



## **CILEX AND IPS PRACTICE CERTIFICATE FEE (PCF) APPLICATION 2013**

### **Introduction**

CILEx is an Approved Regulator under the Legal Services Act 2007 for Chartered Legal Executives and Associate Prosecutors and IPS is the company established by it to undertake its regulatory functions. This submission sets out the Practice Certificate fees proposed to be charged to CILEX Fellows and Associate Prosecutor Members of CILEx in 2013. It also sets out the process by which the proposed fees have been determined.

CILEx Council agreed its proposals for 2013 Practice Certificate fees at its meeting in July 2012, having considered the 2013 budget agreed by IPS at its Board meeting in June 2012.

### **Independence**

We confirm that IPS set its budget independently. IPS has its own strategy and business plan which are reviewed annually. The review it undertook in December 2011 determined the strategic aims and thereby the activity and resource needs of IPS for 2013.

CILEx confirms that requests for additional resources will be met. IPS has no concerns about securing such resources.

CILEx and IPS consulted jointly with Fellows regarding alternative levels of practising certificate fee. Associate Prosecutor Practice Certificate fees are paid by the Crown Prosecution Service. There has been correspondence with the CPS regarding the proposed fees, rather than with individual Associate Prosecutors.

Signed

A handwritten signature in black ink that reads 'Ian Watson'.

Ian Watson  
IPS CEO

A handwritten signature in black ink that reads 'Diane Burleigh'.

Diane Burleigh  
CILEx CEO

## SECTION 1: DEVELOPING THE APPLICATION/SETTING THE BUDGET

The Practising Certificate fee levels that have been proposed are set out in the table below. The fees were agreed by CILEx Council at its meeting in July 2012 for submission to the LSB.

**Table 1: Fee levels**

<b>PC Fee</b>	<b>2012/13 Budget Year</b>	<b>2011/12 Current Year</b>	<b>Increase (£ &amp; %)</b>
Authorised Person (Fellow)	£290	£275	+\$15 (+5.5%)
Associate Prosecutor	£150	£140	+\$10 (+7.1%)

The level of the 2012/13 Practising Certificate fee was determined, having identified the costs of regulatory and permitted purposes activities proposed for 2013. The CILEx Group develops three year budgets and business plans, which are described below.

### IPS

IPS took the lead in setting the 2013 budget for regulatory costs for IPS and CILEx, as required by the LSB following the practising certificate fee process in 2011. IPS maintains a 3 year strategy. The Board identified the resources it will need to deliver the strategy and business plan in 2013. The draft budget was prepared by the CEO of IPS in the light of expected maintenance of regulatory work and the projects to be undertaken during the year. The IPS Board considered the draft budget at its meeting in April and, following amendments proposed by the Board, agreed a revised draft at its meeting in June.

At its June meeting the IPS Board received details of the costs of permitted purposes activities identified by the CILEx Group finance director. The analysis of permitted purposes costs appears at **table 2**. The Board was satisfied that the costs were a fair reflection of the permitted purposes costs incurred by IPS and reflected the activities undertaken by CILEx staff under the IPS/CILEX service level agreement, as well as the costs of permitted purposes activities carried out by CILEx as the Approved Regulator.

The budget and regulatory costs agreed by IPS were provided to CILEx to inform its budgeting process and to enable the Practice Certificate fees for 2013 to be agreed.

## **CILEx**

The CILEx Group budget process incorporates 3 main phases.

- A strategy development period
- A detailed draft budget for the next financial year incorporating the IPS budget
- Production of a three-year budget incorporating the IPS three-year budget

The strategic phase considers the political, economic, regulatory and competitive context of the sectors and markets the CILEx group operates in. This informs the development of the three year financial projection.

Assumptions are made regarding inflation, resource requirements, the number of authorised persons and other grades of member and the likely income and expenditure from awards (ie examinations) and commercial activities carried out by the CILEx group.

CILEx considers the activities it undertakes which are classified as permitted purposes under the Legal Services Act 2007, and a breakdown is shown at **table 2**.

The CILEx Council considered an outline draft budget and business plan in May 2012 and proposals for consulting with Fellows and Associate Prosecutor Members on the Practice Certificate fee.

### **CILEx Fellows**

Council agreed to consult on three options. These were, on a per capita basis:

- £324 – the full cost of regulatory and permitted purposes activities; or
- £290 – the level that would help to achieve a balanced budget in 2013 for the CILEx Group; or
- £285 – the level in line with inflation

The IPS Board was content that Fellows be asked for their views on these alternatives. The consultation letter sent jointly by IPS and CILEX Chief Executives is attached at **appendix 1**.

### **Associate Prosecutors**

There was no direct consultation with individual Associate Prosecutors as the Crown Prosecution Service pays their Practice Certificate fees. IPS informed the CPS of the proposed increase in the practising certificate fee for Associate Prosecutors based on the costs of regulatory activities. Discussions with the CPS are reported below.

## **Reserves Arrangements**

IPS does not hold any reserves itself. The CILEx reserves policy prescribes that it should hold the equivalent of a minimum of 12 months budgeted membership income in reserve. Protocols between IPS and CILEx provide that CILEx will meet the reasonable funding requirements of IPS; which would include exceptional costs – for example in relation to staffing or legal claims or new regulatory developments. In fact CILEx has built up reserves over a considerable period of time, which currently stand at £8.1million (which is nearly four times the level of PCF income in the 2013 budget). Whilst those reserves are available to the whole CILEx group, not just IPS, IPS is confident that the resources are available should it need them

As will be seen from the analysis of regulatory and permitted purposes costs in table 3, the fees budgeted for 2013 are intended towards delivering a balanced budget; those costs exceed the income from practising certificate and permitted purposes fees; and those costs will be subsidised by other CILEx group income. Practising certificate and permitted purposes fees will not go towards increasing the Group reserves.

## **Contingency Arrangements**

As mentioned above, the CILEx Group has accumulated considerable cash reserves in accordance with its Reserves Policy. This policy was developed specifically so that CILEx can meet unexpected needs of a varying nature, including regulatory needs. Therefore IPS believes that there are sufficient resources in CILEx, should it need to access additional funds from the representative body.

## **Consultation Process**

The consultation process started on the 22nd May 2012 with an e-mail sent to 7,067 Practising Fellows and a hard copy letter sent on the same day to 225 Practising Fellows who did not have an e-mail address. Copies of the communication appear at **appendix 1** which clearly demonstrate IPS's and CILEx's approach to how the options were arrived at and how the income derived from the practising certificate fee is spent across regulated activities and permitted purposes.

Within the letter, the timeframe indicated for a response by e-mail or letter was highlighted as the 1st June 2012. By that date 341 responses were received, all except one by e-mail. Most of the responses (97%) were in favour of an increase: 69% were in favour of a fee set at £290, 9% in favour of £324, 19% in favour of £285, with the remainder asking for no increase.

A number of respondents, particularly those working in local government and small to medium private practices, commented that their pay had been held over the past few years which, combined with lack of employer support for

meeting subscription fees, made it harder to accept increased subscription demands.

The result of the consultation with comments from respondents was reported to the CILEx Council on 6 July.

### **Associate Prosecutors**

The Memorandum of Understanding between the CPS, IPS and CILEx states that Practice Certificate fees will be agreed by the parties each year. The proposal to increase the fee from £140 to £150 was communicated to the CPS with background information regarding the basis on which the proposed fee had been arrived at. Attention was drawn to the significant new work which would be involved in monitoring and developing the arrangements for assuring the standards of assessment of APs and their competence.

The CPS was concerned that the increase was over 7% and that as an organisation they were required to make significant costs savings. However, they indicated the proposed increase would be acceptable but asked for assurance that the fees would be held in the following year. IPS made it clear that budgets had to be set each year to reflect regulatory and permitted purposes costs and that it was not possible for the fee to be 'frozen' for 2014. The CPS indicated that it would wish to discuss any proposal by IPS to increase the practising certificate fee in 2014; which IPS accepted as being in accordance with the provision in the MoU.

## **SECTION 2: PERMITTED PURPOSES**

In setting its Practice Certificate fee for 2013 the CILEx group considered which activities were permitted purposes. Table 2 sets out the allocation to permitted purposes by department in CILEx. In total, CILEx identified that £4,689.9k was the required budget to cover total permitted purposes expenditure for 2013, and therefore the income from budgeted Practice Certificate fees of £2,236.9k provides only 47.7% of the total required. Practice Certificate fee income is expected to just cover the regulatory activities expenditure of the Group, but not other permitted purposes expenditure. This is provided from other sources, and as such, these other sources of income subsidise the full cost of permitted purposes activities.

**Table 2: CILEx Departments Permitted Purposes Allocation**

<b>CILEx Department</b>	<b>All Permitted Purposes Activities</b>	<b>Other Activities</b>	<b>Total</b>
<b>Membership</b>	86.6%	13.4%	100.0%
<b>Awards</b>	100.0%	0.0%	100.0%
<b>Intl. &amp; Paralegal</b>	60.0%	40.0%	100.0%

<b>Journal</b>	21.0%	79.0%	100.0%
<b>Corporate Affairs</b>	84.9%	15.1%	100.0%
<b>Comms &amp; Marketing</b>	90.0%	10.0%	100.0%
<b>Central Resources</b>	77.4%	22.6%	100.0%

The permitted purposes percentages are based on an assessment by CILEx staff of the amount of departmental time they spend on all permitted purposes activities or in providing services to IPS under the service level agreement. The 'other' column relates to work carried out by CILEx staff which does not relate to regulatory or permitted purposes activities; for example, in relation to the Journal the content aimed at CILEX members as members or, in relation to international and paralegal work, work which does not relate to the professional membership programmes.

Those activities that CILEx identified as permitted purposes include:

- CILEx membership department – provides and maintains the Fellows, Associate Prosecutors and members database; issues PCF invoices; liaises with authorised persons; maintains CPD records; provides information to IPS about authorised persons and members.
- CILEx Awards and International department – provides support to ensure that standards of qualification, training and assessment are fit for purpose; provides details of assessment results by candidate, centre and student; provides reports and minutes of relevant committee meetings; liaison with Ofqual; provides details of any alleged misconduct; maintains relations with overseas CILEx centres; attendance at stakeholder meetings with Skills for Justice; attendance at professional institute forums.
- CILEx Journal department – provides the use of the Legal Executive Journal publication; editorial support; educational articles; direct mailing to authorised persons and members.
- CILEx Corporate affairs department – provides representation, liaison and support in the areas of law reform, policy, lobbying, equality and diversity, pro bono and judicial appointments. Manages relationship with LSB, other Approved Regulators and government.
- CILEx Communications and Marketing department – maintains and supports the IPS website; IPS publications; press releases and liaison.
- CILEx central resources – provides HR; finance and accounting; procurement facilities.

The proposed budgeted income from practice certificate fees in 2013 of £2,236.9k will be used towards meeting the £2,372.9k regulatory expenses. The shortfall, together with the cost of other permitted purposes activities will

be funded by the CILEx Group from other activities, which include membership and training.

**Table 3: Total CILEx Group Draft 2013 Budget**

	<b>Regulatory Activities</b>	<b>Other Permitted Purposes Activities</b>	<b>Sub Total: Total Permitted Purposes Activities</b>	<b>Other Non-Permitted Purposes Activities</b>	<b>Grand Total: 2013 Budget</b>
	£'s	£'s	£'s	£'s	£'s
<b>Income:</b>					
PCF Income	2,236,890		2,236,890		2,236,890
Membership Income			0	1,231,660	1,231,660
Awarding Body Income		176,000	176,000	204,900	380,900
Assessment Income		1,044,200	1,044,200		1,044,200
Other	145,000		145,000	3,356,030	3,501,030
<b>Total Income</b>	<b>2,381,890</b>	<b>1,220,200</b>	<b>3,602,090</b>	<b>4,792,590</b>	<b>8,394,680</b>
<b>Expenditure:</b>					
IPS Direct Expenditure	1,025,676		1,025,676		1,025,676
LSB/OLC Levies	280,459		280,459		280,459
Other	1,066,725	2,317,028	3,383,753	3,682,022	7,065,775
<b>Total Expenditure</b>	<b>2,372,861</b>	<b>2,317,028</b>	<b>4,689,889</b>	<b>3,682,022</b>	<b>8,371,911</b>
<b>Net Surplus/(Deficit)</b>	<b>9,029</b>	<b>(1,096,828)</b>	<b>(1,087,799)</b>	<b>1,110,568</b>	<b>22,769</b>

Table 3 shows the total CILEx Group draft budget for 2013, and analyses income and expenditure by regulatory-related activity, other permitted-purposes activity (with a sub-total for total permitted purposes activity), other activities that are not regulatory or other permitted purposes activities and then a final grand total for the Group.

### **SECTION 3 – REGULATORY FUNCTION**

IPS sets its budgets independently. The Board of IPS determined its resource requirements for the 2013 budget period by considering the projected budget against its strategic aims for 2013. The budgets were considered at the IPS Board meeting on 26 April 2012 and finalised at the meeting on 7 June 2012. The budget was thereafter incorporated into the CILEx group budget.

Table 3 shows how the Practice Certificate fee income is spent on regulatory activities including IPS.

## **SECTION 4 – CLARITY AND TRANSPARENCY**

A letter was mailed to each member who would be responsible for paying Practice Certificate fees. This is the Fellows of CILEx. A copy of the letter appears at **appendix 1**.

Associate Prosecutor members are also responsible for paying the Practice Certificate fee. This fee is paid by the CPS. Therefore in the case of Associate Prosecutors IPS consulted directly with the CPS Headquarters. A summary of the discussion appears above.

Chartered Legal Executives are the voting members of the company. They receive the CILEx Annual Report, which incorporates the 2011 audited accounts, in time to attend the Annual General Meeting and may raise issues there or in advance. The Annual Report and Accounts are available at ([www.cilex.org.uk](http://www.cilex.org.uk)). No member attended the AGM held on 6 July 2012 to raise any issue regarding Practice Certificate fees or raised any matter in advance of it.

## **SECTION 5 – REGULATORY AND DIVERSITY IMPACT ASSESSMENTS**

The CILEx Group has a Single Equality and Diversity Scheme and Action Plan. This identifies ways in which the group can continue to improve access to its services. The plan encompasses the requirement of the Equality Act 2010, sets out the equality and diversity objective and action plans for the CILEx Group for 2011 to 2015.

The CILEx Group will actively promote equality against the required protected characteristics. The CILEx Group has due regard to advancing equality of opportunity when taking action to achieve the objectives. It identifies the potential impact on various groups within its membership through the consultation with Fellows and the CPS.

Members from local government cited the very difficult financial circumstances under which their local authority employers are operating. Some indicated that their employer did not pay their PCF.

### **Regulatory Objectives and better regulatory principles**

IPS and CILEx are aware of the importance of ensuring that the Practice Certificate fee covers the budget for activities that support the regulatory objectives set out in the Legal Services Act. IPS and CILEx believe that the Practice Certificate fee income will be spent solely on regulatory activities and permitted purposes that aim to promote adherence to the regulatory objectives e.g. emphasising work on new practice rights, the regulation of entities, modernising CPD, improving the approach to work based learning,

together with providing advice and support to members meet new requirements.

IPS and CILEx acted in accordance with the principles of proportionality, accountability, consistency, transparency and targeted in determining and developing the Practice Certificate fee for 2013.

Transparency and accountability have been ensured through the manner in which consultation was carried out with each affected member and the CPS. The process has been described earlier in this report.

The processes in determining the Practice Certificate fee have been targeted solely at the regulatory and permitted purposes and a proportionate approach, in line with CILEx's original 3 year budget plans, has been taken to determining the activity and thereby budgetary needs.

## **SECTION 6: CONSULTATION WITH NON-COMMERCIAL BODIES AND THE CONSUMER PANEL**

Neither IPS nor CILEx has consulted with non-commercial bodies or the consumer panel. Section 51(7) provides that the LSB may consult with such bodies as it considers appropriate about the impact of proposed fees on persons providing non-commercial legal services. The term 'persons' includes organisations or entities. CILEx members are regulated and pay Practising certificate fees as individuals rather than entities and there is no direct impact on non-commercial bodies, which requires IPS to consult with them. All CILEx Fellows have been consulted, including those who work in non-commercial bodies. As the responses to the consultation show, Fellows who work in local authorities have drawn attention to the difficulties they face because of pay constraints over a number of years and the fact that their employers do not pay their practising fees. However those views have to be set against the value to them of their practising certificate and the views of Fellows as a whole. In the event that IPS regulates entities in future it will need to have regard to the impact of regulatory fees on non-commercial bodies.