



Review of Licence and Practice Fee Arrangements
CLC Consultation Paper
May 2019

Deadline for receipt of responses: 5pm on Friday 21 June 2019

Summary

1. As set out in its strategy 2018-2022 the CLC's ambition is to be the regulator of choice in its specialist areas and for the share of the conveyancing market under CLC regulation to continue to grow. An important factor in encouraging that growth is for the CLC to realise costs saving which can then be passed to the profession as reductions in their regulatory fees.
2. The CLC has already reduced Annual Practice Fee rates by more than a quarter since 2015. The base Compensation Fund contribution has been stable at 0.4% since 2011. The CLC is now considering reducing annual licence fee rates paid by CLC-regulated firms further, by up to 20%, and contributions to the Compensation Fund by up to 60%.
3. The individual licence fee charged to CLC lawyers providing conveyancing and/or probate services will remain unchanged at £400.
4. There are six key factors the CLC Council will have to consider in determining at what level the fee rates should finally be set. These are:
 - a) Total turnover of practices under CLC regulation as well as the growth in turnover since the prior year
 - b) The CLC's projected expenditure for 2020
 - c) Land Registry data which provides current data about the conveyancing market
 - d) The current state of the wider economy
 - e) Projected pipeline of practices coming into CLC regulation
 - f) For the Compensation Fund, analysis of the current levels of claims
5. The current fee rates are set out at Annex 2. Notification of the fees payable for the licence year starting 1 November 2019 as approved by the LSB will be published in September 2019. An illustration of what the reductions may mean are shown at Annex 3.

Questions

1. Do you have any comments on the objectives for determining fee rates set out at paragraph 20?
2. Do you have any comments on the factors which are likely to impact fee rates set out at paragraph 22?
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 2019?

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

6. You are invited to respond to the questions set out above.
7. 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.
8. All responses should be sent by email to consultations@clc-uk.org or by post to

The Council for Licensed Conveyancers
We Work
131 Finsbury Pavement
London EC2A 1NT

Or to DX42615 CHEAPSIDE

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Statutory Framework

9. 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.
10. 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

11. The CLC's role is to safeguard the public interest and consumers by regulating providers to deliver high quality and accessible legal services.
12. 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.
13. 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

14. 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).
15. The Deadline for receipt of responses to this Consultation is 21 June 2019. 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 2019.
16. 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 2019, 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 2019.

Current Funding Arrangements for the CLC

17. 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

18. 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 in 2011, 2012, 2016 and 2018.
19. 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

20. It is proposed that the following overriding objectives are applied when determining fee rates for the next cycle commencing 1 November 2019.

- 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.

Current basis for considering a further reduction to the CLC regulatory fees

21. On the basis of information currently available to it, the CLC Council is satisfied that it can safely consider reducing the cost of practising further while maintaining high standards of consumer protection for three main reasons:

- a. The CLC's proactive approach to securing compliance minimises the number of failures that result in harm to clients and expensive corrective work.
- b. As a result of this cost management and the sale of properties owned in the past by the CLC, reserves are now at a level that should be reduced closer to the minimum level set by the Council.
- c. Despite uncertainty in the housing market, CLC-regulated firms have been performing well in business terms, so the CLC does not need the current levels of reserves in hand to deal with the potential impact of wider economic instability on the firms it regulates. The CLC is able to run a deficit budget for a period to reduce those reserves.

Factors applicable in setting fee rates

22. The factors which are likely to impact the fee rates are:

- a) Total turnover of practices under CLC regulation as well as the growth in turnover since the prior year

Practices renew their Professional Indemnity Insurance in June. As part of the process they declare their turnover to the insurers which then pass the figures on to the CLC to use in setting the fees for the next fee year starting in November. We have assumed that there would be an overall growth in

turnover of 3% this year. A growth figure is significantly higher or lower than 3% will impact the CLC revenue and therefore the final fee rate levied on CLC practices.

b) The CLC's projected expenditure for 2020

In June our proposed expenditure will be forecast based on the best estimates at hand, any significant fluctuations from the current budget will need to be considered when setting fee rates.

c) Land registry statistics which provides current data about the conveyancing market

Over the last 36 months transaction data have shown a gradual downward trend. The February transaction volumes were the lowest over the 36-month period. Should the March to May 2019 figures continue to show the same trend, this would indicate that turnovers are likely to decline in the next 12 to 24 months and that we should consider a more prudent approach.

d) The current state of the wider economy

Indicators available in June will contribute to our outlook over the forecast period and may impact our turnover growth assumptions.

e) Projected pipeline of practices coming into CLC regulation

An increase in new practices switching regulator, or interest from practices would indicate that our assumptions are correct and could warrant a more bullish approach. Conversely, little interest and practice closures over the next quarter would suggest a more cautious approach.

f) For the Compensation Fund, analysis of the current level of claims

We have assumed that grants out of the Compensation Fund will remain at similar levels to the past 2-3 years. Any significant additional claims or interventions may impact the expenditure on the Compensation Fund which would result in a more prudent approach to rate cuts.

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] and/or the payment of a financial penalty imposed on the approved regulator under section 37 of the Act;
- (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
Current Fee Rates**

Practice Fee

| Turnover Banding | | Practice Fee payable | | | | |
|------------------|-----------|----------------------|------|------|--------------------------|--------------------------|
| From | To | Minimum Fee in Band | | | | |
| 0 and | 100,000 | 770 | or | 1.1% | Of Turnover | Whichever is the greater |
| | | | | | | |
| | | Minimum Fee in Band | | | On Turnover in excess of | |
| 100,001 | 500,000 | 1,100 | plus | 1.0% | 100,000 | |
| 500,001 | 3,000,000 | 5,100 | plus | 0.9% | 500,000 | |
| over | 3,000,000 | 27,600 | plus | 0.8% | 3,000,000 | |

Compensation Fund Contributions

| 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 |

**Annex 3
Fee Reduction Illustrations**

Practice Fee

| Turnover | Current rates | 10% reduction | 20% reduction |
|-----------------|----------------------|----------------------|----------------------|
| 250,000 | 2,600 | 2,340 | 2,080 |
| 500,000 | 5,100 | 4,590 | 4,080 |
| 1,000,000 | 9,600 | 8,640 | 7,680 |
| 2,000,000 | 18,600 | 16,740 | 14,880 |
| 3,000,000 | 27,600 | 24,840 | 22,080 |
| 4,000,000 | 35,600 | 32,040 | 28,480 |
| 5,000,000 | 43,600 | 39,240 | 34,880 |
| 6,000,000 | 51,600 | 46,440 | 41,280 |
| 7,000,000 | 59,600 | 53,640 | 47,680 |
| 8,000,000 | 67,600 | 60,840 | 54,080 |
| 9,000,000 | 75,600 | 68,040 | 60,480 |
| 10,000,000 | 83,600 | 75,240 | 66,880 |

Compensation Fund

| Turnover | Current rates | 50% reduction | 60% reduction |
|-----------------|----------------------|----------------------|----------------------|
| 250,000 | 1,100 | 550 | 440 |
| 500,000 | 2,100 | 1,050 | 840 |
| 1,000,000 | 3,600 | 1,800 | 1,440 |
| 2,000,000 | 8,100 | 3,300 | 2,640 |
| 3,000,000 | 9,600 | 4,800 | 3,840 |
| 4,000,000 | 12,600 | 5,800 | 4,640 |
| 5,000,000 | 15,600 | 6,800 | 5,440 |
| 6,000,000 | 18,600 | 7,800 | 6,240 |
| 7,000,000 | 21,600 | 8,800 | 7,040 |
| 8,000,000 | 24,600 | 9,800 | 7,840 |
| 9,000,000 | 27,600 | 10,800 | 8,640 |
| 10,000,000 | 30,600 | 11,800 | 9,440 |