b>6. Consultation with non-commercial bodies (optional requirement)</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>	No; CLC does not regulate any non-commercial body; there was no specific consultation with non-commercial bodies that employ licensed conveyancers on the basis that the proposed unchanged fee does not increase regulator costs for those employers.
<b>7. LSB Review</b>	
Have we consulted with any other body on the application	Not considered necessary.
Were any issues raised by LSB colleagues from the first review?	<p>It was noted that the compensation fund reserves have increased over the past two years and the forecast for the end of 2016 is approaching twice the minimum level of £2m.</p> <p>CLC explained that they considered it prudent to maintain the level of reserves at this level because</p> <ul style="list-style-type: none"> <li>The decision was taken in October 2014<sup>7</sup> not to renew the Compensation Fund Insurance Policy; the premium that would have been paid will be allocated to reserves and notionally ring-fenced; this is explained in note 13 of the <a href="#">CLCs Financial Statements 2014</a></li> <li>Claims arising from two interventions from 2013 (totalling approximately £4.38m) have yet to be accepted by the Master Policy insurer; while CLC expect these claims to be met in full, were this not the case there could be claims against the pension fund.</li> </ul>

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**20 August 2015**