



Approval of 2019 Practising Certificate Fee (PCF) application made by The Council for Licensed Conveyancers (CLC) to the Legal Services Board (LSB) under section 51 of the Legal Services Act 2007 (the Act)

1. The LSB has approved an application made by the Council for Licensed Conveyancers to the LSB under section 51 of the Act. Section 51 of the Act relates to the control of PCF charged by approved regulators.
2. A PCF is a fee payable by a person under an approved regulator's regulatory arrangements, in circumstances where the payment of the fee is a condition which must be satisfied for that person to be authorised by the approved regulator to carry on one or more activities which are reserved legal activities. An approved regulator may only apply amounts raised by PCF for one or more of the permitted purposes which are set out in section 51(4) of the Act.
3. A PCF is payable under the regulatory arrangements of an approved regulator only if the LSB has approved the level of the fee required by section 51 of the Act. The CLC is an approved regulator which has solely regulatory functions and no representative functions.
4. In making an application, an approved regulator must comply with the provisions of the Practising Fee Rules 2016 (Rules)¹. The Rules² set out the criteria against which the LSB will assess PCF applications, as well as the evidence required for the LSB to be satisfied the criteria is met. The LSB's [Guidance to Approved Regulators on PCF applications](#) (Guidance) provides approved regulators with the detailed criteria and evidence it requires to consider such an application³.
5. This notice sets out the decision taken, including an assessment of the PCF application.

¹ https://www.legalservicesboard.org.uk/Projects/statutory_decision_making/pdf/2016/20160601_Practising_Fee_Rules_2016.PDF

² Ibid, Rules 10 and 11.

³ https://www.legalservicesboard.org.uk/Projects/statutory_decision_making/pdf/2016/20160601_PCF_Rules_Guidance_June_2016.PDF

Overview of PCF application and decision

6. The CLC PCF application submitted to the LSB, provides that the licence fee to be charged to individuals is unchanged for the CLC's 2019/20 PCF year (November 2019-October 2020). Fees payable by CLC Lawyers providing conveyancing services or probate services remains at £400 for 2019/20. Fees payable by CLC Lawyers providing conveyancing services and probate services remains at £475 for 2019/20.
7. Practice Fees payable by CLC practices are proposed to decrease by 30% for 2019/20. This follows fee rate reductions in 2016 and 2018. The application provides that the reduction is part of the CLC's longer term plan to reduce the accumulation of reserves in the Practice Fund and reduce regulatory costs for practices. The Practice Fee payable by each firm continues to be based upon a percentage of turnover, subject to a minimum fixed fee. The proposed 2019/20 Practice Fee rates are as follows:

Turnover Banding	Practice Fee payable		
£0 - £100,000	£539	or	0.77% of turnover (whichever is greater)
£100,001 - £500,000	£770	plus	0.70% of turnover in excess of £100,000
£500,001 - £3,000,000	£3,570	plus	0.63% of turnover in excess of £500,000
£3,000,001 and over	£19,320	plus	0.56% of turnover in excess of £3,000,000

8. The CLC's application sets out the reasons behind the change – it intends to run an annual operational deficit which will reduce over the next three years, with the Practice Fund breaking even in year five. This will result in a significant reduction in its reserves from approximately £3.5 million to approximately £1.6 million. The CLC had initially consulted on a proposed reduction of 20% to its Practice Fee but determined that this would not result in a sufficient reduction in the reserves, as it would have meant a surplus by year three. The application also notes that the CLC's Council considered whether to decrease Practice Fees by more than the 30% it ultimately settled on, but decided against this, recognising that it would likely result in increased fees in subsequent years.
9. The projected total funding requirement for 2020 is £2,936,026, compared to £2,839,888 forecast outturn for 2019. It is expected that £1,737,905 will be collected from Practice Fees charged to firms and £572,000 will be collected from Licence Fees charged to individuals. Taken with other income (£34,164), there will be a total projected income of £2,344,069. This will mean a projected shortfall of income against expenditure of £591,957.

10. The LSB's decision is to approve in full the levels of the 2019/20 Licence Fees charged to individuals and Practice Fees charged to firms set out in the CLC's application. The 2019/20 fee rates will come into effect from 1 November 2019.
11. **Annex A** to this notice contains the 2019/20 fees framework approved by the LSB. The fees framework includes the Compensation Fund contribution for 2019/20 approved separately by the LSB⁴.

LSB assessment

Development of the overall budget and application

Clarity and transparency of overall budget setting

12. The CLC's final budget for 2020 is yet to be determined. It provided the LSB with a projection of operational expenditure for 2020 based on the 2019 forecast, using actuals to June 2019. Any variance between the figures for 2019 and 2020 is set out and an explanation is provided where changes are more significant.
13. The application sets out the CLC's strategy for budget setting and budget management. The CLC develops its budget based on:
 - resource needed to deliver strategic priorities and business plan objectives
 - workforce costs (staff; contingent labour) and service/supplier costs
 - levies required by the LSB and the Legal Ombudsman
 - known exceptional and ad hoc items.
14. The fee structure which allows for the collection of practising certificate fees, to be split between individuals and firms, was set in 2010 and the same basic fees structure has been maintained in each subsequent year. The Licence Fees charged to individuals is a fixed sum and the Practice Fee payable by each firm is based upon a percentage of turnover, subject to a minimum fixed fee.
15. The application provides a reasonable level of information on the development and setting of the overall budget.

Evidence that immediate and medium term needs have been taken into account

16. The application outlines that the CLC's budget takes into account strategic priorities and business plan objectives. The application sets out the CLC's strategic objectives and provides a link to its 2019 Business Plan.
17. The CLC's headcount increased by 2 FTE in 2019 and the costs will be fully realized in 2020. It explained to us that it increased capacity in the licensing and supervision teams in anticipation of future growth in the number of practices and licence holders.

⁴ <https://www.legalservicesboard.org.uk/our-work/statutory-decision-making/alterations-to-regulatory-arrangements/closed-applications>

18. In January 2015, CLC Council agreed to maintain a minimum reserve for operations of £1 million, which is equivalent to six months operating expenses. As at June 2019 the CLC held c.£3.5 million of reserves for operations.
19. The CLC has recognised that the level of reserves it currently holds is above that necessary for prudence. We agree. The CLC is planning to run a managed deficit on the Practice Fund to bring about a reduction in the reserves held by the Fund. The Practice Fund is projected to reduce by £1.9 million over the following five years and a “buffer” of £627,913 is projected to be maintained in addition to the £1 million of minimum reserves.
20. There remains a question, however, recognised by the CLC itself, as to whether the pace of the reduction in levels of reserves is sufficient, and we expect it to keep this question under close review and for progress to be reported to LSB in the context of future PCF applications. In addition, in our view, future PCF applications will also benefit from greater clarity as to how the appropriate level of “steady state” reserves is determined.

Consultation on PCF

Summary

21. The CLC’s consultation on the proposed Licence and Practice Fee arrangements launched on 9 May 2019 and was published on its website. The consultation ran for 43 days until 21 June 2019. The application notes that the CLC promoted awareness of the consultation through periodic newsletters to the profession.
22. As part of its consultation, the CLC invited comments on the objectives for determining the fee rates, factors likely to impact the given fee rates and any other comments on the fee structure and process for the fee determinations.
23. The consultation received five responses, an increase from the nil responses received in 2018. Respondents comprised four practices and the Society of Licensed Conveyancers, which is a representative body for Licensed Conveyancers and other property lawyers in England and Wales.
24. The CLC conducted a review of the consultation responses and published this on its website. The summary includes the CLC’s responses to specific questions posed by respondents.
25. While we recognise that this year’s consultation attracted a higher response rate than last year, and that the CLC is not proposing to increase any fees for 2019/20, we considered that the number of respondents to the consultation was relatively low given the number of firms and licence holders regulated by the CLC. On this basis, we invited the CLC to provide some additional information which is considered further at Paragraph 30 below.

Consultation responses

26. The overarching feedback from the respondents was that the objectives for determining the fees rates were reasonable. Respondents lent support to the reduction in Practice Fees whilst also recognising the need to avoid fee fluctuations and maintain adequate reserves.
27. Key themes from the respondents related to the assumption of 3% per annum growth for practices, which was generally seen as achievable but with some caution. In its application, the CLC explains that the 3% growth assumption was ultimately deemed “unnecessarily conservative” and that it opted for a higher growth assumption rate (6%) in the final model.
28. In its review of consultation responses, the CLC outlined that it keeps the range and number of fee bandings under regular review and any proposed change to the fee banding will be subject to consultation.
29. For future PCF applications, we will expect the CLC to provide details of the work it has undertaken to review the range and number of fee bandings.
30. During the assessment of the application, we asked the CLC for its comments on any reasons to account for the low response rate. In its response, the CLC outlined that the proposals are targeted at practices (c.230 licensed by the CLC) rather than individual licensees. The CLC highlighted that one of the respondents was the Society of Licensed Conveyancers, which represents over 300 Licensed Conveyancers. The CLC also noted that it is not proposing to increase any of its fees and as a result the proposals did not invite an unwelcomed response.
31. For future PCF applications, we will expect the CLC to continue to build on its efforts to promote awareness of the consultation and to consider other possible avenues for engaging with the progression on the fee proposals in the interest of receiving a greater amount of feedback.

Permitted purposes

Allocation to permitted purposes

32. The application explains that all the CLC’s income from PCF is used to undertake permitted purposes covered within the scope of section 51(4)(a) of the Act.
33. The application further outlines that the CLC has solely regulatory functions and no representative functions. As a result, aside from levies, all PCF income generated by the CLC covers the regulation, accreditation, education and training of applicable persons, maintaining and raising of professional standards and practical support and advice about practice management in relation to practices.

Other income allocated to permitted purposes

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34. The total projected income for 2020 assumes other income of £34,164. During the course of the application we asked the CLC to confirm what is included under this heading. The CLC confirmed this is largely made up of application fees and interest.

LSB targeted review

35. In our 2019/20 Business Plan⁵ we set out an intention to conduct a review of the PCF approval process, including a targeted review of the regulators' approach to non-regulatory permitted purposes as set out in section 51 of the Act.

36. The targeted review is due to begin in late 2019. We look forward to working with the CLC to enhance our understanding of its current approach.

Transparency of PCF information to fee paying members

Clarity of information provided

37. The CLC provides information to the profession in regulatory charges. A draft of the information to be published to the profession is at Annex 4 of the application. The structure and format of the publication is consistent with previous years. The information to the profession will be issued to fee payers upon LSB approval.

Regulatory and Equality Impact assessment

38. The CLC's application provides comments on the applicability of the regulatory objectives and the ways in which it has taken into account the better regulation principles.
39. It is noted that the CLC has not completed a full regulatory and/or equality impact assessment. The LSB's rules for Practising Fee applications set out that regard should be given to regulatory and equality & diversity impact assessments. While our guidance confirms that such assessments are not needed in every case, this application has not explained fully why they have not been provided. We place particular importance on equality & diversity impact assessments as a means of driving consideration of relevant issues by the regulators we oversee.

Decision

40. The LSB has approved the PCF application submitted by the CLC for 2019/20 under section 51 of the Act.

⁵ https://www.legalservicesboard.org.uk/news_publications/publications/pdf/2019/Final_business_plan_2019-20.pdf

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Summary of expectations for next application

- The CLC to report to LSB in future PCF applications the progress it has made in reducing its level of reserves and to provide greater clarity as to how the appropriate level of “steady state” reserves is determined (Paragraph 20)
- the CLC to provide details of the work it has undertaken to review the range and number of fee bandings (Paragraph 29)
- the CLC to continue to build on its efforts to promote awareness of the consultation and to consider other possible avenues for engaging with the progression on the fee proposals in the interest of receiving a greater amount of feedback (Paragraph 31)
- the CLC to provide either full impact assessments or an explanation of why such assessments were not considered appropriate (Paragraph 39)

Matthew Hill, Chief Executive

Acting under delegated authority granted by the Board of the Legal Services Board

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Annex – A



The CLC Fees Framework ~~2018~~ 2019

Made ~~10 September 2018~~ [date] 2019 by the Council for Licensed Conveyancers with the approval of the Legal Services Board in accordance with s.14, 32 and 38 Administration of Justice Act 1985 and s.51 Legal Services Act 2007.

CITATION, COMMENCEMENT AND REVOCATION

1. This Framework may be cited as the CLC Fees Framework 2019 and shall come into force on 1 November ~~2018~~ 2019 on which date the Council for Licensed Conveyancers' Fees Rules 2018 shall cease to have effect.
2. "CLC Body" is a Recognised Body or a Licensed Body regulated by the CLC.

LICENSED CONVEYANCERS

3. The fees payable as provided by the CLC Lawyer – Licensing Framework shall be as follows: -

- (1) under paragraph 1(a)(ii) for the issue of a licence:

for the first time, or where such a licence is not in force at the time of the application (and has not been in force for at least 12 months prior to that date): £150;

to provide Conveyancing Services or Probate Services: £400

to provide Conveyancing and Probate Services: £475;

- (2) under paragraph 16 and 18 for an amendment to a licence: £75;

- (3) under paragraph 26 for a duplicate licence, where chargeable: £50.

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4. The additional fee of £100 is payable for failure to submit an Accountant’s Report within the time limited (see paragraph 16.2 of the Accounts Code and Guidance).

CLC BODIES

Practice Fee

5. The fee payable by a CLC Body as provided by
- (1) paragraph 5(a)(ii) of the CLC Recognised Bodies – Recognition Framework; and
 - (2) paragraph 7.10 of the CLC Licensed Body (ABS) Licensing Framework

shall be the turnover declared by the CLC Body for the purpose of determining the applicable annual premium payable in accordance with 10.1 of the CLC Professional Indemnity Insurance Code & Guidance as follows:

Turnover Banding		Practice Fee payable				
From	To	Minimum Fee in Band				
0 and	100,000	539 770	or	1.1% 0.77%	Of Turnover	Whichever is the greater
		Minimum Fee in Band			On Turnover in excess of	
100,001	500,000	770 1,100	plus	0.70% 1.0%	100,000	
500,001	3,000,000	3,570 5,100	plus	0.63% 0.9%	500,000	
Over	3,000,000	19,320 27,600	plus	0.56% 0.8%	3,000,000	

Compensation Fund Contribution

6. The Compensation Fund contribution payable by a CLC Body as provided by

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- (1) paragraph 5(a)(iv) of the CLC Recognised Bodies – Recognition Framework; and
- (2) paragraph 7.11 of the CLC Licensed Body (ABS) Licensing Framework

shall be the turnover declared by the CLC Body for the purpose of determining the applicable annual premium payable in accordance with paragraph 10.1 of the CLC Professional Indemnity Insurance Code & Guidance as follows:

Turnover Banding		Compensation Fund contribution			
From	To	Minimum Fee in Band			
0	£100,000	£500			
		Minimum Fee in Band			On Turnover in excess of
£100,001	£500,000	£500	plus	0.16%	£100,000
				0.4%	
£500,001	£3,000,000	£1,140	plus	0.12%	£500,000
		£2,100		0.3%	
Over	£3,000,000	£4,140	plus	0.08%	£3,000,000
		£9,600		0.2%	

WAIVER

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