



The
Specialist
Property
Law
Regulator

Council for Licensed Conveyancers
Application to the Legal Services Board
Under s.51 Legal Services Act 2007
For Approval of
Licence and Practice Fees Rates
August 2017

Summary

1. The LSB is asked to confirm that the CLC Fees Framework 2016 (at Annex 2) remain unchanged so that the regulatory fees for the year commencing 1 November 2017 are as follows:
 - Licence Fees payable by CLC Lawyers for providing conveyancing services or probate services remain at £400;
 - Licence Fees payable by CLC Lawyers for providing conveyancing and probate services remain at £475;
 - Base Rate Practice Fee payable by each CLC Practice remains at 1.1% of turnover applying the current tiers as follows):

Turnover Banding		Practice Fee payable				
From	To	Minimum Fee in Band				
0 and	100,000	856	or	1.2%	Of Turnover	Whichever is the greater
		Minimum Fee in Band			On Turnover in excess of	
100,001	500,000	1,200	plus	1.1%	100,000	
500,001	3,000,000	5,600	plus	1.0%	500,000	
3,000,000		30,600	plus	0.9%	3,000,000	

- Compensation Fund contribution payable by each CLC Practice remains at 0.4% of turnover applying the current tiers as follows:

Turnover Banding			Compensation Fund contribution			
			Minimum Fee in Band			
Between	0 and	£100,000	£500			
			Minimum Fee in Band			On Turnover in excess of
Between	£100,001 and	£500,000	£500	plus	0.4%	£100,000
Between	£500,001 and	£3,000,000	£2,100	plus	0.3%	£500,000
Over	£3,000,000		£9,600	plus	0.2%	£3,000,000

- the other fees levied by the CLC remain unchanged (as set out at paragraph 18).

Introduction

2. The CLC's current fee structure (first introduced in February 2010) following consultation with the profession can be summarised as follows:
 - 1) Licence fee (a fixed sum);
 - 2) Practice fee (as a percentage of turnover subject to a minimum fixed fee); and
 - 3) Contributions to the Compensation Fund (as a percentage of turnover subject to a minimum fixed fee) to be applied solely for purposes relating specifically to the CLC's Compensation Fund.
3. The Practice Fee and contributions to the Compensation Fund have been subject to tiered banding as follows:

Turnover £		Banding
From	To	
0	100,000	110% Base Rate
100,001	500,000	Base Rate
500,001	3,000,000	80% Base Rate
3,000,000	and over	70% Base Rate

4. The CLC published a consultation on the current fee structure which ended on 23 June 2017¹. The consultation was promoted in newsletters to the profession, on the website and in direct emails. There were two responses, both of which supported the proposals set out in the consultation paper. One respondent suggested that the fee rates should be set to generate slightly more than a nominal surplus during years where practices turnover is increasing to help boost the reserves and cushion the effect of any fee increase that would be required in an economic downturn. In setting fee rates, and in particular in determining the rates payable for the year starting 1 November 2017 (see paragraph 10 below), the CLC reviews likely changes over the medium to longer term with the aim of smoothing variations in the regulatory fee rates so that CLC Practices can budget with reasonable certainty.

Setting the CLC's Budget

5. In addition to operational objectives, the 2017 Business Plan² commits the CLC to:
 - a) review its regulatory arrangements
 - b) focus on consumers
 - c) engage with the Regulated Community and Stakeholders.
 - d) continue to press for reform of legal services for better consumer outcomes

¹ <http://www.conveyancer.org.uk/CLCSite/media/Consultation-Documents/20170511-CLC-Consultation-Paper-Practice-Fees-2017-FINAL.pdf>

² <http://www.conveyancer.org.uk/CLCSite/media/Corporate-Docs/CLC-Business-Plan-2017.pdf>

e) strengthen its infrastructure.

6. The CLC's annual budget is determined as follows:

- Consider resource needs to meet the strategic priorities and business plan objectives.
- Engage with directors to discuss their budget requirements.
- Calculate staff, member, contractor, service and supplier requirements in detail.
- Include known commitments e.g. payments to LSB.
- Include known exceptional and ad hoc items.
- Calculate fees, charges and other income necessary to meet expenditure requirements.
- Forward draft budgets prepared by Finance in consultation with the CLC's Executive to the Senior Management Team for approval.
- Forward draft budgets to Council members for challenge and subsequent sign off at the CLC's Council meeting.
- A review is undertaken after six months and on other occasions depending on circumstances e.g. credit crunch, to ensure that budgets remain realistic.
- A review of budgetary control arrangements completed by CLC's Internal Auditors in June 2014 reported that *'the Council could take reasonable assurance that the controls upon which the organisation relies to manage this risk are suitably designed, consistently applied and effective'*.
- External Auditors review and sign off the Annual Report and Accounts.
- It is a standing agenda item for Internal and External auditors to have confidential discussions with the Audit Committee with no staff present.

7. At this stage of the financial cycle the CLC has not determined a formal budget for 2018. Based on the Forecast of the Outturn for 2017 and for the purposes of this application, it has produced a projection of operational expenditure for 2018 at Annex 1. This seeks to balance the CLC's need to provide an effective system of regulation which protects and promotes the interests of consumers with the need for the CLC to move forward with those it regulates to take advantage of the current opportunities and challenges.

Reserves Arrangements

8. In January 2015 the Council agreed to maintain a minimum reserve on Operations of £1 million and a minimum reserve in the Compensation Fund of £2 million. Based on the Forecast for 2017 and the estimate for 2018 (detailed at paragraph 14), the actual and projected movement on reserves for CLC's Operations may be summarised as follows:

2015	2016	Dec 2017	Dec 2018
Actual	Actual	Forecast	Estimated
£ million	£ million	£ million	£ million
2.13	3.73	3.99	4.01

The increase in reserves results from disposal of two freehold properties. The CLC has not yet determined how the funds should be applied.

9. Reserves for the Compensation Fund stood at £4.22 million in December 2016 and are budgeted at the end of 2017 to be £4.60 million, in excess of the minimum level of reserves which is currently set at £2 million (see paragraph 8).

2015	2016	Dec 2017	Dec 2018
Actual	Actual	Forecast	Estimated
£ million	£ million	£ million	£ million
4.94	6.22	6.60	7.03

The increase in reserves results from a surplus on the operation of the Compensation Fund and the transfer of monies held separately in respect of aged balances received from CLC practices (as provided in the CLC Aged Balance Guidance³) and client funds received following intervention where the CLC has been unable to locate and return fund to the client, and as permitted in the CLC's Compensation Fund Operating Framework⁴. Aged balances and intervention funds (together totalling £1.5M as at June 2017) are treated by the CLC as restricted reserves.

Setting the rates

10. Applying the charging structure agreed following the consultations in 2010 and in 2016 (as summarised at paragraphs 2-4) the CLC has determined, subject to the approval of the LSB, that for the year commencing 1 November 2017 the charges should be as follows:
- Licence Fees payable by CLC Lawyers remain at £400
 - Base Rate Practice Fee payable by each CLC Practice remains at 1.1% of turnover with Fees applying the current tiers (see paragraph 1 above)
 - Base Rate Compensation Fund contribution payable by each CLC Practice remains at 0.4% of turnover applying the current tiers (see paragraph 1 above)

³ http://www.conveyancer.org.uk/CLCSite/media/PDFs/Accounts-Guidance1_3.pdf

⁴ Paragraphs 7 & 8 at http://www.conveyancer.org.uk/CLCSite/media/PDFs/1_Comp_Fund_Operating_Framework1.pdf

- the other fees levied by the CLC remain unchanged (as set out at paragraph 18).
11. Examples of the Practice Fee and Compensation Fund contributions payable on CLC practices are set out at Annex 3.
 12. In setting these rates the CLC has not consulted specifically with non-commercial bodies including local government on the basis that the changes in arrangements have a neutral effect on their regulatory costs. Further, the CLC does not regulate any non-commercial body which undertakes either conveyancing or probate services.
 13. Annex 1 compares actual expenditure for 2015 and 2016, the expenditure forecast outturn for 2017 and the expenditure projection for 2018. The changes shown in percentage and monetary terms compare the 2017 expenditure forecast with the expenditure projection for 2018 with brief explanations of the greater variances.
 14. The projected total funding requirement for 2018 is £2,749,675 (compared to £2,482,082 forecast outturn for 2017 and £2,465,815 for 2016). It is estimated that setting the Practice Fee at 1.1% (as determined by Council) will generate an income of £2,176,428 based on the turnover of those practices currently regulated by the CLC. Taken with the Licence Fee and Other Income there will be a Total Projected Income for 2018 of £2,770,081, leading to a projected surplus of income against expenditure of £20,406.

Operations	
	1.1%
Practice Fee	2,176,428
Licence Fee	552,768
Education	0
Other Income	<u>40,885</u>
Total Income	2,770,081
Funding Req (see Annex 1)	(2,749,675)
Surplus (shortfall)	20,406

15. The Compensation Fund is projected to make a surplus of £438,757 in 2018.

Compensation Fund		
Contributions		683,757
less		
Compensation Fund Provision and Costs		<u>(245,000)</u>
Surplus (shortfall)		438,757

16. In 2014, the Council determined on a cost/benefit analysis not to renew the CLC's Compensation Fund Insurance policy, and instead to create a ring-fenced allocation which is held separately.
17. The other Fees chargeable are as follows (these are unchanged from 2016-2017):

		Fee	Paragraph	Regulatory Arrangements
1.	Probate Licence	£75	1(a)(ii)	CLC Lawyer – Licensing Framework
2.	First Manager Licence Application	£150		
3.	Duplicate licence	£50	16 & 18	CLC Lawyer – Licensing Framework
4.	Amendment to licence	£75	26	CLC Lawyer – Licensing Framework
5.	Failure to submit Accountant's Report in time	£100	16.2	Accounts Code and Guidance

Permitted Purposes

18. Since it has an exclusively regulatory function, none of the costs the CLC incurs fall outside permitted purposes as set out at rule 6 LSB Practising Fee Rules 2016⁵. The CLC does not incur expenditure related to the following sub-paragraphs of rule 6:
- the provision of services free of charge (sub-paragraph (d));
 - the promotion of the protection by law of human rights and fundamental freedoms (sub-paragraph (e)); or

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http://www.legalservicesboard.org.uk/Projects/statutory_decision_making/pdf/2016/20160601_Practising_Fee_Rules_2016.PDF

- the promotion of relations between the Approved Regulator and relevant national or international bodies, governments or the legal professions of other jurisdictions (sub-paragraph (f)).
19. The CLC participates to a limited extent in law reform and legislative process (sub-paragraph (c)), but more as part and parcel of developing its regulatory framework and does not have a budget dedicated to that activity. The CLC understands the importance of increasing public understanding of the citizen's legal rights and duties (sub-paragraph (g)). With the other legal regulators, the CLC is working to implement the recommendations made in CMA Report⁶ on legal services.
 20. The CLC is required to pay the levy towards the costs of the Legal Services Board and the Office for Legal Complaints (sub-paragraph (b)).
 21. Aside from the contributions it makes to the levy (paragraph 21) the entirety of the costs incurred by the CLC relate directly to:
 - (a) the regulation, accreditation, education⁷ and training of applicable persons and those either holding themselves out as or wishing to become such persons, including:
 - (i) the maintaining and raising of their professional standards; and
 - (ii) the giving of practical support, and advice about practice management, in relation to practices carried on by such persons;

Contingency Arrangements

22. Paragraph 1 CLC Compensation Fund Operating Framework expressly reserves to the CLC the right to make a specific levy. It is envisaged that this will only be required when it is anticipated there is likely to be a substantial payment(s) out of the Compensation Fund. The last time the CLC directed the payment of such a levy in addition to the annual contribution was in the mid 1990s. For this purpose, the CLC reserves the right to transfer the balance (assuming sufficient funds were to be available) out of the Practice Fees or Licence Fees collected in the first instance before approaching the profession to recoup those monies at an appropriate stage. This approach reduces the costs associated with the collection of a special levy outside the normal cycle for collection of regulatory fees.

Applicability of the Regulatory Objectives

23. The CLC considers that the income generated by these proposals and the way in which contributions are determined are sufficient to ensure that it is able to continue to act in a way which is compatible with the regulatory objectives. There are tensions between the different objectives. For example, protecting and promoting the public interest, protecting and promoting the interests of consumers and promoting and maintaining

⁶ <https://www.gov.uk/cma-cases/legal-services-market-study#final-report>

⁷ As set out at paragraph 15 above the CLC completed the transfer of its education quality function to SQA by the end of 2016

adherence to the professional principles imply a greater need for resources. Improving access to justice and promoting competition in the provision of legal services suggest a requirement to reduce the cost of regulation (and therefore the financial overheads of individual practices) so that there are more practices offering legal services and the fees they charge can be reduced. The CLC has sought to take these factors into account in determining the fee structure which is the subject matter of this application.

Better Regulation Principles

24. In setting the charges payable by the profession the CLC has taken full account of the better regulation principles, namely that the CLC's regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed:
- They are transparent in that:
 - the way in which charges have been determined is consistent with the 2010, 2013, 2014, 2015, 2016 and 2017 Consultations to which all members of the profession had an opportunity to contribute; and
 - an explanation of the structure of charges and details of the budget which has determined the income required will be published to the profession. A draft of the information to be published to the profession is at Annex 4.
 - In setting out the charging structure in this way the CLC has shown itself fully accountable to the profession it regulates, to consumers and to its other stakeholders.
 - The way in which the charging structure has been determined is proportionate to (and targeted towards) the risks it perceives as being generated by different elements of the profession. The CLC continues to work to develop a charging structure linked to regulatory activity and risk.

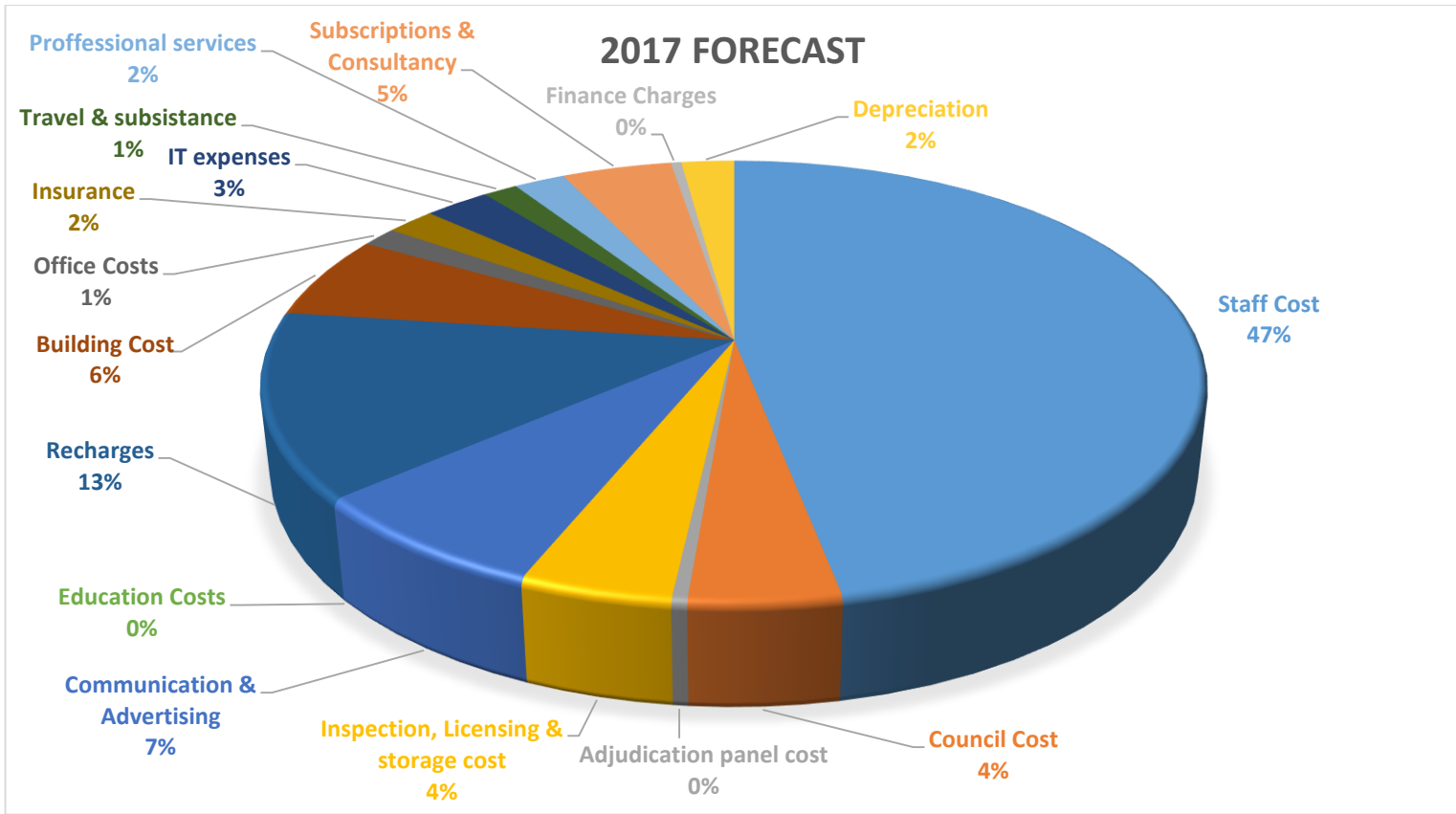
Matters arising from LSB Decision Letter of 6 September 2016

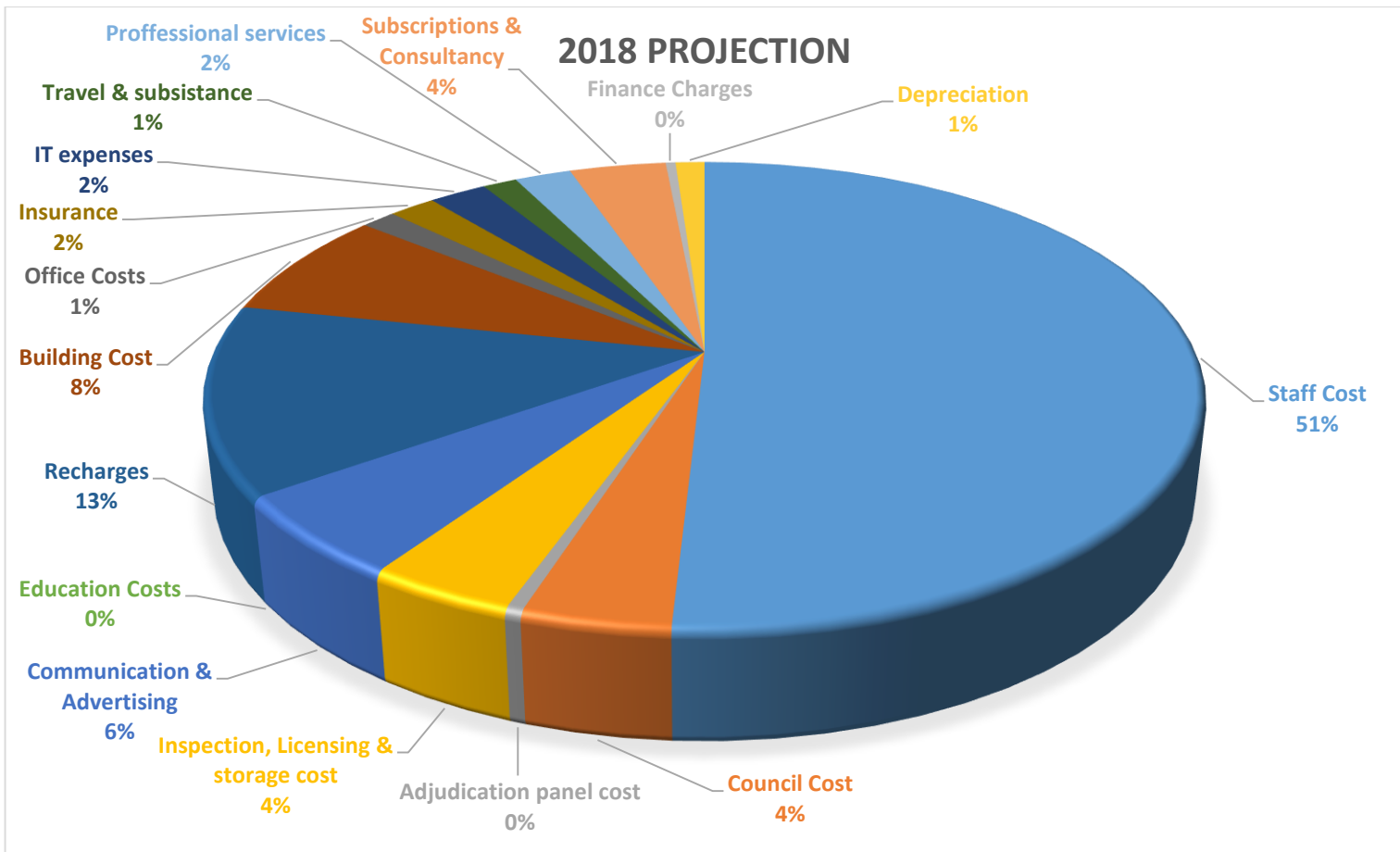
25. No issues arise from the LSB Decision Letter of 6 September 2016.

Annex 1

CLC OPERATIONAL EXPENDITURE

	2015 Actuals (Audited)	2016 Actuals (Audited)	2017 Forecast using actuals to June	2018 Projection	Var %	Var £	
Staff, Council & Adjudication cost	1,421,296	1,219,938	1,284,985	1,524,759	-19%	239,774	
Staff Cost	1,309,572	1,108,484	1,164,964	1,398,898	-20%	233,934	The increase can be attributed to staff increments as well as recruitment into vacant posts.
Council Cost	102,578	101,086	108,871	113,261	-4%	4,389	
Adjudication panel cost	9,146	10,368	11,150	12,600	-13%	1,450	
Operating Expenses	1,333,231	1,245,877	1,197,097	1,224,917	-2%	27,819	
Inspection, Licensing & storage cost	66,461	78,109	110,083	112,680	-2%	2,597	The reduction is attributed to a change in focus.
Communication & Advertising	99,526	192,503	184,257	156,000	15%	-28,257	
Education Costs	150,070	157,511	-	-	-	0	
Recharges	288,311	262,868	334,562	360,022	-8%	25,459	Increase attributed to forecast increase in OLC recharges
Building Cost	105,070	159,915	152,278	207,168	-36%	54,890	We anticipate changes to office space in 2018
Office Costs	61,523	36,800	36,285	36,900	-2%	615	
Insurance	65,367	55,292	49,874	49,910	0%	36	
IT expenses	100,847	87,637	66,425	61,456	7%	-4,969	
Travel & subsistence	18,331	13,778	35,039	36,540	-4%	1,501	
Professional services	55,517	53,319	51,990	60,160	-16%	8,170	
Subscriptions & Consultancy	215,865	61,970	111,878	102,800	8%	-9,078	
Finance Charges	14,036	4,881	10,525	10,499	0%	-26	
Depreciation	92,307	81,294	53,900	30,782	43%	-23,118	System development costs fully depreciated
Surplus	2,754,527	2,465,815	2,482,082	2,749,675	11%	267,593	





Annex 2



The CLC Fees Framework 2016

Made 7 September 2016 by the Council for Licensed Conveyancers with the approval of the Legal Services Board in accordance with s.14, 32 and 38 Administration of Justice Act 1985 and s.51 Legal Services Act 2007.

CITATION, COMMENCEMENT AND REVOCATION

1. This Framework may be cited as the CLC Fees Framework 2016 and shall come into force on 1 November 2016 on which date the Council for Licensed Conveyancers' Fees Rules 2012 shall cease to have effect.
2. "CLC Body" is a Recognised Body or a Licensed Body regulated by the CLC.

LICENSED CONVEYANCERS

3. The fees payable as provided by the CLC Lawyer – Licensing Framework shall be as follows: -
 - (1) under paragraph 1(a)(ii) for the issue of a licence:
for the first time, or where such a licence is not in force at the time of the application (and has not been in force for at least 12 months prior to that date):
£150;
to provide Conveyancing Services or Probate Services: £400
to provide Conveyancing and Probate Services: £475;
 - (2) under paragraph 16 and 18 for an amendment to a licence: £75;
 - (3) under paragraph 26 for a duplicate licence, where chargeable: £50.
4. The additional fee of £100 is payable for failure to submit an Accountant's Report within the time limited (see paragraph 16.2 of the Accounts Code and Guidance).

CLC BODIES

Practice Fee

5. The fee payable by a CLC Body as provided by

- (1) paragraph 5(a)(ii) of the CLC Recognised Bodies – Recognition Framework;
and
- (2) paragraph 7.10 of the CLC Licensed Body (ABS) Licensing Framework

shall be the turnover declared by the CLC Body for the purpose of determining the applicable annual premium payable in accordance with 10.1 of the CLC Professional Indemnity Insurance Code & Guidance as follows:

Turnover Banding		Practice Fee payable				
From	To	Minimum Fee in Band				
0 and	100,000	856	or	1.2%	Of Turnover	Whichever is the greater
		Minimum Fee in Band			On Turnover in excess of	
100,001	500,000	1,200	plus	1.1%	100,000	
500,001	3,000,000	5,600	plus	1.0%	500,000	
over	3,000,000	30,600	plus	0.9%	3,000,000	

Compensation Fund Contribution

6. The Compensation Fund contribution payable by a CLC Body as provided by

- (1) paragraph 5(a)(iv) of the CLC Recognised Bodies – Recognition Framework;
and
- (2) paragraph 7.11 of the CLC Licensed Body (ABS) Licensing Framework

shall be the turnover declared by the CLC Body for the purpose of determining the applicable annual premium payable in accordance with paragraph 10.1 of the CLC Professional Indemnity Insurance Code & Guidance as follows:

Turnover Banding			Compensation Fund contribution			
			Minimum Fee in Band			
Between	0 and	£100,000	£500			
			Minimum Fee in Band			On Turnover in excess of
Between	£100,001 and	£500,000	£500	plus	0.4%	£100,000
Between	£500,001 and	£3,000,000	£2,100	plus	0.3%	£500,000
Over	£3,000,000		£9,600	plus	0.2%	£3,000,000

WAIVER

7. The CLC may in writing waive or vary any of the provisions of this Framework and may revoke any waiver in any particular case.

Annex 3

Examples of the Practice Fee and
Compensation Fund contributions payable

Turnover	Practice Fee	Comp Fund Contribution	Total
30,000	856	500	1,356
50,000	856	500	1,356
150,000	1,750	700	2,450
550,000	6,100	2,250	8,350
1,500,000	15,600	5,100	20,700
3,500,000	32,600	10,600	43,200
15,000,000	136,100	33,600	169,700

Annex 4
Information to the profession
CLC regulatory charges
2017-2018

1. This notification sets out the CLC's determination about:
 - The licence and practice fee structure and the way in which Compensation Fund contributions payable by licence holders will be applied; and
 - the licence and practice fees and the contribution the CLC has determined are payable for the licence year starting on 1 November 2017.

The CLC's licence and practice fee structure, and contributions to the CLC Compensation Fund

2. The CLC's current fee structure (first introduced in February 2010) following consultation with the profession can be summarised as follows:
 - 1) Licence fee (a fixed sum);
 - 2) Practice fee (as a percentage of turnover subject to a minimum fixed fee); and
 - 3) Contributions to the Compensation Fund (as a percentage of turnover subject to a minimum fixed fee) to be applied solely for purposes relating specifically to the CLC's Compensation Fund.

3. The Practice Fee and contributions to the Compensation Fund have been subject to tiered banding as follows:

Turnover £		Banding
From	To	
0	100,000	110% Base Rate
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4. The CLC published a consultation on the current fee structure which ended on 23 June 2017⁸. The consultation was promoted in newsletters to the profession, on the website and in direct emails. There were two responses, both of which supported the proposals set out in the consultation paper. One respondent suggested that the fee rates should be set to generate slightly more than a nominal surplus during years where practices turnover is increasing to help boost the reserves and cushion the effect of any fee increase that would be required in an economic downturn. In setting fee rates, and in particular in determining the rates payable for the year starting 1 November 2017 (see paragraph 10 below), the CLC reviews likely changes over the medium to longer term with the aim of smoothing variations in the regulatory fee rates so that CLC Practices can budget with reasonable certainty.

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Licence and Practice Fee and Compensation Fund contributions payable for year starting 1 November 2017

5. Examples of the effect the Practice Fee rates and Compensation Fund contributions will have on practices are set out at Annex [numbered].
6. In addition to operational objectives, the 2017 Business Plan⁹ commits the CLC to:
 - a) review its regulatory arrangements
 - b) focus on consumers
 - c) engage with the Regulated Community and Stakeholders
 - d) continue to press for reform of legal services for better consumer outcomes
 - e) strengthen our infrastructure.
7. Annex [numbered] compares actual expenditure for 2015 and 2016, the expenditure forecast outturn for 2017 and the projected expenditure for 2018. The changes shown in percentage and monetary terms compare the 2017 expenditure forecast with the projected expenditure for 2018 with brief explanations of the greater variances.
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Surplus (shortfall)	20,406

9. The Compensation Fund is projected to make a surplus of £438,757 in 2018.

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10. In 2014, the Council determined on a cost/benefit analysis not to renew the CLC's Compensation Fund Insurance policy, and instead to create a ring-fenced allocation which is held separately.
11. The other Fees chargeable are as follows (these are unchanged from 2015-2016):

		Fee	Paragraph	Regulatory Arrangements
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