

Practising Certificate Fee (s51) application assessment

Approved Regulator: Chartered Institute of Legal Executives (CILEx)/CILEx Regulation

Part One: summary and recommendation

Summary

The fee proposals for 2018 are as follows:

Fee type:	Paid by:	2017	Proposed 2018	% Change
PCF	CILEx Fellow	£364	£364	No change
PCF	Associate Prosecutor	£220	£253	15% increase
Per practice right top up	CILEx Fellow with practice rights	£60	£60	No change
Per practice right top up	CILEx member below Fellow grade with practice rights	£60	£60	No change
PCF	Non-member of CILEx with practice rights	£450	£450	No change
Entity application/renewal	Entity	Variable as fee scale	No change from 2017	

The CILEx Group total income is £10,998,507 which includes income to be raised from PCF totalling £2,373,196 for 2018. Forecast PCF income for 2018 is 21.6% of total group income (2017: 23.4%).

All of the PCF income has been attributed to regulatory permitted purposes activities, in line with the LSB's PCF Rules.

Recommendation

- That the application is approved
- That the approval letter comments on the following points:
 - The PCF increase for Associate Prosecutors (APs) is in the context of CILEx Regulation working towards a model of full cost recovery, where the costs of regulatory and permitted purposes activities are met from PCF income. There is no change to PCF for other practitioners regulated by CILEx. In respect of the AP fee, which is increasing by 15% in 2018, record that we are aware this is paid by the Crown Prosecution Service (CPS) and not APs themselves.
 - Point out that although it is not obligatory to consult since the fees (except those for APs) are remaining at 2017 levels, we would still encourage CILEx to consult with members. The lack of consultation assumes that contributors are happy to pay the same fees as the previous year, when in fact they may have views that the PCF should be reduced.
 - Note that the application provided additional information on the systems CILEx Group has put in place for accounting and management oversight as requested in last year's

approval letter in order for us to have full confidence in the budgeting arrangements and forecasting. Welcome the statement that these arrangements provide a robust framework for the regular review of financial performance against budget and forecast for the SMTs, committees and board of each CILEx Group company.

- Note that the application also provided additional information in relation to the progress being made regarding entity regulation as requested in the approval letter last year. The application states that CILEx Regulation expects to be in a position to provide accurate and complete costs for the delivery of entity regulation by the end of 2018.
- Note that it is good to see acknowledgement of costs relating to the Competition and Markets Authority (CMA) and the Office for Professional Body Anti-Money Laundering Supervision (OPBAS), although the impact of these will be seen in future years' PCF applications. We will be interested to see how these costs are apportioned across the membership in future years.

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?	No.
Were there any areas for improvement or specific issues in the last approval letter?	<p>In the approval letter for the 2016 application (for 2017 PCF) we:</p> <ul style="list-style-type: none"> ○ Said that we would be seeking an update in the application for the 2018 PCF as to the systems the CILEx Group has put in place for accounting and management oversight so that we have full confidence in its budgeting arrangements and forecasting. ○ Recognised that CILEx/CILEx Regulation is in a transitional period following the designation for new reserved legal activities and the commencement of entity regulation; acknowledged that building data on the true cost of these new activities would take time, but said we would be likely to look for more information/detail on this in next year's PCF application. ○ Said that we would be interested to see how the plan to step up the approach to marketing practice

	<p>right has developed. It was hoped that this would increase the uptake and enable CILEx Regulation to become more sophisticated in calculating the true cost of delivering the various practice rights it now regulates.</p>
<p>2. Developing the application and budget</p>	
<p>Is it clear that the regulatory arm has led the development of the application?</p>	<p>Yes. The application has been submitted jointly by CILEx and CILEx Regulation. CILEx Regulation independently develops its own budget. CILEx Regulation Board determined its resource requirements for 2018 by considering the projected budget against its strategic aims. This budget was then incorporated into the CILEx Group draft budget.</p>
<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? • 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? • Are the contingency fund arrangements clear? 	<p>Yes. This is explained in the section of the application <i>Development of the 2018 draft budget</i>.</p> <p>Yes. The <i>Development of the 2018 draft budget</i> section also explains that restructuring at the Chartered Institute resulted in a reduction from five departments to four which has further reduced the cost base. The effects have been incorporated into the draft 2018 budget. The improved financial position over recent years has enabled the CILEx Group to replenish reserves and make some strategic investments.</p> <p>The proposal is not to increase PCF.</p> <p>CILEx holds substantial reserves of £6.6m (2.8 times the level of PCF income in the 2018 budget). CILEx Regulation holds no reserves. The CILEx Reserves Policy is to hold at least 12 months' budgeted PCF and membership income in reserve. CILEx will meet reasonable funding requirements of CILEx Regulation according to protocols between CILEx and CILEx Regulation. This includes exceptional costs – e.g. in relation to new regulatory developments such as the CMA project. CILEx Regulation is confident that resources are available should</p>

	they be required. Reserves are available to the CILEx Group as a whole and not just to CILEx Regulation. The application adds that the fees budgeted for 2018 are intended to deliver a balanced budget.
<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>The CPS was consulted on the increase to the Associate Prosecutors fee, which is increasing by 15%. Consultation was not conducted for the other fees, which are being held at 2017 levels.</p> <p>The PCF for each AP is paid by the CPS and so consultation was with CPS rather than individual APs. CILEx is working towards bringing fees charged to APs to full cost recovery of regulatory costs by 2019. A MoU between the CPS, CILEx and CILEx Regulation provides that practice fees will be agreed each year. In the consultation process, CILEx Regulation explained to the CPS that the fees in previous years had been set below the full cost of regulation and permitted purposes. Effectively, CILEx subsidised the cost of regulation. However, now regulators are working towards financial independence from representative bodies and CILEx Regulation is moving towards not relying on CILEx to subsidise shortfalls in PCF income. The increase in PCF for APs is part of the move towards this. The CPS expressed disappointment at the rise in the 2018 PCF, but agreed to pay £253 per AP for 2018.</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? 	The fees for 2018 have not yet been shared with fee payers.
3. Permitted purposes	
<ul style="list-style-type: none"> • Is there evidence that the PCF income is used solely for permitted purposes? • Is any other income to be applied to permitted purposes? 	<p>Yes. The total budget for all permitted purposes is set out in Appendix 1. It is equal to the expected PCF income of £2,373,196.</p> <p>An additional £155,220 of income is intended to go towards regulatory activities. This is labelled as “Other” under the income section of the draft 2018 budget.</p>
4. Regulatory functions	
Is there evidence of how much of the PCF income is applied to permitted purposes that are regulatory functions?	Yes. The CILEx Regulation Direct expenditure is separately identified in the draft budgets (total

	£1,564,722 – inclusive of LSB/OLC levies of £130,000).
Are any shared services clearly explained?	<p>The application shows how much of CILEx departments' expenditure is allocated to permitted purposes; this is in line with previous years.</p> <p>In preparation for greater regulatory independence and establishing the true cost of regulation, the 2018 budget includes an additional allocation of shared services to CILEx Regulation totalling £200,000, compared to £109,200 in 2017.</p> <p>This budget includes a line for Central Resources & Admin of £2,021,117 in total, of which £331,982 is allocated to permitted purposes (i.e. regulatory activities and other permitted purposes).</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? <ul style="list-style-type: none"> Does the application contain commentary on the regulatory objectives and the Better Regulation Principles 	<p>A specific regulatory and quality impact assessment was not included with the application. However, the <i>Regulatory and Diversity Impact Assessment</i> section of the application explains that the CILEx Group has a Single Equality and Diversity Scheme and Action Plan and that the CILEx Group actively promotes equality against the required protected characteristics.</p> <p>Yes. The application contains commentary against the Regulatory Objectives and the Better Regulation Principles and concludes that the process for determining the PCF has been targeted solely at the regulatory and permitted purposes. The application says a proportionate approach has been taken in line with the CILEx Group original three-year budget plans (2017-2019).</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? 	<p>There has been no specific consultation on the PCF for Fellows in 2018 and therefore there has been no consultation with non-commercial bodies. The application records that CILEx member data shows that the proportion of Fellows providing non-commercial legal services is not significant and not sufficiently relevant to that branch of the profession to warrant consultation with charities.</p>

7. LSB Review	
Have we consulted with any other body on the application?	Not considered necessary for this application.
Were any issues raised by LSB colleagues from the first review?	There was no first review done by LSB colleagues before receiving the PCF application.

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21 September 2017