

Practising Certificate Fee (s51) application assessment

Approved regulator: Costs Lawyer Standards Board
PCF year: 1 January 2017 to 31 December 2017

Part One – Summary and recommendation

Summary

The proposed Practising Certificate Fee (PCF) for 2017 is £250, the same amount payable since 2012. CLSB anticipate that PCF income for 2017 will be £158,000 (on the assumption that there will be 632 costs lawyers, the number that CLSB regulated on 1 April 2016).

All PCF income is paid to and used by CLSB. There is a separate membership fee for the representative body, the Association of Costs Lawyers (ACL).

The Costs Lawyers Standards Board's (CLSB) budget for 2017 is set at £157,600, an increase of £6,100 (4.0%) on the 2016 budget.

Recommendation

We recommend that the PCF is approved under section 51 of the Legal Services Act and that the decision letter:

- Notes that CLSB may need to draw on its reserves to cover its expenses for 2017 in order to deliver its action plan, and that if this happened CLSB would consider recovery of any reserves through a potential increase in PCF for 2018.
- Makes clear that LSB is of the view that delivery of the action plan is required in order for CLSB to achieve the required regulatory standards.
- Specifies that should CLSB need to draw on its reserves and seek to recover this through an increase in the PCF 2018, the application will be considered against the Practising Fee Rules 2016, which require that approved regulators provide three-year budget and PCF forecasts if the proposal is to increase PCF (11(b) and 11(c) of the PCF Rules 2016).
- Notes that as the action plan should be well progressed by the time the PCF 2018 application is submitted, LSB will seek an update on CLSB achieving reserves of 100% of annual operating income (a target that the CLSB referred to in its application last year).

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	There were no areas for improvement in last year's approval letter.
2. Developing the application and budget	
Is it clear that the regulatory arm has led the development of the application?	Yes; CLSB has solely regulatory functions.
<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 2017 budget sets out the expected spend in each area. We consider that the level of detail provided is sufficient bearing in mind that CLSB is a small organisation.</p> <p>Yes. The context for the immediate and medium term is that CLSB has committed to deliver its Regulatory Standards 2015/16 action plan. The action plan was developed between CLSB and LSB. LSB is of the view that delivery of the action plan is required in order for CLSB to achieve the required regulatory standards.</p> <p>In its PCF application, CLSB advised that it is of the view that PCF 2017 will provide adequate finance to deliver the plan.</p> <p>Should CLSB need to draw on its reserves to cover its regulatory responsibilities it has said it may seek to recover this through an increase in the PCF for 2018.</p> <p>Yes. Last year's (2016) budget contained a £10,000 contingency, whereas there is no contingency allocation in the 2017 budget.</p> <p>While CLSB could seek additional funding from ACL should the need arise, it retains the objective of being financially independent.</p> <p>Since its formation, CLSB has been building a contingency fund from annual surplus income, with reserves currently 80% of annual operating income. LSB's understanding of the 2017 budget is that there is unlikely to be a material increase in the contingency fund for the 2017 financial year.</p> <p>On balance, given CLSB's current reserves, the risk-profile of costs lawyer services, and capacity to seek financial support from the ACL, LSB considers the planned contingency fund arrangements reasonable and proportionate.</p>

<ul style="list-style-type: none"> If the proposal is to increase the PCF, does the application include a forecast budget for the current application and, where available, the next three years and estimate of PCF for the next three years. 	<p>CLSB advised through last year's PCF (2016) application that it was seeking to achieve reserves of 100% of annual operating income. As the action plan should be well progressed by the time the PCF 2018 application is submitted, LSB will seek an update from CLSB on progress to achieve its target of reserves of 100% of annual operating income (a target that the CLSB referred to in its application last year).</p> <p>Not applicable. CLSB has not proposed to increase the fee for 2017.</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 paper was published on 25 July 2016 and closed 9 September 2016.</p> <p>Yes.</p> <p>Yes; there were 27 responses to the consultation questions, all supporting the proposed PCF, as well as 8 general responses.</p> <p>A consultation summary was provided with the application, including CLSB's response to matters raised.</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 When was/is this issued to fee payers 	<p>Yes. Contained in the consultation document and included information on the permitted purposes and planned work for 2017.</p> <p>November 2016 (fees due December 2016).</p>
3. Permitted purposes	
<p>Is there evidence that the PCF income is used solely for permitted purposes</p>	<p>Yes; CLSB has solely regulatory functions.</p>
<p>Is any other income to be applied to permitted purposes</p>	<p>No.</p>
4. Regulatory functions	
<p>Is there evidence of how much of the PCF income is applied to permitted purposes that are regulatory functions</p>	<p>100%; CLSB has solely regulatory functions.</p>
<p>Are any shared services clearly explained</p>	<p>Not applicable.</p>

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 	The application notes that as the PCF is to remain at the same level, CLSB do not consider that it will have an adverse impact on the diversity of the profession.
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 	Not relevant to CLSB.
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>No specific issues were raised with CLSB. However, the following additional substantive issue (not already covered earlier in this assessment document) was raised by an LSB colleague:</p> <p>The application referenced the Practising Fee Rules 2009, which were superseded by the Practising Fee Rules 2016. CLSB were made aware of the new rules. As the main revisions to the PCF rules covered what approved regulators needed to do if the proposal was to increase PCF, which CLSB is not intending to do, it was not deemed necessary for CLSB to re-submit an application referencing the 2016 rules.</p>

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27 September 2016