



**Council for Licensed Conveyancers
Application to the Legal Services Board
Under s.51 Legal Services Act 2007
For Approval of
Licence and Practice Fees Rates
August 2016**

Summary

- The LSB is asked to approve the proposed amendment to the CLC Fees Framework 2016 (at Annex 2) be amended and the proposed regulatory fees for the year commencing 1 November 2016 as follows:
 - Licence Fees payable by CLC Lawyers for providing conveyancing services or probate services remain at £400;
 - Licence Fees payable by CLC Lawyers for providing conveyancing and probate services remain at £475;
 - Base Rate Practice Fee payable by each CLC Practice are reduced by 20% to 1.1% of turnover applying the current tiers as follows):

Turnover Banding		Practice Fee payable				
From	To	Minimum Fee in Band				
0 and	100,000	856	or	1.2%	Of Turnover	Whichever is the greater
		Minimum Fee in Band			On Turnover in excess of	
100,001	500,000	1,200	plus	1.1%	100,000	
500,001	3,000,000	5,600	plus	1.0%	500,000	
3,000,000		28,100	plus	0.9%	3,000,000	

- Compensation Fund contribution payable by each CLC Practice remains at 0.4% of turnover applying the current tiers as follows:

Turnover Banding			Compensation Fund contribution			
			Minimum Fee in Band			
Between	0 and	£100,000	£500			
			Minimum Fee in Band			On Turnover in excess of
Between	£100,001 and	£500,000	£500	plus	0.4%	£100,000
Between	£500,001 and	£3,000,000	£2,100	plus	0.3%	£500,000
Over	£3,000,000		£9,600	plus	0.2%	£3,000,000

- the other fees levied by the CLC remain unchanged (as set out at paragraph 18).

Introduction

2. The CLC's current fee structure (first introduced in February 2010) following consultation with the profession can be summarised as follows:
 - 1) Licence fee (a fixed sum);
 - 2) Practice fee (as a percentage of turnover subject to a minimum fixed fee); and
 - 3) Contributions to the Compensation Fund (as a percentage of turnover subject to a minimum fixed fee) to be applied solely for purposes relating specifically to the CLC's Compensation Fund.
3. The Practice Fee and contributions to the Compensation Fund have been subject to tiered banding as follows:

Turnover £		Banding
From	To	
0	100,000	110% Base Rate
100,001	500,000	Base Rate
500,001	3,000,000	80% Base Rate
3,000,000	and over	70% Base Rate

4. On 23 March 2016 the CLC announced it intended to reduce the practice fee rates by 20%. This was followed by a consultation on the current fee structure which ended on 24 June 2016¹. The consultation was promoted in newsletters to the profession, on the website and in direct emails. There were two responses: one from the Society of Licensed Conveyancers (SLC) and one from a CLC practice. The CLC has agreed to meet the SLC to explore its suggestions that additional information should be provided to explain the current regulatory fee structure. The CLC's Council has determined, subject to the approval of the LSB, that the regulatory fees for the year commencing 1 November 2016 (see paragraph 10 below).

Setting the CLC's Budget

5. In addition to operational objectives, the 2016 Business Plan² commits the CLC:
 - a) To reform of provision of education to qualification as a CLC Lawyer
 - b) To review of financial protection arrangements
 - c) To review of regulatory arrangements.
6. The CLC's annual budget is determined as follows:
 - Consider resource needs to meet the strategic priorities and business plan objectives.

¹ <http://www.conveyancer.org.uk/Regulation-by-CLC/Past-Consultations/Consultation-on-Regulatory-Fees-May-2016.aspx>

² <http://www.conveyancer.org.uk/CLCSite/media/Corporate-Docs/CLC-Business-Plan-2016.pdf>

- Arrange meetings with directors to discuss their budget requirements.
 - Calculate staff, member, contractor, service and supplier requirements in detail.
 - Include known commitments e.g. payments to LSB.
 - Include known exceptional and ad hoc items.
 - Calculate fees, charges and other income necessary to meet expenditure requirements.
 - Forward draft budgets prepared by Finance in consultation with the CLC's Executive to the Senior Management Team for approval.
 - Forward draft budgets to Council members for challenge and subsequent sign off at the CLC's Council meeting.
 - A review is undertaken after six months and on other occasions depending on circumstances e.g. credit crunch, to ensure that budgets remain realistic.
 - A review of budgetary control arrangements completed by CLC's Internal Auditors in June 2014 reported that *'the Council could take reasonable assurance that the controls upon which the organisation relies to manage this risk are suitably designed, consistently applied and effective'*.
 - External Auditors review and sign off the Annual Report and Accounts.
 - It is a standing agenda item for Internal and External auditors to have confidential discussions with the Audit Committee with no staff present.
7. At this stage of the financial cycle the CLC has not determined a formal budget for 2017. Based on the Forecast of the Outturn for 2016 and for the purposes of this application, it has produced an estimate of operational expenditure for 2017 at Annex 1. This seeks to balance 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 current opportunities and challenges.

Reserves Arrangements

8. In January 2015 the Council agreed to maintain a minimum reserve on Operations of £1 million and a minimum reserve in the Compensation Fund of £2 million. Based on the Forecast for 2016 and the estimate for 2017 (detailed at paragraph 14), the actual and projected movement on reserves for CLC's Operations may be summarised as follows:

2014	2015	Dec 2016	Dec 2017
Actual	Actual	Forecast	Estimated
£ million	£ million	£ million	£ million
1.91	2.13	3.10	3.11

The increase in reserves results from disposal of two freehold properties. The CLC has not yet determined how the funds should be applied.

9. Reserves for the Compensation Fund stood at £4.94 million in December 2015 and are budgeted at the end of 2016 to be £3.19 million, in excess of the minimum level of reserves which is currently set at £2 million (see paragraph 8).

2014	2015	Dec 2016	Dec 2017
Actual	Actual	Forecast	Estimated
£ million	£ million	£ million	£ million
4.06	4.94	5.19	5.57

The increase in reserves results from the transfer of monies held separately in respect of aged balances received from CLC practices (as provided in the CLC Aged Balance Guidance³) and client funds received following intervention where the CLC has been unable to locate and return fund to the client, and as permitted in the CLC's Compensation Fund Operating Framework⁴.

Setting the rates

10. Applying the charging structure agreed following the consultations in 2010 and in 2016 (as summarised at paragraphs 2-4) the CLC has determined, subject to the approval of the LSB, that for the year commencing 1 November 2016 the charges should be as follows:
- Licence Fees payable by CLC Lawyers remain at £400
 - Base Rate Practice Fee payable by each CLC Practice is reduced by 20% to 1.1% of turnover with Fees applying the current tiers (see paragraph 1 above)
 - Base Rate Compensation Fund contribution payable by each CLC Practice remains at 0.4% of turnover applying the current tiers (see paragraph 1 above)
 - the other fees levied by the CLC remain unchanged (as set out at paragraph 18).
11. Examples of the Practice Fee and Compensation Fund contributions payable on CLC practices are set out at Annex 3.
12. In setting these rates the CLC has not consulted specifically with non-commercial bodies including local government on the basis that the changes in arrangements have a neutral effect on their regulatory costs. Further, the CLC does not regulate any non-commercial body which undertakes either conveyancing or probate services.

³ http://www.conveyancer.org.uk/CLCSite/media/PDFs/Accounts-Guidance1_3.pdf

⁴ Paragraphs 7 & 8 at http://www.conveyancer.org.uk/CLCSite/media/PDFs/1_Comp_Fund_Operating_Framework1.pdf

13. Annex 1 compares actual expenditure for 2014 and 2015, the expenditure forecast outturn for 2016 and the expenditure estimate for 2017. The changes shown in percentage and monetary terms compare the 2016 expenditure forecast with the expenditure estimate for 2017 with brief explanations of the greater variances.
14. The estimated total funding requirement for 2017 is £2,526,511 (compared to £2,480,475 forecast outturn for 2016 and £2,745,204 for 2015). It is estimated that setting the Practice Fee at 1.1% (as determined by Council) will generate an income of £2,008,659 based on the turnover of those practices currently regulated by the CLC. Taken with the Licence Fee and Other Income there will be a Total Estimated Income for 2017 of £2,576,528, leading to an estimated surplus of income against expenditure of £50,017.

Operations	
	1.1%
Practice Fee	2,008,659
Licence Fee	557,165
Education	0
Other Income	<u>10,704</u>
Total Income	2,576,528
Funding Req (see Annex 1)	(2,526,511)
Surplus (shortfall)	50,017

15. By the end of 2016 the CLC will have completed the transfer of its education quality function to SQA, an Awarding Organisation, with the result that there will be no further income and any expenditure related to education will relate to the CLC's continuing oversight of the delivery of education leading to the issue of a licence to practice as a licensed conveyancer.
16. The Compensation Fund is budgeted to make a surplus of £380,267.

Compensation Fund		
Contributions		605,868
less		
Compensation Fund Provision and Costs	(225,000)	
LCs Run Off Cover	(601)	
Funding Requirement		(225,601)

Surplus (shortfall)	380,267
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17. In 2014, the Council determined on a cost/benefit analysis not to renew the CLC's Compensation Fund Insurance policy, and instead to create a ring-fenced allocation which is held separately. The CLC's Reserves on the CLC's Compensation Fund are budgeted to remain well above £2,000,000. The CLC is satisfied that the level of reserves is sufficient to meet the expectations of, and provide confidence to, clients, as well as the mortgage lenders.
18. The other Fees chargeable are as follows (these are unchanged from 2015-2016):

		Fee	Paragraph	Regulatory Arrangements
1.	Probate Licence	£75	1(a)(ii)	CLC Lawyer – Licensing Framework
2.	First Manager Licence Application	£150		
3.	Duplicate licence	£50	16 & 18	CLC Lawyer – Licensing Framework
4.	Amendment to licence	£75	26	CLC Lawyer – Licensing Framework
5.	Failure to submit Accountant's Report in time	£100	16.2	Accounts Code and Guidance

Permitted Purposes

19. Since it has an exclusively regulatory function, none of the costs the CLC incurs fall outside permitted purposes as set out at rule 6 LSB Practising Fee Rules 2016⁵. The CLC does not incur expenditure related to the following sub-paragraphs of rule 6:
- the provision of services free of charge (sub-paragraph (d));
 - the promotion of the protection by law of human rights and fundamental freedoms (sub-paragraph (e)); or
 - the promotion of relations between the Approved Regulator and relevant national or international bodies, governments or the legal professions of other jurisdictions (sub-paragraph (f)).
20. The CLC participates to a limited extent in law reform and legislative process (sub-paragraph (c)), but more as part and parcel of developing its regulatory framework and does not have a budget dedicated to that activity. The CLC understands the importance of increasing public understanding of

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http://www.legalservicesboard.org.uk/Projects/statutory_decision_making/pdf/2016/20160601_Practising_Fee_Rules_2016.PDF

the citizen's legal rights and duties (sub-paragraph (g)). As set out in the summary of the Business Plan 2016, the CLC is in the course of implementing a new approach to consumer engagement working with Legal Choices partners to increase reach of that website. The CLC has engaged with other legal services regulators in commissioning consumer research into client care agreements.

21. The CLC is required to pay the levy towards the costs of the Legal Services Board and the Office for Legal Complaints (sub-paragraph (b)).
22. Aside from the contributions it makes to the levy (paragraph 21) the entirety of the costs incurred by the CLC relate directly to:
 - (a) the regulation, accreditation, education⁶ and training of applicable persons and those either holding themselves out as or wishing to become such persons, including:
 - (i) the maintaining and raising of their professional standards; and
 - (ii) the giving of practical support, and advice about practice management, in relation to practices carried on by such persons;

Contingency Arrangements

23. Paragraph 1 CLC Compensation Fund Operating Framework expressly reserves to the CLC the right to make a specific levy. It is envisaged that this will only be required when it is anticipated there is likely to be a substantial payment(s) out of the Compensation Fund. The last time the CLC directed the payment of such a levy in addition to the annual contribution was in the mid 1990s. For this purpose, the CLC reserves the right to transfer the balance (assuming sufficient funds were to be available) out of the Practice Fees or Licence Fees collected in the first instance before approaching the profession to recoup those monies at an appropriate stage. This approach reduces the costs associated with the collection of a special levy outside the normal cycle for collection of regulatory fees.

Applicability of the Regulatory Objectives

24. The CLC considers that the income generated by these 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. There are tensions between the different objectives. For example, protecting and promoting the public interest, protecting and promoting the interests of consumers and promoting and maintaining adherence to the professional principles imply a greater need for resources. Improving access to justice and promoting competition in the provision of legal services suggest a requirement to reduce the cost of regulation (and therefore the financial overheads of individual practices) so that there are more practices offering legal services and the fees they charge can be

⁶ As set out at paragraph 21 above by the end of 2016 the CLC will have completed the transfer of its education quality function to SQA

reduced. The CLC has sought to take these factors into account in determining the fee structure which is the subject matter of this application.

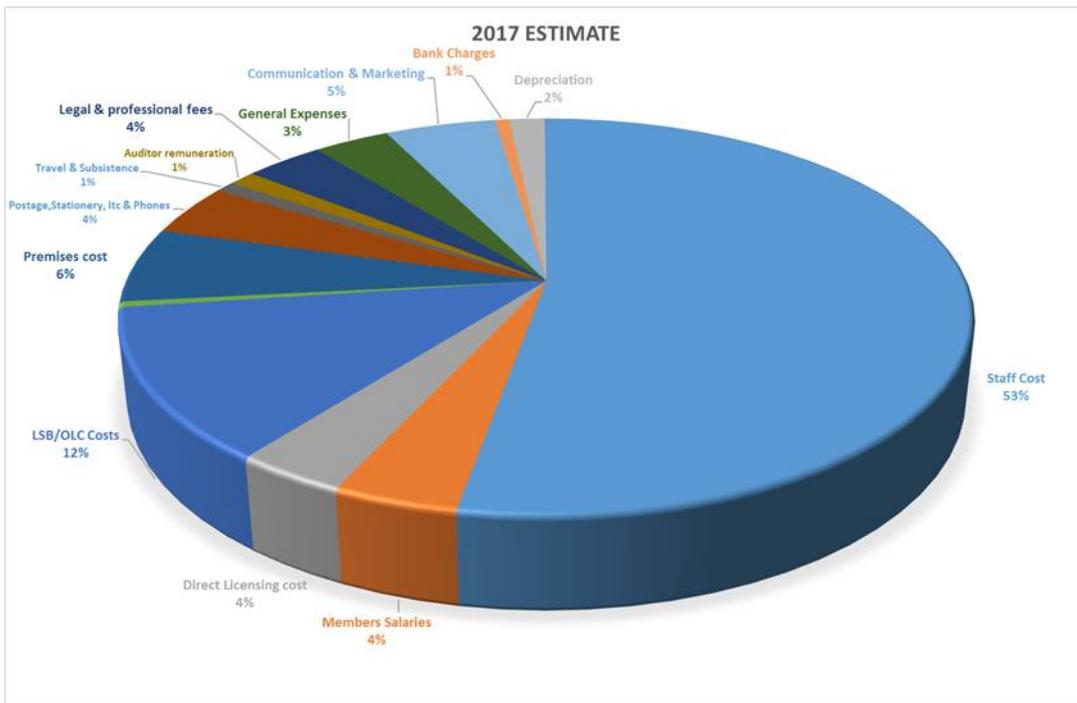
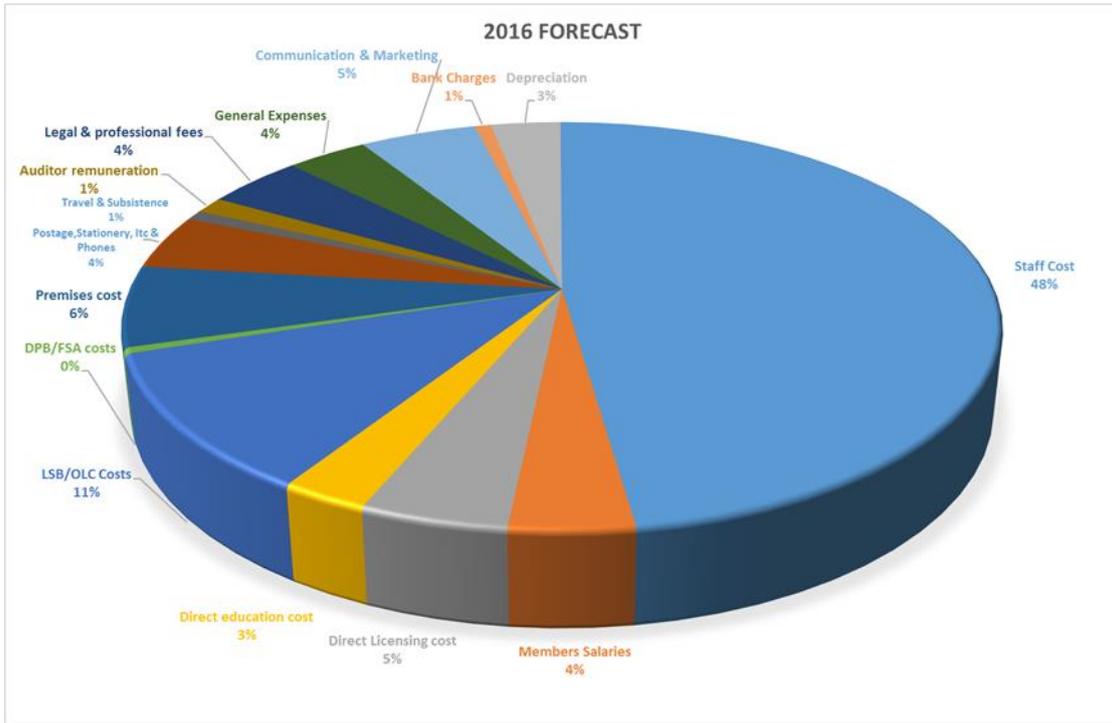
Better Regulation Principles

25. In setting the charges payable by the profession the CLC has taken full account of the better regulation principles, namely that the CLC's regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed:
- They are transparent in that:
 - the way in which charges have been determined is consistent with the 2010, 2013, 2014, 2015 and 2016 Consultations to which all members of the profession had an opportunity to contribute; and
 - an explanation of the structure of charges and details of the budget which has determined the income required will be published to the profession. A draft of the information to be published to the profession is at Annex 4.
 - In setting out the charging structure in this way the CLC has shown itself fully accountable to the profession it regulates, to consumers and to its other stakeholders.
 - The way in which the charging structure has been determined is proportionate to (and targeted towards) the risks it perceives as being generated by different elements of the profession. The CLC continues to work to develop a charging structure linked to regulatory activity and risk.

Matters arising from LSB Decision Letter of 21 August 2015

26. No issues arise from the LSB Decision Letter of 21 August 2015.

Annex 1								
CLC Operational Expenditure								
	2014	2015	2016 FY FC	2017 FC	Variance	2017 FC	Comments on principal variances	
					%	£		
Staff Cost	1,223,046	1,270,919	1,184,960	1,335,434	13	150,474	reflect increased expenditure over 2016 forecast attributed to vacancies during 2016, but a decrease over 2016 budget attributable to a reassessment of staffing requirements to increase capacity of front line staff.	
Members Salaries	94,853	102,345	97,196	102,640	6	5,444		
Direct Licensing cost	282,364	252,301	115,479	91,689	(21)	(23,790)	reduction in the costs of intervention and storage of files	
Direct education cost	95,499	139,787	68,811	-	(100)	(68,811)	Education Services will be outsourced during 2016. No further expenditure is expected for 2017.	
LSB/OLC Costs	218,744	276,902	271,069	312,487	15	41,418	variation out of direct control of CLC	
DPB/FSA costs	12,486	11,415	11,220	11,393	2	173		
Premises cost	58,341	105,070	159,358	154,155	(3)	(5,203)		
Postage, Stationery, Itc & Phones	88,986	169,671	107,185	106,340	(1)	(845)		
Travel & Subsistence	35,625	19,513	20,047	22,600	13	2,553	inspections carried out in 2016 have not generally required overnight stays, this is unlikely to continue in 2017	
Auditor remuneration	32,370	34,898	31,874	30,060	(6)	(1,814)	expectation of reduced costs	
Legal & professional fees	185,478	88,057	104,852	90,000	(14)	(14,852)	reduction in consulting fees	
General Expenses	94,113	88,765	88,216	86,803	(2)	(1,413)		
Communication & Marketing	108,587	82,873	127,105	126,000	(1)	(1,105)		
Bank Charges	17,741	21,796	17,311	16,697	(4)	(614)		
Depreciation	99,303	92,307	75,792	40,213	(47)	(35,579)	reduction in depreciation charges relating to property and IT	
Recharge to comp fund	(68,748)	-	-	-		0		
Tax	2,956	1,174	1,481	1,750	18	269	reflecting increase in interest received	
						0		
	2,581,744	2,757,793	2,481,956	2,528,261	2	46,305		
			#1	#2				
	#1	#1 6 months actual figures to June 2016, with forecast for remaining period						
	#2	#2 12 month forecast based on 2016 half year forecast						



Annex 2



The CLC Fees Framework 2016

Made [date] 2016 by the Council for Licensed Conveyancers with the approval of the Legal Services Board in accordance with s.14, 32 and 38 Administration of Justice Act 1985 and s.51 Legal Services Act 2007.

CITATION, COMMENCEMENT AND REVOCATION

1. This Framework may be cited as the CLC Fees Framework 2016 and shall come into force on 1 November 2016 on which date the Council for Licensed Conveyancers' Fees Rules 2012 shall cease to have effect.
2. "CLC Body" is a Recognised Body or a Licensed Body regulated by the CLC.

LICENSED CONVEYANCERS

3. The fees payable as provided by the CLC Lawyer – Licensing Framework shall be as follows: -
 - (1) under paragraph 1(a)(ii) for the issue of a licence:

for the first time, or where such a licence is not in force at the time of the application (and has not been in force for at least 12 months prior to that date):
£150;
to provide Conveyancing Services or Probate Services: £400
to provide Conveyancing and Probate Services: £475;
 - (2) under paragraph 16 and 18 for an amendment to a licence: £75;
 - (3) under paragraph 26 for a duplicate licence, where chargeable: £50.
4. The additional fee of £100 is payable for failure to submit an Accountant's Report within the time limited (see paragraph 16.2 of the Accounts Code and Guidance).

CLC BODIES

Practice Fee

5. The fee payable by a CLC Body as provided by

- (1) paragraph 5(a)(ii) of the CLC Recognised Bodies – Recognition Framework;
and
- (2) paragraph 7.10 of the CLC Licensed Body (ABS) Licensing Framework
- shall be the turnover declared by the CLC Body for the purpose of determining the applicable annual premium payable in accordance with 10.1 of the CLC Professional Indemnity Insurance Code & Guidance as follows:

Turnover Banding		Practice Fee payable				
From	To	Minimum Fee in Band				
0 and	100,000	856	or	1.2%	Of Turnover	Whichever is the greater
		Minimum Fee in Band			On Turnover in excess of	
100,001	500,000	1,200	plus	1.1%	100,000	
500,001	3,000,000	5,600	plus	1.0%	500,000	
over	3,000,000	28,100	plus	0.9%	3,000,000	

Compensation Fund Contribution

6. The Compensation Fund contribution payable by a CLC Body as provided by
- (1) paragraph 5(a)(iv) of the CLC Recognised Bodies – Recognition Framework;
and
- (2) paragraph 7.11 of the CLC Licensed Body (ABS) Licensing Framework
- shall be the turnover declared by the CLC Body for the purpose of determining the applicable annual premium payable in accordance with paragraph 10.1 of the CLC Professional Indemnity Insurance Code & Guidance as follows:

Turnover Banding		Compensation Fund contribution			
		Minimum Fee in Band			

Between	0 and	£100,000	£500			
			Minimum Fee in Band			On Turnover in excess of
Between	£100,001 and	£500,000	£500	plus	0.4%	£100,000
Between	£500,001 and	£3,000,000	£2,100	plus	0.3%	£500,000
Over	£3,000,000		£9,600	plus	0.2%	£3,000,000

WAIVER

7. The CLC may in writing waive or vary any of the provisions of this Framework and may revoke any waiver in any particular case.

Annex 3

Examples of the Practice Fee and
Compensation Fund contributions payable
(comparing current and proposed rates)

Practice Fee

Turnover	Current	Proposed	Saving to Practice	% change
	Base 1.4%	Base 1.1%		
30,000	1,070	856	(214)	(20)
50,000	1,070	856	(214)	(20)
150,000	2,200	1,750	(450)	(20)
550,000	7,700	6,100	(1,600)	(21)
1,500,000	19,100	15,600	(3,500)	(18)
3,500,000	42,600	32,600	(10,000)	(23)
15,000,000	163,700	136,100	(27,600)	(17)

Compensation Fund

Turnover	Current	Proposed	Saving to Practice	% change
		no change	no change	no change
	Base 0.4%	Base 0.4%		
30,000	500	500	0	0
50,000	500	500	0	0
150,000	700	700	0	0
550,000	2,250	2,250	0	0
1,500,000	5,100	5,100	0	0
3,500,000	10,600	10,600	0	0
15,000,000	33,600	33,600	0	0

Total

Turnover	Current	Proposed	Saving to Practice	% change
30,000	1,570	1,356	(214)	(14)
50,000	1,570	1,356	(214)	(14)
150,000	2,900	2,450	(450)	(16)
550,000	9,950	8,350	(1,600)	(16)
1,500,000	24,200	20,700	(3,500)	(14)
3,500,000	53,200	43,200	(10,000)	(19)
15,000,000	197,300	169,700	(27,600)	(14)

**Annex 4
Information to the profession
CLC regulatory charges
2016-2017**

1. This notification sets out the CLC's determination about:
 - The licence and practice fee structure and the way in which Compensation Fund contributions payable by licence holders will be applied; and
 - the licence and practice fees and the contribution the CLC has determined are payable for the licence year starting on 1 November 2016.

The CLC's licence and practice fee structure, and contributions to the CLC Compensation Fund

2. The CLC's current fee structure (first introduced in February 2010) following consultation with the profession can be summarised as follows:
 - 1) Licence fee (a fixed sum);
 - 2) Practice fee (as a percentage of turnover subject to a minimum fixed fee); and
 - 3) Contributions to the Compensation Fund (as a percentage of turnover subject to a minimum fixed fee) to be applied solely for purposes relating specifically to the CLC's Compensation Fund.

3. The Practice Fee and contributions to the Compensation Fund have been subject to tiered banding as follows:

Turnover £		Banding
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⁷ <http://www.conveyancer.org.uk/Regulation-by-CLC/Past-Consultations/Consultation-on-Regulatory-Fees-May-2016.aspx>

Licence and Practice Fee and Compensation Fund contributions payable for year starting 1 November 2015

5. Examples of the effect the Practice Fee rates and Compensation Fund contributions will have on practices are set out at Annex [numbered].
6. In addition to operational objectives, the 2016 Business Plan⁸ commits the CLC:
 - a) To reform of provision of education to qualification as a CLC Lawyer
 - b) To review of financial protection arrangements
 - c) To review of regulatory arrangements.
7. Annex [numbered] compares actual expenditure for 2014 and 2015, the expenditure forecast outturn for 2016 and the expenditure estimate for 2017. The changes shown in percentage and monetary terms compare the 2016 expenditure forecast with the expenditure estimate for 2017 with brief explanations of the greater variances.
8. The estimated total funding requirement for 2016 is 2017 is £2,526,511 (compared to £2,480,475 forecast outturn for 2016 and £2,745,204 for 2015). It is estimated that setting the Practice Fee at 1.1% (as determined by Council) will generate an income of £2,008,659 based on the turnover of those practices currently regulated by the CLC. Taken with the Licence Fee and Other Income there will be a Total Estimated Income for 2017 of £2,576,528, leading to an estimated surplus of income against expenditure of £50,017.

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Total Income	2,576,528
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10. The Compensation Fund is budgeted to make a surplus of £380,267.

⁸<http://www.conveyancer.org.uk/CLCSite/media/Corporate-Docs/CLC-Business-Plan-2016.pdf>

Compensation Fund		
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Compensation Fund Provision and Costs	(225,000)	
LCs Run Off Cover	(601)	
Funding Requirement		(225,601)
Surplus (shortfall)		380,267

11. In 2014, the Council determined on a cost/benefit analysis not to renew the CLC's Compensation Fund Insurance policy, and instead to create a ring-fenced allocation which is held separately. The CLC's Reserves on the CLC's Compensation Fund are budgeted to remain well above £2,000,000. The CLC is satisfied that the level of reserves is sufficient to meet the expectations of, and provide confidence to, clients, as well as the mortgage lenders.
12. The other Fees chargeable are as follows (these are unchanged from 2015-2016):

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2.	First Manager Licence Application	£150		
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4.	Amendment to licence	£75	26	CLC Lawyer – Licensing Framework
5.	Failure to submit Accountant's Report in time	£100	16.2	Accounts Code and Guidance