

Approved regulator (AR)	Council for Licensed Conveyancers
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Final application	Type of format received	Confirmed receipt of application?	Website link to the key documents on our webpage
Receipt of final application on 5 September 2012	Email	Yes - 5 September 2012	http://www.legalservicesboard.org.uk/Projects/independent_regulation/2012_practising_fee_applications.htm

Pre-draft application process including draft documents or correspondence received for assessment against the final application

	Yes or No	Description	Date
Did the LSB receive a draft application?	No		
Was there a pre-meeting between AR representatives and the LSB?	No		
Do we have any initial concerns arising from the application?	Yes	<ul style="list-style-type: none"> The application broadly follows our guidance in terms of presentation. However, there is nothing on the Regulatory or Equality Impact. This is probably because there is only a marginal increase in the practising fee and no increase in the License Fee and Comp Fund contribution, although this was not stated in the application. There was no consultation on the raising of the fee. In the LSB 2011 PCF decision letter we said that we expected a more extensive consultation to be carried out on a periodic basis. See section 4 for CLC response. The application also mentions in paragraphs 29 and 30 that in 2011/12 the CLC reviewed the current basis on which regulatory fees are determined, including "whether to take into account the risk assessment of fee payers" and that the CLC will publish a fees consultation paper by early 2013. We sought further information from the CLC on the timing, scope and method of this ongoing review. CLC anticipate that a consultation paper will be published around February 2013. The CLC has considered a number of charging models which are due to be reviewed by Council in November. The review is centred on the practice fee and Compensation Fund contribution. Currently, it is not anticipated that there will be any change to the licence fee. 	12/09/2012
Have the concerns or issues of clarification (if any) been resolved?	Yes	See comments in assessment.	18/09/2012
Does the final application include a section on how the AR has dealt with the areas for improvement (if any) highlighted in the previous year's approval letter? If yes, have these issues been dealt with to the satisfaction of the LSB?	Yes	Last year LSB made some comments about reserves (again covered in paras 29 and 30 of application). Briefly the CLC gave reassurances then that it was not the CLC's intention to manage the minimal level of reserves down to two months. Paragraphs 9 and 10 set out the Reserves Arrangements for 2012/13 which now includes that at the end of budget year 2013 reserves will represent 6/7 months of expenditure. By that stage they expect the reserves to equate to 6-7 months operating cost and that over the medium term it should increase to 9 months. LSB intention is not to prescribe reserve levels, but we do want to know how they are being approached, and if that seems reasonable in view of our assessment of each ARs ongoing viability and effectiveness. Although there is some explanation of the reserves arrangement in this year's application, for the 2013/14 application we would like the CLC to include a more detailed assessment of its reserves policy so that we can better understand its approach.	

Summary

The LSB have the required information to consider the application against the PF Rules 2009 and criteria.

Overall level of concern	No concern
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Section 1: Developing the application and setting the budget

This section of the criteria refers to D10a & D11a /D11d of the Practising fee Rules 2009.

Criteria - application	Yes or No	Relevant information
Is there a description of how the application was developed and settled?	Yes	The CLC Corporate Strategy 2011-2013 and Business Plan 2012 has been determined by the Regulatory Objectives. The Strategy assumes the CLC will become successful in its applications to extend its regulatory scope and was designated a LA from 6 October 2012. But its application to regulate litigation and advocacy was unsuccessful. The CLC is addressing the LSB concerns in respect of those applications and has identified strategic priorities around building innovative and excellent regulatory services, understanding the market, strengthening and growing its regulated community and building capability and capacity. LSB ASSESSEMENT: Satisfied the application includes adequate description of how application was developed and settled.
Is there sufficient detail to make an assessment of 'reasonable care' when settling the application?	Yes	See description above. LSB ASSESSEMENT: Satisfied application includes sufficient detail to give us confidence that reasonable care was taken when setting the application.

Criteria - budget	Yes or No	Relevant information
Is there a description of how the budget was developed and settled?	Yes	The annual budget is determined by a number of factors, the most significant of which include: resource needs to meet strategic priorities & business plan objectives, provision of known commitments including LSB payments, comparison to previous year's trends, a review undertaken after 6 months, a report by Internal Auditors, External Auditors' review & sign off and, the budget as a standing agenda item with the Audit Committee. Para 7.LSB ASSESSEMENT: Satisfied there is adequate description of how the budget was developed and settled.
Is there evidence that the budget was settled in light of immediate and medium term budgetary needs?	Yes	The budget for 2013 balances the CLC's need to provide an effective system of regulation which protects and promotes the interests of consumers with the need for the CLC to move forward with those it regulates to take advantage of the opportunities and to meet the challenges of the new regulatory framework.LSB ASSESSEMENT: Satisfied that the budget was settled in light of the the immediate and medium term budgetary needs.
Is there a description of contingency arrangements?	Yes	The CLC will run at a total deficit of £393,350K (CF:£299,500k and Operations:£93,850k). Tables para 16 and 18. CLC reserves the right to transfer the balance out of the Practice Fees or Licence Fees collected before approaching the profession to recoup monies. This approach reduces costs associated with the collection of a special levy outside the normal cycle for collection of regulatory fees. LSB ASSESSEMENT: Satisfied there is an adequate description of contingency arrangements.
Does this include a section on the consultation with practitioners?	Yes	No formal consultation was conducted. See section 4.

Section 1 Continued

Overall comments

Please refer to the application pages 2 - 4, paragraphs 5 - 8 'Setting the CLC's Budget'.

Evaluation

Satisfied that the application meets the criteria and evidence for Section 1: Developing the application that must be provided for this section in each PCF application.

Level of concern No concern

Overall comments

Please refer to the application pages 2 - 4, paragraphs 5-8 'Setting the CLC's Budget'. Also see, pages 4-6, paragraphs 9-21.

Evaluation

Satisfied the application meets the criteria and evidence for section 1: Developing the application that must be provided for this section in each PCF application.

Level of concern No concern

Section 2: Permitted purposes

This section of the criteria refers to D10b & D11e/D11b of the Practising fee Rules 2009.

Criteria	Yes or No	Relevant information
Is there evidence that the income raised through the PCF charge are applied solely to the permitted purposes ?	Yes	None of the costs CLC incurs fall outside permitted purposes as prescribed at rule 6 LSB Practising Fee Rules 2009. Aside from the Levy, CLC's PCF income covers the entirety of the costs incurred in relation to regulation, accreditation, education and training of applicable persons, maintaining professional standards, practical, support and advice about practice management in relation to practices. CLC participates to a limited extent in law reform and legislative process; this is part of developing its regulatory framework and does not have a dedicated budget to that activity. LSB ASSESSMENT: CLC has an exclusively regulatory function. Application is clear that the income raised are applied solely to the permitted purposes.
Does it include a budget that shows the anticipated income from practising fees?	Yes	The funding requirement for 'Operations' totals £2,432,850. The PCF income collected totals £2,339,000 (consisting of Practice fee income of £1,408,000; Licence Fee income of £514,000; and other income of £417,000). The total budgeted shortfall of income against expenditure is £93,850. The cash flow impact of this could be significantly less because part of the budgeted shortfall is attributable to the budgeted depreciation charge (£110,000). At the end of the budget year 2013 reserves will represent 6/7 months of expenditure. The intention will be to build up reserves in the medium term to over 9 months expenditure. LSB ASSESSMENT: Satisfied budget shows anticipated income from practising fees.

Criteria	Yes or No	Relevant information
Does it include an analysis of expenditure against the permitted purposes?	Yes	The largest expenditure categories for 2013 are: Staff Costs 56% (£1,374,650); Levy 11% (£269,000); Other expenditure 10% (£235,000); Direct costs 5% (£110,500); Depreciation 4% (£110,000). LSB ASSESSMENT: Satisfied application includes analysis of expenditure against permitted purposes in the context of the CLC having an exclusively regulatory function.
Does it include an analysis of income and expenditure related to all other expected income to be applied to permitted purposes?	Yes	The PCF income collected totals £2,339,000 which was made up of: Practice Fee £1,408,000; Licence Fee of £514,000; and Other Income of £417,000 - which will be allocated solely to CLC's regulatory function. LSB ASSESSMENT: Satisfied includes analysis of income and expenditure related to all other expected income for permitted purposes. CLC have an exclusively regulatory function.

Overall comments

Please refer to the application page 6-7, paragraphs 22-25 for description of permitted purposes. See pages 5-6 for the PCF funding requirement. See Annex 2 for CLC Budget 2011-2012 for an analysis of spend against each expenditure category.

Evaluation

Satisfied the application meets the criteria and evidence for Section 2: Permitted purposes that must be provided for this section in each PCF application.

Level of concern

No concern

Section 3: Regulatory functions

This section of the criteria refers to D10c D10d & D11c of the Practising fee Rules 2009.

Criteria	Yes or No	Relevant information
Is there clarity and transparency of how the PCF income collected by practising fees is applied to permitted purposes which are regulatory functions (not representative)?	Yes	None of the costs the CLC incurs fall outside permitted purposes as prescribed at rule 6 LSB Practising Fee Rules 2009. LSB ASSESSMENT: CLC has an exclusively regulatory function. Satisfied that there is clarity and transparency of how the PCF income collected by practising fees is applied to permitted purposes that are regulatory functions.
Is there a description of shared services?	No	LSB ASSESSMENT: n/a No shared services.

Criteria	Yes or No	Relevant information
Is there clarity and transparency of how the PCF income collected by practising fees is applied to permitted purposes which are not regulatory functions ?	No	LSB ASSESSMENT: n/a CLC has no non-regulatory functions.

Overall comments

No comment

Evaluation

The application meets criteria and evidence for Section 3: Regulatory Functions that must be provided for this section in each application,

Level of concern: **No concern**

Section 4: Clarity and transparency

This section of the criteria refers to D10e of the Practising fee Rules 2009 & section 51(b) of the Act

Criteria	Yes or No	Relevant information
Consultation with members		
Does the application include a description of their consultation undertaken with their members mandated to pay practising fees?	No	The CLC did not consult. It has had its fee structure under review and there will be consultation in early 2013. The proposal is that the fee structure for 2012-2013 should remain unchanged but that there should be a marginal increase in rates and in the CLC's view this does not justify a consultation. CLC has not consulted with non-commercial bodies including local government on the basis that the changes in the arrangements have a neutral effect on their regulatory costs. Further, CLC does not regulate any non-commercial body which undertakes either conveyancing or probate services. LSB ASSESSMENT: The LSB's expectation did not make consultation mandatory for 2012/13 PCF, only that consultation should be held periodically. Satisfied the application includes reasons of proportionality as to why the CLC did not consult this time. However, we consider the CLC should be more proactive in consulting its regulated community for the 2013/14 budget and subsequent years.
If yes, does the description of the consultation process include transparency and clarity of how the fee level has been set and how the money collected will be used?	Yes	An explanation of the structure of the fee charges and details of the budget which has determined the income required from PCF will be published to the profession. A draft version was included in the application at Annex 4, page 15. LSB ASSESSMENT: Satisfied that the 'Information to the Profession' at Annex 4 includes the required transparency and clarity.
If yes, does the application also include a description of how that feedback influenced the decision-making and policy development processes?	Yes	N/A - no consultation.

Criteria	Yes or No	Relevant information
Consultation with members		
In terms of the level of information provided to members, does the application include the recommended use of the 'Council Tax bill' analogy and/or another form of web-based linked information?	Yes	This will be provided to the fee paying members within the profession. A draft version was included in the application Annex 4, Information to the Profession, page 15. LSB ASSESSMENT: Satisfied that the 'Information to the Profession' provides the necessary information to members.
If yes, when was this information issued to the mandated members paying the practice fees i.e. as the fee note issued or shortly afterward?	Yes	To be issued upon LSB approval.

Overall comments

See paragraphs 29 and 30 pages 8 and 9 for consultation approach.

Evaluation

The application meets the criteria and evidence for Section 4. Clarity and transparency that must be provided for this section in each PCF application.

Level of concern:

No concern

Section 5: Regulatory and Equality Impact Assessment (EIA)

This section of the criteria refers to D11f of the Practising fee Rules 2009

Criteria	Yes or No	Relevant information
Does the application include a regulatory or diversity impact assessment?	No	Only a marginal increase in the practising fee and no increase in the licence fee and Compensation Fund contribution. The way in which the marginal increase is structured means that the increase is applied consistently across the profession, so the net impact across the profession is neutral. LSB ASSESSMENT: Satisfied this approach is proportionate.
If no, does the application include a description of how the proposals may potentially impact on various groups (this include the impact of increased fees if appropriate)?	No	As above - only a marginal increase in the practising fee and no increase in the licence fee and Compensation Fund contribution. The way in which the marginal increase is structured means that the increase is applied consistently across the profession, so the net impact across the profession is neutral. LSB ASSESSMENT: Satisfied this approach is proportionate.
Does the application include a description of how the proposals have been developed in light of the Regulatory Objectives as set out in the Legal Services Act 2007 and Better Regulatory principles?	Yes	CLC give a full description in their application that the income generated by the PCF proposals and the way in which contributions are determined are sufficient to ensure that it is able to continue to act in a way which is compatible with the regulatory objectives (para 27). It also sets out that in the setting the charges payable by the profession the CLC has taken full account of the better regulation principles, namely that CLC's regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed (para 28). LSB ASSESSMENT: Satisfied application includes a description as required in our guidance.

Overall comments

Please refer to application pages 7 and 8 for description of the applicability of the Regulatory Objectives and Better Regulation Principles.

Evaluation

The application meets the the criteria and evidence for Section 5: Regulatory and Equality Impact Assessment that must be provided for this section in each PCF application.

Level of concern:

No concern

Section 6: Consultation with non-commercial bodies and others

This section of the criteria refers to D12 of the Practising fee Rules 2009 & Section 51 (7) (a) of the Act

Criteria - non-commercial bodies	Yes or No	Relevant information
Does the application include a description of steps the AR has taken to ensure the impacts of the persons providing non-commercial legal services have been considered when setting the fees?	No	The CLC does not regulate any non-commercial body which undertakes either conveyancing or probate services. CLC has therefore not consulted specifically with non-commercial bodies including local government on the basis that the changes in the arrangements have a neutral effect on their regulatory costs. LSB ASSESSMENT: Satisfied that the CLC's approach is proportionate.
Has the AR shared details of the practising fee level with appropriate bodies such as the Law Centres Federation, Citizens Advice and Advice Service Alliance in advance of the submission of the application?		n/a
Have the non-commercial bodies provided any response to the details shared to them by the AR?		n/a

Overall comments

Please see paragraphs 29-30 page 8 for reasoning for not consulting.

Evaluation

The application meets the criteria and evidence for Section 6. Satisfied that CLC's approach to consultation with non-commercial bodies that must be provided for this section in each PCF application.

Level of concern:

No concern

Final assessment and decision

Summary of LSB assessment - i.e. Approval and/or approval with conditions or rejection

We recommend that the level of the practising certificate fees as set out in the CLC application for 2012/13 and supporting documents received on 5 September 2012 be approved by the LSB. This decision is to be made under the authority delegated to the Chief Executive by the LSB Board.

Criteria - others	Yes or No	Relevant information
Have we considered if we need to consult with anyone else on this application?	Yes	The LSB did not consider it necessary to consult with any other group
If yes, what consultation has taken place and with whom?	Yes	n/a
What was the outcome of this exchange i.e. Do we have any immediate concerns that has the potential to delay the approval of the application?	Yes	n/a

Overall comments

No comments

Evaluation

The application meets the criteria and evidence for Section 6. Consultation with others (if appropriate) that must be provided for this section in each PCF application.

Level of concern:

No concern