



**Council for Licensed Conveyancers  
Application to the Legal Services Board  
Under schedule 4 Legal Services Act 2007  
For Approval of Changes to its  
Licence and Practice Fees Arrangements  
August 2010**

## **Summary**

- A. The CLC asks the LSB to approve changes to the scheme by which fees are levied from the licensed conveyancer profession. The CLC's aim is to ensure that the scheme is consistent with the principles of good regulation in that the method of charging is transparent, consistent and proportionate, and the CLC is properly accountable for the way in which those fees are determined.

### Licence Fees

- B. Current Arrangements – Each licensed conveyancer is required to pay an annual licence fee dependent on whether that licensed conveyancer holds a “full” (now termed a “manager”) licence or a “limited” (now termed an “employed”) licence. The terms “full” and “limited” were introduced by way of amendment at s.15(7) Administration of Justice Act 1985 in 1990<sup>1</sup> and subsequently repealed on 31 March 2009<sup>2</sup>.
- C. New Arrangements – A single fee rate will be charged to all licensed conveyancers.

### Compensation Fund

- D. Current Arrangements -The contributions made by each CLC regulated Practice to the Compensation Fund are applied not only for the maintenance, management and administration of the Fund, but also for the protection of the Fund. This includes paying the costs associated with regulatory oversight of the profession (in particular monitoring inspections) and the costs of intervention into Practices (see further paragraph 22 of Consultation Paper at Annex 1). The fee charged is calculated as a percentage of turnover.
- E. New Arrangements – The funds in the Compensation Fund will be applied only for the maintenance, management and administration of the Fund. The fee payable will continue to be determined as a percentage of turnover of each Practice.

### Practice Fee

- F. Current Arrangements – there is no Practice Fee.
- G. New Arrangements – together with the Licence Fee, a Practice Fee levied on each Practice (subject to a minimum contribution, calculated as a percentage of turnover) will meet the regulatory costs incurred by the CLC, apart from those associated with the maintenance, management and administration of the Compensation Fund.

### Other Fees to be charged

- H. These are set out at paragraphs 20-22.

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<sup>1</sup> Para 23 sch 8 Courts and Legal Services Act 1990

<sup>2</sup> When para 4(4) sch 17 LSA came into force (SI 2009/503)

## **Introduction**

1. The CLC is required under part 3 of schedule 4 to the Legal Services Act 2007 to obtain approval from the Legal Services Board for changes to its regulatory arrangements. This application relates to changes to the structure of its Regulatory Fee Arrangements. A separate application will be made under s.51 LSA to approve the specific rates the CLC intends to levy on the profession.

## **Permitted Purposes**

2. Since it has an exclusively regulatory function none of the costs the CLC incurs fall outside permitted purposes as prescribed at rule 6 LSB Practising Fee Rules 2009. 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)).
3. 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 the citizen's legal rights and duties (sub-paragraph (g)). This is work that will be receiving greater attention from the CLC over the coming months.
4. 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)).
5. Aside from the contributions it makes to the levy (paragraph 4) the entirety of the costs incurred by the CLC relate directly to:
  - (a) the regulation, accreditation, education 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;
6. As at 1 July 2010 the CLC regulates 1,073 licensed conveyancers (285 Managers and 788 employed licensees) and 201 practices. It does not currently have accurate reliable data as to how many licensees are Managers of, or employees in, SRA regulated practices, nor how many licensees are

employed in industry or in local Government. The CLC is in the final stages of developing a Management Information System which will allow licensees and Practices directly to input this information through its website, so enhancing the scope and accuracy of its data on all regulated individuals and practices.

7. The CLC regulates a wide range of Practices from the traditional sole practitioner through to practices generating over a million pound turnover.

### **Current Regulatory Fees**

8. Manager licensed conveyancers pay £880 per annum for a licence and employed licensed conveyancers £480 per annum. These charges have been unchanged since 1 September 1999.
9. In addition, Practices have been required to make contributions to the CLC's Compensation Fund calculated as a percentage of the turnover declared to the insurers of the Master Policy for the purposes of determining (together with claims history) the premium payable for professional indemnity insurance required by the CLC's Indemnity Rules. The percentage contribution to the Compensation Fund has varied. It was at 5.0% in 1996/1997 and has been at 1.5% since 2007/2008. As the turnover of some practices has increased significantly in comparison with other practices, the CLC has introduced a tiered system of contributions to reduce the proportion of contributions paid by the practices with large turnover.
10. As permitted under rule 12 CLC Compensation Fund Rules 2009, Compensation Fund contributions have been applied to pay not only the direct costs of maintaining and administering the Fund, but also costs incurred in protecting the Fund. Such costs have included the costs the CLC incurs in intervening into a Practice "when such powers are exercised for the purpose of avoiding or minimising a claim on the Fund" and also "for the purpose of inspecting and monitoring the practices of Licensed Conveyancers and Recognised Bodies".

### **Developing a new funding structure**

11. In order to increase transparency and accountability, the CLC has decided (following a consultation process) that the contributions to the Compensation Fund should be applied to pay the direct costs incurred in the maintenance, management and administration of the Fund, and that the costs otherwise incurred in carrying out interventions, inspecting and monitoring Practices should be paid out of a Practice Fee. The income generated by the Licence Fee and paid by individual licensed conveyancers should be applied principally in regulating licensed conveyancers.
12. The CLC published a Consultation Paper in February 2010 (at Annex 1) explaining the new scheme. This was sent by email to all licensed conveyancers and published on the CLC website. No approach was made to non-commercial bodies, including local government. The view taken by the

CLC was that they were unlikely to have an interest in the arrangements proposed since:

- the activities currently regulated by the CLC (conveyancing and probate services) are not undertaken by non-commercial bodies;
- to the extent the new arrangements have any effect on non-commercial bodies, it is to reduce costs, since the Consultation Paper proposed that the same licence fee should be charged to all licensed conveyancers, and the fee charged should be less than currently charged.
- neither the arrangements for Compensation Fund contributions nor the level of the Practice Fee are applicable to non-commercial bodies given that none of these bodies are currently regulated by the CLC.

The Consultation Period ended on 31 March 2010. The CLC received 20 responses. A summary of the responses is at Annex 2.

#### Licence Fees

13. The Consultation Paper proposed that Manager and employed licensed conveyancers should pay the same licence fee of £400 (as against £880 currently paid by Managers and £480 paid by employed licensed conveyancers). The reason given was that “it is in the interests of the profession as a whole that there is one type of licence issued to all licensed conveyancers, whether they are Managers or employees” (paragraph 29). This would avoid the perception apparently taken by some stakeholders that an employed licensed conveyancer is less qualified or less competent than a Manager licensed conveyancer. It was also proposed that the licence fee charged should be reduced from its current levels in order “to reflect more closely the costs of regulating individuals relative to Practice, particularly with the increasing emphasis on entity based regulation”. The responses to the Consultation Paper and the other informal comments received support the preliminary view taken by the CLC that this is an appropriate step to take to reinforce the message that licensed conveyancers, whether they are Managers or in employment, have attained the same education and training qualification, and therefore should have equal status. The amount of the Licence Fee to be charged will be the subject of a separate application under s.51 LSA.

#### Practice Fees

14. The CLC is satisfied that it is in the interests of transparency for the costs of intervention and of inspecting and monitoring Practices to be separated from the contributions to the Compensation Fund. The responses to the Consultation Paper agreed with this approach. The challenge for the CLC is to devise a scheme of contributions which is fair, is determined by objective criteria and is not overly complicated. It has been agreed that contributions should be determined broadly on the basis of risk, which is an indicator of the amount of regulatory resources required to supervise a particular Practice. However, as the responses to the Consultation Paper indicate, there is no general agreement as to what factors are indicators of risk.

15. The different options explored were as follows:
- Each Practice should pay the same Practice Fee. The CLC considers that such an arrangement would be too costly for practices with less turnover. This is likely to lead to the closure of a number of practices, leading to a progressive increase in the contributions required from the remaining practices.
  - Other measures to determine Practice Fees contributions have been suggested, such as number of employees or numbers of transactions. Although not suggested in the Consultation Paper the CLC might take account of claims history, the number of non-licensed conveyancer or non-lawyer Managers. Whilst making no final determination, the CLC's current view is that these methods of calculation are overly complicated and insufficiently transparent.
  - The CLC's preferred method of determining contributions to the Practice Fees is based on turnover, as proposed in the Consultation Paper. In coming to this conclusion, the CLC has taken into account the charging schemes of other Approved Regulators. In particular, as the only other Approved Regulator currently regulating entities as opposed to individuals, it is in the CLC's view relevant that the SRA has also determined that the fees for entities should be based on turnover.
16. For the licence year commencing 1 November 2010 the CLC will charge each Practice a tiered fee based on Practice turnover, subject to a minimum contribution per Practice of £1,000. The level of the fee is the subject of a separate application under s.51 LSA.

#### Compensation Fund Contributions

17. The Consultation Paper proposed that contributions to the Compensation Fund should be applied solely for the purpose of maintaining, managing and administering the Fund. It further proposed that the CLC should charge each Practice a tiered fee based on that Practice's turnover, subject to a minimum contribution per Practice of £500.
18. The CLC currently requires employed licensed conveyancers to pay a nominal contribution of £25 to the Compensation Fund. The CLC intends to cease making this charge on the basis that the purpose of the Compensation Fund is to relieve or mitigate losses suffered by persons in consequence of the negligence, fraud or other dishonesty or failure to account on the part of licensed conveyancers in connection with their practices. The view taken by the CLC is that loss caused by an employee of a licensed conveyancer practices (not reasonably recoverable in any other way) will be compensated through that employee's practice. Where licensed conveyancers are employed in a practice regulated by another Approved Regulator the arrangements for determining the payment of compensation should be those applicable for that practice. Requiring employed licensed conveyancers to make contributions personally to the Compensation Fund infers that grants will be made out of the Fund in respect of losses incurred by those individuals which the CLC believes is not an obligation derived from its statutory framework, in particular s.21(2) Administration of Justice Act 1985.

## **Contingency Arrangements**

19. Rule 4 Compensation Fund Rules 2009 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 available) out of the Practice Fees or Licence Fees collected in the first instance before approaching the profession to recoup levy 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.

## **New Fees to be charged**

20. The CLC's application under s.51 LSA will ask for approval to change some of the specific fees charged on specific occasions. However, the CLC is making some changes to the fees it will charge. These changes have not been the subject of specific consultation. For the reasons given below, the CLC believes that this is not necessary.
21. The Fees Rules 2003 (at Annex 3) entitles the CLC to charge a Recognised Body Certificate Fee of £500 on a first application and £250 on any subsequent application. The fee on subsequent applications will be deemed to be included in the Practice Fee payable. However, the CLC considers it reasonable to continue to charge a fee on a first application to offset the administrative costs of processing an application. The specific amount to be charged will be the subject of the s.51 LSA application.
22. As a result of amendments to the Administration of Justice Act 1985 made by the LSA<sup>3</sup> rule 2.5(c) of the CLC's Licensing Rules 2009 entitles the CLC to charge an additional fee (prescribed by the Fees Rules) where a manager licensed conveyancer has failed to submit an Accountant's Report within the time prescribed (6 months). The Fees Rules 2010 made by the CLC provide for a fee of £100 to be charged. This is a nominal fee intended to cover the administrative costs of the CLC in ensuring the report is submitted. If it considers that alternative steps should be taken the CLC may institute disciplinary proceedings.

## **Applicability of the Regulatory Objectives**

23. 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 necessarily tensions between the different objectives.

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<sup>3</sup> See s.16(1)(ea) and s.16A (SWI 2009/503)

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

24. The CLC's experience is that the Practices with less turnover have tended to ask for or require greater regulatory attention when compared to the fees they have paid than those practices with more turnover which have tended to have more developed systems of accountability. The increase in the minimum fee to £1,000 is a reflection of the greater attention which the CLC has given to practices with less turnover. Whilst it is in the interests of the wider community that there should be an independent strong, diverse and effective legal profession, the CLC is clear that it should so far as possible avoid one sector of the profession in effect subsidising another sector. As explained at paragraph 3, the CLC recognises that increasing public understanding of the citizen's legal rights and duties required greater attention.

### **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 CLC has set out clearly in the Consultation Paper and in this document the basis on which the structure of charges has been determined as well as the budget on which the income required from the profession has been determined. A draft of the information to be published to the profession explaining the changes will be included in the CLC's s.51 application.
  - 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. No concluded view has been reached about the charging structure and the CLC has declared itself willing to consider in the future whether other charging structures are more appropriate.

### **Conclusion**

26. The CLC has taken account of the different challenges of the various parts of its regulated population and of those they service and whilst no formal assessment has been undertaken has sought to take a balanced view. The CLC has reached no concluded view as to the fairest way of determining how

the regulatory costs across the profession should be distributed. It may be that continuing to determine charges on the basis of turnover is the most appropriate. However, it will investigate whether other models of charging present a more equitable scheme.



**Review of Licence and Practice Fee Arrangements**  
CLC Consultation Paper  
February 2010

**Submission Deadline: 31 March 2010**

## Executive Summary

1. Taking account of the matters set out in this Consultation Paper, the CLC has provisionally concluded as follows:
  - a. Costs attributable to the licensing process and the regulation of licensees should be paid for out of the licence fees – no final conclusion has yet been reached whether there should continue to be a differential between the fee payable for the licence to practise as a Manager and to practise as an employee.
  - b. Costs attributable to the regulation of Practices should be paid for by a Practice Fee calculated as a (variable) percentage of the turnover of each Practice, subject to a minimum contribution of £1,000 per Practice
  - c. The direct costs of the Compensation Fund should be separated from the other costs of regulation; there is scope for disciplinary costs to be separated from the other costs of regulation.
  - d. Costs attributable to the education and training of students and licensed conveyancers should be paid for by the student membership fee, the course fee, examination fee and application fee where appropriate. Such costs are not the subject matter of this consultation paper.

## Responding to this Consultation

2. Specific questions posed in this Consultation Paper are set out at page 16. You are invited to respond to some or all of the questions. The CLC also welcomes comments on the proposals as a whole including alternative proposals to achieve the policy objectives outlined in this Consultation Paper.
3. When you respond could you please give your name and address and whether you are a licensed conveyancer. If you are not a licensed conveyancer, could you please state, if relevant, your status or professional qualification. The CLC reserves the right to publish any response and to refer to it specifically in any further document it publishes following this Consultation. If you wish your response to be treated as confidential could you please let us know when you respond.
4. All responses should be send by email to [consultations@clc-uk.org](mailto:consultations@clc-uk.org) or by post to

The Council for Licensed Conveyancers  
16 Glebe Road  
Chelmsford  
Essex CM1 1QG

Or by to DX 121925 CHELMSFORD 6

**Submission Deadline: 31 March 2010**

## Introduction

### Statutory Framework

5. The CLC was established by the Administration of Justice Act 1985 (AJA) to regulate licensed conveyancers in the provision of conveyancing services. With effect from November 2008 the CLC has also been authorised to regulate probate services. It has no representative function.
6. As an approved regulator from 1 January 2010 the CLC “must, so far as is reasonably practicable, act in a way..., which is compatible with the regulatory objectives”<sup>4</sup> as follows:
  - a. Protecting and promoting the public interest;
  - b. Supporting the constitutional principle of the rule of law;
  - c. Improving access to justice;
  - d. Protecting and promoting the interests of consumers;
  - e. Promoting competition in the provision of services by ‘authorised persons’<sup>5</sup>;
  - f. Encouraging an independent, strong, diverse and effective legal profession;
  - g. Increasing public understanding of the citizen’s legal rights and duties;
  - h. Promoting and maintaining adherence to the professional principles<sup>6</sup>.
7. The “professional principles” are—
  - (a) that authorised persons should act with independence and integrity,
  - (b) that authorised persons should maintain proper standards of work,
  - (c) that authorised persons should act in the best interests of their clients,
  - (d) that persons who exercise before any court a right of audience, or conduct litigation in relation to proceedings in any court, by virtue of being authorised persons should comply with their duty to the court to act with independence in the interests of justice, and
  - (e) that the affairs of clients should be kept confidential.<sup>7</sup>

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<sup>4</sup> S.28(2) LSA 2007

<sup>5</sup> defined at s.18 LSA

<sup>6</sup> s.1(1) LSA

<sup>7</sup> s.1(3) LSA

8. The CLC is also required to “have regard to...the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed”<sup>8</sup>.

### **CLC’s Approach to Regulation**

9. As set out in the CLC’s Corporate Strategy for 2009-2014 the purpose of the CLC is to set entry standards and regulate the profession of licensed conveyancers effectively in order to:
- secure adequate consumer protection;
  - promote effective competition in the legal services market, and;
  - provide choice for consumers.
10. The CLC fulfils its responsibilities by undertaking a range of activities, which are outlined as follows:
- Set educational and training standards for entry to the profession;
  - Issue licences to practise to those qualified to provide conveyancing services to clients;
  - Maintain a register of all Licensed Conveyancers;
  - Set standards to regulate the professional practice, conduct and discipline of licensed conveyancers;
  - Set standards to maintain adequate professional indemnity insurance and a compensation fund to protect the public;
  - Undertaking accounts investigations and practice inspections to monitor the work and conduct of Licensed Conveyancers and to determine whether they are meeting the required standards.
  - Provide guidance and advice to Licensed Conveyancers to maintain compliance with the standards and those regulations relevant to our duty of consumer protection;
  - Investigate complaints against a Licensed Conveyancer and order redress for the client for poor service where appropriate;
  - Investigate allegations of misconduct against a Licensed Conveyancer and where appropriate take disciplinary proceedings before the Discipline and Appeals Committee.
  - Collaborate with key stakeholders in the conveyancing services market to monitor and shape the impact of proposed regulations on the conduct of Licensed Conveyancers in order to maintain adequate consumer protection.

### **Alternative Business Structures**

11. Part 5 Legal Services Act 2007 (LSA) provides for the establishment of Alternative Business Structures (ABS). The Legal Services Board (LSB) is committed to ensuring that the first licences are issued to ABSs by mid 2011. The key feature of this regime is that ABS may be owned and managed by individuals who are not lawyers regulated by any other Approved Regulator.

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<sup>8</sup> s.28(3) LSA

12. Although a number of CLC regulated practices have had non licensed conveyancer managers and owners since 2000, after expiry of the transitional period (provided for by the LSA) all Practices with any Manager or owner who is not a licensed conveyancer will need to have a licence to trade as an ABS. This includes those recognised bodies where a non-legally qualified spouse is a director or shareholder. The CLC is committed to receive authorisation to act as a licensing authority so that it can continue to regulate those Practices which it currently regulates.
13. Assuming it does become a licensing authority, the CLC will regulate two parallel regulatory regimes:
- As an Approved Regulator of those Practices which are wholly owned and managed by licensed conveyancers (AR Practices);
  - As a Licensing Authority of those Practices in which any owner or Manager is either not a licensed conveyancer, or is not regulated by another Approved Regulator (ABS).
14. The LSB has issued a number of consultation papers about the structure of ABS and is due by Spring 2010 to publish rules so that Approved Regulators can prepare applications to become Licensing Authorities. What is already clear is that the effect of the rules which the LSB makes will result in changes to the way in which those Approved Regulators (such as the CLC and the Law Society) approach the exercise of their regulatory duties and responsibilities as Licensing Authorities. Some of those changes are prescribed by the LSA. For instance, Licensing Authorities will need to make rules requiring ABSs to have a Head of Legal Practice<sup>9</sup> and a Head of Finance and Administration<sup>10</sup>, each with key regulatory responsibilities. The rules will also require owners to pass a “fitness to own” test.<sup>11</sup> Other changes may be required, even though they may not be specifically prescribed by statute, such as the requirements for professional indemnity insurance and the administration of compensation schemes.
15. The CLC recognises that to the extent possible, the two regulatory regimes should be identical, otherwise there is a real risk that licensees of one regime will unfairly benefit at the expense of licensees in the other regime. The CLC also wishes to enable Practices, dependent on their business interests and priorities, to move from being AR Practices to ABS and back to being AR Practices with the minimum of administrative inconvenience,.

### **Fee Approval Process**

16. Under s.51(5) LSA 2007 “a practising fee is payable under the regulatory arrangements of an approved regulator [such as the CLC] only if the Board has approved the level of the fee”. The LSB has consulted on its draft Practising Fee Rules<sup>12</sup>. As required by s.51(4) LSA those rules specify the permitted purposes for which fees received may be applied (see Annex 1).

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<sup>9</sup> s.91

<sup>10</sup> s.92

<sup>11</sup> s.89 and sch 13

<sup>12</sup> LSB Internal Governance and Practising Fees Rules Consultation issued September 2009

17. Although the LSB rules do not make this mandatory, given that the proposals set out in this paper have the effect of changing the charging structure of the profession, the CLC decided as a matter of good practice to consult with the profession and other stakeholders.
18. The Submission Deadline for this Consultation is **31 March 2010**. This allows a short period for the responses to the Consultation to be assessed before a final proposal is put to the Council for determination at its meeting in early May 2010.
19. A formal application for approval will then be made to the LSB with a view to consent to the CLC's Fees Rules being granted by July 2010, so allowing a reasonable period for the profession to be notified of the new arrangements for Licence and Practice Fees in time for the licence year commencing 1 November 2010.

### **Current Funding Arrangements for the CLC**

20. The CLC is governed by a Council of 15 members (of which a bare majority are licensed conveyancers) supported by a staff currently of 23. The Council meets four times a year. Much of the work of the Council has been delegated to committees and to members of staff. As a result of amendments made to the AJA the process is underway for the selection of a new Council to take office from 1 May 2010 comprising 7 members including the Chairman, with a bare majority of licensed conveyancers. The Chairman and members will all be appointed by a Selection Panel and ratified by the Council. Previously, the licensed conveyancer members were elected by the profession and the other members were nominated by different bodies, including the Land Registry, the Royal Institution of Chartered Surveyors and the Association of Chartered Certified Accountants.
21. The CLC is wholly funded by the profession and, through the profession, by consumers. Since 2000 the licence fees have remained the same: £880 for Managers (previously full licence holders) and £480 for employed licence holders (previously limited licence holders). In addition, each Practice regulated by the CLC has been required to make a contribution to the CLC's Compensation Fund, calculated as a percentage of its turnover. This has varied from year to year (ranging from 3.0% to its current level of 1.5%).
22. As well as ensuring that there are sufficient funds to make grants, the Fund is applied to pay the costs associated with administering applications for grants and:
  - Accounts and Conveyancing Inspections to ensure that Practices are complying with the CLC' Rules and are not putting the interests of consumers at risk and increasing the possibility of payments being made out of the Compensation Fund in cases where the Professional Indemnity cover does not respond;
  - Intervention into Practices where the interests of consumers are at immediate risk and again where there is a likelihood of claims being made on the Compensation Fund.

## Regulatory Fees

23. The CLC recognises that its obligations under the LSA requires it more explicitly to adopt a regulatory approach which increasingly shifts the focus of its regulatory activities to the 'regulated entity', particularly with the introduction of Alternative Business Structures in the near future. Consequently the regulatory fees required to enable the delivery of the CLC's responsibilities need to reflect more closely the costs attributable to the regulation of individual licence holders and regulated entities. Otherwise there is a risk that the burden of regulatory costs may fall unfairly on some members of the regulated community.
24. The CLC considers that a new structure of regulatory fees is required to align its approach with the relevant requirements in the LSA and to enhance transparency and accountability to the relevant key stakeholders. In the CLC's view the Practices with higher levels of turnover proportionately pay more than Practices with lower levels of turnover. The CLC's preferred position is that each Practice makes a contribution to the costs of the CLC directly in proportion to the level of regulatory supervision required for each Practice and more generally for the risk of default each Practice poses. The proposals made in this Paper seek to adjust that imbalance. However, the CLC recognises that a proper balance can only be achieved in the medium term if significant financial pressure on some sectors of the profession is to be avoided.

### Question

1. Do you think that Practices which are more likely to generate a claim on the Compensation Fund should make a greater contribution relative to their turnover?

25. The proposal maintains the current mix of fixed licence fees coupled with additional contributions calculated as a percentage of turnover. An alternative may be to base contributions on the number of transactions. The CLC's current view is that it should undertake detailed enquiry before changing the basis on which additional contributions are determined.
26. The CLC proposes that the new structure of regulatory fees should consist of the following:
- 1) Licence fee (a fixed sum)
  - 2) Practice fee (as a percentage of turnover subject to a minimum fixed sum)
  - 3) Contributions to the Compensation Fund (as a percentage of turnover subject to a minimum fixed sum)

### (1) Licence Fee

27. The CLC's Licensing Rules 2009 (in force on 31 March 2009) provide for the issue of two types of licence:

- Licence to practise as a Manager – broadly this replaces the Full Licence (which was issued up to 31 March 2009). Any licensed conveyancers in the position of sole principal, partner, director or member of a practice is deemed to be a Manager whether that practice is regulated by the CLC, the Solicitors Regulation Authority or another approved regulator<sup>13</sup>.
- Licence subject to the condition that the licensee practises as an employee – broadly this replaces the Limited Licence (which was issued up to 31 March 2009). Any licensed conveyancer in the position of employee must hold this type of licence whether he is employed in a practice which is regulated by the CLC, the Solicitors Regulation Authority or another approved regulator, or employed by any other commercial organisation as a licensed conveyancer.

28. The main argument in favour of maintaining different fees for Managers and Employed Licensed Conveyancers is that a Manager is in a position of authority and so is subject to a greater degree of supervision than an Employed Licensed Conveyancer. However, the additional cost attributable to increased supervision may be offset by the Practice Fee payable by the CLC regulated Practice.

29. Some stakeholders (in particular Lenders) appear to take the view that an Employed Licensed Conveyancer is less qualified or less competent than a Manager Licensed Conveyancer. In terms of education and training they are equally qualified. The CLC has also noted that at this year's renewal some Manager Licensed Conveyancers renewed their licences as Employees, presumably to take advantage of the lesser fee paid by an Employee Licensed Conveyancer. The CLC's view is that it is in the interests of the profession as a whole that there is one type of licence issued to all licensed conveyancers, whether they are Managers or employees.

30. Further, the CLC is of the view that Licence Fees for Managers and employed licensed conveyancers should be reduced from the current levels. The purpose in reducing the licence fee is to reflect more closely the costs of regulating individuals relative to Practice, particularly with the increasing emphasis on entity based regulation. There may be scope for further reductions in the level of the licence fee in the subsequent years. The CLC welcomes views whether the fee payable by Managers and employees should continue to be at different levels.

	<b>Current Fee</b>	<b>Proposed Tiered Fee</b>	<b>Proposed Single Fee</b>
<b>Manager</b>	880	600	400
<b>Employee</b>	480	300	400

<sup>13</sup> sch 4 LSA identifies eight approved regulators; aside from the CLC, the others are the General Council of the Bar, the Master of the Faculties (regulating notaries public), the Institute of Legal Executives, the Chartered Institute of Patent Attorneys, the Institute of Trade Mark Attorneys and the Association of Law Cost Draftsmen. The Institute of Chartered Accountants of Scotland, the Association of Chartered Certified Accountants and the Institute of Chartered Accountants in England and Wales are likely shortly to be authorised to regulate their members in the provision of Probate Activities.

**Question**

2. Do you think that the fee for the Manager's licence should be more than the fee for the employee licence, or do you think they should be the same?
3. Do you think that licence holders should as individuals make contributions to the Compensation Fund?

31. It is proposed that the licence fee for a probate licence will be based on the additional costs of regulating individuals with such licences. We provisionally propose that the licence fee for a probate licence continue to be charged at £75. In the event that the CLC's application to regulate the exercise of rights of audience<sup>14</sup> and the conduct of litigation is approved, it is likely that a further fee per additional licence will be charged based on the charging principle proposed for a probate licence.

**Question**

4. Do you agree that an additional fee should be paid where a licensed conveyancer is issued with, for example, a probate licence?

**(2) Practice Fee**

32. The CLC considers that the funding of a number of regulatory activities (which have an incidental purpose of protecting the Fund) through the Compensation Fund contribution is not sufficiently transparent, and therefore proposes to move such costs out of the Fund to its Regulatory Operations Budget. This will allow licensed conveyancers to understand more clearly how the costs of regulation and of maintaining the infrastructure at the CLC are determined.
33. The CLC proposes that such costs should be funded through a new Practice Fee. The fee will be determined as a percentage of turnover, as contributions to the Compensation Fund are currently determined, namely. The percentage will decrease in line with increasing bands of turnover.
34. In order to determine the proportion of regulatory costs to be covered by the Practice fee, we have assumed that 70% of our regulatory activities will focus on regulated entities. Consequently we propose to charge 70% of our regulatory costs through the Practice fee and the remaining 30% of the costs through the licence fee. We intend to review the proposed split in 2012 to ensure that it is appropriate and that it does not create a disproportionate and unfair burden on any particular section of the regulated community. A tiered contribution is proposed as follows:

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<sup>14</sup> referred to as advocacy services in the Courts and Legal Services Act 1990

Turnover Banding	Minimum in Band	Pay % turnover	
0 and under £100,000	1,000	1.859	110% base
£100,000 and over	1,859	1.69	Base Rate
£500,000 and over	8,619	1.352	80% base
£3,000,000 and over	42,419	1.183	70% base

### Questions

5. Do you agree the general approach proposed to separate the funding of some regulatory activities from the Compensation Fund?
6. Do you agree that the contribution to the Compensation Fund should be determined as a percentage of turnover? Should each Practice make the same contribution regardless of size?

### (3) Compensation Fund Contribution

35. The CLC proposes that contributions to the Compensation Fund should reflect the direct costs of maintaining the Fund, and should be accounted for separately. The CLC will continue to have the power to make additional calls on the profession if this is deemed necessary.<sup>15</sup>
36. In view of the proposed introduction of a Practice Fee, the estimated contributions to the Compensation Fund are likely to be significantly reduced. Consequently, it is necessary to review the appropriateness of the current methodology of determining the contribution to the Compensation Fund.
37. The CLC has provisionally concluded that the contribution to Compensation Fund should only be payable by Practices because any grants payable out of the fund are in fact made on behalf of Practices, rather than individual licence holders.
38. The CLC maintains that all Practices must make a contribution to the Fund because the public confidence which the Fund provides benefits the entire regulated community. However, because there is no evidence of a direct correlation between the size of a Practice as reflected by turnover and the likely demand on the Fund in terms of claims, the CLC has considered whether turnover of a Practice is a fair method to determine contributions to the Fund. The CLC considers that the allocation of the costs of the restructured Compensation Fund share similarities with the apportionment of regulatory costs among licence holders. In terms of risk, the impact of the failure of a larger Practice would be proportionately greater. However, in the CLC's view the likelihood that a large Practice will fail is substantially less (because of the

<sup>15</sup> Rule 4 Compensation Fund Rules 2009

systems and controls in place for that Practice to function effectively) than the failure of a smaller Practice where such controls are unlikely to be in place.

39. Based on the CLC's 2008 Accounts the direct costs attributable to the Compensation Fund amount to just over £380,000. Assuming in round sums staff and associated administrative costs for managing claims on the Fund at £120,000, the contributions by Practices to the Fund will need to be of the order of £500,000 (£380,000+£120,000). Just under 200 Practices are regulated by the CLC. On this basis the Compensation Fund contribution per Practice would be £2,500 (£500,000/200).
40. The effect of introducing a fixed contribution to the Compensation Fund, given the number of Practices currently regulated by the CLC would be to increase substantially the regulatory costs of many of the Practices with smaller turnovers and to reduce substantially the regulatory costs of those Practices with larger turnovers.
41. An alternative approach is in effect to maintain the current position (ie that contributions to the Compensation Fund continue to be determined as a percentage of turnover, subject to a minimum contribution). Based on the CLC's 2008 Accounts and subject to maintaining the current minimum contribution of £500, each Practice will make a contribution equivalent to 0.54% turnover to the Compensation Fund. A tiered contribution is proposed as follows:

Turnover Banding	Minimum in Band	Pay % turnover	
0 and under £100,000	500	0.648	110% base
£100,000 and over	648	0.54	Base Rate
£500,000 and over	2,808	0.432	80% base
£3,000,000 and over	13,608	0.378	70% base

The differential rates reflect the rates currently payable by larger Practices (see paragraph 47). The CLC suggests that consideration should be given to contributions based on turnover up to £100,000 being uplifted by 10% from base rate to reflect the additional risk attributable to smaller Practices and the additional level of supervision they require.

**The effect of these Proposals**

42. The CLC has considered two possible charging structures for licence fees. Of the two Illustrations (for the reasons set out above), the CLC prefers Illustration 2. The calculations are based on CLC's 2008 Report and Accounts:

**Illustration 1** –The Manager fee is set at £600 and the Employee licence fee at £300.

	Number	Proposed Fee	
Manager	250	600	150,000
Employee	750	300	225,000
Total			375,000

A balance of £1,097,363 would fall to be collected through the Practice Fee equivalent to 1.18% turnover (compared to the current Compensation Fund standard contribution of 1.5%).

<b>Total Income per 2008 Report and Accounts</b>			1,972,363
<b>Proposed Fee Structure</b>			
Licence Fees	£600/£300	375,000	
Compensation Fund	0.54%	500,000	
Practice Fee	1.18%	1,097,363	
Total			1,972,363

Because a greater proportion of the CLC's income will be generated by the Practice Fee in proportion to the Licence Fee, the Practices with a turnover in excess of £1,000,000 will proportionately pay more towards the Practice Fee than Practices with lower levels of turnover. However, the increase in level of contributions will be offset in part by the requirement to increase the minimum Practice Fee from £500 to £1,000.

**Illustration 2** – The Manager and Employee licence fees are both set at £400.

	Number	Proposed Fee	
Manager	250	400	100,000
Employee	750	400	300,000
Total			400,000

A balance of £1,072,363 would fall to be collected through the Practice Fee, equivalent to 1.15% turnover.

<b>Total Income per 2008 Report and Accounts</b>			1,972,363
<b>Proposed Fee Structure</b>			
Licence Fees	£400	400,000	
Compensation Fund	0.54%	500,000	
Practice Fee	1.15%	1,072,363	
Total			1,972,363

43. The Table summarises the effect of Illustration 1 and Illustration 2 compared with the current charging structure of £880 for a Manager's Licence. One effect of reducing the Licence Fees will be to increase the proportion of the CLC's funding payable through the Practice Fee.

Licence Fees	No licences	Current	Illustration1		Illustration1	
			Licence Fees		Licence Fees	
<b>Manager</b>	250		600	150,000	400	100,000
<b>Employed</b>	750		300	225,000	400	300,000
Total Licence Fees		577,600		375,000		400,000
			Illustration1 contribution %		Illustration2 contribution %	
Compensation Fund contribution			0.54	500,000	0.54	500,000
<b>Practice Fee</b>						
Total t/o of Practices in 2008	Comp Fund contribution %					
92,984,200	1.5	1,394,763	1.18	1,097,363	1.15	1,072,363
Total		1,972,363	1.72	1,972,363	1.69	1,972,363

44. Whilst it is possible to fix the licence fees payable in advance, the final level of the Compensation Fund contributions and the Practice Fee can only be determined once the budget for the 2011 calendar year has been fixed and the CLC has been notified of the turnover figures declared for the purpose of renewing professional indemnity cover (as at 1 July in each year).

#### Question

7. Do you agree that the Practice Fee should be calculated on the basis of turnover? Do you think that a different method of calculation, such as the number of transactions, is preferable? Should each Practice contribute a fixed sum? What would be your preferred method of calculation?

#### Practices with lower levels of turnover

45. The minimum contribution to the Compensation Fund is currently £500. Any Practice with a turnover of less than £33,333 in percentage terms makes a greater contribution by way of Practice Fee than other Practices with greater turnover. The CLC proposes that the minimum contribution to the Practice Fee should be £1,000 and that the minimum contribution to the Compensation Fund should remain at £500. The Table sets out the effect of these proposals on a Practice with a turnover of £50,000, where under Illustrations 1 and 2 the contribution to the Compensation Fund is based on turnover. The current contribution to the Compensation Fund of £750 is 1.5% of turnover of £50,000.

Based on £50,000 turnover	Licence Fee	Compensation Fund contribution		Practice Fee		Combined Licence Fee and CF/Practice Fee contribution	Percentage change from current position
		% t/o	Sum	% t/o	Sum		
Current	880	1.5	750			1,630	
Illustration 1	600	0.648	500	1.298	1,000	2,100	128.8
Illustration 2	400	0.648	500	1.265	1,000	1,900	116.6

46. The Table sets out the effect of these proposals on Practices with a turnover of less than £33,333 which currently pay the minimum contribution to the Compensation Fund of £500, where under Illustrations 1 and 2 the contribution to the Compensation Fund is based on turnover:

Based on turnover less than £30,000	Licence Fee	Compensation Fund contribution		Practice Fee		Combined Licence Fee and CF/Practice Fee contribution	Percentage change from current position
		% t/o	Sum	% t/o	Sum		
Current	880	1.5	500			1,380	
Illustration 1	600	0.648	500	1.298	1,000	2,100	152.2
Illustration 2	400	0.648	500	1.265	1,000	1,900	137.7

#### Question

8. Do you agree that there should be minimum Practice Fee fixed for those Practices with a turnover of less than a certain level? Do you agree the minimum Practice Fee payable should be set at £1,000?

#### Practices with higher levels of turnover

47. Practices with a turnover of between £500,000 and £3,000,000 currently pay a discounted rate of 80% of the percentage contribution on the excess over £500,000. Any Practice with a turnover in excess of £3,000,000 pays a discounted rate of 70% of the percentage contribution on the excess over £3,000,000. The CLC proposes in this Consultation Paper that these discounts should be applied on the same basis to both Compensation Fund and Practice Fee contributions. The purpose of the discounted contributions is to recognise the fact that in order to function effectively Practices with greater turnover must necessarily have invested significantly in effective auditing systems and internal controls so enabling less regulatory intervention relative to other Practices. This has enabled the CLC to reallocate some of its resources to other important areas of business. This concession would not apply if the contribution to the Compensation Fund is a fixed sum.

#### Question

9. Do you agree that the proportionate reduction in the Practice Fee and Compensation Fund contributions payable for Practices with higher levels of turnover should be continued, assuming that Compensation Fund contributions are based on turnover?

## **New Practices**

48. Since 2008 the CLC has not required newly established Practices to make a contribution to the Compensation Fund. Whilst it does not wish to create unnecessary barriers to entry the CLC's preliminary view is that each newly established Practice should pay a Practice Fee of £1,000 when it is first set up (rather than to pay a Practice Fee based on a percentage of estimated turnover). This compares with the £500 fee currently payable by limited companies when they are granted their first certificate of recognition. Given that the CLC aims to have regular contact with each new Practice to ensure appropriate systems and controls are in place, an initial fee of £1,000 goes some way in reflecting the actual regulatory costs incurred by the CLC in assessing the application and carrying out the first monitoring inspection. The CLC's experience is that regular contact at this stage enables important guidance to be provided which reduces substantially the risk of regulatory intervention (at greater cost) at a later date. On a similar basis the CLC proposes that each new Practice should make a contribution in its first period of operation of £500 to the Compensation Fund.

### **Question**

10. Do you agree that the Practice Fee and Compensation Fund contributions payable by new Practices should be fixed at the minimum levels paid by existing Practices? If not, what do you think would be a fair way of assessing the contributions new Practices should make?

## Questions

In each case you are asked to provide reasons for the answer you have given. You may wish to give specific examples.

1. Do you think that Practices which are more likely to generate a claim on the Compensation Fund should make a greater contribution relative to their turnover?
2. Do you think that the fee for the Manager's licence should be more than the fee for the employee licence, or do you think they should be the same?
3. Do you think that licence holders should as individuals make contributions to the Compensation Fund?
4. Do you agree that an additional fee should be paid where a licensed conveyancer is issued with, for example, a probate licence?
5. Do you agree the general approach proposed to separate the funding of some regulatory activities from the Compensation Fund?
6. Do you agree that the contribution to the Compensation Fund should be determined as a percentage of turnover? Should each Practice make the same contribution regardless of size?
7. Do you agree that the Practice Fee should be calculated on the basis of turnover? Do you think that a different method of calculation, such as the number of transactions, is preferable? Should each Practice contribute a fixed sum? What would be your preferred method of calculation?
8. Do you agree that there should be minimum Practice Fee fixed for those Practices with a turnover of less than a certain level? Do you agree the minimum Practice Fee payable should be set at £1,000?
9. Do you agree that the proportionate reduction in the Practice Fee and Compensation Fund contributions payable for Practices with higher levels of turnover should be continued, assuming that Compensation Fund contributions are based on turnover?
10. Do you agree that the Practice Fee and Compensation Fund contributions payable by new Practices should be fixed at the minimum levels paid by existing Practices? If not, what do you think would be a fair way of assessing the contributions new Practices should make?

**Annex 1**  
**Permitted Purposes**  
**Extract LSB Practising Fee Rules**

Monies raised through practising fees must not be applied for any purpose other than one or more of the permitted purposes.

The permitted purposes are:

- (a) the regulation, accreditation, education 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;
- (b) the payment of a levy imposed on the approved regulator under section 173 [Legal Services Act 2007];
- (c) the participation by the approved regulator in law reform and the legislative process;
- (d) the provision by applicable persons, and those either holding themselves out as or wishing to become such persons, of legal services including reserved legal services, immigration advice or immigration services to the public free of charge;
- (e) the promotion of the protection by law of human rights and fundamental freedoms;
- (f) the promotion of relations between the Approved Regulator and relevant national or international bodies, governments or the legal professions of other jurisdictions;
- (g) increasing public understanding of the citizen's legal rights and duties.

## Annex 2

### **The CLC's Comments on the answers and comments received to its Consultation Paper Review of Licence and Practice Fee Arrangements.**

The CLC's Consultation Paper was sent by email to all licensed conveyancers on 3 February 2010 and published on the CLC's website. It was also sent to the Legal Services Board, the Legal Services Consumer Panel and to the other Approved Regulators. The CLC received 20 responses: 7 from licensed conveyancer sole practitioners, 4 separate responses from the partners of one licensed conveyancer practice, 3 responses from larger practices, 1 from a licensed conveyancer employed in a licensed conveyancer practice, 4 from licensed conveyancers employed by SRA regulated practices and 1 response from another Approved Regulator.

#### **Question 1: Do you think that Practices which are more likely to generate a claim on the Compensation Fund should make a greater contribution relative to their turnover?**

15 respondents agreed, 2 disagreed. One larger practice commented that claims history, audit processes, risk management controls in place and the type of work carried out were all relevant in trying to predict which Practices were more at risk than other Practices. One respondent employed by an SRA regulated practice suggested factors to take into account "transaction value and volume [presumably number of transactions], perhaps with caps on a rising scale". 3 respondents agreed it was difficult to decide how to determine risk. One sole practitioner pointed out it should not be assumed that sole practitioners were inherently more risky than larger organizations.

#### **Question 2: Do you think that the fee for the Manager's licence should be more than the fee for the employee licence, or do you think they should be the same?**

14 respondents thought the fees should be the same, and 3 disagreed. One respondent employed by an SRA regulated practice suggested that it could be assumed that the CLC would incur less cost in regulating an employed licensed conveyancer, than in regulating the manager of a practice. One sole practitioner agreed the licence fees should be the same only if a separate fee were to be paid by Managers.

#### **Question 3: Do you think that licence holders should as individuals make contributions to the Compensation Fund?**

7 respondents agreed and 12 respondents disagreed. 1 partner in a CLC regulated Practice said that contributions to the Compensation Fund should be determined by the turnover of a Practice. 1 sole practitioner suggested that contributions to the Compensation Fund should be separated out depending on the service provided (conveyancing, probate, advocacy or litigation).

#### **Question 4: Do you agree that an additional fee should be paid where a licensed conveyancer is issued with, for example, a probate licence?**

18 respondents agreed and 1 disagreed. 1 sole practitioner respondent suggested that CLC practices providing probate services should pay a higher contribution to the Compensation Fund on the basis that client monies are generally held for a longer period in probate matters than when conveyancing services are provided.

**Question 5: Do you agree the general approach proposed to separate the funding of some regulatory activities from the Compensation Fund?**

14 respondents agreed and 3 disagreed. 1 sole practitioner who agreed stated that the proposed percentage contributions and minimum contributions were too high. Another sole practitioner suggested that the proposed scheme was unnecessarily complicated and that a flat fee should be charged based on turnover with a surcharge for risk.

The other Approved Regulator commented “The cost of regulatory activities should properly be covered by the Practice Fee, including those relating to the management of the Compensation Fund, such as paying and administering claims. It is important in terms of regulatory accountability and transparency that those being regulated are able to understand and support the way in which the CLC manages fees and contributions, and are able to appreciate the overall costs of regulation”. The CLC agrees and is seeking to implement such an approach.

**Question 6: Do you agree that the contribution to the Compensation Fund should be determined as a percentage of turnover?**

15 respondents agreed and 2 disagreed. Other methods of calculation were suggested such as the number of transactions, the number of fee earners. 1 sole practitioner said there should be no minimum level of contributions.

**Should each Practice make the same contribution regardless of size?**

Of the respondents who answered this question directly, one larger practice agreed, and 5 smaller practices disagreed.

**Question 7: Do you agree that the Practice Fee should be calculated on the basis of turnover? Do you think that a different method of calculation, such as the number of transactions, is preferable? Should each Practice contribute a fixed sum? What would be your preferred method of calculation?**

9 respondents agreed and 2 respondents disagreed. The other Approved Regulator commented “We believe that a calculation method using turnover as the main determinant is likely to result in a fairer Practice Fee policy for all those sitting within the CLC’s regulatory reach. We do not believe that the traditional fixed ‘one size fits all’ approach to fee setting is the fairest or most proportionate way of managing the regulatory fees process, and [we are] also moving away from charging fixed sums .....to introduce a flexible turnover-driven approach.

**Question 8: Do you agree that there should be minimum Practice Fee fixed for those Practices with a turnover of less than a certain level?**

12 respondents agreed and 4 respondents disagreed.

**Do you agree the minimum Practice Fee payable should be set at £1,000?**

2 respondents answered this question directly: 1 agreed and 1 disagreed. 1 respondent suggested that the minimum contribution should be fixed at £500 for a newly established Practice rising to £1,000 after the first year. 1 respondent suggested that the minimum contribution should be fixed at £750, and another respondent suggested that £1,000 minimum contribution was a bit too high..

**Question 9: Do you agree that the proportionate reduction in the Practice Fee and Compensation Fund contributions payable for Practices with higher levels of turnover should be continued, assuming that Compensation Fund contributions are based on turnover?**

6 respondents agreed and 9 disagreed. 1 larger practice suggested that no tiered structure, but that any reduction for concession should apply to all turnover, so where a practice benefited from a top slicing contribution of 70% of the base rate, that practice's contribution should be determined as 70% base rate x the whole of that practice's turnover. The other Approved Regulator suggested "Providing the CLC is comfortable with the evidence provided by a particular Practice that it is operationally sophisticated and robust enough to warrant less regulatory attention than other Practices, there may well be a basis from which to offer a proportionate reduction in Practice Fee and Compensation Fund contributions".

**Question 10: Do you agree that the Practice Fee and Compensation Fund contributions payable by new Practices should be fixed at the minimum levels paid by existing Practices? If not, what do you think would be a fair way of assessing the contributions new Practices should make?**

10 respondents agreed, 3 disagreed and 1 respondent thought that probably on balance there should be minimum contributions. 1 respondent said that the minimum fee should be set at a level reflecting the extent of regulatory oversight. 1 respondent stated that contributions ought to be varied according to market conditions. It further stated "As there will initially be no turnover data available for new Practices, we agree that the most suitable approach would be to [charge] fees capable of covering the cost of regulatory activity associated with the start-up period for new Practices coming under the CLC's remit".

## **Annex 3**

### **The Council for Licensed Conveyancers' Fees Rules 2003**

Made the 7<sup>th</sup> day of May 2003 by the Council for Licensed Conveyancers with the concurrence of the Lord Chancellor pursuant to Sections 14, 32 and 38(1) of the Administration of Justice Act 1985.

#### **CITATION, COMMENCEMENT AND REVOCATION**

1. These Rules may be cited as the Council for Licensed Conveyancers' Fees Rules 2003 and shall come into force on the 31 August 2003 on which date the Council for Licensed Conveyancers' Fees Rules 2002 shall cease to have effect.

#### **LICENSING RULES**

2. The fees payable by virtue of the Licensed Conveyancers' Licensing Rules 2000 shall be as follows: -
  - (1) for a full licence under Rule 2.4(b) : £880;
  - (2) for a limited licence under Rule 2.3(b) : £480;
  - (3) the additional fee under Rule 2.4(e): £400 in any year or such sum as is a proportion of it calculated from the date on which the full licence is to take effect to the date on which it shall cease to have effect, both dates inclusive;
  - (4) for an amendment of a licence under Rule 4.7 : £75;
  - (5) for a duplicate licence, where chargeable under Rule 2.8 : £50.

#### **RECOGNISED BODIES RULES**

3. The fees payable by virtue of rule 7.04 of the Council for Licensed Conveyancers' Recognised Bodies Rules 2000 shall be as follows:
  - (1) for a first-time application : £500;
  - (2) for a second or subsequent application : £250.

