



**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  
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Or by to DX 121925 CHELMSFORD 6

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## 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>1</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>2</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>3</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>4</sup>

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<sup>1</sup> S.28(2) LSA 2007

<sup>2</sup> defined at s.18 LSA

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

<sup>4</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>5</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>5</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>6</sup> and a Head of Finance and Administration<sup>7</sup>, each with key regulatory responsibilities. The rules will also require owners to pass a “fitness to own” test.<sup>8</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>9</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>6</sup> s.91

<sup>7</sup> s.92

<sup>8</sup> s.89 and sch 13

<sup>9</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>10</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>10</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>11</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>11</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>12</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 systems and controls in

<sup>12</sup> Rule 4 Compensation Fund Rules 2009

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.