



Cost of regulation: transparency of reporting

Association of Costs Lawyers and Costs
Lawyer Standards Board

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1. Introduction

Why are we doing work on the cost of regulation?

1. Establishing the cost of regulation in legal services is important because these costs are borne by businesses and ultimately by consumers. Establishing an evidence base about the cost of regulation can help the LSB and the approved regulators review any areas of regulation that appear disproportionately costly relative to any benefits derived from those regulations.
2. These reports do not set out to analyse the income and expenditure of each approved regulator, but simply to understand what information is made publicly available in this area. Alongside these reports the LSB is publishing a paper which summarises the overall findings of its cost of regulation project and sets out next steps.

What's this report about and how does it fit in?

3. Our research¹ has found concern among legal sector businesses about the cost of regulation, but little understanding about what these costs pay for. In particular, a number of respondents did not know what they paid for via their annual practising certificate fee, which makes up a significant element of the total regulatory burden. To help improve transparency around these costs, the LSB has produced a report for each regulator providing a basic analysis of its costs using information which is available in the public domain, but located in different places. We have used publicly available information only at this stage so we can understand what can be done with what is readily available, before discussing with each regulator what more may be required.
4. Specifically, each report aims to:
 - shine a spotlight on the publicly available information about the costs of the regulator concerned (including the LSB), to enhance accountability to the profession for these costs
 - show historic cost trends for each regulator over a five-year period
 - highlight where greater transparency of the regulator's costs is needed
 - help the board of regulators hold its executives to account for the level of its spend, and for the level of information about its costs which is publicly available
 - provoke and inform wider discussion of what effective and efficient regulation should look like.
5. What this report does not do is seek to make any assessment of the benefits derived, proportionality of cost, compliance costs within a business or costs/benefits of being in one regulatory regime or another, whether there are quasi regulatory costs, differential costs of insurance or any other cost.

A key finding

6. Considering the approved regulators as a whole, compiling this information proved far more challenging and time-consuming than it should have been. The LSB recognises that it has not previously set requirements in this area, and further that each regulator will have reasons for deciding on the content and format of the financial information that it publishes. Nonetheless, the LSB was disappointed by the level of available information, which has frustrated our efforts to present as full a picture of the cost of the regulators as we would have liked.

Next steps

7. These reports are part of our wider project on the costs of regulation, which has also involved (as mentioned above) research asking providers for their views on the value for money of regulation and in-depth research to collect estimates from providers of their costs of compliance. Alongside the reports on each regulator on transparency of reporting the LSB is publishing its overall findings, drawing together the conclusions from the different strands of our work and setting out what we intend to do in light of these conclusions. It has been challenging to bring together the information on the cost of each regulator from publicly available sources. There is a clear need to improve the level and quality of published information about regulatory costs. Over the coming months, we will be working, together with the approved regulators to ensure more data is available.

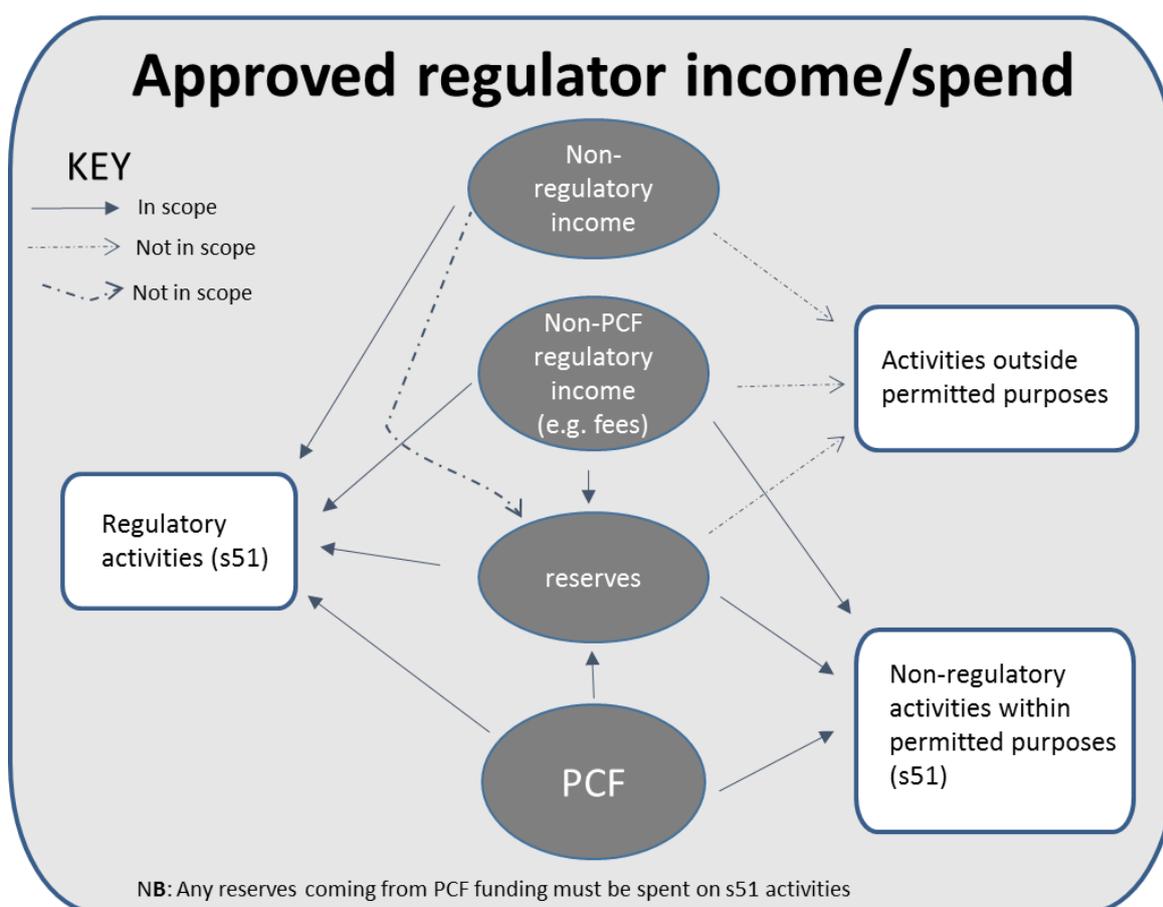
About the figures in this report

8. In this work, the LSB has focused on money raised via the practising certificate fee (PCF), other regulatory income and non-regulatory income which funds regulatory activities. As set out in the graphic overleaf, any non-regulatory income which funds activities outside of the permitted purposes of section 51 of the Legal Services Act 2007 is out of scope. In the case of CLSB there are no purposes that are out of scope.
9. The charts in this report cover the period between 2010 and 2014, as all regulators have published data for this period. The cost profiles of some regulators may have changed since then. The compilation of the charts was undertaken by the LSB and the regulators were given an opportunity to check the charts for accuracy and provide relevant additional contextual information prior to publication.
10. The structures of the regulators vary, their regulated communities are different and these bodies' activities differ in scope and complexity. Regulators' fee charging mechanisms also vary although all are scrutinised and approved by the LSB. This may change between years and may also affect year on year comparisons between regulators and within the regulatory regime. All this

means that it would be misleading to use the charts to compare one regulator directly against another.

11. A list of charts in the report is set out overleaf. References to the source material are highlighted in the data tables and can be found at the back of the document.

Diagram setting out scope of transparency of reporting analysis



List of charts used in this report

Ref	Name of Chart	Purpose of Chart
A1	Number of authorised costs lawyers	This chart indicates the size of the regulator for contextual purposes based on the number of individuals it authorises. Costs lawyers must have a current practising certificate to be authorised to carry out reserved legal activities.
B1	PCF for individuals	This chart indicates the direct cost to the profession of the regulator based on the annual PCF for individuals.
E1	CLSB's budget allocation for regulatory functions	This chart provides an overview of spend on regulatory activity
F1	Unit cost	This chart gives an indication of the cost of the regulation per authorised person based on expenditure

2. Background to the Costs Lawyer Standards Board

12. The Costs Lawyer Standards Board (CLSB) became effective as an approved regulator on 31 October 2011 after the Association of Costs Lawyers (ALC) delegated its regulatory activities to comply with the requirements of the Legal Services Act 2007². At the time of this report, the CLSB is responsible for regulating more than 600 costs lawyers in England and Wales. For more information about the CLSB, please see its website.³

13. The time series in this report covers the period between 2010 and 2014. However, the market that the CLSB regulates has continued to change since then.

14. The CLSB reports on a calendar year basis. Since the accounts for 2015 are not available yet the fact box below uses the budget figure for 2015, which gives an indication of forecast expenditure.

CLSB Fact Box (February 2016)

No. authorised persons*	607 ⁴ (as of 02 February 2016)
Reserved legal activities	<ul style="list-style-type: none"> • The exercise of a right of audience • Conduct of litigation • Administration of oaths
Entity regulator	No
Licensing authority	No
Regulatory budget estimate (01 Jan 15 – 31 Dec 15)	Regulatory budget (including levies): £149,100 ⁵
Employees**	1 – the Chief Executive ⁶

* Individuals only.

** Employees exclude board members, who technically qualifies as employees under UK law.

General notes to the CLSB figures

15. Data for this report has chiefly been drawn from three different sources. Wherever possible, financial data comes from CLSB abbreviated unaudited annual accounts. However, as these accounts are very high level a significant amount of data has been sourced from CLSB budgets for 2012, 2013 and 2014 which are submitted annually to the LSB alongside PCF applications. Finally, annual PCF applications have been used for data on PCF rates and the numbers of authorised individuals for some years in the time series.
16. There appears to be a gap in financial data for 2010 and 2011 caused by the handover of regulatory activities from the ACL to the CLSB from 31 October 2011. Combined ACL accounts for 2009 and 2010 are available but as the figures cover a two year period they have not been used in this report.
17. PCF and financial year follows the calendar year for both ACL and the CLSB.
18. The ACL was known as the Association of Law Costs Draftsmen (the “ALCD”) until 1 January 2011⁷. To avoid confusion this report uses the term ACL throughout.
19. As noted above, the CLSB became effective as an approved regulator on 31 October 2011. To remind the reader of this change tables in this reports include a header which states, whether ACL or CLSB was the responsible regulatory organisation for a given year.

3. Transparency charts

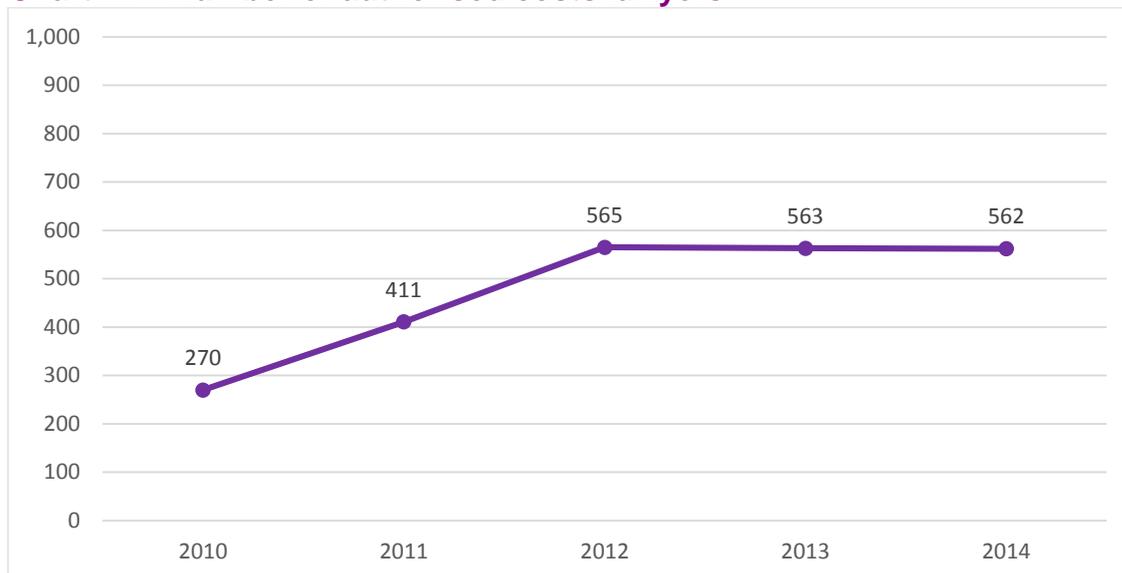
A. Number of individuals authorised by CLSB

20. The cost of a regulator must be considered relative to the number of individuals or firms that it authorises. Therefore, before this report sets out data on costs lawyers, the chart overleaf provides information about the number of individuals authorised by the CLSB. Costs drivers also include, where applicable, the volume of regulatory activity that is undertaken, infrastructure investment which may take several years to produce a return on investment, financial policies within regulators to create or reduce reserves and operation improvements. In this report we have not sought to investigate the factors, nor to analyse or comment on their impact in any particular regulator.
21. Every year costs lawyers must renew their practising certificate (PC) with the CLSB to continue to be authorised to carry out reserved legal activities.
22. The number of costs lawyers holding a practising certificate increased by 108 per cent between 2010 and 2014 from 270 to 562 respectively. This reflects a change to the bye-laws relating to membership categories which preceded the transition from the ACL to CLSB. There has been a steady increase in membership since CLSB was established.
23. The date in Table A1 is accurate as of 1 April each year. The data in Table A1 is sourced from two different sources. The figures for 2010, 2011, 2013 and 2014 are from LSB business plans. The figures for 2013 and 2014 were published in a rounded format in the LSB's Business Plans and this is the first time that the LSB has published the exact figure for these two years. PCF application documents have been used for the figures for 2012.

Table A1 - Number of authorised costs lawyers

	2010 ACL	2011 ACL	2012 CLSB	2013 CLSB	2014 CLSB	% change 2010 - 2014
Costs lawyers holding PC	270 ⁸	411 ⁹	565 ¹⁰	563 ¹¹	562 ¹²	+108.15%

Chart A1 - Number of authorised costs lawyers



B. Practising certificate fee (PCF)

24. A direct cost of regulation for costs lawyers authorised by the CLSB is experienced when they renew their practising certificate. Income from this source is used to fund the cost of regulation for the CLSB.
25. The CLSB charges a fee for the practising certificate which authorised individuals hold in order to carry on reserved legal activities in England and Wales. The PCF decreased by 37.5% between 2010 and 2014.
26. CLSB began to issue practising certificates from 2012. Prior to this ACL issued practising certificates. In 2012 the two different components of the PCF was explicitly set out in PCF documents with £200 for the ACL and £250 for the CLSB. As such the CLSB was merely the collection agent for the ACL in 2012. From the 2013 PCF year onwards, the cost of the practising certificate and membership of the ACL was split resulting in a significant reduction in the cost of authorisation.¹³ Membership of the ACL became voluntary after this point so it would not be appropriate to include this optional fee within the total in Table B1 below.
27. The data in Table B1 is from the PCF applications for the PCF years of 2012 and 2015 as these applications both contained historical time series over the level of the PCF in the previous years.
28. Ideally Table B1 would have included PCF income for all the years in the time series. However, published data is only available for 2014 and this is projected income submitted alongside the PCF application for that year rather than actual spend. However, since the PCF is a flat rate for all costs lawyers, and the number of costs lawyers is known, it is possible to give an estimate of total income for the 2010-2013 period based on figures included in Table A1. Note that the PCF year follows the calendar year and that the figures in Table A1 are accurate as of April each year. As such actual income from PCF might differ from the estimates included in Table B1. Again, transition of regulatory roles from the ACL to CLSB explains the fall in PCF income after 2012.

Table B1 - PCF for individuals

	2010 ACL	2011 ACL	2012 CLSB	2013 CLSB	2014 CLSB	% change 2010 - 2014
Estimated PCF income	£108,000	£184,950	£254,250	£140,750	£142,250 ¹⁴	+31.71%
Practising Certificate Fee	£400 ¹⁵	£450 ¹⁶	£450 ¹⁷	£250 ¹⁸	£250 ¹⁹	-37.5%

Chart B1 - PCF for individuals



C. Operating cost relative to PCF income and other income

29. Some approved regulators have other income from other sources such as training or corporate hospitality. This income may be used to reduce the cost of the PCF so that instead of collecting the entire cost of regulation from authorised individuals or authorised firms these regulators can collect less money from the profession than would otherwise have been necessary. The CLSB has no income except from the PCF.
30. Ideally, all expenditure figures in Table C1 would have been from annual accounts and represented actual expenditure. However, this report has only found such information in the CLSB financial statements for 2012, which included figures for the 2011 and 2012 calendar years. All other expenditure figures are from annual budget forecasts submitted to the LSB alongside PCF applications; as such, actual spend may be different.
31. Table C1 includes a row showing expenditure minus CLSB's annual contribution to the LSB and Office for Legal Complaints (OLC), known as levies. Figures for levies are from the 2012 financial statements for 2011 and 2012. Levy figures are budget figures for all other years. The levies are factored in when setting the required PCF income and included within expenditure information in the financial statement for 2012 and available budgets. To reflect the CLSB's true expenditure the levies have been deducted from the overall figure. The LSB and OLC levies are presented differently in the accounts of each regulator. A separate report on the LSB's costs is being published alongside this one.
32. A chart has not been produced due to the lack of information on other income and the level of assumptions that have been needed around PCF income and expenditure figures.

Table C1 - Administrative expenses relative to PCF income and other income

	2010 ACL	2011 ACL	2012 CLSB	2013 CLSB	2014 CLSB	% change 2010 - 2014
PCF income	-	-	-	-	£142,250 ²⁰	
Other income	-	-	-	-	-	
Total income	-	-	-	-	£142,250	
Expenditure		£103,271 ²¹	£130,363 ²²	£132,806 ²³	£140,326 ²⁴	+35.88%
LSB and OLC levy	-	£15,000 ²⁵	£17,299 ²⁶	£19,000 ²⁷	£18,400 ²⁸	+22.67%
Expenditure minus levies	-	£88,271	£113,064	£113,806	£121,926	+38.13%
% PCF income to all income	-	-	-	-	-	

D. Spend of the Approved Regulator on non-regulatory permitted purposes

Part of the cost of regulation is where income from the individual practising certificate fee pays for the cost of permitted non-regulatory activities. However, as previously explained, the PCF and fee for membership of the ACL (the profession's representative body) were separated in 2013 following the establishment of the CLSB in late 2011.²⁹ Since membership of the ACL has been voluntary since 2013 and CLSB only performs regulatory permitted purposes no table has been produced for this report

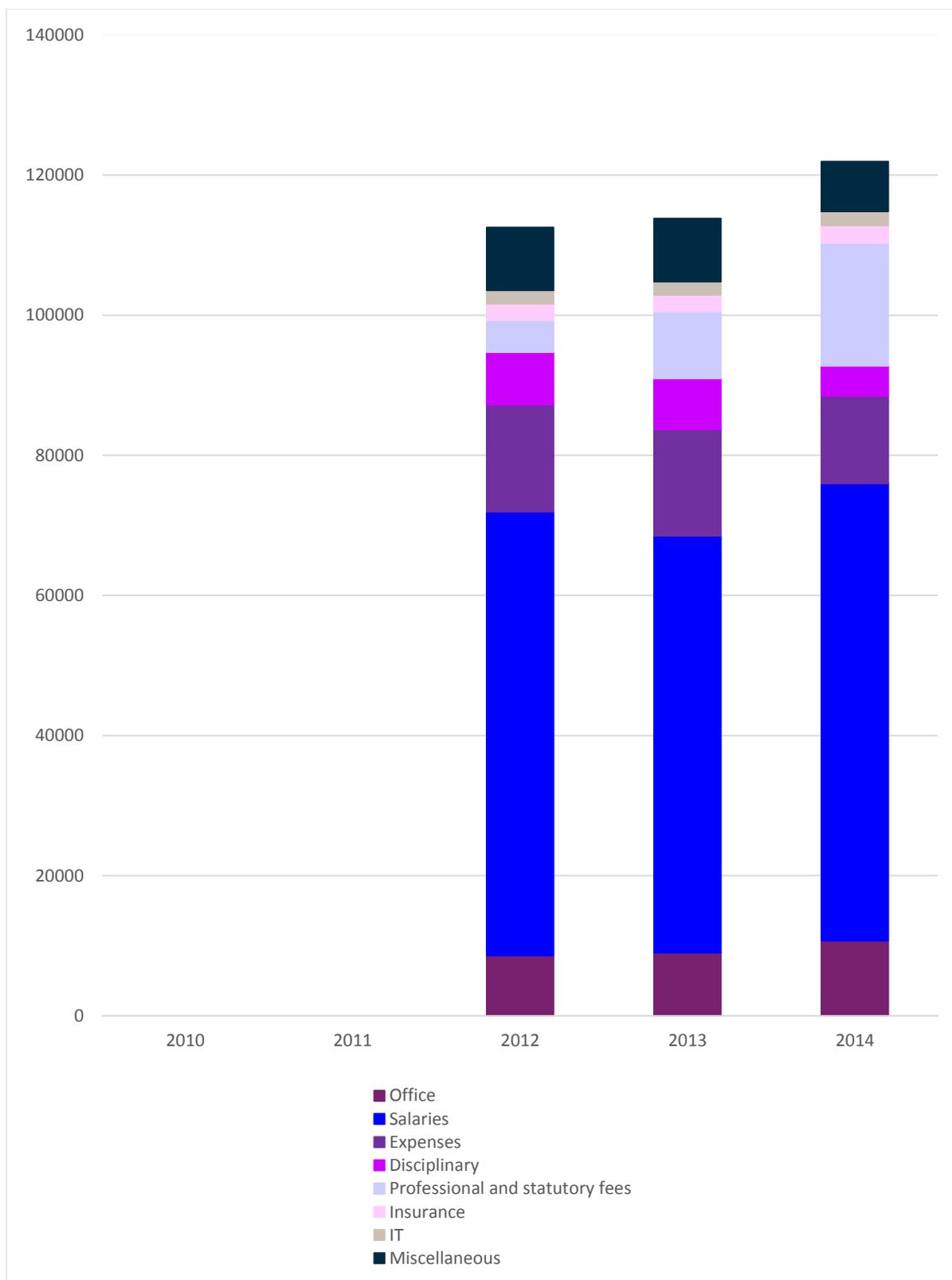
E. Allocated spend on regulatory functions over time

32. This report has so far attempted to establish the summary level costs of CLSB. This section of the report seeks to provide a breakdown of how the CLSB divides its allocated expenditure between different regulatory activities. This section is included to give an understanding of the various activities that together add up to the cost of regulation. Some regulators publish more information about their regulatory functions than others and some regulators will change their reporting categories and change what is included within categories from year to year.
33. The data in Table E1 is sourced from budgets submitted alongside annual PCF applications to the LSB. As such actual spend may be different to the figures included in this table. This report has not been able to find published comparable data for 2010 and 2011. The cost of the LSB and OLC levies has been removed from the figures in Table E1. The table matches the budget headings in the source material, except for ease of display in the chart overleaf statutory fees of £50 per year have been combined with the professional fees category.
34. The data is from 2012 onwards since this was the first year that CLSB was required to produce a budget for the PCF application after being established.

Table E1 - CLSB's budget allocation for regulatory functions

	2010 ACL	2011 ACL	2012 CLSB	2013 CLSB	2014 CLSB
Office	-	-	£8,620 ³⁰	£9,020 ³¹	£10,700 ³²
Salaries	-	-	£63,350 ³³	£59,466 ³⁴	£65,276 ³⁵
Expenses	-	-	£15,250 ³⁶	£15,250 ³⁷	£12,500 ³⁸
Disciplinary	-	-	£7,500 ³⁹	£7,250 ⁴⁰	£4,300 ⁴¹
Professional and statutory fees	-	-	£4,550 ⁴²	£9,550 ⁴³	£17,550 ⁴⁴
Insurance	-	-	£2,370 ⁴⁵	£2,370 ⁴⁶	£2,500 ⁴⁷
IT	-	-	£1,900 ⁴⁸	£1,900 ⁴⁹	£2,000 ⁵⁰
Miscellaneous	-	-	£9,000 ⁵¹	£9,000 ⁵²	£7,100 ⁵³
Total	-	-	£112,540	£113,806	£121,926

Chart E1 - CLSB's budget allocation for regulatory functions



F. Unit cost

35. One way to analyse the cost of regulation is to calculate the unit cost of a regulator relative to the size of its regulated community. This is calculated by dividing the total expenditure by the number of authorised individuals. However, unit costs should be treated with a high degree of caution as they are not comparable from regulator to regulator as the scope and complexity of the activities of each regulator is different. The make-up of the regulated community can also be diverse.

36. Table F1 shows that the unit cost for the CLSB decreased by 0.6% between 2011 and 2014. This table uses data previously included in tables A1 and C1.

Table F1 - Unit cost

	2010 ACL	2011 ACL	2012 CLSB	2013 CLSB	2014 CLSB	% change 2010 - 2014
Costs lawyers holding PC	270	411	565	563	562	+108.15%
Expenditure	-	£103,271 ⁵⁴	£130,363 ⁵⁵	£132,806 ⁵⁶	£140,326 ⁵⁷	+35.88%
Unit cost of CLSB	-	£251.27	£230.73	£235.89	£249.69	-0.63%

Chart F1 - Unit cost



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