

Practising Certificate Fee (s51) application assessment

The Council for Licensed Conveyancers

Part One: Summary and recommendation

Summary

- CLC Fees Framework remains unchanged.
- The fees payable for the year commencing for 2013/14 remain at the same rates as the rates for 2012/13 that is:
 - Licence Fee payable by licensed conveyancers remains at £400.
 - Base Rate Practice Fee payable by each CLC Practice remains at 1.4% of turnover.
 - Compensation Fund contribution paid by each CLC Practice remains at 0.4% of turnover.
- The other current fees levied by the CLC (Probate Licence; First Manager Licence; Duplicate licence; Amendment to licence; and Failure to submit Accountant's Report in time) also remain unchanged.

Recommendation

- That the application be approved
- That the approval letter comments welcomes the CLC's positive responses to the issues we raised for the 2012 application in respect of consultation and reserves policy.

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?	There were no pre-meeting discussions.
Were there any areas for improvement or specific issues in the last approval letter?	<p><i>Three areas for improvement/specific issues referred to in approval letter 20 September 2012 for the 2012/13 PCF:</i></p> <ul style="list-style-type: none">• The LSB expressed concern that for a second year in succession no consultation was undertaken and that it did not believe it was a sustainable rationale to repeat incremental changes year-on-year without any form of engagement. <p><i>CLC RESPONSE FOR 2013/14 APPLICATION: There was no increase in practising fee. Nonetheless the CLC consulted on the current fee structure in May/June 2013 (see consultation section). LSB satisfied the CLC has responded adequately to this issue although the response was very low and the CLC may want to give consideration as to how to encourage a higher response rate for future consultations.</i></p>

	<p>The LSB commented on the level of reserves. The LSB had not had a full explanation of how the CLC Board was approaching the reserves policy overall, and said it would therefore like the CLC to include a more detailed assessment of its reserves policy for the 2013/14 application so that we could better understand the CLC's approach.</p> <p><i>CLC RESPONSE FOR 2013/14 APPLICATION: The CLC has prepared a Reserves Policy which is expected to be agreed by its Council in Autumn 2013. See assessment on contingency fund arrangements below.</i></p>
Developing the application and budget	
<p>Is it clear that the regulatory arm has the lead the development of the application?</p>	<p>Yes. CLC has an exclusively regulatory function.</p>
<p><i>Budget</i></p> <ul style="list-style-type: none"> • Is it clear how the budget has been arrived at? 	<p>Yes. The CLC's Corporate Strategy 2011-2013 and its Business Plan 2013 were informed by the regulatory objectives and consistent with approach developed by the LSB. Section 9 sets out how the annual budget was determined including:</p> <ul style="list-style-type: none"> • Staffing, member, contractor, service and supplier requirements are calculated in detail. • Calculated fees, charges and other fees necessary to meet expenditure requirements. • Arranged meetings with directors to discuss budget requirements. • Forwarding draft budgets prepared by CLC Finance in consultation with the CLC's Executive to the Senior Management Team for approval. • Draft budgets sent to Council members for challenge and subsequent sign off at the CLC's Council meeting. • More generally the budget is a standing agenda item for auditors to have confidential discussions with the Audit Committee with no staff present and external auditors review

<ul style="list-style-type: none"> Is there evidence that the immediate and medium terms needs have been taken into account? Are the contingency fund arrangements clear? 	<p>and sign off the annual reports and accounts.</p> <p>Yes. CLC considered resource needs to meet strategic priorities and business plan objectives.</p> <p>A review is undertaken six months after budget setting or on other occasions depending on circumstances (e.g. credit crunch) to ensure that budgets remain realistic.</p> <p>Section 10 of application also states that the budget balances 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 opportunities and to meet the challenges of the new regulatory framework.</p> <p>Yes. Set out in set out in paragraph 25 of application. CLC Compensation Fund Operation Framework expressly reserves the CLC the right to make a specific levy. It is envisaged by the CLC that this will only be required when it is anticipated there is likely to be a substantial payment out of the Compensation Fund. This has not happened for nearly 20 years. CLC reserves the right to right to transfer the balance out of the Practice Fees collected before recouping the money from the profession. The CLC says this approach reduces the costs associated with the collection of regulatory fees.</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 paper on the current fee structure was published in April-June 2013, and was sent to all licensed conveyancers and CLC practices. By the time the Consultation Period had ended on 21 June 2013, the CLC had received five responses. Two were in favour of the current charging structure , one respondent suggested that there should be concessionary rates for licencees who are disadvantaged (for example, out of work). One respondent suggested there should be more bands so that practices with a proportionately high turnover should pay a lower percentage of the overall</p>

	<p>regulatory costs. One suggested that rates should be linked to risks. CLC overall response was that the proposals put forward by consultees had merit, but further work needed to be undertaken so that the Council can agree realistic parameters for a further consultation on fees.</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? 	<p>Yes</p> <p>A detailed explanation of the structure of charges and details of the budget, which has determined the income, will be published to the profession. Details of the information to be published to the profession was included in the application at Annex 3. Information includes:</p> <ul style="list-style-type: none"> • The CLC's licence and practice fee structure, and contributions to the CLC Compensation Fund. • Fee and Compensation Fund contributions payable for year starting 1 November 2013. • Details of budget and expenditure. <p>This will be issued to fee payers upon LSB approval.</p>
Permitted purposes	
<p>Is there evidence that the PCF income is used solely for permitted purposes?</p>	<p>Yes. See Section on Permitted Purposes, paragraphs 21-4. Since the CLC has an exclusively regulatory function, none of the costs the CLC incurs fall outside permitted purposes. The CLC participates to a limited extent in law reform and legislative processes. But more as part and parcel of developing its regulatory framework and does not have a budget dedicated to that activity.</p>
<p>Is any other income to be applied to permitted purposes?</p>	<p>Yes.</p> <p>Application sets out that the total budgeted income of £2,265,808 of which £1,511,862 is from Practice Fee, £470,796 from Licence Fee and £282,950 from other income.</p>
Regulatory functions	
<p>Is there evidence of how much of the PCF income is applied to permitted purposes that are regulatory functions?</p>	<p>Yes. Covered in paragraph 24. Aside from the Levy, CLC's PCF income covers the entirety of the costs incurred in relation to regulation, accreditation, education and training of applicable persons and those either holding</p>

	themselves out as or wishing to become such persons.
Are any shared services clearly explained?	Not applicable. No shared services.
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? 	<p>No Equality impact assessment included. There was no change in fee level.</p> <p>Some commentary on regulatory objectives in paragraphs 7 and 8 of application.</p> <p>The CLC's Corporate Strategy 2011-2013 and its Business Plan 2013 (covering the period August 2013 to the end of 2014)¹ have been informed by the regulatory objectives, and are consistent with the approach developed by the Legal Services Board. The Business Plan builds on its previous plans and is in three sections.</p> <ul style="list-style-type: none"> • Protecting the Consumer • Supporting Innovation • Strengthening Infrastructure <p>Coverage of these three themes in the application.</p>
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? 	<p>No. Reason covered in paragraph 15.</p> <p>The CLC does not regulate any non-commercial body which undertakes either conveyancing or probate services.</p>
LSB Review	
Have we consulted with any other body on the application?	No. Not considered necessary.
Were any issues raised by LSB colleagues from the first review?	No.

Paul Greening
12 September 2013