



**Application to the Legal Services Board**

**Under s.51 Legal Services Act 2007**

**For Approval of**

**Individual Licence fees, Practice Fees, Compensation Fund contributions  
and other charges**

**for the period 2021-2022**

**September 2021**

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## Introduction

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- 1) The last year has been challenging for the CLC and its regulated community because of the uncertainty caused by the COVID pandemic. This uncertainty is driven by the difficulty in predicting the likely impact on CLC regulated entities and the needs of the CLC to be able to effectively regulate. The CLC's has taken a cautious approach and increased the support offered to practices. Actions taken by the CLC since the pandemic started includes:
  - a. Not changing fee rates for the 2020/21 billing cycle. This had a dual purpose of not increasing the financial burden on the regulated community during the height of the pandemic uncertainty and ensured that the CLC retained funding and reserves in the event that that the economic outlook worsened so that there would be adequate resources to provide regulatory support.
  - b. Offer practices 3-month fee payment deferrals during the first lockdown (April – June 2020) when they were unable to operate. The aim was to assist practices with managing their cashflow.
  - c. Increase communication and contact with practices (Through surveys and direct practice contact) so that we could identify any developing trends and individual challenges and take action where appropriate.
  - d. Take action to reduce the CLC expenditure based on our expectation that things may get worse before they got better.
- 2) The governments support of the property sector through enabling house purchases to continue through most of the pandemic period, the furlough scheme and the implementation of the SDLT holiday each had a significant positive impact on the practices we regulate. Practices have been able to retain their staff and have generally seen good transaction volumes. No practices have had to close because of the pandemic.
- 3) The annual Professional Indemnity Insurance (PII) renewal round was completed in June 2021. Turnovers declared by practices to their insurers are used by the CLC to determine the Practice and Compensation Fund contributions to be made by practices for the 2021-22 billing cycle. This PII round was particularly difficult as practices were faced with higher premiums and 7 practices were forced to close as they were either unable to obtain terms or they received terms that were not compliant with the CLC minimum terms and conditions.
- 4) The practice turnovers declared during the PII renewal round are a key input to our fee rate calculation. Some key observations of the changes over the period (12 months ended June 2021) include:
  - a. 11 practice closures for any reasons including unable to secure PII cover and switching to other regulators.

- b. 11 practices came into CLC regulation.
  - c. Total turnover under CLC regulation grew by 2.9% over the 12-month period, which although heartening is well below the long-term average annual growth of 6.2%. These figures do not include the positive impact of the SDLT holiday as they are based on the practices turnover for the financial year ended prior to June 2021.
- 5) The difficult PII insurance market and the uncertainty due to covid have been barriers to growth at the CLC. Although we have seen new practices coming into CLC regulation, (11 during the last year), obtaining PII cover has been a significant hurdle as many insurers were not writing new business and there was no appetite from insurers to cover existing practices wanting to switch to CLC regulation. This is of significant concern to the CLC and PII arrangements are currently being reviewed to ensure that PII requirements and the operation of the market are not acting as barriers to market entry and are providing the correct consumer protection.
- 6) The CLC Strategy for 2018-2022 remains unchanged, and as we learn to live with COVID we expect to reassess and renew our focus on the achievement of the set strategic objectives which are:
- a. Empower consumers to make informed choices of conveyancing and probate lawyers
  - b. Adapt regulation to the changing market
  - c. Be the regulator of choice in our specialist areas
- 7) The approach to fee setting has not changed, and the principles used to set Practice Fee rates remain as follows:
- a. Fee setting in general is determined with the aim of generating no more than a nominal surplus each year.
  - b. A managed deficit budget can be used to fund a decrease in fee rates when sufficient excess reserves are available.
  - c. 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'.
  - d. Fees charged are consistent year on year, with the expectation that fee rates reduce as economies of scale are realised by the CLC and practice turnovers increase.
  - e. 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 a loss of income and increased regulatory costs that can arise in times of economic difficulty.

## I. Summary and overview of the proposal

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- 8) This application to the LSB sets out the CLC's proposed fee structure for the 2021-22 billing cycle commencing 1 November 2021.
- 9) The Council has been instrumental in developing and approving this proposal through multiple engagements including:
  - a. a March workshop to develop the proposal and points for consultation
  - b. an April Council meeting to approve the consultation document
  - c. a June workshop to review consultation responses and fee proposal workings
  - d. a July Council meeting to approve the Practice Fee proposals included in this application.
- 10) The Senior management team conceived the idea of a separate OLC levy in early 2020 and have worked with Council to develop it and are strongly supportive of it. The CEO and accounting officer believes that it is the way we must go forward for transparency, to drive better behaviours in practices for better outcomes and for cost control.
- 11) The CLC's current fee structure (introduced in February 2010) implemented following consultation with the profession can be summarised as follows:
  - a. Individual Licence fee (a fixed sum)
  - b. Practice Fee (as a percentage of turnover subject to a minimum fixed fee), and
  - c. Contributions to the Compensation Fund (as a percentage of turnover subject to a minimum fixed fee) to be applied solely for purposes relating to the operation of the CLC's Compensation Fund
- 12) The proposals for the 2021-22 billing cycle are summarised as follows:
  - a. The **individual licence fee** will remain unchanged at £400 for a conveyancing or probate licence and £475 for both. All **other charges** as summarised in Appendix A will remain unchanged.
  - b. The number of **turnover bands** will increase from 4 to 9. This will be applied to both the Practice Fee and Compensation Fund contribution tables. Narrower bands will provide smoother progression as rates are tapered.
  - c. The **OLC levy to practices** will be split from the Practice Fee and billed to practices separately. based on two elements; a fixed fee determined by turnover (**the availability fee**) and a usage element (**the usage fee**) based on the case numbers used by the OLC to determine the levy payable by the CLC. This will provide an incentive to firms to improve first tier complaints handling which will benefit consumers. It will also improve transparency around OLC costs and the liability for them.

- d. The **Practice Fund Fee rates** will be amended to reduce the amount collected (when compared to the 2020 bandings and rates) by £400,053. This reduction is the sum of the OLC cost which is being removed from the Practice Fee and an increase in collections to offset the increased OLC cost and reduce the deficit budget.
- e. The **Compensation Fund fee rates** will be amended to accommodate the additional turnover bandings. The fee rates have been set at a level that keeps the contributions at approximately the same amount as they would have been on the old fee bandings and rates.
- 13) Further details of the impact of these changes on practices are included in this application.
- 14) The proposed changes to the PCF billing arrangements are expected to have the following impact on fees collected from the profession.

Changes to Fee collections	2021-22	2020-21	Change	% Change
Individual licence Fee	681,733	609,152	72,581	11%
Practice Fee	1,313,016	1,608,719	(295,702)	(23%)
OLC Levy	686,511	-	686,511	100%
<b>Total fee collected</b>	<b>2,703,027</b>	<b>2,217,584</b>	<b>463,390</b>	<b>21%</b>

- 15) The growth in the individual licence fee collection is attributed to the increase in the number of licence holders as individuals apply for a first qualifying licence.
- 16) Using the Old fee rate table and contribution rates, the CLC would have collected £1,713,069 in Practice Fees. The fee rates in the new fee rate tables have been amended to remove the OLC cost (£686,511). This reduction is partially offset by an increase of £286,458 to offset increased costs. The net reduction in Practice Fees is £400,053.
- 17) The £286,458 increase in Practice Fees can be attributed to:
- An increase in the OLC levy charged to the CLC of £166,794 for the 2021-22 billing cycle. This is on top of an increase of £96,886 for the preceding period.
  - An increase in the Practice Fee to be collected of £119,664 to reduce the planned reserve utilisation to £250,000 in 2022. This is necessitated by prior year increases in the OLC costs.
- 18) Should this application not be approved within the required time frame the CLC would utilise its reserves to continue operations until such time that the PCF is amended and approved. Our minimum reserve should enable the organisation to continue operations without restriction for approximately 6 months.

- 19) Should the application not be approved, the CLC would request permission to continue collecting the current monthly direct debit from practices as collecting the PCF over a shorter period could be detrimental to practices. Once new PCF arrangements are agreed, the CLC will amend collections over the remaining period so that the approved fee is collected over the course of the billing cycle.
- 20) The CLC is prepared to work with the LSB to provide any explanation, analysis, or amendments to facilitate receiving a decision within the requisite timeframe.
- 21) The LSB highlighted several expectations for the 2021 application when it approved the 2020 PCF application. These expectations and the action taken are summarise in the table below.

Requirement for 2021-22 PCF application	Action taken
The CLC to progress its review into the range and number of bandings for practices in advance of the next application.	The fee bandings have been reviewed and the CLC is proposing amendments to the turnover bandings in this application.
The CLC to continue to demonstrate a clear plan along with actual progress to reduce the imbalance between its actual accumulated reserves and the target level set out in its policy in the near future.	The Council has reviewed the reserving levels and a comprehensive reserving policy has been developed approved by the Council. See Annex B and B1
The CLC to be able to demonstrate meaningful and effective consultation. This may require targeted work beyond simply publishing a consultation on the CLC's website.	The CLC has promoted the consultation extensively and held a series of workshops to explain the proposed changes. Consultation responses have been reviewed and responses are being finalised for publication.
The CLC to provide estimates on the allocation of the PCF to specific areas of work.	This is provided in <b>section III – Financial Information</b>
The CLC to provide a brief explanation of what is included under the other income heading.	Other income includes: <ul style="list-style-type: none"> <li>• Licence application fees (practice and individual)</li> <li>• Licence amendment charges</li> </ul> These fees are set out in Annex A
The CLC to demonstrate a meaningful impact assessment of its proposals.	This is provided in Section <b>VI – Impact assessments</b>

- 22) To the best of our knowledge no further issues have been raised during our informal engagements with the LSB that need to be addressed in this application.

## I - a Individual License fee and other charges

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- 24) The CLC is seeking approval for the **individual License Fee** and **other charges** to remain unchanged from the rates set in 2020.
- 25) The Individual license fees are currently set at £400 for a conveyancing or probate licence and £475 for both.
- 26) The individual license fee was reduced to £400 (from £480) in 2011 and has not changed since.
- 27) Although the Individual license fee has not changed in 10 years, practitioners have benefited from the absence of inflationary increases in the subsequent years.
- 28) Other charges include application fees and administrative charges. The Schedule of other charges can be found in Annex A. These charges remain unchanged from the rates approved in 2020.
- 29) There is no indication that the Individual License Fee or other charges are a barrier to entry or that they impact any individual group or individuals with a protected characteristic disproportionately.

## I - b Amendment of the turnover bandings

- 31) The CLC is seeking approval for the amendment of the **turnover bandings**. The intention is it increase the number of bands from 4 to 9.
- 32) The new turnover bandings will then be applied to all fees that use turnover as a basis for the charge. This will include the Practice Fee, The Compensation Fund Contribution and the OLC Availability Fee.
- 33) The CLC levies a Practice Fee on all CLC regulated practices to recover the operating costs associated with the provision of regulatory functions. The Practice Fee is based on a percentage of the practice's turnover which is declared to insurers when their PII is renewed. The contribution rates are banded by turnover and reduce as turnover increases.
- 34) The current turnover bandings were introduced in 2010 and have not been amended since implementation. The Practice Fee contribution rates have however decreased by 42% since 2016. The Compensation Fund rates have decreased by 60% over the same period. This has delivered a very significant reduction in the cost of regulation to the CLC's regulated community.
- 35) The distribution of practices by banding has changed quite significantly since the current fee bandings were implemented in 2010. In 2010 91% of practices had a turnover less than £500,000. This has now decreased to 63% of practices. The number of practices with a turnover under £100,000 has decreased by 74% over the last 10 years while the £500k to £3m band has grown by 377%.
- 36) The table shows the current fee bandings and illustrates the change in practice numbers by banding between 2010 and 2021.

Analysis of practices by current banding	Number of practices 2010	% Distribution in 2010	Number of practices 2021	% Distribution in 2021	Growth in practice numbers
Greater than £3m	4	2%	16	7%	300%
£500k to £3m	13	6%	67	31%	415%
£100k to £500k	111	53%	115	53%	4%
less than £100k	80	38%	21	10%	-74%
	208	100%	219	100%	

- 37) The less-than-£100k turnover banding has seen a significant decrease in practice numbers over the last 11 years. This is indicative of the changing conveyancing landscape where

fewer new entrants are setting up sole trader type businesses and are opting for a more commercial and sustainable structure. The significant decrease in numbers in this banding are attributed to practice closures (due to retirement or unsustainability) or growth in turnover which moves the practice to the next fee band. Most newly regulated practices that start in this band move to higher bands after the first year of trading.

- 38) The £500k to £3m turnover band and greater than £3m turnover bands have shown the most significant growth in practice numbers over the last 10 years. This is most likely attributed to the implementation of the ABS regime and a more commercial approach to conveyancing.
- 39) The practice distribution by turnover is illustrated in more detail in the table below. The orange and white bands represent the 2010 turnover bandings.

Turnover banding 2020	Number of practices	% Distribution
>£20m	2	0.9%
£15m to £20	1	0.5%
£10m to £15m	1	0.5%
£7m to £10m	4	1.8%
£5m to £7m	2	0.9%
£3m to £5m	6	2.7%
£2m to £3m	3	1.4%
£1m to £2m	16	7.3%
£500k to £1m	48	21.9%
£400k-500k	25	11.4%
£300k-£400k	23	10.5%
£200k-£300k	30	13.7%
£100k-£200k	37	16.9%
<£100k	21	9.6%
	219	100.0%

- 40) The table highlights the following:

- a. 52.5% of practices have turnovers in the £100k to £500k range. All these practices are currently concentrated in a single band which means that practices at the bottom of the band, even with significant growth do not benefit from the tiered rates.

- b. A similar picture emerges in the £500k to £3m banding with 22% of practices being in the bottom half of the band and not being able to benefit from rate tiering even with significant growth.
  - c. Large practices do not receive any further rate reduction benefit once their turnovers reach £3m, which considering their turnovers and fee contribution is a very low top threshold.
- 41) Based on the above analysis, the Council has resolved that the fee bandings should be amended to adjust for the growth in practice turnovers since the 2010 bandings were implemented and ensure a better spread of practices across the turnover bands. The narrower turnover bandings will enable practices to benefit from rate tiering as their turnover grows.
- 42) The table below includes the proposed new turnover bandings which significantly narrows the width of the bands. The final bands have been set so that the upper limit of the band is double the lower limit (The £100k – £250k band is the exception).

<b>Proposed new fee bandings</b>	<b>Number of practices</b>
£0 – £100,000	21
£100,001 – £250,000	55
£250,001 – £500,000	60
£500,001 – £1,000,000	48
£1,000,001 – £2,000,000	16
£2,000,001 – £4,000,000	6
£4,000,001 – £8,000,000	6
£8,000,001 – £16,000,000	5
£16,000,001 and over	2

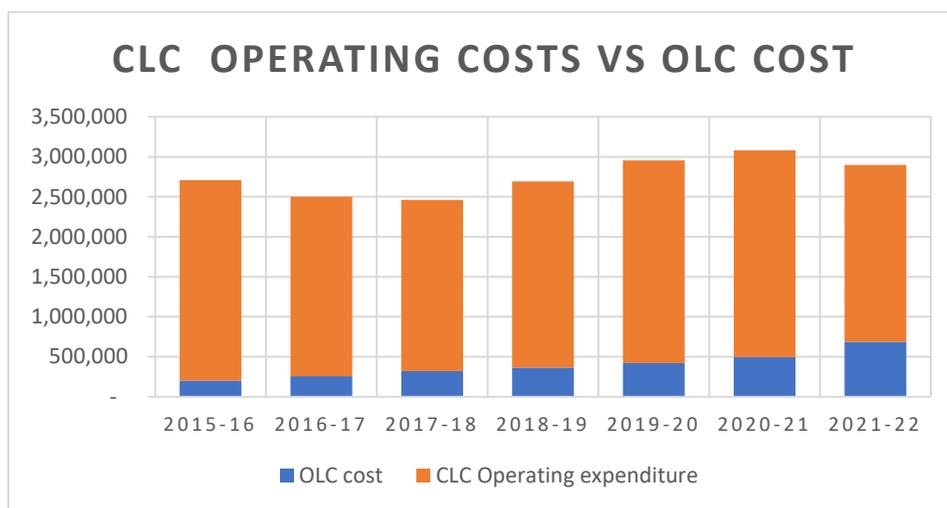
219

- 43) The proposed bandings have been applied to both the Practice Fee and the Compensation Fund contributions to maintain consistency.
- 44) There is no indication that the change the Fee bandings has impacted any individual group or individuals with a protected characteristic disproportionately.

## I – c The OLC levy recharge to practices

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- 45) The CLC is seeking approval to separate the OLC cost from the Practice Fee and collect the cost through a separate charge on practices. This new charge will have two components, an **OLC availability fee** (based on turnover) and a **OLC usage fee** (based on case numbers).
- 46) The Council has been concerned for some time now about the sustained increase in the OLC charge and the impact that the increases are having on cost control at the CLC.
- 47) When setting fees, the CLC has attempted to reduce the regulatory burden of practices and avoid fluctuating fee rates (i.e. increased rates).
- 48) The sustained increase in the OLC cost since 2016-17 (193% increase) has resulted in pressure to contain and reduce the CLC operating costs rather than increase the overall cost to the regulated community. This trend is unsustainable as any further operational cuts will have an impact on the achievement of our regulatory objectives.
- 49) The OLC levy is currently collected through the Practice Fee. This means that all practices are contributing towards this cost in proportion to their turnover regardless of the number of complaints against them accepted by the ombudsman for review.
- 50) The OLC calculates the cost to be charged to the CLC based on the 3-year average number of cases accepted for review.
- 51) 62% of currently regulated practices have had no cases at the OLC for the last 3 years.
- 52) The current arrangement of collecting the OLC in the Practice Fee is problematic because:
  - d. It makes operational cost control and the CLC's objective of reducing the regulatory burden difficult to manage
  - e. More than 23% of the Practice Fee paid by all practices is allocated to the OLC cost, even if a practice has had no cases at the OLC for the last 3 years
  - f. The allocation of the OLC cost is not transparent and equitable
  - g. The current model does not incentivise practices with high case numbers to improve their complaint handling arrangements
  - h. Practices with very high case numbers are effectively being subsidised by practices with reasonable case levels or no cases
  - i. The OLC charge for some practices is more than the Practice Fee being collected
- 53) The chart below illustrates the trend in total expenditure and the allocation between operating and OLC cost.



54) The trends in CLC operating cost and OLC levy cost is illustrated in the table below. The OLC levy has increased significantly year-on-year since 2016, whereas The CLC operating cost has largely remained flat over the same period. Over the period the OLC cost as a percentage of total cost has increased from 9% to 23%.

CLC Operating expenditure split between direct and OLC costs	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22
CLC Operating expenditure	2,503,187	2,239,557	2,137,158	2,326,626	2,533,584	2,585,879	2,343,484
YoY (Decrease)/Increase in CLC operating expenditure		-11%	-5%	9%	9%	2%	-9%
OLC cost	239,857	234,009	302,873	340,015	422,831	519,717	686,511
YoY Increase in OLC cost		-2%	29%	12%	24%	23%	32%
<b>Total CLC cost</b>	<b>2,743,044</b>	<b>2,473,566</b>	<b>2,440,031</b>	<b>2,666,641</b>	<b>2,956,415</b>	<b>3,106,984</b>	<b>3,029,995</b>
YoY (Decrease)/Increase in total CLC costs		-8%	-2%	9%	10%	4%	-6%
<b>OLC cost as a % of total CLC cost</b>	<b>8.7%</b>	<b>9.5%</b>	<b>12.4%</b>	<b>12.8%</b>	<b>14.3%</b>	<b>16.7%</b>	<b>22.7%</b>

55) The trends in the OLC case numbers and cost per case are summarised in the table below.

OLC cost and case analysis	Apr 2015 - March 2016	Apr 2016 - March 2017	Apr 2017 - March 2018	Apr 2018 - March 2019	Apr 2019 - March 2020	Apr 2020 - March 2021	Apr 2021 - March 2022
CLC case numbers	152	184	217	232	232	253	263
<b>Total case numbers</b>	<b>8,357</b>	<b>7,637</b>	<b>7,282</b>	<b>7,226</b>	<b>6,216</b>	<b>5,947</b>	<b>4,962</b>
<b>CLC % of cases</b>	<b>1.82%</b>	<b>2.41%</b>	<b>2.98%</b>	<b>3.21%</b>	<b>3.73%</b>	<b>4.25%</b>	<b>5.30%</b>
Final cost to CLC	239,857	234,009	302,873	340,015	422,831	519,717	
Estimated cost to CLC	202,982	259,665	322,573	364,672	422,533	496,238	686,511
Estimated total cost	11,180,000	10,610,000	10,697,000	11,247,528	11,232,000	11,592,000	13,031,275
Actual total cost	13,187,401	9,712,645	10,163,692	10,590,295	11,328,955	12,216,431	
<b>Estimated cost per case</b>	<b>1,335.41</b>	<b>1,411.22</b>	<b>1,486.51</b>	<b>1,571.86</b>	<b>1,821.26</b>	<b>1,961.42</b>	<b>2,610.31</b>
Actual cost per case	1,578.01	1,271.79	1,395.73	1,465.58	1,822.55	2,054.22	-

56) The key observations from this analysis are that:

- a. The numbers of cases originating from CLC regulated practices have been steadily increasing over the past 7 years and for the current year is expected to reach 173% of the 2015-16 number.
- b. The total number of cases investigated by the OLC have been decreasing steadily over the past 7 years.
- c. Because the cost is allocated on a per case basis, the OLC cost allocated to the CLC has been increasing as we have a higher percentage of the total case numbers.
- d. Over the previous 5 years the CLC share of the OLC cases have increased from 1.82% to 5.3% - this means that the proportion of cases associated with CLC regulated practices have increased almost 3-fold
- e. OLC operating costs have not increased significantly over the past 7 years - the annual growth rate is around 2.2%.
- f. The increase in the cost per case is primarily due to a 40.6% decrease in case numbers without a corresponding decrease in cost.
- g. Complaints against CLC firms remain low in absolute numbers but are expected to have increased by 73% between 2015-16 and 2021-22. However, the cost of

the OLC to the CLC is expected to have nearly tripled over the same period, from £239,857 to a projected £686, 511.

- h. Assuming the above trends continue without intervention, the CLC and the regulated community can expect to see significant year-on-year cost increases over the short to medium term.

57) The Council of the CLC having reviewed and discussed the data and trends, have resolved that the OLC levy should be collected from practices as a separate charge to the Practice Fee which would going forward only include the direct and controllable CLC operating expenditure. The new OLC levy on practices would be invoiced and collected separately from the Practice Fee and would be comprised of an availability fee which all practices would pay and a “user pays” element which would be charged to practices in the same way that the OLC allocates the charge to the CLC (the proportion of the average number of cases accepted for investigation in the preceding 3-year period against the total number of cases accepted for investigation).

58) The intention is that:

- a. The Practice Fee would continue to be invoiced to practices in October each year. The Practice Fee would be based on turnover and intended to recover the CLC’s operating costs excluding the OLC cost.
- b. The OLC levy will be invoiced to practices in April each year based on the final OLC invoice for the financial period just ended. The OLC levy will be allocated to practices based on an availability fee which is a fixed fee tiered by turnover and a usage fee for the balance of the cost. The usage fee would be based on the number of cases associated with each practice as provided by the OLC.

59) The implementation of new OLC levy payable by practices would have the following benefits:

- a. Increasing the regulated community’s awareness of the OLC cost
- b. Allocating cost to practices that incur the cost as the users of the service would pay for the service (an availability fee would however be charged to all practices)
- c. Through awareness and accountability for cost incurred, incentivise better complaints handling arrangements by the regulated community and in particular those 41 firms that currently generate a disproportionate number of OLC cases. This will deliver real consumer benefit
- d. Improving transparency of costs and the liability for meeting them
- e. Provide more certainty for practices about the costs from their regulator as well as protection of the CLC operating expenditure from offsetting increasing OLC costs to maintain expenditure levels

## Implementation of the OLC levy on practices

- 60) The previous sections outlined the reason for billing the OLC levy separately and provided details of the revised Practice Fee rates. This section will provide further information on the operation of the OLC recharge and the impact on practices.
- 61) The OLC invoices the CLC for its share of the ombudsman's costs in March of each year for the financial period ending in March. The cost to the CLC is based on the proportion of CLC regulated cases accepted for investigation against the total number of cases investigated by the OLC over the same 3-year period.
- 62) The new OLC levy charged to practices will comprise of two parts:
- a. The **OLC availability fee** – which will be based on turnover
  - b. The **OLC usage fee** – which will be calculated on the basis of the number of cases a practice has had investigated over the last 3 years (using the same data that the OLC has used to allocate the cost to the CLC)
- 63) The OLC availability fee will be charged to all practices regulated by the CLC. The availability fee is a fixed fee which increases by turnover banding.
- 64) The OLC availability fee includes the following cost elements:
- a. A contribution towards the availability of the ombudsman service to consumers which helps to foster confidence in the legal system. We have estimated that 20% of the OLC cost could be attributed to the availability of an ombudsman service.
  - b. A contribution to cases associated to closed practices which are being charged to the CLC which cannot now be recovered from the practice.
- 65) The closed practice cases include some cases taken on by the OLC after a practice has closed. The CLC is asking the OLC to discontinue this practice as the cost of any actual loss suffered by a client would be determined by the insurer or the CLC Compensation Fund. Therefore, the CLC is seeking to agree with the OLC a streamlined process that could deliver swifter consumer redress in such cases and reduce the burden on the OLC. This is also likely to result in a quicker resolution for claimants and a lower cost to the regulated community. It should also be noted that most of the OLC determinations are distress or pain and suffering awards. It is futile to make these awards after a practice has closed as it will not be recoverable from the practice, they are mostly below the PII excess and they do not attach to the CLC Compensation Fund.
- 66) The estimated availability fee for 2022 based on the OLC estimated cost allocation has been calculated as follows.

Total OLC cost to be recovered	686,511.00	
Practice availability fee (20% of total cost)	-137,302.20	A
<b>Cost to be recovered through case fees</b>	<b>549,208.80</b>	
Total number of cases	263.07	
Cost per case	<u>£2,087.66</u>	
Closed practice allocation (46.33 cases)	- 96,728.44	A
Regulated practice allocation (216.74 cases)	-452,480.36	B
<b>Unallocated cost</b>	<u>-</u>	
Total availability fee	234,030.64	A
Total recovered from practice through a per case cost	<u>452,480.36</u>	B
<b>Total OLC cost to be recovered</b>	<u>686,511.00</u>	

- 67) The availability fee calculated above would be collected from practices using the following fixed fee table which is banded by turnover and increases by a factor of 1.6 for each successive band.

OLC availability charge per practice	
Turnover banding	Fee
£0 – £100,000	£247
£100,001 – £250,000	£395
£250,001 – £500,000	£632
£500,001 – £1,000,000	£1,012
£1,000,001 – £2,000,000	£1,619
£2,000,001 – £4,000,000	£2,590
£4,000,001 – £8,000,000	£4,144
£8,000,001 – £16,000,000	£6,630
£16,000,001 and over	£10,609

- 68) The remaining cost would be allocated to practices based on the 3-year average case history numbers provided by the OLC. This will mean that some practices without any OLC cases (62% of practices) will only be charged the fixed fee and no case fee. All other practices with OLC cases will pay £2,087.66 per case (based on the 3-year average number of cases). This means that a practice with 1 case over the last 3 years would have an average of 0.33 and would pay a third of the per case fee (£695.87).
- 69) The table below illustrates the distribution of cases over the turnover bandings as well as a measure of the number of cases per £1m of turnover.

OLC case number analysis	Practices with OLC cases	Practices with no OLC cases	Total number of Practices	% Practices with cases	Cases in the band (3yr Ave)	Average cases per practice	Ave Cases per £1m turnover #
£0 – £100,000	1	20	21	5%	0.33	0.02	4.17
£100,001 – £250,000	13	42	55	24%	7.33	0.13	3.34
£250,001 – £500,000	18	42	60	30%	10.67	0.18	1.53
£500,001 – £1,000,000	23	25	48	48%	15.00	0.31	0.86
£1,000,001 – £2,000,000	10	6	16	63%	19.00	1.19	1.29
£2,000,001 – £4,000,000	6	0	6	100%	31.33	5.22	1.84
£4,000,001 – £8,000,000	5	1	6	83%	34.00	5.67	1.26
£8,000,001 – £16,000,000	5	0	5	100%	45.33	9.07	0.80
£16,000,001 and over	2	0	2	100%	53.00	26.50	0.66
	83	136	219		216.90	0.99	

# - calculation excludes turnover of practices with no OLC cases.

70) The OLC cases are not uniformly distributed over the regulated community. The average number of cases per million pounds of turnover over the whole regulated community is 0.64 and 1.67 for the 84 practices with OLC cases. There are also a small number of practices that have case numbers well in excess of the averages. The table below summarises the distribution of cases by £1m of turnover.

Cases per £1m turnover	Number of Practices	Cases	Average cases per practice	Notes
4.1 +	8	41.70	5.21	
3.1 to 4	5	13.36	2.67	
2.1 to 3	12	16.72	1.39	
1.1 to 2	19	34.76	1.83	
0.0 to 1	40	110.20	2.75	Impacted by larger practices
	<b>84</b>	<b>216.74</b>		

- 71) The table below summarises the total regulatory impact on practices. The table shows how much a practices cost will increase compared to the cost they would have been charged on the 2020 Practice Fee rate table.

Increase in total regulatory cost of practices	Number of practices	% of total practices	Average cost
Same or lower cost	51	23%	326
£1 - £200 more	70	32%	103
£201 – £500 more	30	14%	287
£501 – £1,000 more	27	12%	773
£1001 - £10,000	34	16%	3355
>£10,000	7	3%	21,708

- 72) There is no indication that the proposed OLC change to practices will impact any individual group or individuals with a protected characteristic disproportionately. Further detail of the review can be found in the Impact assessment.

## I – d Practice Fee rate setting for 2021-22

73) The CLC is seeking approval for the proposed **fee rates** to be used for the collection of the Practice Fee. The fee rates have been adjusted to reflect the removal of the OLC cost from the expenditure to be recovered from practices.

74) The Practice Fee required in 2022 has been calculated in the table below. Because the OLC levy will be recovered in a separate charge to practices, this calculation only uses the direct operating expenditure of the CLC.

CLC Operating cost to be recovered	(2,265,085)
Less: other revenue	702,937
Individual Licence Fees	681,733
Other income	20,400
Interest income	804
<hr/>	
Operating cost recovery through Practice Fee or reserve utilisation	(1,562,148)
Less: planned deficit (funded through reserve utilisation)	250,000
<b>Practice Fee recovery required</b>	<b><u>(1,312,148)</u></b>

75) A Practice Fee of £1,713,069 would be generated using the turnover bandings and rates approved by the LSB in 2020 (the approved 2021 table is included below). The Practice Fee recovery required in paragraph 74 is £1,312,148 which is £400,921 less than the currently approved rates.

Turnover Banding (2020-21)		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

76) The reconciliation between the required Practice Fee for 2022 and the fee collection using the 2021 rate table is as follows:

Practice Fee collected using the 2021 rate table	1,713,069
OLC charge removed	(686,511)
Reserves utilised to limit deficit to £250k	285,590
Required Practice Fee for 2022	<u>1,312,148</u>

77) Using the new turnover bandings, the following fee rate table has been compiled to recover the required Practice Fee of £1,312,148 for 2022

<b>PRACTICE FUND (2021-22)</b>	
<b>Turnover Banding</b>	<b>Practice Fee payable</b>
£0 – £100,000	£580
£100,001 – £250,000	£580 plus 0.554% of turnover in excess of £100,000
£250,001 – £500,000	£1,411 plus 0.530% of turnover in excess of £250,000
£500,001 – £1,000,000	£2,736 plus 0.490% of turnover in excess of £500,000
£1,000,001 – £2,000,000	£5,186 plus 0.481% of turnover in excess of £1,000,000
£2,000,001 – £4,000,000	£9,996 plus 0.474% of turnover in excess of £2,000,000
£4,000,001 – £8,000,000	£19,476 plus 0.425% of turnover in excess of £4,000,000
£8,000,001 – £16,000,000	£36,476 plus 0.421% of turnover in excess of £8,000,000
£16,000,001 and over	£70,156 plus 0.418% of turnover in excess of £16,000,000

78) The fees collected for each turnover band have reduced by an average 23.35 % from the Practice Fee that would have been collected using the 2021 fee table (see paragraph 75). The table below shows the total decrease in the fee collected by banding before and after the adjustment.

<b>PRACTICE FUND</b>					
<b>Impact of banding and rate changes</b>	<b>Practice Fee OLD banding</b>	<b>Practice Fee NEW banding</b>	<b>Difference in fees payable</b>	<b>% Reduction</b>	<b>Practices in the band</b>
£0 – £100,000	12,466	12,180	(286)	-2.29%	21
£100,001 – £250,000	69,846	53,664	(16,182)	-23.17%	55
£250,001 – £500,000	161,452	124,224	(37,228)	-23.06%	60
£500,001 – £1,000,000	233,589	179,728	(53,861)	-23.06%	48
£1,000,001 – £2,000,000	148,658	114,386	(34,272)	-23.05%	16
£2,000,001 – £4,000,000	108,826	83,756	(25,070)	-23.04%	6
£4,000,001 – £8,000,000	196,138	152,236	(43,902)	-22.38%	6
£8,000,001 – £16,000,000	330,129	252,693	(77,436)	-23.46%	5
£16,000,001 and over	451,965	340,149	(111,816)	-24.74%	2
	<b>1,713,069</b>	<b>1,313,016</b>	<b>(400,053)</b>	<b>-23.35%</b>	<b>219</b>

79) Please note that the Practice Fee generated using the new table differs slightly from the calculation in paragraph 74 This is due to rounding of the fee rates.

80) The percentage reduction differs on each turnover banding because of:

- a. the need to tier the rates for each successive band
- b. Rounding to 3 decimal places
- c. Comparison to the prior years which included fewer turnover bandings

81) In the new banding table, we have increased the minimum fee to £580 for practices with a turnover less than £100,000. The impact of this change is that practices with a turnover below £100,000 would pay more than they would have under the old turnover bandings. The reasons for increasing the minimum fee are:

- a. To make the table more transparent and easier to use – in the old bandings the £70,000 minimum was within the band rather than at the top of the band.
- b. To improve the recovery of the cost of regulation from very small practices.

82) The table below illustrates the change in the Practice Fee to be collected for a range of turnovers. The reduction in the Practice Fee would be used to offset the additional OLC levy to be charges. Some practices with no OLC cases will have a lower regulatory cost.

Turnover	Practice Fee (OLD table)	Practice Fee (NEW table)	Change in Practice Fee	% Turnover (new rates)	% Turnover (old rates)
50,000	750	580	41	1.16%	1.08%
70,000	750	580	41	0.83%	0.77%
80,000	750	580	(36)	0.73%	0.77%
90,000	750	580	(113)	0.64%	0.77%
100,000	750	580	(190)	0.58%	0.77%
150,000	1,115	857	(263)	0.57%	0.75%
200,000	1,480	1,134	(336)	0.57%	0.74%
250,000	1,845	1,411	(409)	0.56%	0.73%
300,000	2,195	1,676	(494)	0.56%	0.72%
500,000	3,595	2,736	(834)	0.55%	0.71%
750,000	5,170	3,961	(1,184)	0.53%	0.69%
1,000,000	6,745	5,186	(1,534)	0.52%	0.67%
2,000,000	12,945	9,996	(3,024)	0.50%	0.65%
5,000,000	31,245	23,726	(6,794)	0.47%	0.61%
10,000,000	59,145	44,896	(13,624)	0.45%	0.59%
20,000,000	114,745	86,876	(27,644)	0.43%	0.57%

- 83) If the proposal to separate the OLC levy from the Practice Fee is not approved, then the fee rates outlined in paragraph 77 would need to be amended so that the Practice Fee recovers the cost of the OLC levy (£686,511).
- 84) The CLC has investigated whether the increase in the minimum fee has disproportionately impacted any individual group or individuals with a protected characteristic. Although there is an impact it doesn't appear to impact any individual group materially. Further information of our assessment can be found in the impact assessment section.

## I – e Compensation Fund contribution rates

85) The CLC is seeking approval for the proposed **fee rates** to be used for the collection of the Compensation Fund Contribution. The fee rates have been set at a level that as far as possible mirrors the collections using the previous bandings and rate table.

86) To keep the Fee tables consistent, we have applied the same turnover banding amendments to the Compensation Fund rate table. The table below reflects the current banding table and contribution rates.

<b>COMPENSATION FUND (2020-21)</b>			
<b>Turnover banding</b>	<b>Compensation Contribution payable</b>		
£0 – £100,000	£	500	
£100,001 – £500,000	£	500	plus 0.16% of turnover in excess of £100,000
£500,001 – £3,000,000	£	1,140	plus 0.12% of turnover in excess of £500,000
£3,000,001 and over	£	4,140	plus 0.08% of turnover in excess of £3,000,000

87) The CLC is forecasting that the Compensation Fund budget will remain comparable the 2021 budget. Because we are not expecting any significant changes to expenditure or reserving levels, we are looking to keep the contribution of individual practice at a similar amount to the prior year's contribution. Based on this premise the following bandings and rates are being proposed.

<b>COMPENSATION FUND (2021-22)</b>			
<b>Turnover Banding</b>	<b>Compensation Contribution payable</b>		
£0 – £100,000		£500	
£100,001 – £250,000		£500	plus 0.165% of turnover in excess of £100,000
£250,001 – £500,000		£748	plus 0.158% of turnover in excess of £250,000
£500,001 – £1,000,000		£1,143	plus 0.122% of turnover in excess of £500,000
£1,000,001 – £2,000,000		£1,753	plus 0.118% of turnover in excess of £1,000,000
£2,000,001 – £4,000,000		£2,933	plus 0.112% of turnover in excess of £2,000,000
£4,000,001 – £8,000,000		£5,173	plus 0.079% of turnover in excess of £4,000,000
£8,000,001 – £16,000,000		£8,333	plus 0.078% of turnover in excess of £8,000,000
£16,000,001 and over		£14,573	plus 0.077% of turnover in excess of £16,000,000

88) The impact on Compensation Fund contributions by transitioning to the new turnover bandings and fee rates would result in total contributions increasing by £1,523 as summarised in the table below.

<b>COMPENSATION FUND</b>				
<b>Impact of banding and rate changes</b>	<b>Fees on current bandings</b>	<b>Fees on new bandings</b>	<b>Difference in fees payable</b>	<b>number of practices</b>
£0 – £100,000	10,500	10,500	-	21
£100,001 – £250,000	33,786	33,982	196	55
£250,001 – £500,000	56,344	56,645	301	60
£500,001 – £1,000,000	66,573	66,891	318	48
£1,000,001 – £2,000,000	35,676	35,746	69	16
£2,000,001 – £4,000,000	23,146	23,214	68	6
£4,000,001 – £8,000,000	36,300	37,611	1,312	7
£8,000,001 – £16,000,000	54,061	54,690	628	4
£16,000,001 and over	67,326	65,957	(1,369)	2
	<b>383,712</b>	<b>385,235</b>	<b>1,523</b>	<b>219</b>

89) The table below illustrates the change in contributions for a range of turnovers. The impact of the change on all practices is negligible. Large practices with a turnover more than £8m will see a small decrease in their contribution (Relative to their turnover).

<b>Illustration of Compensation Fund contribution payable</b>	<b>Contributions (OLD table)</b>	<b>Contributions (NEW table)</b>	<b>Change in contribution</b>	<b>% Turnover (NEW)</b>	<b>% Turnover (OLD)</b>
£50,000	500	500	0	1.000%	1.000%
£70,000	500	500	0	0.714%	0.714%
£80,000	500	500	0	0.625%	0.625%
£90,000	500	500	0	0.556%	0.556%
£100,000	500	500	0	0.500%	0.500%
£150,000	580	583	3	0.388%	0.387%
£200,000	660	665	5	0.333%	0.330%
£250,000	740	748	8	0.299%	0.296%
£300,000	820	827	7	0.276%	0.273%
£500,000	1,140	1,143	3	0.229%	0.228%
£750,000	1,440	1,448	8	0.193%	0.192%

£1,000,000	1,740	1,753	13	0.175%	0.174%
£2,000,000	2,940	2,933	(8)	0.147%	0.147%
£5,000,000	5,740	5,963	223	0.119%	0.115%
£10,000,000	9,740	9,893	153	0.099%	0.097%
£20,000,000	17,740	17,653	(88)	0.088%	0.089%

90) There is no indication that the change to the Compensation Fund turnover bandings or contribution rates has impacted any individual group or individuals with a protected characteristic disproportionately.

## II. Allocation of Practice Fee to permitted purposes

- 91) The CLC is a pure regulator and has no representative function. As such all costs are regulatory in nature and aligned with the permitted purposes.
- 92) The CLC is in this application proposing to split the Practice Fee into two components which will be levied at different times and have different charging mechanisms.
- 93) The tables below summarise the allocation of the two Practice Fee elements to the various activities undertaken by the CLC.

ALLOCATION OF THE PRACTICE FEE TO PERMITTED PURPOSES				
Description of activity	Permitted purpose	Rule	Cost allocated	% of PCF
Licensing	Accreditation	8a	190,081	(14%)
Education	Education and training	8a	30,052	(2%)
Monitoring	Regulation	8a	257,570	(20%)
Policy	Setting practice standards	8a i.	138,903	(11%)
Payment of levy's	Payment of levy imposed	8b	33,172	(3%)
Disciplinary	Regulation	8a	220,655	(17%)
	Setting practice standards	8a i.		
Complaints	Regulation	8a	29,856	(2%)
	Setting practice standards	8a i.		
Communications	Maintaining & raising standards	8a	163,635	(12%)
	Law reform & Leg process	8c		
	Promotion of relations	8f		
	Increasing public understanding	8g		
Compensation	Regulation	8a	91,691	(7%)
Council and Committees	Maintaining & raising standards	8a	157,400	(12%)
	Law reform & Leg process	8c		
	Promotion of relations	8f		
<b>Total Practice Fee</b>			<b>£1,313,016</b>	

PRACTICE FEE – OLC Levy Recovery			
Description of activity	Permitted purpose	Rule	Cost allocated and % of PCF
Payment of levy's	Payment of levy imposed	8b	£686,511 (100%)
<b>Total OLC Levy</b>			<b>£686,511</b>

94) Staff costs account for 64% of the CLC operating expenditure and is thus a significant driver of the expenditure allocated to the various activities. Each individuals time and cost have been allocated to the various activities based on their role and the estimated time spent on activities. Other costs are allocated by nature or apportioned based on staff cost percentages.

95) The strategic objectives for the current strategy period agreed by the CLC Council are as follows:

- d. Empower consumers to make informed choices of conveyancing and probate lawyers
- e. Adapt regulation to the changing market
- f. Be the regulator of choice in our specialist areas

96) The link between the permitted purposes and strategic objectives are summarised in the table below.

<b>The permitted purposes are</b>	<b>These map to the CLC's strategic objectives as follows</b>
a. the regulation, accreditation, education and training of applicable persons and those wishing to become such persons, including –	b and c
i. the maintaining and raising of their professional standards; and	b and c
ii. the giving of practical support, and advice about practice management, in relation to practices carried on by such persons;	a, b and c
b. the payment of a levy imposed on the approved regulator under section 173 of the Act 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;	b
d. the provision by applicable persons, and those wishing to become such persons, of legal services including reserved legal services, immigration advice or immigration services to the public free of charge;	b and c, though this does not generally arise in relation to the legal services regulated by the CLC
e. the promotion and protection by law of human rights and fundamental freedoms;	b
f. the promotion of relations between the approved regulator and relevant national or international bodies, governments or the legal professions of other jurisdictions;	a, b and c

g. increasing public understanding of the citizen’s legal rights and duties; and	a
h. preventing any person, who is not a relevant authorised person and/or does not hold a current relevant practising certificate, purporting to be such a person or to hold such a certificate.	b and c

- 97) The CLC’s published Business Plan for 2021 sets out the activities that underpin the achievement of the organisation’s strategic objectives and are set out in relation to the strategic objective that they chiefly help to meet. As a regulator only, these all fall within the permitted purposes as defined above. The business plan is approved by the Council and progress against it is reviewed quarterly by the Council.
- 98) The CLC’s business plan for 2022 will be developed over the course of the autumn through collaboration of staff and Council. However, it is already clear that the key areas of work will include:
- a. Tracking of complaints handling in regulated practices and trends in referrals to the OLC alongside support to practices to improve performance
  - b. Monitoring the impact of the changes to regulatory fees
  - c. Embedding and monitoring a revised PII framework
  - d. Continued work to empower consumers to make more informed choices of legal service provider
  - e. Adapting regulation and preparing the regulated community for the implementation of new technical solutions for the delivery of legal services
  - f. Assessment and mitigation of evolving risks to consumers through continued close monitoring of:
    - i. regulatory compliance
    - ii. the impact of the economy on the regulated community
    - iii. the advent of new approaches and technical solutions for the delivery of the legal services regulated by the CLC

### III – a Financial information – Practice Fund

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- 99) In the 2019 (for the period 2019-20) PCF application the CLC reduced the Practice Fee rates by 30%. The rate reduction had two purposes, firstly to reduce the burden on regulated practices and secondly to reduce excessive reserve levels.
- 100) The deficit funding level was significant, however it was expected that growth in the regulated community and existing practice turnover growth would reduce the demand on reserves within 3 years.
- 101) The Covid pandemic and hardening of the insurance market have however increased the uncertainty and reduced the growth in practice turnovers. We expect the knock-on impacts to be felt for the next two billing cycles at least.
- 102) The 2021 financial forecast is compared to the 2021 budget in the table below. The forecast includes 7 months of actual figures and 5 months of estimated costs.
- 103) There are some key variances to the budget which are expected to influence the final figures for 2021.
- a. Practice Fee revenues are expected to be 3% below the budget expectation. There are a couple factors contribution to this variance.
    - i. Practice closures resulting from not being able to secure PII
    - ii. One medium sized practice closed and another switched regulator
    - iii. The planned Practice Fee rate reduction will impact the last two months revenue for the financial year
  - b. Professional fees are significantly higher than budget. This is because the CLC restructured its operations in Q4 of 2020 so that it could outsource some of the disciplinary functions to enable a flexible and scalable model. This allows us to scale up activity quickly but also allows us to reduce the cost when there are few or no cases. This has allowed us to prioritise disciplinary cases and move them through the system quicker. This has also been coupled by a few large and complex cases which has pushed up the overall cost. It is expected that this will reduce in the 2022 budget year.
  - c. OLC cost continues to increase due to budgetary increases combined with CLC practices generating a higher percentage of the total case numbers which is further pushing up costs.

2021 FORECAST vs BUDGET	Forecast 2021	Budget 2021	Budget Variance	Var %
Practice Fee - Operating cost	1,608,719	1,660,058	( 51,339)	-3%
Individual Licencing	609,152	585,400	23,752	4%
Other	21,005	16,860	4,145	25%
Interest	956	1,096	( 140)	-13%
<b>Total Revenue</b>	<b>2,239,832</b>	<b>2,263,414</b>	<b>( 23,582)</b>	<b>-1%</b>
Staff Costs	1,303,540	1,284,431	( 19,109)	-1%
Monitoring and Inspections	41,644	45,000	3,356	7%
Communication	110,850	114,450	3,600	3%
Recharges (DPB/FCA, OpBas)	51,299	51,926	627	1%
Building Costs	266,128	272,591	6,463	2%
Office Costs	13,905	15,191	1,286	8%
Insurance	55,403	56,342	940	2%
IT Expenses	42,570	45,844	3,274	7%
Travel & Subsistence	5,020	21,503	16,483	77%
Professional Fees	251,369	100,082	( 151,287)	-151%
Subscriptions & Consultancy	39,155	38,617	( 539)	-1%
Tax & Finance Charges	12,262	13,358	1,096	8%
Depreciation	6,901	6,023	( 878)	-15%
Special project cost	148,000	148,000	-	
<b>Total operating expenditure</b>	<b>2,348,046</b>	<b>2,213,357</b>	<b>( 134,689)</b>	<b>-6%</b>
<b>Operating (Deficit)/Surplus</b>	<b>(108,215)</b>	<b>50,057</b>	<b>( 158,271)</b>	<b>-316%</b>
OLC Levy	(644,813)	(584,335)	( 60,478)	10%
<b>Deficit funded by reserves</b>	<b>( 753,027)</b>	<b>(534,278)</b>	<b>( 218,749)</b>	<b>41%</b>

104) The key variances to the budget are outlined in the table below:

Budget Line item	2021 Budget variance description
Practice Fee income	The negative variance is driven by practice closures and the proposed change to the Practice Fee rates.
Other Income	Other income is better than budget due to better than budgeted administration fees collections in relation to first licences and new practice applications.
Interest income	Interest income is lower than budget due to in year reduction of interest rates.
Monitoring & inspections	The cost of inspections has been lower than budgeted as we have predominantly performed remote inspections.

Office cost	Office costs are lower than budget as we have continued to work remotely because of the extended restrictions.
Travel & Subsistence	Due to extended Covid restrictions less travel costs have been incurred than was budgeted.
Professional fees	The higher than budgeted professional fees are as a result of cost associated with disciplinary cases. The cost is higher as we are pursuing more cases than initially expected.
Tax & Finance charges	The lower levels of reserves and interest rates reduced the amount of tax payable on interest earned.
Depreciation	Depreciation costs are higher than budgeted due to timing of IT equipment purchased to facilitate home working.

105) The table below summarises the sources of funding for the 2021 expenditure forecast as well as the allocation of expenditure by activity. All expenditure was incurred for permitted purposes.

<b>PCF allocation to expenditure</b>	<b>%</b>	<b>2021 Forecast</b>
<b>Total expenditure</b>		<b>(2,992,859)</b>
<b>PCF collected</b>	<b>83%</b>	<b>2,217,871</b>
Licensing	8%	225,678
Education	1%	38,010
Monitoring	10%	278,574
Policy	10%	279,649
Levy collection	21%	559,777
Disciplinary	12%	330,894
Complaints	1%	28,956
Communications	6%	167,251
Compensation	4%	117,409
Council	7%	191,672
<b>Cost not recovered from PCF</b>		<b>(774,988)</b>
Deficit funded by:		
Other income		21,005
Interest		956
Reserve utilisation		753,027
<b>Unaccounted expenditure</b>		<b>-</b>
<b>Total PCF fees collected</b>		<b>2,217,871</b>
Practice Fees		1,608,719
Individual Licences		609,152

- 106) The estimated budget for 2022 which has been used to calculate the fee rates for the 2022 PCF application is included in the table below. The budget for 2022 will be finalised in December 2021 and approved by the Council in January 2022.
- 107) The revenue estimate for 2022 includes the amendments proposed in this application:
- The Practice Fee now excludes the OLC levy and the fee rates have been adjusted to factor this in.
  - A Separate OLC levy will be collected from practices. This levy will comprise an availability fee and a user pays element.

2021 FC vs 2022 ESTIMATE	Estimate 2022	Forecast 2021	FC to EST Variance	Var %
Practice Fee - Operating cost	1,313,016	1,608,719	( 295,702)	-23%
Practice Fee - OLC Levy	686,511	-	-	-
Individual Licencing	681,733	609,152	72,581	11%
Other	20,400	21,005	( 605)	-3%
Interest	804	956	( 152)	-19%
<b>Total Revenue</b>	<b>2,702,465</b>	<b>2,239,832</b>	<b>462,633</b>	<b>17%</b>
Staff Costs	1,439,308	1,303,540	( 135,769)	-9%
Monitoring and Inspections	54,000	41,644	( 12,356)	-23%
Communication	153,900	110,850	( 43,050)	-28%
Recharges (DPB/FCA, OpBas)	51,537	51,299	( 238)	0%
Building Costs	227,070	266,128	39,058	17%
Office Costs	8,664	13,905	5,241	60%
Insurance	55,255	55,403	147	0%
IT Expenses	45,847	42,570	( 3,277)	-7%
Travel & Subsistence	16,200	5,020	( 11,180)	-69%
Professional Fees	158,573	251,369	92,797	59%
Subscriptions & Consultancy	39,240	39,155	( 85)	0%
Tax & Finance Charges	9,047	12,262	3,215	36%
Depreciation	6,444	6,901	457	7%
Special project cost		148,000	148,000	
<b>Total operating expenditure</b>	<b>2,265,085</b>	<b>2,348,046</b>	<b>82,961</b>	<b>4%</b>
<b>Operating (Deficit)/Surplus</b>	<b>437,380</b>	<b>(108,215)</b>	<b>545,594</b>	<b>125%</b>
OLC Levy	(686,511)	(644,813)	( 41,699)	6%
<b>Deficit funded by reserves</b>	<b>( 249,131)</b>	<b>( 753,027)</b>	<b>503,896</b>	<b>-202%</b>

108) The total operating expenditure is expected to be 4% lower than the 2021 forecast. This decrease is attributed to:

- a. Lower professional fees, as current disciplinary cases are finalised.
- b. Special projects relating to the CLC policy development work and PII will not be repeated in 2022.

109) The operating deficit for 2022 has been set at a significantly lower than 2021, this is necessary because excess reserve levels have declined to minimum reserving levels.

110) The key variances to the budget are outlined in the table below:

Budget Line item	2021 Budget variance description
Practice Fee – Operating cost	The reduction in Practice Fee income is due to the reduction in fee rates to reduce collections so that the cost of the new OLC recharge is partially offset.
Practice Fee – OLC levy	This is a new PCF charge that is based on usage of the service as well as a turnover based availability fee.
Individual licences	The growth in revenue is attributed to the good pipeline of new students taking on a first licence.
Interest income	Interest income will continue to decline due to lower reserve levels.
Staff costs	Staff cost is expected to increase due to a provision for a cost-of-living increase and 2 new heads.
Monitoring & inspections	We are planning a higher number of inspections for 2022 and expect that more of these will be onsite inspections.
Communications	We anticipate that our normal programme of work will resume in 2022 including the annual conference.
Building costs	The reduction in cost is due to a 25% rent decrease at the renewal of its office licence in mid-2021.
Office cost	Office costs are expected to increase as we expect more staff to be working from the office.
IT costs	The expenditure on IT is expected to increase due to inflationary increases and the increase in headcount.
Travel & Subsistence	The cost is expected to increase with the resumption of normal operations and increased site visits
Professional fees	The cost of professional fees is expected to reduce as the current disciplinary cases work through the system.
Tax & Finance charges	The reduction is driven by a 50% reduction in our copier lease costs.

111) The table below summarises the sources of funding for the 2022 expenditure estimate as well as the allocation of expenditure by activity. All expenditure was incurred for permitted purposes.

<b>PCF allocation to expenditure</b>	<b>%</b>	<b>2022 Estimate</b>
<b>Total expenditure</b>		<b>(2,951,596)</b>
<b>PCF collected</b>	<b>100%</b>	<b>2,681,261</b>
Licensing	11%	288,774
Education	2%	45,657
Monitoring	15%	391,303
Policy	8%	211,024
Levy collection	27%	736,907
Disciplinary	13%	335,222
Complaints	2%	45,357
Communications	9%	248,597
Compensation	5%	139,298
Council	9%	239,123
<b>Cost not recovered from PCF</b>		<b>(270,335)</b>
Deficit funded by:		
Other income		20,400
Interest		804
Reserve utilisation		249,131
<b>Unaccounted expenditure</b>		<b>-</b>
<b>Total PCF fees collected</b>		<b>2,681,261</b>
Practice Fees		1,313,016
Individual Licences		681,733
OLC Levy recharge		686,511

### III - b Financial information – Compensation Fund

112) The CLC Compensation Fund contributions are used solely for the payment of grants and the administration of the fund.

113) The table below summarises the forecast financial results and budget for the 2021 financial year.

2021 FORECAST vs BUDGET	Forecast 2021	Budget 2021	Budget Variance	Var %
Compensation Fund contributions	380,067	377,466	2,601	1%
Aged balances received	101,172	-	101,172	0%
Intervention Income	32,401	-	32,401	0%
Interest	4,535	7,512	(2,977)	-40%
<b>Total Revenue</b>	<b>518,175</b>	<b>384,978</b>	<b>133,197</b>	<b>35%</b>
Compensation Fund grants	25,000	-	(25,000)	0%
Intervention support (3rd party)	34,637	30,000	(4,637)	-15%
Intervention support (Internal)	3,850	9,640	5,790	60%
Legal costs	51,477	58,000	6,523	11%
Storage costs	54,792	55,200	408	1%
Taxation	3,757	4,049	292	7%
<b>Total operating expenditure</b>	<b>173,513</b>	<b>156,889</b>	<b>(16,624)</b>	<b>-11%</b>
<b>Operating surplus/(Deficit)</b>	<b>344,662</b>	<b>228,089</b>	<b>116,573</b>	<b>51%</b>

114) The table below highlights the key budget variances for the 2021 forecast.

Budget Line item	2021 Budget variance description
Interest income	Interest income is lower than budget due to in year reduction of interest rates.
Aged balances and Intervention income	Aged balance and intervention income are not budgeted due to the uncertainty in timing and amount. Aged balances are transferred by practices when they are unable to trace and return money to clients. Intervention income is residual client monies that cannot be allocated to individual clients.
Compensation Fund Grants	Compensation Fund Grants are not budgeted due to the uncertainty in timing and value.

Intervention support (3 <sup>rd</sup> Party)	Costs associated with historic interventions are reducing but some matters are still in progress, we have thus forecast an additional cost for the remainder of the year.
Intervention support (internal)	We are finalising the current live interventions and costs are reducing quicker than the budget estimate. No interventions have happened in 2021 YTD.
Legal costs	Legal costs in relation to Compensation Fund grants have been lower than estimated to August 2021 and it is looking less likely that significant further cost will be incurred on current matters.
Taxation	The tax charge was lower than estimated in the budget due to lower interest income earned.

115) The table below summarises the estimated financial results and budget for the 2022 financial year.

2022 ESTIMATE vs 2021 FORECAST	Estimate 2022	Forecast 2021	Forecast Variance	Var %
Compensation Fund contributions	385,235	380,067	5,168	1%
Aged balances received	-	101,172	( 101,172)	-100%
Intervention Income	-	32,401	( 32,401)	-100%
Interest	4,536	4,535	1	0%
<b>Total Revenue</b>	<b>389,771</b>	<b>518,175</b>	<b>( 128,404)</b>	<b>-25%</b>
Compensation Fund grants	-	25,000	25,000	100%
Intervention support (3rd party)	5,400	34,637	29,237	84%
Intervention support (Internal)	4,620	3,850	( 770)	-20%
Legal costs	70,000	51,477	( 18,523)	-36%
Storage costs	62,400	54,792	( 7,608)	-14%
Taxation	3,500	3,757	257	7%
<b>Total operating expenditure</b>	<b>145,920</b>	<b>173,513</b>	<b>27,593</b>	<b>16%</b>
<b>Operating surplus/(Deficit)</b>	<b>243,851</b>	<b>344,662</b>	<b>( 100,811)</b>	<b>-29%</b>

116) The table below highlights the key budget variances

Budget Line item	2022 Budget variance description
Compensation Fund Contributions	Contributions are expected to decrease marginally due to changes to the fee bands and fee rates as well as closure of practices in 2021.

Aged Balances & Intervention income	Receipt of aged balance and intervention income has not been budgeted due to the uncertainty around timing of collection and amount.
Compensation Fund grants	Compensation Fund grants are not budgeted due to the uncertainty of the timing and amount of claims.
Intervention support (3 <sup>rd</sup> Party)	No new interventions have been undertaken in 2021 and the current work is wrapping up. As such we are expecting costs to reduce in 2022.
Intervention support (internal)	Current intervention support largely relates to the sending practice clients their conveyancing file or wills. As we continue to see strong demand for files, we have anticipated a marginal cost increase for 2022.
Legal costs	We expect that legal costs will increase in 2022 in response to potential claims in relation to a practice that closed in 2020.
Storage costs	Storage costs are expected to increase in 2022 due to the cost of additional files coming into storage in 2021 as well as the continuing cost of file retrieval.

#### IV. Reserves – Practice & Compensation Fund

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- 118) The CLC has over the last 4 years operated with a deficit budget. This policy was implemented to reduce the level of reserves being held.
- 119) Considering the difficult trading conditions and covid impacts the Council has carefully assessed the reserving policies for both funds.
- 120) The reserving policies are now clearly articulated in a formal reserving policy which will be reviewed by the Council annually. This policy can be found in Annex B.
- 121) The current reserving levels for the practice Fund have been set as follows:

Practice Fund Reserves 2021	Reserve value
Minimum reserve	1,141,067
Market uncertainty reserve	600,000
<b>TOTAL RESERVES REQUIRED</b>	<b>1,741,067</b>

- 122) The cash flow forecast based on the estimated figures in paragraph 107 produce the following reserving levels for 2022.

Estimated reserve levels for 2021 and 2022	£
<b>Cash reserves at 31 July 2021</b>	<b>2,193,903</b>
Net Cash receipts from operations	367,062
<b>Cash reserves at 31 December 2021</b>	<b>2,560,965</b>
Net reserve utilisation to fund operations	(396,355)
Payment to OLC in April 2022	(686,511)
Practice receipts from OLC levy	114,419
<b>Cash reserves at 30 June 2022</b>	<b>1,592,517</b>
Net Cash receipts from operations	176,229
Practice receipts from OLC levy	343,256
<b>Cash reserves at 31 December 2022</b>	<b>1,997,583</b>

- 123) The reserving level fall below the required reserve level in June 2022. This is due to the timing of the receipts from the OLC levy recovery. At the end of the financial year the reserve level is expected to be above the required reserve level.

124) The current reserving levels for the Compensation Fund have been set as follows:

<b>Compensation Fund Reserves</b>	<b>Reserve Totals</b>
Minimum reserve	2,000,000
Probable claim reserve	2,394,497
Insurance reserve	2,000,000
Contingency reserve	651,817
Operating reserve	500,000
<b>TOTAL RESERVES REQUIRED</b>	<b>7,546,314</b>

125) The cash flow forecast based on the estimated figures in paragraph 116 produce the following reserving levels for 2022.

<b>Estimated reserve levels for 2021 and 2022</b>	<b>£</b>
<b>Cash reserves at 31 July 2021</b>	<b>7,044,736</b>
Net Cash receipts from operations	105,607
<b>Cash reserves at 31 December 2021</b>	<b>7,124,032</b>
Net Cash receipts from operations	123,675
<b>Cash reserves at 30 June 2022</b>	<b>7,274,019</b>
Net Cash receipts from operations	120,175
<b>Cash reserves at 31 December 2022</b>	<b>7,394,194</b>

126) Although the reserve levels are below the required total reserve level, they are within the operating reserve level. Reserve levels are currently increasing and there is also uncertainty about whether the contingency reserve will crystallise which might further bolster reserve levels. As such we do not currently see the need to actively increase Compensation Fund reserve levels.

## V. Consultation & Engagement

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- 128) The CLC published the annual fee rate consultation on 14 May 2021. The deadline for responses was 9 July 2021.
- 129) The CLC ran 3 webinars over the consultation period to outline the proposals to interested parties and allow interested parties to comment and question the proposal.
- 130) The consultation was promoted with PR that generated coverage in the Law Gazette, Today's Conveyancer and inside conveyancing.
- 131) We also promoted the consultation directly to the CLC regulated community and stakeholders in two newsletters, in a direct mail to managers in CLC firms and in conversation and correspondence with the Society of Licensed Conveyancers and Conveyancing Association.
- 132) The oral and written responses to the consultation were limited (5), however we did receive a response from the OLC as well as the SLC which of course represents multiple practices.
- 133) The common themes in the responses were:
- a. No objection to amending the turnover bandings
  - b. No objection to the process we wish to follow
  - c. Lack of understanding of how the OLC charges the CLC and concerns about the model being proposed to allocate the user pays element of the OLC charge
  - d. Concern that the user pays model would disproportionately impact larger practices
  - e. Concern that the user pay model would encourage practices to settle disputes with clients rather than incur the user pays fee
  - f. Concern that OLC recharge will not drive improvements to the complaints handling process and that a culture of complaint financial settlement will result in hidden regulatory issues as they are no longer referred to the ombudsman
- 134) In 2020 the CLC and OLC ran a pilot workshop targeting firms with disproportionately high numbers of cases referred to the OLC. This provided useful learning and we hope to roll out further sessions once OLC resource is again available for this.

## VI. Impact Assessments

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- 135) The CLC has carefully considered whether the changes to the proposed fee structure would have any unintended impact on any groups, particularly those with protected characteristics.
- 136) The individual licence fees have remained unchanged since 2010. Although they haven't reduced the fee, inflation has resulted in the real cost of the licence decreasing as there have been no inflationary increases over the period. We have no evidence to suggest that the individual licence cost is a barrier to entry into the profession nor that the Practice Fee for regulated entities is a barrier to market entry or ongoing participation.
- 137) In implementing the fee banding changes, we have tried to keep the changes consistent across the regulated community. This has however not always been possible, especially in the larger turnover bands, and in some cases, these practices have benefited more than the lower turnover bands (mostly because of the need to tier the bands and having very narrow ranges to work with). The benefit to the larger practices is not material and this is a once off change that is due to the migration to the new bandings. We also need to keep in mind that the larger practice contributions are currently and have in the past subsidised smaller practices.
- 138) Practices with very low turnovers have been disproportionately impacted by the banding changes and OLC levy implementation, though the actual additional cost is low. This is because we have decided not to reduce the minimum charge which has increased from £539 for practices with a turnover of less than £70k to £580 for practice with a turnover under £100k. 9 practices will pay more after these changes with the biggest increase being £41 on the Practice Fee and £247 for the OLC availability levy. Practices with a turnover greater than £75k will see a reduction in their Practice Fees which increases with turnover.
- 139) Although we want to minimise cost increases as far as possible, there is a cost to being regulated which has to be enough to make regulation effective without being disproportionate to the effort of regulating that type of business. We are of the view that this cost is not disproportionate to the regulatory effort involved. This new minimum cost is also 46% lower than the minimum set in 2013.
- 140) The additional OLC levy also impacts this turnover band disproportionately. The OLC levy has been implemented because of the significant increases in the OLC cost to the CLC over the past 5 years. It is only fair that all practices share in this increase. We have however endeavoured to keep the OLC availability charge as low as possible, especially for the smaller practices. This cost has been set at £247 which is significantly lower as a percentage of turnover of the fee levied on larger practices. These 9 practices do however have a lower incidence of cases with the OLC and only one of the practices has a single case at the OLC (11% of the group vs 38% for all practices), this means that the group of practices in this turnover banding is not disproportionately impacted by the proposed OLC case fee.

- 141) Overall, when setting the Practice Fee rates and levies we have tried to allocate the cost to practices fairly. In most cases the practices are multi manager practices and the factors outline above do not target any specific group or protected characteristic. We are however cognisant that the smallest practices may have a different profile. We have assessed this in the table below.
- 142) The CLC last profiled the protected characteristics of the regulated community in 2019. The results of that survey are published on the CLC's [website](#). While we have a good picture of the make-up of the regulated community as a whole, it is not possible to single out individual regulated entities because of the impact that would have on the confidentiality of personal data given the small size of many of the firms concerned.

Protected characteristic	Potential Impact												
age	<p>We were particularly concerned that we could be unintentionally discriminating against age particularly in the lower turnover bands where we suspected there would be a concentration of older sole practitioners. The 19 practices in this band included 27 managers. The age range of this group is summarised as follows:</p> <table border="1" data-bbox="669 1131 971 1390"> <thead> <tr> <th>Age</th> <th>% of total</th> </tr> </thead> <tbody> <tr> <td>20 – 29</td> <td>4%</td> </tr> <tr> <td>40 – 49</td> <td>22%</td> </tr> <tr> <td>50 – 59</td> <td>30%</td> </tr> <tr> <td>60 – 69</td> <td>33%</td> </tr> <tr> <td>70 +</td> <td>11%</td> </tr> </tbody> </table> <p>Our conclusion based on the above summary is that the distribution is as we would expect of conveyancing business owners and that there is no disproportionate impact on any specific age group. Nor would individual licence fees impact differently on different age groups, especially as these tend to be paid by employers.</p>	Age	% of total	20 – 29	4%	40 – 49	22%	50 – 59	30%	60 – 69	33%	70 +	11%
Age	% of total												
20 – 29	4%												
40 – 49	22%												
50 – 59	30%												
60 – 69	33%												
70 +	11%												
gender reassignment	<p>The CLC has no reason to believe that any of the PCF proposals would impact this group more or less than any other.</p>												

being married or in a civil partnership	The CLC does not have sufficient data to determine whether the proposed PCF application would impact this group specifically. The CLC has no reason to believe that any of the PCF proposals would impact this group more or less than any other.
being pregnant or on maternity leave	The Practice Fee amendments are not expected to disproportionately impact individuals that are pregnant or on maternity leave. The unchanged individual licence fee that is payable by licenced conveyancers is the primary consideration. The CLC does however have a policy that allows individuals to suspend their licence for up to two years without needing to do anything other than prove that the required CPD requirements have been met. This provision is currently used during pregnancy and maternity and enables an individual to re-enter the profession without any significant regulatory barriers or cost. A pro rata fee is paid if a licence is taken out during the year.
disability	The CLC does not have sufficient data to determine whether the proposed PCF application would impact this group specifically. Only 4% of respondents to the 2019 survey reported having a mental or physical disability. The CLC has no reason to believe that any of the PCF proposals would impact this group more or less than any other.
race including colour, nationality, ethnic or national origin	The CLC has no reason to believe that any of the PCF proposals would impact this group more or less than any other.
religion or belief	The CLC has no reason to believe that any of the PCF proposals would impact this group more or less than any other.
sex	It should be noted that women make up around three-quarters of individual licence holders. The CLC has no reason to believe that any of the PCF proposals would impact this group more or less than any other.
sexual orientation	The CLC has no reason to believe that any of the PCF proposals would impact this group more or less than any other.

143) Another impact to consider is the financial impact on regulated entities of the user-pays proposals in relation to the costs of the OLC. Based on the current basis for apportioning the costs of the OLC – case referrals over the last three years – 41 practices would face an increase in regulatory fees of greater than £1,000.

144) The table below analyses the rate of increase by turnover band. While some practices will face significant increases and hence a greater impact, this is part of the design of the

proposal that is aimed at driving improvements in complaints handling. Generally, the smallest increases in each turnover band are relatively small, demonstrating that the numbers affected significantly will be comparatively small. The affected firms have it in their power to mitigate the impact over time.

Practices with a cost increase >£1,000	Number of practices	Average increase in total PCF cost	Average % increase	Average cases per £1m turnover	Smallest increase in band	Largest increase in band
£0 – £100,000	-	-	-	-		
£100,001 – £250,000	4	(2,343)	-179%	6.13	(1,418)	(2,930)
£250,001 – £500,000	10	(1,645)	-63%	2.16	(1,220)	(3,489)
£500,001 – £1,000,000	7	(2,712)	-53%	1.84	(1,043)	(4,528)
£1,000,001 – £2,000,000	7	(4,744)	-55%	1.88	(1,427)	(8,963)
£2,000,001 – £4,000,000	5	(11,195)	-58%	2.05	(1,293)	(30,317)
£4,000,001 – £8,000,000	3	(18,250)	-61%	2.08	(5,552)	(39,280)
£8,000,001 – £16,000,000	4	(13,283)	-21%	0.94	(9,343)	(17,125)
£16,000,001 and over	1	(24,144)	-8%	0.79	(24,144)	(24,144)

### Monitoring the impact over time

145) Given the scope of the changes that the CLC is proposing, it will be very important to monitor their impact once they are implemented. We intend to take the following steps:

- a. Track numbers of first tier complaints dealt with and the number of complaints referred to CLC by firm, with a particular focus on the 41 firms with the highest financial impact from these proposals. In this way we will be able to assess whether any complaints are being dealt with improperly to avoid referral to OLC. This will become part of our business-as-usual monitoring of regulated entities.
- b. Survey all firms on the financial impact on their business (if any) of these changes. This will include the collection of diversity data to track any differential impact on protected groups. It will take place in early 2022 to inform the setting of regulatory fees for the year 2022-23.

## **VII. Transparency of PCF information to relevant authorised persons**

- 146) The following information will be provided in an information sheet when we notify practices of their Practice Fees for 2022:
- a. The components of their Practice Fee (Practice Fee, Compensation Fund Contribution and OLC Levy)
  - b. A breakdown of the CLC's estimated expenditure by cost category and allocation by function for the next financial year
  - c. The payment schedule for the above Fees
  - d. An overview of the changes we have made to the PCF billing arrangements
  - e. Details of how the OLC Levy will work. This will include the process for determining the levy, the timing and when they will receive the final figures for the charge for 2021-22
  - f. An estimate of their OLC charge based on the OLC estimate and the case numbers provided by the OLC
  - g. The Practice Fee tables and schedule of other costs
  - h. A link to the PCF application & LSB approval
  - i. A link to the consultation document and consultation responses

## VIII. Checklist - Enclosures

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**Income and expenditure forecasts**, including practising fee income, for 3 years from and including the year for which the practicing fee is being levied. **Enclosed**

**Financial information for the previous year**, including a comparison of actual and budgeted income and expenditure. **Enclosed**

**Copy of the information that will be provided to fee paying members** (if description is not provided in section VII). **Enclosed**

## IX. Compliance Statement

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We certify that the information provided in this application is accurate and complete to the best of our knowledge and we have taken reasonable steps to ensure that the application complies with the rules

**Date: 3 September 2021**



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**Sheila Kumar – Chief Executive and Accounting Officer**



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**Stephen Ward – Director of Strategy & Communications**



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**Jason Hinrichsen – Director of Finance & Operations**

All queries relating to this application should be directed to Jason Hinrichsen and Stephen Ward.

**Email:** [jasonh@clc-uk.org](mailto:jasonh@clc-uk.org)  
[stephenw@clc-uk.org](mailto:stephenw@clc-uk.org)

## ANNEX A

### Other Charges

The table below summarises all other licence and administration costs as approved in 2020. We are not proposing to amend any of these charges.

		Fee
1	Individual licence for Conveyancing or probate	£400
2	Individual licence for Conveyancing and probate	£475
3	Issue of a duplicate licence	£50
4	Amendment to a licence	£75
5	New practice application – (Alternative Business Structure)	£1,200
6	New practice application – (Recognised body)	£150
7	Application Fee – Head of Legal Practice (HoLP)	£240
8	Application Fee – Head of Finance and Administration (HoFA)	£240
9	Application Fee – CLC Manager	£150
10	Application fee - First qualifying licence application	£75
11	Failure to submit and an accountant's report on time	£100

**ANNEX B**

**Policy**

**Council for Licensed Conveyancers**

**Title: Reserving policy**

**Version: 1**

# **Reserving Policy**

	<b>NAME</b>	<b>TITLE</b>	<b>DATE</b>
<b>Author</b>	<b>Jason Hinrichsen</b>	<b>Director of Finance &amp; Operations</b>	<b>April 2021</b>
<b>Reviewer</b>	<b>Sheila Kumar CLC Council</b>	<b>Chief Executive</b>	<b>April 2021</b>

<b>Effective Date:</b>	<b>April 2021</b>
<b>Review Date:</b>	<b>April 2022</b>

## ANNEX B

Policy

Council for Licensed Conveyancers

Title: Reserving policy

Version: 1

### 1. Introduction

This policy sets out the reserving principles adopted by the Council. The CLC maintains reserves on both the Practice Fund and the Compensation Fund. The reserves on these two funds serve very different purposes, however it is critical that these reserves are maintained at sufficient levels to ensure:

- Continued operation of the CLC in the normal course of business
- Provision of protection in the case of market shocks
- Protection of the organisation if there is any major changes to the regulated community
- An orderly shutdown of operations if ever required.

### 2. Primary Objective of the reserving policy

The primary objective of this policy is to clearly set out the various reserves that have been created for each fund as well as the mechanisms for determining the appropriate value of those reserves.

### 3. Setting reserve levels

The reserve levels are not static, they will continually change depending on the trigger factors that are used to set the reserve levels. The trigger factors are amended at different times and will automatically result in changed reserve levels, for example changes to the probability assessment or estimate of the claim amount of a Compensation Fund claim will result in an automatic change to the Compensation Fund reserve.

Some reserves are tied to the Principal Risk Register and the perceived risk to the organisation. These risks and reserves would be considered by the ARC and Council at the scheduled quarterly meetings and if necessary adjusted to reflect the change in risk to the organisation.

## ANNEX B

Policy

Council for Licensed Conveyancers

Title: Reserving policy

Version: 1

### 4. Practice Fund Reserves

#### 4.1. Minimum reserve

The Practice Fund has in recent years maintained a minimum reserve that has been valued at £1 million. The purpose of this reserve was to provide funds for the orderly wind down of the organisation in the event that it was required to cease operations.

Because the organisation has a variable annual budget and operations continue to change, it is appropriate that this reserve should be adjusted periodically based on the most recent approved budget of the Practice Fund. The reserve level is calculated by assessing the income statement line items and applying a percentage inclusion rate for each line item. The table below includes the inclusion rates for the 2021 minimum reserve. The inclusion rates can be amended based on organisational requirements.

Determination of the minimum reserve level	% of budgeted amount to be included in the reserve
Staff Costs	60% of staff cost allowing 6 months' salary to wind down operations and 10% for redundancy cost
Monitoring and Inspections	15% to settle any outstanding inspection costs
Communication	30% to settle any outstanding costs and procure services during closure
Recharges (DPB/FCA, OpBas)	Not included as it will either be unpaid or a sunk cost at time of decision to close
OLC costs	Not included as it will either be unpaid or a sunk cost at time of decision to close
Building Costs	50% Contractual licence cost - provision for 6 months' notice and 6 months usage
Office Costs	50% based on 6-month wind down
Insurance	100% based on the annual premium for E&O cover
IT Expenses	50% based on 6-month wind down
Travel & Subsistence	25% provision for any essential travel
Professional Fees	50% based on 6-month wind down
Subscriptions & Consultancy	75% based on settlement of ongoing work and provision for any potential closure consultancy
Tax & Finance Charges	100% provision
Depreciation	Non cashflow item – no provision
Special Projects	25% for settlement of any ongoing work

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Policy

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### 4.2. Market uncertainty reserve

The market uncertainty reserve is linked to the Councils Principal Risks. The purpose of this reserve is to set a contingency when there is a material uncertainty in the risks that the organisation faces which may result in fee rate volatility or pressure on the Councils revenue streams in the near future.

The reserve is set at the Councils discretion based on the perceived risks in the principal risk register, this allows the Council to maintain additional reserves to smooth the financial impact of any uncertain future event.

The Council can set, amend or release the reserve at any time based on the risk assessed on the principal risk register.

The market uncertainty reserve would ensure sufficient additional reserves are available to smooth the volatility in Practice Fee rates. Examples of the type of situation which may give rise to a provision include but are not limited to:

- Loss of significant Practice Fees from a significant practice closure or transfer to another regulator
- Loss of significant revenues from a specific event such as a market downturn caused by pandemics, market crashes etc
- PII related impacts such as practices not being able to receive cover and being forced to close

### 4.3. Operating reserve

An operating reserve is any reserve amount that is not allocated to the minimum reserve or the market uncertainty reserve.

The Council aims to keep the operating reserve levels balances as low as possible. The target level for operating reserves is between zero and £500,000. A small operating reserve level does need to be maintained to help smooth the collection of revenues and absorb any over or under collection in any financial year.

When operating reserve levels approach the upper limit of £500,000 Council will look at implementing mechanisms to reduce the accumulation of reserves. Any reserve in excess of £500,000 would be categorised as an excess reserve and steps would be taken to reduce reserve levels.

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Councils is keen to avoid volatility in fee rates and as such will put in place measures that reduce reserve levels slowly without causing significant volatility and changes in policy. As such Council may decide to release excess reserve levels over multiple years.

Measures that may be considered to release excess reserves include but are not limited to:

- Reduction in Practice Fee rates
- Practice Fee rebates
- Practice Fee holidays
- Transfer of reserves to the Compensation Fund

### 5. Compensation Fund reserves

The Compensation Fund maintains a number of reserves for different purposes. Given that the Compensation Fund is a Fund of last resort for consumers it is important that the Fund maintains sufficient reserves to be able to make grants for valid claims by consumers.

#### 5.1. Minimum reserve

The minimum reserve has historically been set at £2m. The Council endeavours to keep this reserve intact. Its purpose is as an emergency fund for extremely large claims or to enable winding up of the fund. Dipping into this reserve would ordinarily mean that the funds insurance and unallocated reserves are depleted. This would indicate that reserves are critically low and action needs to be taken to increase reserve levels.

Actions to increase reserve levels could include:

- Increase contribution rates by practices
- Special levies on practices
- Transfer of reserves from the Practice Fund

#### 5.2. Probable claims reserve

The probable claims reserve is the sum of all unpaid Compensation Fund claims that are assessed as probable. The reserve is constantly being adjusted as new claims are added or existing claims are closed, amended or paid. The purpose of this reserve is to ring fence monies in the fund for known claims that are more likely than not to be paid to claimants.

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Possible claims are more uncertain and are not provisioned for in this reserve. Claims can move between the possible and probable assessments which will result in them being added or removed from the probable reserve. This reserve is ring fenced for the claimants on the probable list, if there is insufficient unallocated reserve in the fund for new claims, the funds would be taken from the minimum reserve which would trigger action to increase reserve levels.

### 5.3. Insurance reserve

In 2014 the CLC cancelled its Compensation Fund insurance policy and became self-insured. It was decided at that time that the Compensation Fund would retain the value of the premiums paid for the insurance cover in the Fund until such time as an amount of £2m was accumulated. The £2m represents the limit of the policies annual cover. The Annual premium on this policy was £265k which means that in 2021 the reserve would reach its fully funded level.

The insurance reserve is a reserve setup to pay Compensation Fund claims that arise on a day to day basis. Any payments from this reserve would be replenished by surpluses on the Compensation Fund, which could be collected over a number of years dependent on the Council's outlook for the Fund.

### 5.4. Contingency reserve

The contingency reserve would only be used when potential claims have a material uncertainty. The Council has taken the view that we should be prudent and ring fence any funds that are classed as contingent until such time that the material uncertainty has been resolved. Resolution of a material uncertainty would mean that the claim is either closed or moved to the Probable claim reserve.

### 1.1. Operating reserve

The Operating reserve comprises any funds that are not allocated to specific reserves. These funds are used to:

- Fund the operating expenditure of the Compensation Fund
- Fund any interventions and their associated costs
- Fund legal costs relating to the defence of claims or interventions

These costs would ordinarily be funded by the Compensation Fund contributions made by CLC regulated practices. Because the timing and value of these costs are not predictable and contributions from practices may be diverted into topping up the other reserves outlined above the Council has felt it is prudent to ensure that the operating reserve is maintained at a level of approximately £500,000.

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If the reserve exceeds the maintenance level of £500,000 Council can consider whether it would be appropriate to reduce the excess by making a:

- Reduction in Compensation Fund fee rates
- Compensation Fund rebates
- Compensation Fund contribution holidays

### Change History

Version	Effective Date	Significant Changes	Previous SOP no.
v.1	April 2021	Initial Draft	

**ANNEX B.1**

**Illustration of current reserves held by the CLC**

1. PRACTICE FUND RESERVE

The current Practice Fund reserves, based on the application of the attached policy and the approved budget for 2021 are summarised as follows:

<b>Practice Fund Reserves</b>	<b>Reserve value</b>
Minimum reserve	1,141,067
Market uncertainty reserve (proposed)	600,000
<b>TOTAL RESERVES REQUIRED</b>	<b>1,741,067</b>

<b>CALCULATION OF THE MINIMUM RESERVE FOR 2021</b>			
<b>Determination of the minimum reserve level</b>	<b>2021 budget</b>	<b>Inclusion criteria</b>	<b>Reserve amount</b>
Staff Costs	1,284,431	60% of staff cost allowing 6 months' salary to wind down operations and 10% for redundancy cost	770,659
Monitoring and Inspections	45,000	15% to settle any outstanding inspection costs	6,750
Communication	119,450	30% to settle any outstanding costs an procure services during closure	35,835
Recharges (DPB/FCA, OpBas)	51,926	Not included as it will either be unpaid or a sunk cost at time of decision to close	0
OLC costs	584,335	Not included as it will either be unpaid or a sunk cost at time of decision to close	0
Building Costs	272,591	50% Contractual licence cost - provision for 6 months' notice and 6 months usage	136,296
Office Costs	12,591	50% based on 6 month wind down	6,296
Insurance	56,342	100% based on the annual premium for E&O cover	28,171
IT Expenses	45,844	50% based on 6 month wind down	22,922
Travel & Subsistence	19,103	25% provision for any essential travel	4,776
Professional Fees	100,082	50% based on 6 month wind down	50,041
Subscriptions & Consultancy	38,617	75% based on settlement of ongoing work and provision for any potential closure consultancy	28,963
Tax & Finance Charges	13,358	100% provision	13,358
Depreciation	6,023	Non cashflow item – no provision	0
Special Projects	148,000	25% for settlement of any ongoing work	37,000
<b>Total</b>	<b>2,797,697</b>		<b>1,141,067</b>

## 2. COMPENSATION FUND RESERVES

The current Compensation Fund reserves, based on the application of the attached policy are summarised as follows:

<b>Compensation Fund Reserves</b>	<b>Reserve Totals</b>
Minimum reserve	2,000,000
Probable claim reserve	2,394,497
Insurance reserve	2,000,000
Contingency reserve	651,817
Unallocated reserve	500,000
<b>TOTAL RESERVES REQUIRED</b>	<b>7,546,314</b>