



Review of Licence and Practice Fee Arrangements
CLC Consultation Paper
May 2017

Deadline for receipt of responses: 5pm on Friday 23 June 2017

Summary

1. The CLC is always looking to reduce regulatory costs. As processes become streamlined it is right that we check to ensure that the costs we charge the profession are still in line with a cost recovery model.
2. The CLC is consulting separately on changes to the authorisation and licensing process for CLC practices. One of the proposals in that consultation paper is that the CLC starts issuing licences to CLC Practices (Recognised Bodies as well as Alternative Business Structures) for an indefinite period. The issue of licences is of course conditional on payment of regulatory fees as and when they fall due.
3. The CLC will consider in July 2017 whether there should be
 - an adjustment to the licence fee (currently £400) so it is determined on a broad cost recovery basis which may have the effect of reducing the fee payable
 - a reduction in the Practice Fee rates which are currently determined as follows

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

- Application and administration fees charged will be reviewed to determine whether they should be adjusted to reflect more closely a costs recovery model.

The current intention is that the Compensation Fund contribution payable by each CLC Practice remains unchanged as follows:

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

4. Notification of the fees payable for the licence year starting 1 November 2017 as approved by the LSB will be published in September 2017.

Questions

1. Do you agree the objectives for determining fee rates set out at paragraph 17?
2. Do you agree the principles for determining the fee rates set out at paragraph 18?
3. Do you have any other comments on the fee structure and process for determining the Regulatory Fees payable for the licence year starting on 1 November 2017?

Please explain with as much detail as possible why, if that is the case, you do not agree to any of the objectives or principles proposed for determining fee rates.

Responding to this Consultation

5. You are invited to respond to the question set out above.
6. When you respond could you please give your name and address and whether you are a CLC Lawyer. If you are not a CLC Lawyer, 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.
7. You can provide your response [online](#) or by email to consultations@clc-uk.org or by post to

The Council for Licensed Conveyancers
CAN Mezzanine
49-51 East Road
London N1 6AH

Or to DX36603 FINSBURY

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Statutory Framework

8. The Council for Licensed Conveyancers (CLC) was established by the Administration of Justice Act 1985 (AJA) and is an Approved Regulator under the Legal Services Act 2007 (LSA), subject to the oversight regulation of the Legal Services Board (LSB). It licenses and regulates CLC Lawyers and CLC Practices in the provision of reserved legal activities, currently conveyancing and probate services and other non-reserved legal activities (including will writing). It is also a Licensing Authority authorised to license and regulate Alternative Business Structures (ABS). It has no representative function.
9. As an approved regulator the CLC 'must, so far as is reasonably practicable, act in a way which is compatible with the regulatory objectives'.¹

CLC's Approach to Regulation

10. The CLC's role is to safeguard the public interest and consumers by regulating providers to deliver high quality and accessible legal services.
11. The CLC's regulatory activities include:
 - setting educational and training standards for entry to the profession
 - issuing licences to practise to those qualified to provide conveyancing and probate services and to Alternative Business Structures
 - maintaining a register of all CLC Lawyers and CLC Practices
 - setting standards to regulate the professional practice, conduct and discipline of CLC Lawyers and CLC Practices
 - setting standards to maintain adequate professional indemnity insurance and a compensation fund to protect consumers
 - monitoring the work and conduct of CLC Practices
 - providing guidance and advice to CLC Practices to maintain compliance with our regulatory requirements
 - investigating allegations of misconduct and where appropriate taking disciplinary action and
 - collaborating with key stakeholders in the legal services market to monitor and shape future policy.
12. The CLC's approach to regulation is proportionate, risk-based and outcomes-focused. Licence holders are required to demonstrate that they:
 - act with independence and integrity
 - maintain high standards of work
 - act in the best interest of clients
 - deal with regulators and ombudsmen in an open and cooperative way and
 - promote ease of access and service.

¹ S.28(2) LSA

Fee Approval Process

13. Under s.51(5) LSA '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'. As required by s.51(4) LSA those rules specify the permitted purposes for which fees received may be applied (see Annex 1).
14. The Deadline for receipt of responses to this Consultation is 23 June 2017. 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 at the end of July 2017.
15. 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 September 2017, 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 2017.

Current Funding Arrangements for the CLC

16. The CLC is wholly funded by the profession and, through the profession, by consumers. Since 1 November 2010 the regulatory charges have been as follows:
 - a. The same licence fee payable by all CLC Lawyers
 - b. A Practice Fee payable by all CLC Regulated Entities (determined as a percentage of turnover with bandings)
 - c. A contribution to the CLC's Compensation Fund payable by all CLC Regulated Entities (determined as a percentage of turnover with bandings).

The scale of charges is dependent on the CLC's forecast expenditure requirements as set out in the budget which is approved by the Council at its meeting in July for the financial year commencing the following January.

Likely Effect of Proposed Changes

17. In 2016 annual practice fee rates were reduced by 20%. This reduction was achieved through the restructure of the CLC and growth in turnovers realised by practices under CLC regulation. All fee types were last comprehensively reviewed and updated in 2010, although the practice fee rates have been adjusted subsequently in 2011 and 2012.
18. The CLC's intention is that Practice and Compensation Fund rates charged by the CLC are reviewed on an annual basis in line with these principles and objectives. All other fees would be reviewed on a 3-5 year cycle or following significant change at the CLC which would warrant a further review.

Fee setting Objectives

19. It is proposed that the following overriding objectives are applied when determining fee rates for the next cycle commencing 1 November 2017.
- a. Fee setting in general is determined with the aim of generating no more than a nominal surplus each year.
 - b. Fees are set at a level that recovers the cost of regulation of practices and individuals, except where the minimum reserve in either the Practice or Compensation Fund needs to be 'topped up'.
 - c. Fees charged are consistent year on year, with the expectation that fee rates reduce as economies of scale are realised and practice turnovers increase.
 - d. Fee rates (Practice fees and Compensation contributions) are increased only in exceptional circumstances, such as a prolonged economic downturn where minimum reserves cannot effectively absorb losses.

Principles applicable in setting fee rates.

20. Principles which are proposed to be applied in setting fee rates are as follows:

Fee type	Principles applied when setting the rates
Annual practice fee	<ul style="list-style-type: none"> • Practice fees are calculated on a sliding percentage based scale using turnover declared by practices for PII renewal purposes. • Practice fee rates can only be finalised after considering the impact of fees projected from individual licence fees. • Forecast expenditure for the 12-month period starting in November is used as a basis for determining the revenue required from practice fees. • Percentage contribution rates are adjusted to generate a small surplus on the forecast expenditure after taking into consideration other income streams. • If the adjustment to the percentage contribution rate necessary to achieve a small surplus is less than 5%, then no adjustment is made. • If an operating deficit is forecast, Council is asked to determine the approach to be taken which would probably result in an increase in fee rates and/or utilising reserves to fund the deficit.

Fee type	Principles applied when setting the rates
	<ul style="list-style-type: none"> • If the minimum reserve falls below the agreed minimum level, the forecast surplus is increased to ensure that the reserve is replenished within a reasonable period.
Compensation Fund Contribution	<ul style="list-style-type: none"> • Compensation Fund Contributions are calculated on a sliding percentage based scale using turnover declared by practices for PII renewal purposes. • Forecast expenditure for the 12-month period starting in November is used as a basis for determining the revenue required from Compensation Fund Contributions. • Should the free cash reserve level after adjusting for known claims be below the minimum reserve then a larger surplus should be factored in to replenish the reserve to the agreed minimum level within three years. • If an operating deficit is forecast, Council is asked to determine the approach to be taken which would probably result in an increase in fee rates and/or utilising reserves to fund the deficit.
Individual licence fee	<ul style="list-style-type: none"> • Individual licence fees are fixed annual charges payable by individuals licensed by the CLC. • The licence fee is fixed on a cost recovery basis taking into consideration staff time spent, as well as an overhead allocation. • The costing is reviewed periodically. • Adjustments to the licence fee will only be implemented if the costing indicates a change of more than 10%. • The individual licence fee will be adjusted to the nearest £5.
Licence Application fee	<ul style="list-style-type: none"> • Licence application fees are charged to individuals and practices applying to be regulated by the CLC. • Licence application fees are determined on a cost recovery basis taking into consideration staff time spent, direct costs as well as an overhead allocation. • The costing is reviewed periodically. • Adjustments to the licence application fees will only be implemented if the costing indicates a change of more than 10%. • The licence application fees will be adjusted to the nearest £5.

Fee type	Principles applied when setting the rates
Administration fee	<ul style="list-style-type: none"> • Administration fees are charged to practices and individuals when amendments are made to licences. • Administration fees are based on a cost recovery taking into consideration staff time spent, as well as an overhead allocation. • The costing is reviewed periodically. • Adjustments to the licence fee will only be implemented if the costing indicates a change of more than 10%. • The administration fee will be adjusted to the nearest £5.

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.