

Consultation on changes to the Practising Fee Rules 2009

**A submission by
The Chartered Institute of Legal Executives (CILEx)**

April 2016

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1. Introduction

- 1.1. The Chartered Institute of Legal Executives (CILEx) is the professional association and governing body for Chartered Legal Executive lawyers, other legal practitioners and paralegals. CILEx has around 20,000 in membership, including approximately 7,500 qualified Chartered Legal Executive lawyers.
- 1.2. As an Approved Regulator under the Legal Services Act 2007 we are authorised to grant practice rights in relation to litigation, advocacy, probate, reserved instrument activities, immigration services and the administration of oaths. We have delegated our regulatory functions to the independent regulator CILEx Regulation Ltd.
- 1.3. CILEx is also a nationally recognised Awarding Organisation, regulated by the Office of Qualifications and Examinations Regulation (Ofqual) and Qualifications Wales (QW).
- 1.4. CILEx is committed to transparency in our arrangements.
 - 1.4.1. We annually consult our members on the PCF level, and provide them with a range of options to express their preference, with explanations of what the various PCF level options account for. Generally, we get a good response rate to the consultation.
 - 1.4.2. CILEx applies international accounting standards, which unlike UK Generally Accepted Accounting Principles (GAAP) require a greater degree of disclosure of our finances with extended explanatory notes.
 - 1.4.3. We publish our annual report and accounts, which are independently audited and contain details on all income streams. These are presented each year at our Annual General Meeting, which is openly promoted to the institute's membership.

2. General points

- 2.1. CILEx is a not-for-profit organisation funded through a combination of income streams. We believe a balance of income streams is important for organisational stability; to avoid the risks of over-reliance on one funding stream, and to reduce the cost burden on our members.
- 2.2. Some of CILEx's activity is funded through the PCF, some through our activity as an Awarding Organisation regulated by Ofqual, and we subsidise our activities with commercial income or, when necessary, from reserves. Because of this balance of income streams we estimated in our 2015 PCF application that we would subsidise activity classed as permitted purposes to the tune of £1m in 2016.¹
- 2.3. As part of the application process for approval of the PCF, the LSB currently requires CILEx and other Approved Regulators (ARs) to provide the LSB with:
 - 2.3.1. A description of how the application was developed and settled, along with details of consultation with our members.
 - 2.3.2. An explanation of how the cost to each regulated person breaks down, including the allocations to regulatory functions and other functions.
 - 2.3.3. An explanation of our contingency arrangements in the event of unexpected regulatory needs.
 - 2.3.4. Evidence of the PCF's allocation to permitted purposes only, and
 - 2.3.5. A regulatory and diversity impact statement.
- 2.4. CILEx provides all this information, and goes further in providing the Board with a breakdown of all income streams. This detailed information is broken down to demonstrate income that falls both within and outwith permitted purposes, and comprises;
 - 2.4.1. **PCF income:** the monies paid by CILEx Fellows and Associate Prosecutors (subject to oversight from the LSB)

¹ Appendix 1: 2015 PCF application.

- 2.4.2. **Membership income:** monies paid by other CILEx members for membership services.
- 2.4.3. **Awarding body income:** income derived from particular education projects.
- 2.4.4. **Assessment income:** monies paid by candidates sitting CILEx examinations and from exemption fees (subject to oversight from Ofqual).
- 2.4.5. **Other:** other forms of income, including a small amount of penalty fines imposed by CILEx Regulation Ltd, and income from commercial activities.
- 2.5. We also provide information on all costs, for both permitted purposes and other activities.
- 2.6. CILEx has already demonstrated its commitment to transparency in providing this comprehensive information. We consider this level of detail on the Institute's finances strikes the right balance between transparency and commercial sensitivity.
- 2.7. We would only envisage problems if the Board were to require further breakdown or analysis of commercial figures, as this could result in us being compelled to release commercially sensitive information. To make such information public could be detrimental to CILEx and would put us at a commercial disadvantage to other organisations who would not be subject to similar requirements. CILEx would carefully consider any request for this information and would wish to comply.

3. Awarding Organisation considerations

- 3.1. The LSB in overseeing eight ARs has a duty to be fair and balanced in its measures, and not introduce rules or requirements that disproportionately impact on one AR over others.
- 3.2. Unlike many other ARs, CILEx is an Awarding Organisation (AO), delivering accessible and affordable legal qualifications that have enabled people from diverse backgrounds to qualify and practise as a lawyer. Our vocational and apprenticeship qualifications have enabled more than 100,000 people to pursue a career in law since 1989, and because of how affordable and accessible CILEx is, three-quarters of our lawyers are women.
- 3.3. The activity funded through income in our capacity as an AO is subject to regulatory oversight and requirements from Ofqual. Therefore, whilst CILEx supplies the LSB with information on all budgeted income and expenditure for the purposes of transparency, it is important to consider that not all of CILEx's income or activity is subject to the LSB's oversight alone.
- 3.4. All awarding organisations must meet certain rules set by Ofqual, regardless of what qualifications they offer, including circumstances where fees are concerned in which notifications must be issued to the regulator. Most rules are set out in Ofqual's General Conditions of Recognition², and they include requirements CILEx must consider when making decisions on monies raised in our capacity as an AO.
 - 3.4.1. For example, the unit price for examinations is not something CILEx has unilateral control over in the same way as one would for other commercial activities. In the event CILEx wished to increase exam fees above inflation we are required to raise an 'adverse effect' notice with Ofqual and justify the increase against the impact it will have on our students.
 - 3.4.2. As such, our qualification function is not a commercial venture in the usual sense, as price setting has a regulatory element involved.

² <https://www.gov.uk/government/publications/general-conditions-of-recognition>

- 3.5. How the LSB considers these, and similar, income streams when classifying derivative income is important. We would encourage the LSB to give careful consideration if placing requirements on the use of income that is also subject to oversight from other regulators.
- 3.6. These are particular concerns for CILEx, as the education and training of applicable persons, and those wishing to become such persons, is one of our core functions, and falls under regulatory oversight of both the LSB and Ofqual.
- 3.7. Our qualification function is funded by more than one income stream, as detailed below. This is reasonable because of the significant costs of delivering robust qualifications, the need to maintain high standards of entry, and to ensure CILEx remains as the genuinely affordable route to a legal career.
- 3.8. In the 2015 PCF application we estimated the cost of delivering qualifications in 2016 would be over £1.7m, with total income from exam fees, and other AO functions estimated at less than £1.5m. The shortfall in the past has been met through commercial activity, and where this has not covered the full amount reserves have been utilised, however our long term intention is that this shortfall is met entirely through our commercial activity.
- 3.9. The financial position of the CILEx Group has changed significantly since last year's PCF submission, and recently received advice from our auditors has indicated that a degree of redrafting of our accounts is required to ensure greater transparency, and this exercise is underway at this time. The reliance on reserves and running deficit budgets for several years has been recognised as being untenable in the longer term.
- 3.10. We would urge caution in how the LSB exercises its powers in this area to avoid disruption to the delivery of legal services qualifications. Such disruption could lead to increased exam fees, making the opportunity of a legal career for those from less well-off backgrounds inaccessible. This in our view would be inconsistent with the regulatory objective of encouraging a diverse and effective legal profession.

3.11. Looking forward, the potential separation of regulators from the ARs will require not just detailed transition but a move towards having completely and easily separated accounts and associated governance. CILEx and CILEx Regulation are already considering the impact of such arrangements and will ensure that decisions are taken in the full knowledge that this is an objective of Government.

4. Do the two proposed additional criteria in Rule 10 adequately explain the matters that the LSB will take into account when considering a PCF application?

- 4.1. The explicit consideration of the Regulatory Objectives when assessing PCF applications is welcome. We believe this will give consistency in ensuring the objectives underpin the Board's wider work. CILEx has been recognised as being a key contributor to social mobility and ensuring access to professional qualifications to those from a more diverse background.
- 4.2. We feel it appropriate that transparency is part of the consideration when deciding upon PCF applications. However we would like greater clarity on what further information, if any, would be expected in order to comply, both in general circumstances and when a proposed increase in the PCF is applied for.
- 4.2.1. We would urge caution in requiring ARs to supply information that could be commercially sensitive, and might disadvantage them compared to other organisations who are not required to disclose commercially sensitive information.
- 4.3. The consultation document makes specific mention of the use of derivative income. We would discourage the LSB from making decisions based on derivative income in isolation from associated costs. To only consider the income side without recognising relevant costs could result in requirements being placed on ARs that disrupt services and functions that are of benefit to the regulated community and the public, and allowed for by legislation.
- 4.3.1. It should be recognised that where derivative income subsidises permitted purposes it in effect serves as 'added value', augmenting the impact of PCF contributions, and enabling smaller organisations such as CILEx to better deliver our functions as an AR in a more efficient manner.
- 4.4. As identified above, we also feel the LSB should consider carefully if placing requirements on the use of income that is subject to oversight from other regulators. CILEx's model and the profile of the Group differs from that of the

other ARs and this needs to be factored into any change that might be proposed.

4.5. However, we acknowledge that where a surplus is being generated, either wholly, or in part, from PCF contributions, there may be grounds for discussion on the appropriate use of that surplus. Therefore we would recommend that 'derivative surplus' would be a more accurate criterion on which to base relevant PCF decisions on, which would bring the benefit of being less disruptive to important functions and services.

4.5.1. Information on derivative surplus, as opposed to derivative income alone, would provide a more accurate depiction of the financial arrangements of ARs, and serve as a more sophisticated criterion on which relevant decisions can be made.

4.5.2. The potential for a surplus to be made will depend on the level of costs that are incurred and the extent to which the overall financial context of the CILEx Group impacts upon strategic decisions about where resources are directed.

4.5.3. Any decisions on the use of derivative surplus would, where relevant, need to acknowledge any other regulatory oversight that applies.

5. Are the LSB's proposed changes to the evidence requirements clear?

- 5.1. As highlighted above, CILEx already supplies information on all its income streams. We believe this is important for transparency and public confidence in our work.
- 5.2. CILEx is committed to three-year forecasting, although this is used for internal purposes to support decision making and management information. In the event CILEx were to apply for an increase to the PCF, we would be capable of supplying three year forecasts to the LSB; however this would require changes to our financial reporting models to ensure the information was mapped and modelled so it can be provided in the appropriate format.
 - 5.2.1. This would be a not insignificant project, and thus we would recommend any such rule should be introduced after a sufficient transition period to allow for adjustments to financial modelling to be made. The changes that have been required by our auditors will support greater transparency of regulatory costs and associated income.
- 5.3. Additionally, the rules as drafted would require ARs to submit the additional evidence even in circumstances where a PCF increase was in line with inflation. This would place a significant burden on both ARs and the LSB in preparing and reviewing additional documentation simply for continuing ordinary activity.
 - 5.3.1. We would therefore recommend the evidence requirements apply where the proposed PCF increase is above inflation.

6. Suggestions for Additional Guidance

- 6.1. CILEx would like the LSB to consider the following when developing its guidance:
 - 6.1.1. Clarity on exactly how much detail ARs are expected to provide in order to be considered transparent, but without providing commercially sensitive information.
 - 6.1.2. Not placing undue requirements on income or activities when these are subject to oversight from other regulators.
 - 6.1.3. Using 'derivative surplus' as a criteria, as opposed to 'derivative income', which ignores relevant costs and does not provide a full or accurate financial picture on which to base regulatory decisions.
 - 6.1.4. Any new evidence requirements should only be introduced after an appropriate transition period to allow for ARs to allow for adjustments to financial modelling to be made.
 - 6.1.5. The proposed additional evidence requirements should only apply where the proposed PCF increase is above inflation.

CILEx AND CILEx REGULATION PRACTICE CERTIFICATE FEE (PCF) APPLICATION FOR 2016 FEES

Introduction

CILEx is an Approved Regulator under the Legal Services Act 2007 for Chartered Legal Executives, Associate Prosecutors, CILEx Practitioners and entities. CILEx Regulation has been established by CILEx to undertake its regulatory functions.

This submission sets out the Practice Certificate Fees proposed to be charged to:

- CILEx Fellows;
- Associate Prosecutor Members of CILEx;
- CILEx Practitioners; and
- Authorised entities

for the subscription year of 2016. It also sets out the process by which the proposed fees have been determined.

CILEx Council agreed its proposals for 2016 Practice Certificate fees at its meeting on 10 July 2015, having considered the 2016 budget agreed by CILEx Regulation at its Board meeting in March 2015.

Independence

We confirm that CILEx Regulation set its budget independently. CILEx Regulation has its own strategy and business plan which are reviewed annually. The review it undertook in December 2014 determined the strategic aims for 2015-19 and the key activities and thereby the resource needs of CILEx Regulation for 2016.

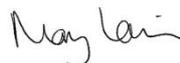
CILEx confirms that requests for additional resources will be met. CILEx Regulation has no concerns about securing such resources.

CILEx Regulation and CILEx consulted jointly with Fellows regarding alternative levels of Practising Certificate Fee. Associate Prosecutor Practice Certificate Fees are paid by the Crown Prosecution Service. There has been correspondence with the CPS regarding the proposed fees, rather than with individual Associate Prosecutors. CILEx Regulation also consulted on practice rights and entity regulation fees.

Signed



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CILEx Regulation CEO



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PART A

APPLICATION

CILEx is an approved regulator for CILEx Fellows; Associate Prosecutor Members; CILEx Practitioners; and authorised entities.

CILEx Fellows are regulated for the administration of Oaths. Associate Prosecutor members are employed by the Crown Prosecution Service and authorised to conduct litigation and exercise rights of audience.

CILEx Practitioners are authorised to provide one or more of the following reserved or regulated legal activities:

- Conduct of litigation
- Rights of audience
- Probate activities
- Reserved instrument activities
- Immigration advice and services.

Entities may apply to CILEx for authorisation to deliver one or more of the reserved or regulated legal activities. Entities pay an annual regulatory fee and make a contribution to the Compensation Fund.

This application begins with general information on budget and strategy and then deals with each of the above individually.

PART B: GENERAL

SECTION 1: BUDGET AND RESOURCE NEEDS

The CILEx Group develops three year budgets and business plans, which are described below. The business and strategic planning enabled resource needs to be identified from which budgets for 2016 were produced.

CILEx Regulation

CILEx Regulation took the lead in setting the 2016 budget for regulatory costs for CILEx Regulation.

In December 2014 CILEx Regulation reviewed its strategic aims which led to the update to its 5 year strategy spanning the period 2015 to 2019. The Board has set the key activities CILEx Regulation must achieve towards meeting its strategic aims. From this CILEx Regulation has identified the activities and ensuing resource needs for 2016 to enable it to achieve its key aims.

The draft budget was prepared by the CEO of CILEx Regulation in the light of expected maintenance of regulatory work, the projects to be undertaken during the year and the implementation and development activity to be undertaken in respect of existing projects. The CILEx Regulation Board considered the draft budget at its meetings on 27 January and 19 March 2015, at which it was finalised and agreed by the Board.

In April 2015 the CILEx Director of Group Services produced details of the costs of permitted purposes activities, following identification by each team of the permitted purposes work they undertake. The analysis of permitted purposes costs appears at **table 2**. The Board was satisfied that the costs were a fair reflection of the permitted purposes costs incurred by CILEx Regulation and reflected the activities undertaken by CILEx staff under the CILEx Regulation/CILEX service level agreement, as well as the costs of permitted purposes activities carried out by CILEx as the Approved Regulator.

The budget and regulatory costs agreed by CILEx Regulation were provided to CILEx to inform its budgeting process and to enable the Practice Certificate Fees for 2016 to be agreed.

CILEx

The CILEx Group budget process incorporates 3 main phases.

- A strategy development period

- A detailed draft budget for the next financial year incorporating the CILEx Regulation budget
- Production of a three-year budget incorporating the CILEx Regulation three-year budget.

The strategic phase considers the political, economic, regulatory and competitive context of the sectors and markets the CILEx group operates in. This informs the development of the three year financial projection.

Assumptions are made regarding inflation, resource requirements, the number of authorised persons and other grades of member and the likely income and expenditure from awards (ie examinations) and commercial activities carried out by the CILEx group.

CILEx considers the activities it undertakes which are classified as permitted purposes under the Legal Services Act 2007, and a breakdown is shown at **table 2**.

SECTION 2: RESERVES ARRANGEMENTS

CILEx Regulation does not hold any reserves itself. The CILEx reserves policy prescribes that it should hold at least the equivalent of a minimum of 12 months budgeted practice certificate fee and membership income in reserve. Protocols between CILEx Regulation and CILEx provide that CILEx will meet the reasonable funding requirements of CILEx Regulation; which would include exceptional costs – for example, in relation to staffing or legal claims or new regulatory developments. In fact CILEx has built up reserves over a considerable period of time, which currently stands at £7.0 million (which is over 2.5 times the level of PCF income in the 2016 budget). Whilst those reserves are available to the whole CILEx group, not just CILEx Regulation, CILEx Regulation is confident that the resources are available should it need them.

As will be seen from the analysis of regulatory and permitted purposes costs in **table 3**, the fees budgeted for 2016 are intended towards delivering a balanced budget. Practising Certificate and permitted purposes fees will not go towards increasing the Group reserves.

SECTION 3: CONTINGENCY ARRANGEMENTS

As mentioned above, the CILEx Group has accumulated considerable cash reserves in accordance with its Reserves Policy. This policy was developed specifically so that CILEx can meet unexpected needs of a varying nature, including regulatory needs. Therefore CILEx Regulation believes that there are sufficient resources in CILEx, should it need to access additional funds from the representative body.

SECTION 4 – REGULATORY AND DIVERSITY IMPACT ASSESSMENTS

The CILEx Group has a Single Equality and Diversity Scheme and Action Plan. This identifies ways in which the group can continue to improve access to its services. The plan encompasses the requirement of the Equality Act 2010, sets out the equality and diversity objective and action plans for the CILEx Group for 2011 to 2015.

The CILEx Group will actively promote equality against the required protected characteristics. The CILEx Group has due regard to advancing equality of opportunity when taking action to achieve the objectives. It identifies the potential impact on various groups within its membership through the consultation with Fellows, the CPS, members and potential applicants.

Regulatory Objectives and better regulatory principles

CILEx Regulation and CILEx are aware of the importance of ensuring that the Practice Certificate Fee covers the budget for activities that support the regulatory objectives set out in the Legal Services Act. CILEx Regulation and CILEx believe that the Practice Certificate Fee income will be spent solely on regulatory activities and permitted purposes that aim to promote adherence to the regulatory objectives e.g. authorisation and supervision functions, supporting members on the modernised CPD scheme, entity regulation (as applicable) together with providing advice and support to members to be able to meet new requirements.

CILEx Regulation and CILEx acted in accordance with the principles of proportionality, accountability, consistency, transparency and targeted in determining and developing the Practice Certificate Fee for 2016.

Transparency and accountability have been ensured through the manner in which consultation was carried out with each affected member, applicants and the CPS. The process has been described later in this submission.

The processes in determining the Practice Certificate Fee have been targeted solely at the regulatory and permitted purposes and a proportionate approach, in line with CILEx' original 3 year budget plans, has been taken to determining the activity and thereby budgetary needs.

SECTION 5: CONSULTATION WITH NON-COMMERCIAL BODIES AND THE CONSUMER PANEL

The practice rights and entity fee consultations were open to all respondents, including non-commercial bodies and the consumer panel.

The consultation on the practice fees for Fellows did not include commercial bodies. Section 51(7) provides that the LSB may consult with such bodies as it considers appropriate about the impact of proposed fees on persons providing non-commercial legal services. The term 'persons' includes organisations or entities. CILEx Fellows are regulated and pay Practising Certificate Fees as individuals rather than entities and there is no direct impact on non-commercial bodies, which requires CILEx Regulation to consult with them. All CILEx Fellows have been consulted, including those who work in non-commercial bodies. As the responses to the consultation show, Fellows who work in local authorities have drawn attention to the difficulties they face because of pay constraints over a number of years and the fact that their employers do not pay their practising fees. However those views have to be set against the value to them of their Practising Certificate and the views of Fellows as a whole.

Associate Prosecutor fees are paid by the Crown Prosecution Service and therefore consultation took place direct with them.

PART C: CILEx FELLOWS AND ASSOCIATE PROSECUTOR MEMBERS

SECTION 1: DEVELOPING THE APPLICATION/SETTING THE BUDGET

The Practising Certificate Fee levels that have been proposed are set out in the table below. The fees were agreed by CILEx Council at its meeting on 10 July 2015 for submission to the LSB.

Table 1: Fee levels

PC Fee	2016 Budget Year	2015 Current Year	Increase (£ & %)
Authorised Person (Fellow)	£355	£318.50	+£36.50 (+11.5%)
Associate Prosecutor	£176	£159.75	+£16.25 (+10.2%)

The level of the 2015 Practising Certificate Fee was determined, having identified the costs of regulatory and permitted purposes activities proposed for 2016, through the procedures set out in Part B.

The CILEx Council considered an outline draft budget and business plan in May 2015 and proposals for consulting with Fellows and Associate Prosecutor Members on the Practice Certificate Fee, which had been developed.

CILEx Fellows - options

Council agreed to consult on two options for Fellows. These were, on a per capita basis:

- £355 – the full cost of regulatory and permitted purposes activities; or
- £345 – which moves towards recovering the full cost of regulation and permitted purposes.

CILEx Regulation was content that Fellows be asked for their views on these alternatives. The consultation letter sent jointly by CILEx Regulation and CILEX Chief Executives is attached at **appendix 1**. It was sent by email wherever possible and by post where members had not registered an email address.

Associate Prosecutors - options

There was no direct consultation with individual Associate Prosecutors as the Crown Prosecution Service pays their Practice Certificate Fees. CILEx Regulation corresponded with the CPS on the proposal. They sought views of the CPS policy

lead on proposals to increase the Practising Certificate Fee for Associate Prosecutors. The consultation proposed to increase the fees to £197, representing a 23% increase.

Consultation Process and responses - Fellows

The consultation process started on 5 May 2015 with an e-mail sent to 7,698 Practising Fellows and a hard copy letter to approximately 150 Practising Fellows who did not have an e-mail address. A further 100 Fellows were also surveyed by post as their email returned the survey undeliverable.

Copies of the communication appear at **appendix 1** which clearly demonstrates CILEx Regulation's and CILEx's approach to how the options were arrived at and how the income derived from the Practising Certificate Fee is spent across regulated activities and permitted purposes.

The email and letter invited Fellows to complete a survey which was available online. The email provided a link to the survey. The Fellows who were contacted by letter were invited to complete the online survey or make a response by post.

On 1 June 2015 a reminder was sent electronically to Fellows who had not yet opened the consultation. The consultation closed on 5 June 2015.

Consultation Outcomes:

All respondents were invited to complete the survey on line via Survey Monkey. A total of 1095 responses were received made up of 1089 electronic, 5 email and 1 response by post. This represents a 78% increase against the 614 responses received last year. Ease of response via Survey Monkey is likely to have been a factor.

Of the total number of respondents 1063 voted for one of the fee options. The votes were split as follows:

Option A	£355.00	Full Cost regulatory and permitted purposes	582	55%
Option B	£345.00	Move towards full cost of regulatory and permitted purposes	481	45%
		TOTAL	1063	100.00%

622 respondents commented on the proposals, including some Fellows who commented but did not vote. The comments were wide ranging from support for the proposals to comments displaying an austerity theme.

CILEx Council decided that the fee be set at £355 on the basis that the majority respondents voted for this option.

Consultation process and response - Associate Prosecutors

The Memorandum of Understanding between the CPS, CILEx Regulation and CILEx states that Practice Certificate Fees will be agreed by the parties each year. The proposals were communicated to the CPS with background information regarding the basis on which the proposed fee options had been arrived at. Attention was drawn to the work which CILEx Regulation undertakes and that an amount of permitted purposes costs proportionate to the work carried out for Associate Prosecutors be included.

The CPS objected to the proposals on the basis that the level of regulatory work required in respect of Associate Prosecutors was facilitated by the CPS in manner that is not possible for other regulated individuals, reducing the burden on CILEx Regulation. CILEx Regulation acknowledges the manner in which supervision activity over Associate Prosecutors is carried out.

The CPS also brought to CILEx Regulation's attention the financial constraints that it and the public sector face, leading to it needing to find cost reduction.

CILEx Council considered the analysis provided to the CPS and the CPS response. It recommended that the Practice Certificate Fee for Associate Prosecutors should be £176, representing a move towards a break-even budget.

SECTION 2: PERMITTED PURPOSES

In setting its Practice Certificate Fee for 2015 the CILEx group considered which activities were permitted purposes. **Table 2** sets out the allocation to permitted purposes by department in CILEx. In total, CILEx identified that £2,746,114 was the required budget to cover regulatory activities and other permitted purposes expenditure for 2016, and therefore the income from budgeted Practice Certificate Fees of £2,740,795 provides 99.8% of the total required. Practice Certificate Fee income is expected to cover the regulatory activities expenditure of the Group, but not all other permitted purposes expenditure. This is provided from other sources, and as such, these other sources of income subsidise the full cost of permitted purposes activities.

Table 2: CILEx Departments Permitted Purposes Allocation

CILEx Department	All Permitted Purposes Activities	Other Activities	Total
Membership	85.0%	15.0%	100.0%
Qualifications	92.0%	8.0%	100.0%

International	30.0%	70.0%	100.0%
Journal	25.0%	75.0%	100.0%
Regulatory Affairs	79.0%	21.0%	100.0%
Comms & Marketing	90.0%	10.0%	100.0%
Central Resources	84.0%	16.0%	100.0%

The permitted purposes percentages are based on an assessment by CILEx staff of the amount of departmental time they spend on all permitted purposes activities or in providing services to CILEx Regulation under the service level agreement. The 'other' column relates to work carried out by CILEx staff which does not relate to regulatory or permitted purposes activities; for example, in relation to the Journal the content aimed at CILEX members as members or, in relation to international and paralegal work, work which does not relate to the professional membership programmes.

Those activities that CILEx identified as permitted purposes include:

- CILEx membership department – provides and maintains the Fellows, Associate Prosecutors and members database; issues PCF invoices; liaises with authorised persons; maintains CPD records; provides information to CILEx Regulation about authorised persons and members.
- CILEx Awards and International department – provides support to ensure that standards of qualification, training and assessment are fit for purpose; provides details of assessment results by candidate, centre and student; provides reports and minutes of relevant committee meetings; liaison with Ofqual; provides details of any alleged misconduct; maintains relations with overseas CILEx centres; attendance at stakeholder meetings; attendance at professional institute forums.
- CILEx Journal department – provides the use of the Legal Executive Journal publication; editorial support; educational articles; direct mailing to authorised persons and members.
- CILEx Regulatory Affairs department – provides representation, liaison and support in the areas of law reform, policy, lobbying, equality and diversity, pro bono and judicial appointments. Manages relationship with LSB, other Approved Regulators and government.
- CILEx Communications and Marketing department – maintains and supports the CILEx Regulation website; CILEx Regulation publications; press releases; marketing plan and strategy; supports the marketing of new regulatory activity; and liaison.
- CILEx central resources– provides HR; finance and accounting; procurement facilities.

The proposed budgeted income from practice certificate fees in 2016 of £2,740,795 will meet the £2,476,762 regulatory expenses.

Table 3 (which appears as a separate document) shows the total CILEx Group draft budget for 2016, and analyses income and expenditure by regulatory-related activity, other permitted-purposes activity (with a sub-total for total permitted purposes activity), other activities that are not regulatory or other permitted purposes activities and then a final grand total for the Group.

SECTION 3 – REGULATORY FUNCTION

CILEx Regulation sets its budgets independently. The Board of CILEx Regulation determined its resource requirements for the 2015 budget period by considering the projected budget against its strategic aims for 2015. The budgets were considered at the CILEx Regulation Board meeting on 19 March 2015. The budget was thereafter incorporated into the CILEx group budget.

Table 3 shows how the Practice Certificate fee income is spent on regulatory activities including CILEx Regulation.

SECTION 4 – CLARITY AND TRANSPARENCY

A letter was mailed to each member who would be responsible for paying Practice Certificate Fees. This is the Fellows of CILEx. A copy of the letter appears at **appendix 1**. Where a Fellow did not have an email the letter was posted.

Associate Prosecutor members are also responsible for paying the Practice Certificate Fee. This fee is paid by the CPS. Therefore in the case of Associate Prosecutors CILEx Regulation consulted directly with the CPS Headquarters. A summary of the discussion appears above.

Chartered Legal Executives are the voting members of the company. They receive the CILEx Annual Report, which incorporates the annual audited accounts, in time to attend the Annual General Meeting and may raise issues there or in advance. The Annual Report and Accounts are available at (www.cilex.org.uk). No member attended the AGM held on 10 July 2015 to raise any issue regarding Practice Certificate Fees or raised any matter in advance of it.

PART D: CILEx PRACTITIONERS

CILEx Practitioners are authorised to provide one or more of the following reserved or regulated legal activities:

- Conduct of litigation
- Rights of audience
- Probate activities
- Reserved instrument activities
- Immigration advice and services.

This part of the application deals with practising fees payable by CILEx Practitioners.

SECTION 1: DEVELOPING THE APPLICATION/SETTING THE BUDGET

The Practising Certificate Fee levels that have been proposed are set out in the table below. The fees were agreed by CILEx Regulation at its meeting on 16 July 2015 for submission to the LSB.

Table 4: Fee levels for CILEx Practitioners

PC Fee	2016 Budget Year
Fellow with practice right	£50 per practice right (in addition to Fellowship fee)
CILEx member (non-Fellow) with practice right	Fellowship fee plus £50 per practice right
Non-CILEx member with practice right	£366 for first practice right plus £50 for each additional right

The level of the 2016 Practising Certificate Fee was determined, having identified the costs of regulatory and permitted purposes activities and the LSB levy proposed for 2016.

CILEx Regulation

CILEx Regulation took the lead in setting the 2016 budget for regulatory costs for practice rights. Specifically it considered the supervision activities it carries out to identify its resource and budget needs.

Fellows with practice rights

The Fellowship practice fee, set out in Part C, covers the cost of CILEx Regulation, permitted purposes and the LSB levy. In addition CILEx Regulation carries out specific supervision activity for each practice right. It was therefore proposed that Fellows pay an additional £50 for each practice right to cover the cost of the additional supervision activity.

CILEx members with practice rights

It was recognised that the position of graduates and other grades of CILEx member who have practice rights is different to that of Fellows. This relates to probate and reserved instrument practice rights.

These members have previously paid an annual subscription to CILEx but not a practice fee. Therefore it was proposed that they pay the same practice fee as Fellows, as they become an Authorised Person.

Non-members with practice rights

A person with probate or conveyancing practice rights may or may not be a member of CILEx. The difference between these individuals and CILEx members is that they do not gain the full benefits of the permitted purposes activities, as they are not CILEx members. Therefore the practice fee proposal included that these individuals should pay only for those elements of permitted purposes that form part of shared services as well as the LSB levy and CILEx Regulation costs. This amounts to £291 per applicant.

In addition they will pay for services that CILEx Regulation provides which would otherwise have been provided by CILEx teams and formed part of the permitted purpose activity. These services are administration of applications; financial management; certification; handling queries; and information transmission. The costs of these services are £75.

Consultation

CILEx Regulation agreed to consult on the following fee proposals:

- Fellows with practice rights £50 fee for each practice right;
- CILEx members with practice rights – same fee as Fellows plus £50 for each practice right;
- Authorised Practitioners who are not CILEx members - £366 for practice right and £50 for each additional practice right.

The consultation letter sent by CILEx Regulation is attached at **appendix 2**. It was sent by email to all individuals who have applied for practice rights.

Consultation Process and responses

The consultation process started on 5 June 2015 with an e-mail sent to 19 individuals with practice rights or applications for practice rights. An e-shot was sent to all CILEx members on 11 June, 18 June and 25 June 2015 to seek the views of the wider membership. News items about the consultation were also placed on the

CILEx Regulation website to seek wider views, including from non-members and potential future applicants. Copies of the communication appear at **appendix 2**.

The email invited respondents to complete a survey which was available online. The email provided a link to the survey.

The consultation closed on 30 June 2015.

Consultation Outcomes:

All respondents were invited to complete the survey on line via Survey Monkey. A total of 30 responses were received.

27% respondents favoured the £50 top up fee for Fellows. The comments provided by respondents focused on views that the Fellowship fee was high enough. Most respondents did not distinguish that this was for additional practice rights, and the cost of this should not fall on the whole membership. The CILEx Regulation Board took into account the nature of the responses and agreed that Fellows pay the £50 top up fee.

52% respondents agreed that CILEx members who are not Fellows and have practice rights should pay the same fee as Fellows. The comments made by respondents expressed some unease that non-Fellows could gain practice rights, although this was not the aim of the consultation. The CILEx Regulation Board agreed with the majority view that non-Fellow members with practice rights pay the same fee as Fellows.

48% respondents agreed that non-members with practice rights should pay £366. The comments made by respondents disclosed mixed comments between supporting the proposal and misunderstanding as to the difference between this and the Fellowship fee. The CILEx Regulation Board took into account that the difference relates to the fact that these individuals are not members and therefore do not gain the services and advantages that members gain and therefore adjustments were made to permitted purpose contributions to reflect this. The Board agreed to the fee of £366.

SECTION 2: PERMITTED PURPOSES

In setting its Practice Certificate Fee for 2016 for individuals with practice rights consideration was given to which activities were permitted purposes. **Table 2** (see earlier) sets out the allocation to permitted purposes by department in CILEx.

It was agreed that Fellows and other members of CILEx should contribute the same amount to permitted purposes as Fellows without practice rights. This is because

they gain the same benefits from permitted purpose activities as Fellows. The outline in Part D sets out the permitted purpose activity.

Adjustments have been made to the level of permitted purpose contribution to be made by individuals with practice rights who are not members of CILEx. Section 1 of this part provides a breakdown of the permitted purpose activity to which they are required to contribute and of which they gain benefit.

PART E: ENTITIES – PRACTICE FEES AND COMPENSATION FUND CONTRIBUTIONS

Entities may apply to CILEx for authorisation to deliver one or more of the reserved or regulated legal activities. Entities pay an annual regulatory fee and make a contribution to the Compensation Fund.

SECTION 1: DEVELOPING THE APPLICATION/SETTING THE BUDGET

The Practising Certificate Fee levels that have been proposed are set out in the table below. The fees were agreed by CILEx Regulation at its meeting on 16 July 2015 for submission to the LSB.

Table 5: Fee levels for entities

Turnover	Client account	Escrow	No client money held
£100,000	1025	830	670
£200,000	1425	1230	1025
£300,000	1625	1430	1125
£400,000	1825	1530	1225
£500,000	2025	1630	1225
£750,000+	2825	2330	1825

Entities also pay an annual contribution to the compensation fund. The contributions were agreed by CILEx Regulation at its meeting on 16 July 2015 and are set out in the table below.

Table 6: Compensation Fund contribution levels for entities

	Turnover amount	ENTITY TYPE		
		Client account	Escrow	No client money
Litigation Immigration	Up to £100,000	600	450	300
	£100,001 to £200,000	800	650	400
	£200,001 to £300,000	1000	750	500
	£300,001 to £400,000	1200	800	600
	£400,001 to £500,000	1400	1050	700
	£500,001 to £750,000	1700	1300	850
	£750,001 to £1,000,000	2500	1750	1250
	£1,000,000 +	5000	3500	2500
Probate Conveyancing	Up to £100,000	800	600	400
	£100,001 to £200,000	1000	750	500
	£200,001 to £300,000	1200	950	600
	£300,001 to £400,000	1400	1050	700
	£400,001 to £500,000	1600	1200	800

	£500,001 to £750,000	2000	1500	1000
	£750,001 to £1,000,000	3000	2200	1500
	£1,000,000 +	6000	4400	3000

The level of the 2016 entity fee was determined, having identified the costs of regulatory and permitted purposes activities and the LSB levy proposed for 2016. Table 7, which appears as a separate document, identifies the budgeted income and expenditure relating to entity regulation.

CILEx Regulation

CILEx Regulation took the lead in setting the 2016 budget for regulatory costs for entities. Specifically it considered the supervision activities it carries out to identify its resource and budget needs and projected entity numbers.

In setting entity fees CILEx Regulation has continued to take a risk based approach. The risk factors affecting fees relate to entity size, determined by turnover, and how client money is handled.

The Compensation Fund contributions remain at the same level as for 2015.

Consultation Process and responses

CILEx Regulation agreed to consult on the following fee proposals, as set out in tables 5 and 6. The consultation letter sent by CILEx Regulation is attached at **appendix 2**.

The consultation process started on 5 June 2015 with an e-mail sent to 19 individuals with practice rights or applications for practice rights and those making or interested in making applications for entity regulation. An e-shot was sent to all CILEx members on 11 June, 18 June and 25 June 2015 to seek the views of the wider membership. News items about the consultation were also placed on the CILEx Regulation website to seek wider views, including from non-members and potential future applicants for entity regulation. Copies of the communication appear at **appendix 2**.

The email invited respondents to complete a survey which was available online. The email provided a link to the survey.

The consultation closed on 30 June 2015.

Consultation Outcomes:

All respondents were invited to complete the survey on line via Survey Monkey. A total of 30 responses were received.

40% respondents to the consultation agreed to the proposals for practice fees for entities. The comments ranged from respondents being unsure about what the fee proposal related to and those believing the starting point should be a lower fee to attract sole practitioners.

CILEx Regulation gave careful consideration to the bandings for fees. It took the view that the first band would be adequate for small practices, taking into account the level of regulatory activity and supervision required for small practices. It also took into account that a lower fee would not achieve the objective of covering the full costs of regulation, leaving CILEx members to subsidise entity regulation. It therefore decided to set the fees at the levels proposed.

In respect of compensation fund contributions 61% respondents agreed to the proposal. Comments made by respondents included a wish for lower contributions while recognising that this was not possible. There was one comment about smaller entities being allowed a smaller contribution. The CILEx Regulation Board reviewed the responses at its meeting on 16 July 2015 and agreed to retain the contributions at the levels proposed.