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| Approved regulator (AR) | Council of Licensed Conveyancers (CLC) |
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| Final application | Type of format received | Confirmed receipt of application | Website link |
|--|-------------------------|----------------------------------|---|
| Receipt of final application on 26 August 2011 | Email | Emailed | http://www.legalservicesboard.org.uk/Projects/independant_regulation/2011_practising_fee_applications.htm |

Pre-draft application process including draft documents or correspondence received for assessment against the final application

| | Yes or No | Description | Date received |
|--|-----------|---|---------------|
| Did the LSB receive a draft application? | | - | - |
| Was there a pre-meeting between AR representatives and the LSB? | | - | - |
| Do we have any concerns arising from the draft application? | | - | - |
| Have the concerns or issues of clarification (if any) been resolved? | Yes | Simon Blandy, Director of Policy & Standards provided additional information: 1) consultation - a full consultation process conducted in 2010, members were advised that a nil amount would be raised in 2010. The 0.4% contribution to be made by entities this year is likely to have a small impact on firms (see worked examples on page 4, paragraph 10 of the application). The CLC did not consult this year because the individual Licence Fee has remained at the same level & the Practice Fee charged to CLC Bodies decreased from a base rate of 2.0% of turnover to 1.3%. 2) approving the increase in the level of the Compensation Fund (CF) fee payable - the structure of the CF requirements has remained the same as the previous year, the level of the CF fee was exempted under part 3 schedule 4 of the 2007 Act. 3) level of operational fund reserves - in the budgeting process, very conservative assumptions about the number of regulated firms/individuals. Experience has shown that in practice there are normally more firms and individuals paying fees which, coupled with the fact that fee income is spread through the year, means that there is little need to use the reserves. LSB commented that on the face of it, reserves of 2 months operating costs seemed to be low. CLC's view is that this is appropriate. LSB noted that while the policy is set at this level, the actual amount of reserves exceeds this; CLC confirmed that there is no current plan to actively manage down the reserves to the "2 month" level. 4) level of compensation fund (CF) reserves - similarly, very conservative assumptions have been made the number of firms that will be paying this contribution and past experience indicates that the amount paid will exceed that assumed in the budget. If it were necessary to use the amount of reserves included in the budget, the level of compensation fund reserves would still be in excess of the minimum. 5) CLC reserves the right to make a specific Levy in case of substantial payments out of the CF - CLC may transfer money out of the Practice/Licence Fees before approaching the profession to recoup these monies (considered a loan and would be paid back into the respective pots they were derived) 5) impact on small firms or other individual groups - 7 smaller practices have closed over the previous year, the increase in regulatory costs was not given as a reason for closure. | 09/09/2011 |
| Does the final application include a section on how the AR has dealt with the areas for improvement (if any) highlighted in the previous year's approval letter? If yes, have these issues been dealt with to the satisfaction of the LSB? | Yes | There were no issues areas for improvement highlighted in the previous year's approval letter. | - |

Summary

The LSB have the required information to consider the application against the PF Rules 2009 and criteria. The CF fee is payable by Practices only as any grants payable out of the fund are made on behalf of the practices rather than the individual licence holder. The ABS Licensing Fee & CF will be charged at the same level as that for Practices.

Overall level of concern No concern

Section 1: Developing the application and setting the budget

This section of the criteria refers to D10a & D11a /D11d of the Practising fee Rules 2009.

| Criteria - application | Yes or No | LSB Assessment |
|--|-----------|--|
| Is there a description of how the application was developed and settled? | Yes | The CLC Corporate Strategy 2011-2013 and Business Plan 2011 has been determined by the Regulatory Objectives. The Strategy assumed the CLC would become a Licensing Authority which has now been granted and a regulator of litigation/advocacy services in 2011. CLC have set number of priorities including: innovation & excellence in regulatory services, understanding its regulated market, strengthening the regulated community and building capability & capacity. |
| Is there sufficient detail to make an assessment of 'reasonable care' when settling the application? | Yes | See description above |

Overall comments

Please refer to the application pages 2 - 4, paragraphs 6 - 8 'Setting the CLC's Budget'.

Evaluation

The application meets the criteria and evidence for Section 1: Developing the application that must be provided for this section in each PCF application.

Level of concern No concern

| Criteria - budget | Yes or No | LSB Assessment |
|--|-----------|--|
| Is there a description of how the budget was developed and settled? | Yes | The annual budget is determined by a number of factors, the most significant which include: resource needs to meet strategic priorities & business plan objectives, provision of known commitments including LSB payments, comparison to previous year's trends, a review undertaken after 6 months, a report by Internal Auditors, External Auditors' review & sign off and, the budget as a standing agenda item with the Audit Committee. |
| Is there evidence that the budget was settled in light of immediate and medium term budgetary needs? | Yes | The budget is set in light of resource needs to meet strategic priorities, business plan objectives, known payments/exceptional/ad hoc items. |
| Is there a description of contingency arrangements? | Yes | The CLC will run at a total deficit of £771,000 (CF:£150k and Operations:£621k). CLC reserves the right to make a specific Levy in case of substantial payments out of the CF. This allows the transfer of money out of the Practice Fees or Licence Fees before approaching the profession to recoup these monies. This arrangement is considered a loan and would be paid back into the respective pots they were derived. |
| Does this include a section on the consultation undertaken with practitioners? | | No formal consultation was conducted this year on Licence Fee or Practice Fee level. Please see section 4 'Clarity and Transparency' of this assessment summary. |

Overall comments

Please refer to the application pages 2 - 4, paragraphs 6-8 'Setting the CLC's Budget'. Also see, page 5 6, paragraph 14-17 and page 7, paragraph 24.

Evaluation

The application meets the criteria and evidence for Section 1: Setting the budget that must be provided for this section in each PCF application.

Level of concern No concern

Section 2: Permitted purposes

This section of the criteria refers to D10b & D11e/D11b of the Practising fee Rules 2009.

| Criteria | Yes or No | LSB Assessment |
|--|-----------|---|
| Is there evidence that the income raised through PCF charge are applied solely to the permitted purposes ? | Yes | CLC has an exclusively regulatory function of which none of the costs the CLC incurs fall outside the permitted purposes as prescribed at rule 6 LSB Practising Fee Rules 2009. Aside from the Levy, CLC's PCF income covers the entirety of the costs incurred in relation to the regulation, accreditation, education and training of applicable persons, maintaining & raising of professional standards, practical support & advice about practice management in relation to practices. The CLC participates to a limited extent in law reform and legislative process; this is part of developing its regulatory framework and does not have a dedicated budget to that activity. CLC sees their outcomes focussed approach to regulation (coming into force on 6 October 2011) as ensuring entities regulated by CLC act in the best interest of their clients and clients have the information to make informed decisions. |
| Does it include a budget that shows the anticipated income from practising fees? | Yes | The funding requirement for 'Operations' totals £2,555,000. The PCF income collected totals £1,934,000 (consisting of Practice fee income £1,148,000, Licence fee income £456,000 and Other income of £330,000. The total deficit for the year is: -£621,000. The deficit is met by CLC reserves on operations and the CLC is satisfied after this reduction will be in excess of 2 months expenditure which CLC is satisfied is appropriate and prudent. |

| Criteria | Yes or No | LSB Assessment |
|--|-----------|---|
| Does it include an analysis of expenditure against the permitted purposes? | Yes | CLC have an exclusive regulatory function. The largest expenditure categories were: 43% Staff Costs (2012: £1,200,500), 8% Levy (2012: £315,000), 8% Compensation Fund Grants & Costs (2012: £235,000), 8% Legal Professional Fees (2012: £229,000) and 8% Compensation Fund Grants & Costs (2012: £235,000). The most significant increase in any one category was for the Provision for Applications to LSB (increase of 100% £100,000 in 2012). The estimated OLC/Levy costs to CLC were also higher than expected (increase of 28.6% £315,000 in 2012). |
| Does it include an analysis of income and expenditure related to all other expected income to be applied to permitted purposes? | Yes | The PCF income collected totals £1,934,000 which was made up partly of 'Other income' totalling £330,000 which will be allocated solely to CLC's regulatory function. |

Overall comments

Please refer to the application page 6 - 7, paragraph 20 - 23 for description of the permitted purposes. Please refer to page 5 - 6, paragraph 14 for the total PCF funding requirement including the 'other income'. See page 12 of the application Annex 2 CLC Budget 2011-2012 for an analysis of spend against each expenditure category.

Evaluation

The application meets the criteria and evidence for Section 2: Permitted purposes that must be provided for this section in each PCF application.

Level of concern

No concern

Section 3: Regulatory functions

This section of the criteria refers to D10c D10d & D11c of the Practising fee Rules 2009.

| Criteria | Yes or No | LSB Assessment |
|---|-----------|--|
| Is there clarity and transparency of how the PCF income collected by practising fees is applied to permitted purposes which are regulatory functions (not representative)? | Yes | CLC has an exclusively regulatory function and none of the costs the CLC incurs fall outside permitted purposes as prescribed at rule 6 LSB Practising Fee Rules 2009. |
| Is there a description of shared services? | | There are no shared services. |

| Criteria | Yes or No | LSB Assessment |
|---|-----------|---------------------------------------|
| Is there clarity and transparency of how the PCF income collected by practising fees is applied to permitted purposes which are not regulatory functions ? | | There are no non-regulatory functions |

Overall comments

No comment

Evaluation

The application meets criteria and evidence for Section 3: Regulatory Functions that must be provided for this section in each PCF application.

Level of concern: No concern

Section 4: Clarity and transparency

This section of the criteria refers to D10e of the Practising fee Rules 2009 & section 51(b) of the Act

| Criteria | Yes or No | LSB Assessment |
|---|-----------|--|
| Consultation with members | | |
| Does the application include a description of their consultation undertaken with their members mandated to pay practising fees? | Yes | The CLC did not consult with their fee paying members on the level of the fee this year because the Licence Fee charged to individuals remained at the same level as the year before, also, the Practice Fee charged to CLC Bodies is decreasing from a base rate of 2.0% of turnover to 1.3% of turnover. A full consultation process was conducted with members last year who were advised at that time that they would receive a compensation fund holiday (where a nil amount would be raised in 2010). The 0.4% contribution to be made by entities this year is likely to have a small impact on firms (see worked examples on page 4, paragraph 10 of the application). |
| If yes, does the description of the consultation process include transparency and clarity of how the fee level has been set and how the money collected will be used? | Yes | An explanation of the structure of the fee charges and details of the budget which has determined the income required from PCF will be published to the profession. A draft version was included in the application at Annex 3, page 14. |
| If yes, does the application also include a description of how that feedback influenced the decision-making and policy development processes? | | Not applicable - no consultation process this year |

Overall comments

No comment

Evaluation

The application meets the criteria and evidence for Section 4: Clarity and Transparency that must be provided for this section in each PCF application.

Level of concern:

No concern

| Criteria | Yes or No | LSB Assessment |
|---|-----------|---|
| Consultation with members | | |
| In terms of the level of information provided to members, does the application include the recommended use of the 'Council Tax bill' analogy and/or another form of web-based linked information? | Yes | This will be provided to the fee paying members within the profession. A draft version was included in the application at Annex 3, page 14. |
| If yes, when was this information issued to the mandated members paying the practice fees i.e. as the fee note issued or shortly afterward? | Yes | To be issued upon LSB approval. A draft version was included in the application at Annex 3, page 14. |

Section 5: Regulatory and Equality Impact Assessment (EIA)

This section of the criteria refers to D11f of the Practising fee Rules 2009

| Criteria | Yes or No | LSB Assessment |
|---|-----------|---|
| Does the application include a regulatory or diversity impact assessment? | | No |
| If no, does the application include a description of how the proposals may potentially impact on various groups (this include the impact of increased fees if appropriate)? | Yes | CLC have indicated in their application that they have tracked the reasons practices have closed since the new fee arrangements have come into force. They concluded it does not appear that any closures have resulted from any increase in regulatory costs charged by the CLC. E.g. a total of seven smaller practices have closed over the previous year, the increase in regulatory costs was not given as a reason for closure by any of the seven practices. |
| Does the application include a description of how the proposals have been developed in light of the Regulatory Objectives as set out in the Legal Services Act 2007 and Better Regulatory principles? | Yes | CLC give a full description in their application that the income generated by the PCF 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. It also sets out that in the setting the charges payable by the profession the CLC has taken full account of the better regulation principles, namely that CLC's regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed. |

Overall comments

Please refer to the application page 7 - 8, paragraph 25 - 27 for description the applicability of the Regulatory Objectives and the Better Regulation Principles.

Evaluation

The application meets the criteria and evidence for Section 5: Regulatory and Equality Impact Assessment that must be provided for this section in each PCF application.

Level of concern: No concern

Section 6: Consultation with non-commercial bodies and others

This section of the criteria refers to D12 of the Practising fee Rules 2009 & Section 51 (7) (a) of the Act

| Criteria - non-commercial bodies | Yes or No | LSB Assessment |
|--|-----------|---|
| Does the application include a description of steps the AR has taken to ensure the impacts of the persons providing non-commercial legal services have been considered when setting the fees? | | CLC has not consulted specifically with non-commercial bodies including local government. on the basis that the changes in the arrangements have a neutral effect on their regulatory costs. Further, CLC does not regulate any non-commercial body which undertakes either conveyancing or probate services. |
| Has the AR shared details of the practising fee level with appropriate bodies such as the Law Centres Federation, Citizens Advice and Advice Service Alliance in advance of the submission of the application? | | N/A |
| Have the non-commercial bodies provided any response to the details shared to them by the AR? | | N/A |

Overall comments

Please refer to the application page 4, paragraph 11 for the reasoning for the lack of consultation with non-commercial bodies.

Evaluation

The application meets the criteria and evidence for Section 6: Consultation with non-commercial bodies that must be provided for this section in each PCF application.

Level of concern: **No concern**

Final assessment and decision

Summary of LSB assessment - i.e. Approval and/or approval with conditions or rejection

We recommend that the level of the practising certificate fees as set out in the CLC application for 2011/12 and supporting documents received 26 August 2011, be approved by the LSB. This decision is to be made under the authority delegated to the Chief Executive by the LSB Board. The decision letter will include a reference to the approval of the level of the Compensation Fund under Schedule 4 of the 2007 Act - change to regulatory arrangements.

| Criteria - others | Yes or No | LSB Assessment |
|---|------------|---|
| Have we considered if we need to consult with anyone else on this application? | Yes | The LSB did not consider it necessary to consult any other group. |
| If yes, what consultation has taken place and with whom? | | N/A |
| What was the outcome of this exchange i.e. Do we have any immediate concerns that has the potential to delay the approval of the application? | | N/A |

Overall comments

No comments

Evaluation

The application meets the criteria and evidence for Section 6: Consultation with others (if appropriate) that must be provided for this section in each PCF application.

Level of concern: **No concern**