

Costs Lawyer Standards Board

Application to the Legal Services Board for approval of Costs Lawyer Practising Certificate Fee 2019

1. Application

This application is made by the Costs Lawyer Standards Board (CLSB) under S.51 of the Legal Services Act 2007 (LSA) and Practising Fee Rules 2009 for Legal Services Board (LSB) approval of the Costs Lawyer practising certificate fee for 2019 (PCF 2019).

2. Enclosures with this application

- (i) Consultation paper
- (ii) CLSB budget for 2019
- (iii) CLSB abbreviated accounts 2017

3. Independence

The CLSB has undertaken the role of approved regulator under the delegated authority of the Association of Costs Lawyers (ACL) since 31 October 2011. The fee for a Costs Lawyer practising certificate and the fee for membership of the ACL (the profession's representative body) were separated for practising year 2013 onwards.

The CLSB has its own board, strategy, business plan and governance structure (Costs Lawyer Handbook and CLSB Operations Manual) and sets its own budget without influence of the ACL. The CLSB states on its annual fee note that the ACL will bill separately for its membership fee and that it is not a requirement that a Costs Lawyer with a practising certificate issued by the CLSB is an ACL member.

4. Proposed PCF 2019

The proposed PCF 2019 was determined by the CLSB board on 18 July 2018 following consideration of the cost of regulatory and permitted purposes activity during previous years, anticipated spend for 2019 and current reserves. The CLSB considers the PCF 2019 to be proportionate and fair in all the circumstances. Further, it complies with the Regulators Code in that by remaining reasonable, it supports small business growth (the profession has a high number of sole practitioners and small firms).

5. CLSB income for 2019

The PCF 2019 is the only form of income for the CLSB. For the purposes of this application the CLSB has worked on the basis of 662 authorised and regulated Costs Lawyers in 2019, the number that CLSB regulated on 1 April 2018. The PCF 2019 will allow the CLSB to

achieve the regulatory objectives set out in the Legal Services Act 2007 and its objectives set out in its 2019 business plan.

6. The Costs Lawyer practising certificate

The PCF 2019 will cover the period 1 January 2019 to 31 December 2019 inclusive. A Costs Lawyer with a 2019 practising certificate issued by the CLSB will be authorised to undertake the following reserved legal activities during that period:

- The exercise of a right of audience
- The conduct of litigation
- The administration of oaths

7. Practising fee rules 2009

C.5: Permitted purposes

All monies raised by the CLSB through the PCF 2019 will be used for permitted purposes only. Separation of CLSB and ACL fees achieved in 2013 provides clarity on the intended purpose of fees paid by a Costs Lawyer. Further, it affords Costs Lawyers the choice as to whether they become a member of their profession's representative body (ACL).

D.10 (a)-(d) inc.: Transparency

On 19 July 2018 the CLSB initiated a 7 week consultation with Costs Lawyers and the ACL on the proposed PCF 2019. The closing date for responses was midnight on Monday 10 September 2018. The consultation paper was also made available through the CLSB website. 34 Costs Lawyers responded indicated they agreed with the proposal, there were no objections.

D.10 (e): Explanatory notes

The fee note for the PCF 2019 will set out at a minimum:

- The amount of the PCF 2019.
- The period the PCF 2019 will cover.
- Clarification on separate fees for representation (ACL) and regulation (CLSB).
- The benefits of holding a Costs Lawyer practising certificate.
- Tax relief under SI 1126/2013: The Income Tax (Professional Fees) Order 2013.
- Closing date for an application and implications of late filing.

Explanatory notes on the reverse of the fee note for the PCF 2019 will set out at a minimum:

- Historical information.
- Clarity on the reserved legal activities and their basis in law.
- Clarity on what the PCF 2019 will be.
- The regulatory objectives to be achieved by the CLSB.
- The permitted purposes of the CLSB.

- The professional principles promoted by the CLSB.
- Clarity on the consultation process undertaken.
- Clarity on the LSB & Legal Ombudsman annual levy.

D.11 (b): Budgets

By 2019, the CLSB anticipates it will have concluded over 90% of its work on the new Costs Lawyer Competence Test (CLCA), so additional monies will not therefore be required to fund that project. As a maximum of 22 Costs Lawyers have the possibility of qualifying in 2019 under the current qualification, this will likely have an impact on the CLSB 2020 budget and PCF 2020 if the CLCA is not operative by then. Therefore, the CLSB is of the view the proposed PCF 2019 is fair and reasonable in all the circumstances. It will provide the CLSB with adequate funding to provide for regulatory arrangements that are proportionate, accountable, consistent, transparent and targeted during 2019.

The CLSB operates on a low cost basis as it draws in specialist resource from a team of support personnel in areas of admin, law, accountancy, IT, HR and education on a needs be rather than permanent employee basis, and will continue with this business strategy during 2019. The CLSB has now been operative as an approved regulator since 31 October 2011 and has proven itself, during that time, to have exercised sound financial management.

D.11 (c): Breakdown of fee

Under the consultation process, the CLSB attached its budget for 2019 which set out the basis for the proposed PCF 2019. Costs Lawyers were advised that the proposed PCF 2019 of £250.00 included the annual per Costs Lawyer levy payable by the CLSB to the LSB & LeO. Explanatory notes on the fee note for the PCF 2018 stated *“The PCF 2018 includes sufficient sums to enable the CLSB to pay the annual LSB & LeO levy, historical details of which can be found on the CLSB website.”* The CLSB proposes a similar note on the PCF 2019 fee note to ensure availability of information and transparency.

D.11 (d): Contingency funds

Whist the CLSB can seek financial support of the ACL should it consider it necessary, it has always been the objective of the CLSB to be fully financially independent of the ACL. Through steady and sound financial management, the CLSB has continued to build on its financial reserves. The CLSB is of the view the proposed PCF 2019 will provide adequate finance to enable delivery of its 2019 business plan. In the unlikely event it does not provide adequate income to meet these objectives, the CLSB has adequate reserves by way of contingency and will consider recovery of any reserves used when considering the PCF 2020.

D.11 (e): Spend on permitted purposes

All income received under the PCF 2018 was spent on permitted purposes and all income received under the PCF 2019 will likewise be spent only on permitted purposes.

D.11 (f): Regulatory & diversity impact assessment

As it is intended the fee will remain the same for the eighth consecutive year, the CLSB does not consider there would be any adverse impact on the diversity of the profession.

The CLSB undertook a diversity survey in 2012, 2013, 2014 and 2016. The next survey will be conducted in 2019.

8. Request for approval of Costs Lawyer PCF 2019

The CLSB requests the LSB approves the PCF 2019 in the sum of £250.00.

9. Contact

Any request for clarification on this application should be addressed to:

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Dated: 11 September 2018