

Practising Certificate Fee (s51) application assessment

AR NAME **Costs Lawyers Standards Board (CLSB)**

Part One: summary and recommendation

<p>Summary</p> <ul style="list-style-type: none"> – The fee payable for the year commencing for 2014 remains at the same rate as for 2013 (£250 fee for a practicing certificate). – CLSB breaks the fee down to members as £200 for the CLSB and £50 set aside for compulsory annual LSB and Legal Ombudsman levy – CLSB total budget for 2014 is £142,250. This is based on the assumption of the same number of Cost Lawyers in 2014 as in 2013 (569). – Application is for CLSB costs only. The Association of Cost Lawyers invoice for their membership separately.
<p>Recommendation</p> <ul style="list-style-type: none"> • That the application be approved.

Part Two: Assessment of the application against LSB acceptance criteria

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><i>Four areas for improvement/specific issues referred to in approval letter 1 October 2012 for the 2013 PCF:</i></p> <ul style="list-style-type: none"> • Whilst the LSB noted that the application for PCF for 2013 would remain the same as for 2012, the application did not include a figure for the total anticipated income for PCF for 2013. For transparency future applications should set out total anticipated income from both PCF and if relevant any other income sources. <p><i>CLSB RESPONSE FOR 2013/14 APPLICATION: Provided a total anticipated income from PCF for 2014.</i></p> <ul style="list-style-type: none"> • The application did not include any analysis of the 2012 budget and actual figures compared to anticipated 2013 costs. A summary, which shows all of the figures for the coming year budget against all of the budgeted and actual figures for the current year would be a helpful addition to future applications. <p><i>CLSB RESPONSE FOR 2013/14 APPLICATION: 2013 budget and actual figures compared to</i></p>

	<p><i>anticipated 2014 costs not provided.</i></p> <p><i>When asked if it would be possible to supply this CLSB responded that they felt given their size that the information provided in the accounts section of the application addressed this requirement sufficiently for the LSB's purposes.</i></p> <ul style="list-style-type: none"> • The CLSB application confirmed that all resources were devoted to permitted purposes, as defined by Rule 6 of the Rules. We expressed surprise at the amount of resources spent on non-regulatory permitted purposes and would be surprised and curious if the proportion of resources focused on regulation did not increase in the future. <p><i>CLSB RESPONSE FOR 2013/14 APPLICATION:</i></p> <p>The proportions are the same as previous year. After seeking clarification, CLSB explained that the percentage split related to time rather than the fee itself. The breakdown represented their best estimate of how the time of the Chief Executive and five board members was spent. The response emphasised that all monies spent go towards providing a regulatory service to Cost Lawyers and the consumer.</p> <p>Given that 50% of the time has been allocated to activities that are more usually undertaken by the representative arms (e.g. promotion of relations and increasing public understanding of citizens' rights and duties) and that the CLSB is purely regulatory and PCF is only used to cover CLSB costs we may want to comment again that this seems high and we would expect more to be spent on regulatory activity.</p> <ul style="list-style-type: none"> • Suggested that points raised in the responses from the consultation could have been responded to in the PCF application. <p><i>CLSB RESPONSE FOR 2013/14 APPLICATION:</i> No issues raised in the consultation.</p>
Developing the application and budget	
Is it clear that the regulatory arm has led the development of the application?	Yes. PCF only used for CLSB costs

<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>Whilst the budget breaks down expected spend and provides sufficient detail it fails to give any analysis of the 2013 budget and actual figures compared to anticipated 2014 costs as requested in our approval letter in 2012. This is covered in the issues raised last time part of the report.</p> <p>CLSB believes that the proposed fee level for 2014 provides adequate funding to provide for a regulatory regime that is proportionate, accountable, consistent, transparent and targeted.</p> <p>CLSB has included a contingency sum of £5k in its 2014 budget. CLSB currently has a reserve of £70k. CLSB sets out in the notes that this will be used towards possible entity regulation and unforeseen expenditure/events.</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 – consultation was issued to Cost Lawyers on 12 July 2013 and gave a three month window for responses.</p> <p>The level of fee is clear. Sets out that it is £250 and breaks this down between CLSB and amount set aside for the levy. It is also clear that this does not include ACL membership.</p> <p>Only two responses were received and both were supportive of the approach CLSB has taken. CLSB emailed the consultation directly to its members.</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 	<p>The consultation clearly set out the level of the fee and the proportion that would be used to pay LSB and Legal Ombudsman levy. LSB and Legal Ombudsman levy totalled £18,400 in the 2014 budget. CLSB assumes £50 of the fee being set aside for the LSB and Legal Ombudsman levy. This means that with 569 Costs Lawyers £28,450 is being raised for LSB and Legal Ombudsman levy. CLSB when questioned explained that the proportion of the fee set aside for LSB and Legal Ombudsman levy is set before they know what the exact amount required to be paid is and without knowing precisely the number of members who will be paying. Therefore a degree of flexibility is required to provide certainty that monies will be</p>

	available to pay the LSB and Legal Ombudsman levy. Any extra monies raised are being used to create a buffer in case of emergencies. We discussed the implications of this and the requirements for transparency. CLSB agree that when they issue the fee note they will include an explanatory note explaining that whilst £50 is set aside to pay the LSB and Legal Ombudsman levy any monies remaining will be used to bolster the financial reserve position of CLSB and give details of the actual amounts per Costs Lawyer that was paid towards the levy in 2011 and 2012.
<ul style="list-style-type: none"> When was/is this issued to fee payers 	July 2013
Permitted purposes	
Is there evidence that the PCF income is used solely for permitted purposes	Yes – application is for CLSB costs only.
Is any other income to be applied to permitted purposes	N/A
Regulatory functions	
Is there evidence of how much of the PCF income is applied to permitted purposes that are regulatory functions	Section 7 D.11(e) of the application sets out the breakdown of spend between the permitted purposes. This is covered in the issues raised last time part of the report.
Are any shared services clearly explained	N/A
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 2014 CLSB budget has taken into account issues relating to equality and diversity, including the annual diversity survey of both Costs Lawyers and Trainees. The results assist the CLSB in defining policy and strategy on matters of equality and diversity.
Consultation with non-commercial bodies	
<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 	No consultation with non-commercial bodies – not relevant to CLSB
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>Yes, the following issues were flagged to CLSB for a response:</p> <ul style="list-style-type: none"> Have there been any changes to the reserves policy. – <i>CLSB stated that the reserve policy continues to be based on potential exposure rather than income.</i>

	<ul style="list-style-type: none">• Clarification was sought as to the method used for making Cost Lawyers aware of the consultation. – CLSB confirmed that direct e-mail was used

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