



REVIEW OF LICENCE AND PRACTICE FEE ARRANGEMENTS

CONSULTATION PAPER

August 2022

Consultation deadline

This consultation will run for 6 Weeks.

It will close on 21 September 2022.

Background

The CLC, on an annual basis, reviews its projected expenditure and associated income collected from regulated practices and individuals for the next licensing period. The proposed fees are then consulted on and interested parties have an opportunity to comment on the fee proposals for the next licensing year. After considering and if necessary, amending the proposal, an application is made to the LSB for approval.

What we propose

The CLC is proposing that no change is made to any of the fees or fee rates set for the current licensing period (1 November 2021 – 30 October 2022).

Against the background of inflation, this is a significant real terms cut in fees and fee rates. Keeping the financial burden of regulation to a proportionate level is a key element of the CLC's commitment to supporting a thriving conveyancing and probate sector.

The CLC is wholly funded by the profession and through the profession by consumers. The following regulatory charges are collected by the CLC:

- 1) The **Individual Licence fee** payable by all CLC lawyers (unchanged since 2010)
- 2) A **Practice Fee** payable by all CLC regulated entities - determined as a percentage of turnover with banding (The bandings and fee rates were last amended in 2021)
- 3) A **OLC levy** payable by all CLC regulated entities (this charge was introduced in 2021 as carve out from the Practice Fee and comprises an availability fee allocated to all practices and a usage fee levied on practices with cases accepted for investigation by the OLC.)
- 4) A **Compensation Fund contribution** payable by all CLC Regulated Entities - determined as a percentage of turnover with bandings (The bandings were updated in 2021 but no changes were made to the fee rates).

Why this consultation is important

Because the CLC is funded by the Practices and Individuals that we regulate, it is important that they and other stakeholders get an opportunity to review and comment on the source and application of the funding to ensure the burden on Practice and Individuals is kept to a minimum and that the organisation has sufficient resources to execute its statutory objectives.

Responding to this consultation

The CLC will publish all responses and may refer to any of them specifically in any further document it publishes following this consultation. If you wish your response to be treated as confidential, please let us know when you respond.

You can respond to the consultation by email to consultations@clc-uk.org or by post to:

The Council for licensed Conveyancers
WeWork
131 Finsbury Pavement
London
EC2A 1NT

Consultation deadline

This consultation will run for six weeks until the end of 21 September 2022.

Next steps

The Council of the CLC will consider the responses to this consultation and finalise a submission to the LSB to approve the final fee arrangements. That submission will be published along with consultation responses (noting the caveat about confidentiality above).

Summary of Consultation Questions:

- 1) Do you agree that the **turnover bandings** included in paragraph 10 should remain unchanged?
- 2) Do you agree that the **Practice Fee rates** should remain unchanged from the 2021/22 rates (see rates table annex 2)?
- 3) Do you agree that the **Compensation Fund Contribution rates** should remain unchanged from the 2021/22 rates (see rates table annex 2)?
- 4) Do you agree with the CLC proposal not to amend **OLC levy** allocation between the availability fee (80% of cost allocated to all practices) and usage fee (20% of the cost allocated to practices with accepted cases)?
- 5) Do you agree that the **Individual practice certificate cost** and other **administration charges** remain unchanged from 2021/22?

Introduction

1. The Legal Services Act 2007, s.51(4) specifies the permitted purposes for which fees received by the CLC may be applied (see Annex 1). s.51(5) specifies that 'a practising fee is payable under the regulatory arrangements of an approved regulator [such as the CLC] only if the Board has approved the level of the fee'.
2. The CLC Council has at a council meeting held on 28 July 2022 approved that the fee rates, banding and fixed charges remain unchanged subject to consultation and LSB approval.
3. The Council is conscious of the additional burdens being placed on regulated practices and individuals and has opted to not make amendments to the fees for the upcoming licensing year. Against the background of inflation, this is a significant real terms cut in fees and fee rates. Keeping the financial burden of regulation to a proportionate level is a key element of the CLC's commitment to supporting a thriving conveyancing and probate sector.
4. This will place pressure on the management of the CLC to achieve its very ambitious management plan, but it is the right thing to do in the circumstances.
5. The CLC is a pure regulator and does not have a representative function. All costs incurred by the CLC are applied only to permitted purposes
6. The CLC's role is to safeguard the public interest and consumers by regulating providers to deliver high quality and accessible legal services.
7. The CLC's regulatory activities include:
 - setting educational and training standards for entry to the profession
 - issuing licences to practise to those qualified to provide conveyancing and probate services and to Alternative Business Structures
 - maintaining a register of all CLC Lawyers and CLC Practices
 - setting standards to regulate the professional practice, conduct and discipline of CLC Lawyers and CLC Practices
 - setting standards to maintain adequate professional indemnity insurance and a compensation fund to protect consumers
 - monitoring the work and conduct of CLC Practices
 - providing guidance and advice to CLC Practices to maintain compliance with our regulatory requirements
 - investigating allegations of misconduct and where appropriate taking disciplinary action and

- collaborating with key stakeholders in the legal services market to monitor and shape future policy.
8. The CLC's approach to regulation is proportionate, risk-based and outcomes-focused. Licence holders are required to demonstrate that they:
- act with independence and integrity
 - maintain high standards of work
 - act in the best interest of clients
 - deal with regulators and ombudsmen in an open and cooperative way and
 - promote ease of access and service.

Turnover Banding

9. The Practice Fee and Compensation Fund contributions are calculated on a sliding scale based on the practice's turnover.
10. The turnover banding were reviewed and amended in 2021. The number of bands was increased from 4 to 9 and the top turnover band was increased from £3m to £16m.
11. The practice distribution across the bandings have been reviewed and we feel that there is still a good spread of practices across the turnover bands. This is illustrated in the table below which shows the practice allocations by turnover banding in July 2021 and July 2022.

PRACTICE FUND		
Fee bands and practice allocation	Number of Practices	Number of Practices
	July 21	July 22
£0 – £100,000	21	19
£100,001 – £250,000	57	37
£250,001 – £500,000	58	58
£500,001 – £1,000,000	48	51
£1,000,001 – £2,000,000	16	28
£2,000,001 – £4,000,000	6	9
£4,000,001 – £8,000,000	6	12
£8,000,001 – £16,000,000	5	1
£16,000,001 and over	2	5
	219	220

12. Because the distribution of practices across the turnover bands has not changed materially and there is no significant concentration in any single banding, the CLC is proposing to make no amendments to the turnover bandings for the 2022-2023 billing cycle.

Consultation Question:

- 1) Do you agree that the **turnover bandings** included in paragraph 11 should remain unchanged?

Practice Fee rate setting

13. The CLC has been running a planned deficit budget since 2019. Through this deficit the CLC has released more than £3m in reserves back to Practices.
14. Reserve levels have depleted significantly over the previous 2 years largely due to the impact of the pandemic, increases in costs, specifically staff cost, legal expenditure and the legal ombudsman recharge.
15. Reserve levels are now at the minimum levels set by the Council and the CLC will need to return to running a surplus budget to maintain and grow reserves to protect against future uncertainty and business needs.
16. The CLC is minded not to increase the Practice Fee rates for the next licensing year to reduce pressure on practices in very uncertain times.
17. The question on whether to increase fee rates was discussed at length at the Council meeting on 28 July 2022. Council was concerned to ensure that not increasing fee rates would not hamper the CLC's ability to maintain and develop its program of regulatory functions. The buoyancy of the sector during the period on which fees will be based and growth strategy was considered as well as recent recruitment and improved processes which have improved capacity. The Council concluded that there were sufficient resources to deliver the business plan without increasing fee rates this year.
18. As such the CLC has carefully reviewed its budget for the next year and is confident that it can contain cost sufficiently to generate a balanced budget for 2023. The estimated expenditure is summarised in the table below.

Budget Overview Practice Fund	2022 Budget	2022 Forecast	Var to Actual	% Var to Actual	2022 Forecast	2023 Estimate	Var to Forecast	% Var to Budget
Income								
Individual Licences	636,040	623,807	(12,233)	(2%)	623,807	658,194	34,387	5%
Practice Fees	1,329,720	1,385,620	55,900	4%	1,385,620	1,644,002	258,382	16%
Other Income	31,472	80,578	49,106	61%	80,578	70,669	(9,909)	(14%)
Total Income	1,997,232	2,090,005	92,773	4%	2,090,005	2,372,865	282,860	12%
Less: Operating Expenses	2,609,481	2,653,807	(44,326)	(2%)	2,653,807	2,370,645	283,162	12%
Operating surplus/(deficit)	(612,249)	(563,802)	48,448	(6%)	(563,802)	2,220	566,021	0%

19. The transition to a surplus in the estimate for 2023 has been achieved through:
 - Growth in Practice Fees charged through organic turnover growth and growth in turnover from new practices coming into CLC regulation.

- Allocating some staff cost to the Compensation Fund to account for the additional work being carried out in the management of the Fund.
- Reviewing and reducing operating expenditure where possible, including office space.
- Reducing expenditure on outsourced legal support as some current projects come to conclusion.

20. The estimate presented above will enable the CLC to maintain its reserve levels while not increasing the Practice Fee rates for 2023.

Consultation Question:

- 2) Do you agree that the **Practice Fee rates** should remain unchanged from the 2021/22 rates (see rates table annex 2)?

Compensation Fund Contributions

21. The Compensation Fund financial forecast and estimate for 2022 and 2023 are set out in the table below.

Budget Overview Compensation Fund	2022 Budget	2022 Forecast	Var to Actual	% Var to Actual	2022 Forecast	2023 estimate	Var to Forecast	% Var to Forecast
Income	392,766	405,035	12,268	3%	405,035	461,558	56,523	14%
Expenses	228,058	396,576	(168,518)	-74%	396,576	381,415	15,161	4%
Intervention and claims	84,058	106,746	(22,688)	(27%)	106,746	74,205	32,541	30%
Recharges	-	63,299	(63,299)		63,299	127,210	(63,911)	(101%)
Legal cost	144,000	226,531	(82,531)	-57%	226,531	180,000	46,531	21%
Net Surplus / (Deficit)	164,708	8,459	(156,249)	(95%)	8,459	80,143	71,684	847%

22. Revenue is expected to increase in 2023 because of increases in practice turnovers, this is however coupled with increased legal costs associated with the administration costs and recharges of cost stemming from the time spent by staff on the fund administration.

23. New compensation awards and intervention expenditure is not budgeted due to the unpredictable timing and cost. The surplus is used to fund these costs with any additional cost being drawn from reserves. The Fund is currently fully reserved in line with the current reserving policy.

24. Because the fund is generating a surplus and there is no indication that additional claims or cost will be incurred the CLC is proposing not to amend the Compensation Fund contribution rates for 2022-23.

Consultation Question:

3) Do you agree that the **Compensation Fund Contribution rates** should remain unchanged from the 2021/22 rates (see rates table annex 2)?

OLC Levy

25. The OLC levy was implemented in 2022 and its purpose is to recharge the Legal Ombudsman costs allocated to the CLC to regulated practices. These costs were previously recovered via the Practice Fee but was removed from the Practice Fee collection from November 2021 and the Practice Fee rates were adjusted accordingly.
26. The CLC received the final invoice from the legal ombudsman in March each year (for the period ended then). The CLC pays the invoice in April of each year and recovers the cost from practices over the next 12 months.
27. The Legal Ombudsman costs are allocated to practices via an availability fee (80% of the cost) which is allocated to practices based on their declared turnover as a % of the total declared turnover and a usage fee (20% of the cost) which is allocated as a cost per case.
28. The OLC levy is still being phased in. The first invoice to practices was sent in April 2022 and covered the 5 month period November 2021 to 2022. The next invoice to practices will be for a full 12 month period.
29. The latest estimate of costs received from the Legal Ombudsman reflects an increase in case numbers and cost of 23% (£160,740). Costs are allocated to the CLC based on the 3 year average number of cases allocated to CLC regulated practices. A summary of the case numbers and costs since implementation of the levy is included in the table below.

Legal Ombudsman Costs	CLC regulated practices % of cases	CLC regulated practices case numbers	Total number of OLC cases	Actual cost for 2021/22 and estimated cost for 2022/3	Cost per case allocated to the CLC
2021/22	5.30%	263	4,962	686,511	£ 2,610
2022/23	6.10%	327	5,361	847,251	£ 2,591

30. The Legal Ombudsman has taken steps to increase the early resolution of cases. This has resulted in a significant reduction in case numbers recorded in 2021 and 2022. Although this will not impact the current years charge (period ending March 2023) it will have an impact on the usage charging model in 2023-24. The trend in case numbers is reflected in the table below.

Legal Ombudsman case numbers	2018	2019	2020	2021	2022 YTD
Total number of CLC cases	304	322	375	189	43
Number of practices with cases	73	74	68	47	16

31. Because the levy is still being phased in, and we anticipate material changes to the case numbers in the next cycle, the CLC proposes not to make any changes to the charging mechanism for the next billing cycle.
32. The CLC is of the view that the current Legal Ombudsman charging model is not transparent and fair as the cost is predominantly borne by 3 legal regulators with the remaining regulators paying a token fee of £5,000. CLC will be making the case for a fairer allocation model across all regulators as well as continuing to advocate for cost reduction at the OLC.
33. The CLC is proposing not to amend the current model of allocating the Legal Ombudsman cost to practice.

Consultation Question:

- 5) Do you agree with the CLC proposal not to amend **OLC levy** allocation between the availability fee (80% of cost allocated to all practices) and usage fee (20% of the cost allocated to practices with accepted cases)?

Other Fees

34. The table below lists the current annual Individual Practising Certificate Fees as well as the various licence application and administration charges levied.

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

35. The CLC is proposing that no changes are made to the current charges at this time.

Consultation Question:

- 5) Do you agree that the **Individual practice certificate cost** and other **administration charges** remain unchanged from 2021/22?

Annex 1
Permitted Purposes
Extract LSB Practising Fee Rules

Monies raised through practising fees must not be applied for any purpose other than one or more of the permitted purposes.

The permitted purposes are:

- (a) the regulation, accreditation, education and training of applicable persons and those either holding themselves out as or wishing to become such persons, including:
 - (i) the maintaining and raising of their professional standards; and
 - (ii) the giving of practical support, and advice about practice management, in relation to practices carried on by such persons;
- (b) the payment of a levy imposed on the approved regulator under section 173 [Legal Services Act 2007] and/or the payment of a financial penalty imposed on the approved regulator under section 37 of the Act;
- (c) the participation by the approved regulator in law reform and the legislative process;
- (d) the provision by applicable persons, and those either holding themselves out as or wishing to become such persons, of legal services including reserved legal services, immigration advice or immigration services to the public free of charge;
- (e) the promotion of the protection by law of human rights and fundamental freedoms;
- (f) the promotion of relations between the Approved Regulator and relevant national or international bodies, governments or the legal professions of other jurisdictions;
- (g) increasing public understanding of the citizen's legal rights and duties.

Annex 2 Fee Rate tables

PRACTICE FUND (2022-23)			
Turnover Banding (OLC adjusted)	Practice Fee payable		
£0 – £100,000	£580		
£100,001 – £250,000	£580 plus	0.560%	of turnover in excess of £100,000
£250,001 – £500,000	£1,420 plus	0.520%	of turnover in excess of £250,000
£500,001 – £1,000,000	£2,720 plus	0.500%	of turnover in excess of £500,000
£1,000,001 – £2,000,000	£5,220 plus	0.480%	of turnover in excess of £1,000,000
£2,000,001 – £4,000,000	£10,020 plus	0.470%	of turnover in excess of £2,000,000
£4,000,001 – £8,000,000	£19,420 plus	0.435%	of turnover in excess of £4,000,000
£8,000,001 – £16,000,000	£36,820 plus	0.425%	of turnover in excess of £8,000,000
£16,000,001 and over	£70,820 plus	0.415%	of turnover in excess of £16,000,000

COMPENSATION FUND (2022-23)			
Turnover Banding	Compensation Contribution Payable		
£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