

Practising Certificate Fee (s51) application assessment

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

Part One: **Summary and recommendation**

Summary

The CLC has forecast that its budget (including depreciation and tax liabilities) for 2017 will be £2,528,261 (1.9% increase on 2016 forecast of £2,481,956). Licence and practice fees are expected to produce income of £2,565,824.

The CLC has determined the following practising certificate fees for the year commencing 1 November 2016:

- Individual licence fees for providing conveyancing services **or** probate services: £400
- Individual licence fees for providing conveyancing services **and** probate services: £475
- Practice fees:

Turnover banding	Minimum Fee		
0 - £100,000	£856	or	1.2% of turnover (whichever greater)
£100,001 - £500,000	£1,200	plus	1.1% of turnover in excess of £100,000
£500,001 - £3m	£5,600	plus	1.0% of turnover in excess of £500,000
Over £3m	£28,100	plus	0.9% of turnover in excess of £3,000,000

The individual licence fees are the same level as set since 2012. Base Rate Practice Fee payable by each CLC Practice are reduced by 20%.

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

This is the same level as set since 2012. Other fees levied by the CLC, provided at paragraph 18, remain unchanged.

Recommendation

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

We are encouraged to see that the CLC has reduced the Base Rate Practice Fee payable by each CLC Practice.

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 formal pre-submission discussions.
Were there any areas for improvement or specific issues in the last approval letter	There were no areas for improvement in last year's approval.
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"> Is it clear how the budget has been arrived at 	<p>Yes. The final budget for 2017 has yet to be agreed; a twelve month forecast of £2,528,261 has been produced based on the 2016 forecast of £2,481,956 (6 month actual figures to June 2016, with forecast for remaining period).</p> <p>There is an established budget and financial control process which is described in paragraph 6 of the application. Having set its strategy and business plan the CLC develops a budget based on</p> <ul style="list-style-type: none"> Resources needed to deliver strategic priorities and business plan objectives (including human resource) Known commitments (e.g. LSB/Legal Ombudsman levy) Known exceptional/ad hoc items. <p>Fees are calculated after taking into account other income and charges.</p> <p>With regards to the LSB and Legal Ombudsman levy, the LSB asked about the basis for the CLC forecast increase of 15% for the levy for 2017. The CLC explained that the levy needs to be apportioned to align with the CLC accounting year. The estimate for the 2017 includes an assumption that the estimate for 2017/18 will be a 15% increase on 2016/17 in line with the increase over the last three years.</p> <p>The budget is approved by the CLC Council and subject to formal review after six months and on other occasions depending on circumstances.</p>
<ul style="list-style-type: none"> Is there evidence that the immediate and medium terms needs have been taken into account 	<p>Yes. As noted in last year's assessment, budgetary controls were reviewed by Internal Auditors in June 2014 which</p>

<ul style="list-style-type: none"> Are the contingency fund arrangements clear 	<p>concluded that management could take “reasonable assurance” that the controls mitigate the risks.</p> <p>This year’s application sets out the CLC’s Business Plan commitments for 2016.</p> <p>Yes. While noting that the compensation fund is budgeted to make a surplus (£380,267) and an operational surplus is also forecast (£50,017), there is the long term ongoing risk that the Compensation Fund has insufficient funds to meet approved claims. If this situation arises, 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. Further, it is noted that the CLC has made provision of £1.5m for approved claims on the Compensation Fund.</p> <p>As set out in paragraphs 8 and 9 of the application, 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"> 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. A consultation document was issued on 23 March 2016 (closing on 24 June 2016). The consultation paper was widely promoted (newsletters, direct e-mail and on the CLC website). The CLC received two responses, one from the Society of Licensed Conveyancers (SLC) and one from a CLC practice.</p> <p>Yes.</p> <p>Yes. Paragraph 4 of the application. The SLC proposed the CLC provide additional information to explain the proposed fee structure. The CLC has agreed to meet with the SLC to discuss this further. The LSB is satisfied that feedback has been appropriately considered.</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 (Annex 4 of the application). This is largely the same information that was contained in the consultation paper, and consistent with the format provided the previous year. It includes:</p>

<ul style="list-style-type: none"> When was/is this issued to fee payers 	<ul style="list-style-type: none"> Description of the fee structure Confirmation that licence fees remain unchanged from last year Confirmation that practice fees have been reduced; Annex 3 provides examples of how practice fee contributions will change between the current 2016 and proposed 2017 rates A summary of the strategy and business plan priorities A summary of the budget and expenditure. <p>The information is issued to fee payers once the fee is approved by the LSB.</p>
3. Permitted purposes	
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 of £10,704. The source(s) of other income is not specified.
4. Regulatory functions	
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.
5. 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 	<p>Not included and no further information given.</p> <p>Yes; regulatory objectives paragraph 24 and Better Regulation Principles paragraph 25.</p>
6. Consultation with non-commercial bodies (optional requirement)	
<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; the CLC does not regulate any non-commercial body. There was no specific consultation with non-commercial bodies that employ licensed conveyancers or probate practitioners on the basis that the proposed unchanged fee does not increase regulator costs for those employers.
7. 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?	<p>It was noted that the compensation fund reserves have increased over the past three years and the forecast for the end of 2017 (£5.57m) is approaching three times the minimum level of £2m.</p> <p>The CLC explained that they considered it prudent to maintain the level of reserves at this level as the reserves include:</p>

	<ul style="list-style-type: none"> • aged balances and intervention monies totalling £1.4m • a £1.5m provision for approved claims on the Compensation Fund. <p>Deducting the total of these sums is forecast to leave a reserve balance of £2.2m as at December 2016 (marginally above the minimum level of £2m).</p> <p>A number of minor amendments were made to the application following feedback and questions for clarification provided by LSB colleagues.</p>
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Daniel Knol, Regulatory Associate
31 August 2016