



**Application to the Legal Services Board**

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

**Implementation plan addendum to the PCF application dated 3  
September 2021**

**Re: OLC recharge to practices regulated by the CLC**

**October 2021**

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## A - Introduction

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1. This document summarises the variation proposed to the implementation of the separate billing and recharge of the OLC costs. The key information included in this document was sent to the LSB on 14 and 15 October 2021.
2. The initial application proposed that the OLC costs would be collected as follows:
  - a. An availability fee which included 20% of the total OLC cost and the cost of the closed practice costs. These costs were to be allocated as a fixed cost for each of the new turnover bandings.
  - b. A usage fee allocated to practices that have had cases accepted at the OLC over the previous 3 years. The cost per case was determined by dividing the total cost by the 3-year average number of cases.
3. The revised proposal would see the charge collected as follows:
  - a. The availability fee will be set at 70% of the total cost charged to the CLC. This cost will be allocated to practices in proportion to the individual practices fee against the total practice fee collected.
  - b. The usage fee will be made up of the remaining 30% of the OLC cost and will be allocated to current practices based on a cost per case derived from the 3-year average of the total number of cases.
4. Other than the changes to the allocation of the OLC costs summarised in paragraph 2 and 3 above, all elements of the original PCF application submitted on 3 September 2021 remain unchanged.
5. This implementation plan should be read in conjunction with the original PCF application, LSB queries and CLC responses.
6. The PCF application made on 3 September 2021 included the following elements which remain unchanged:
  - 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 **Annex 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. (Fee rate table included in **Annex B**)
- 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. (Fee rate table included in **Annex C**)

## B - Revised OLC levy calculation and implementation

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8. The OLC levy on practices will be invoiced to practice separately from the Practice Fee. The Practice Fee will continue to be billed to practices in November and the OLC levy will be billed to practices in May of the following year once the CLC has received the actual costs from the OLC. Practices will have the option of paying the full fee on invoice or by instalment over 12 months.
9. 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.
10. The OLC levy charged to practices will comprise of two parts:
  - a. The **OLC availability fee** – which will in total comprise **70%** of the OLC cost allocated to the CLC apportioned to practices based on the ratio between their Practice Fee and the total practice fee collected (£1,313,016)
  - b. The **OLC usage fee** – which will in total comprise **30%** of the OLC cost which will be allocated to practices based on the average number of cases a practice has had accepted by the OLC over the last 3 years (using the same data that the OLC has used to allocate the cost to the CLC).
11. The OLC costs used in this document are based on the estimates provided by the OLC in April 2021. The final charges will be based on the actual costs allocated to the CLC by the OLC. The final figures will be available in March 2022. Although the final charge will differ, the same principals of calculation will be used.
12. The OLC cost will be allocated as follows:

|                                                       |                          |
|-------------------------------------------------------|--------------------------|
| Total OLC cost to be recovered (estimate)             | 686,511.00               |
| Availability fee (70% of total cost)                  | -480,557.70              |
| <b>Cost to be recovered through case fees</b>         | <b><u>205,953.30</u></b> |
| Total number of cases (currently regulated practices) | 216.74                   |
| Cost per case                                         | <u><u>£950.23</u></u>    |

13. The cost of the cases associated with closed practices is included in the availability charge and allocated to all Practices.

14. The availability fee that will be payable for a range of practice turnovers is summarised in the table below.

| Turnover                               | Practice Fee (OLD table) | Practice Fee (NEW table) | Change in practice fee | OLC availability fee payable | Total cost to practice before case fees | Increase in fixed practice fee charge | % Increase in cost before case fees |
|----------------------------------------|--------------------------|--------------------------|------------------------|------------------------------|-----------------------------------------|---------------------------------------|-------------------------------------|
|                                        | (a)                      | (b)                      | (b)-(a)                | (c)                          | (b)+(c)                                 | (b)+(c)-(a)                           |                                     |
| £50,000                                | 539                      | 580                      | 41                     | 212                          | 792                                     | 253                                   | 47%                                 |
| £70,000                                | 539                      | 580                      | 41                     | 212                          | 792                                     | 253                                   | 47%                                 |
| £80,000                                | 616                      | 580                      | (36)                   | 212                          | 792                                     | 176                                   | 29%                                 |
| £90,000                                | 693                      | 580                      | (113)                  | 212                          | 792                                     | 99                                    | 14%                                 |
| £100,000                               | 770                      | 580                      | (190)                  | 212                          | 792                                     | 22                                    | 2.9%                                |
| £150,000                               | 1,120                    | 857                      | (263)                  | 314                          | 1,171                                   | 51                                    | 4.5%                                |
| £200,000                               | 1,470                    | 1,134                    | (336)                  | 415                          | 1,549                                   | 79                                    | 5.4%                                |
| £250,000                               | 1,820                    | 1,411                    | (409)                  | 516                          | 1,927                                   | 107                                   | 5.9%                                |
| £300,000                               | 2,170                    | 1,676                    | (494)                  | 613                          | 2,289                                   | 119                                   | 5.5%                                |
| £500,000                               | 3,570                    | 2,736                    | (834)                  | 1,001                        | 3,737                                   | 167                                   | 4.7%                                |
| £750,000                               | 5,145                    | 3,961                    | (1,184)                | 1,450                        | 5,411                                   | 266                                   | 5.2%                                |
| £1,000,000                             | 6,720                    | 5,186                    | (1,534)                | 1,898                        | 7,084                                   | 364                                   | 5.4%                                |
| £2,000,000                             | 13,020                   | 9,996                    | (3,024)                | 3,658                        | 13,654                                  | 634                                   | 4.9%                                |
| £5,000,000                             | 30,520                   | 23,726                   | (6,794)                | 8,684                        | 32,410                                  | 1,890                                 | 6.2%                                |
| £10,000,000                            | 58,520                   | 44,896                   | (13,624)               | 16,432                       | 61,328                                  | 2,808                                 | 4.8%                                |
| £20,000,000                            | 114,520                  | 86,876                   | (27,644)               | 31,796                       | 118,672                                 | 4,152                                 | 3.6%                                |
| Total practice Fee                     |                          |                          |                        | 1,313,016                    |                                         |                                       |                                     |
| Total availability fee to be allocated |                          |                          |                        | 480,558                      |                                         |                                       |                                     |

15. Practices with a turnover of less than £100,000 have a high percentage increase but a low value. This is caused by the adjustment to the minimum fee on the transition to the new fee table and the allocation of the new OLC availability charge. It is a once off rebalancing of the minimum cost.
16. The table below illustrates the distribution of cases across the turnover bandings as well as the total case cost that will be allocated to each of the turnover bandings.

| 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) | Total case cost by turnover band |
|--------------------------|--------------------------|-----------------------------|---------------------------|------------------------|-----------------------------|----------------------------------|
| £0 – £100,000            | 1                        | 20                          | 21                        | 5%                     | 0.33                        | 317                              |
| £100,001 – £250,000      | 13                       | 42                          | 55                        | 24%                    | 7.33                        | 6,968                            |
| £250,001 – £500,000      | 18                       | 42                          | 60                        | 30%                    | 10.67                       | 10,136                           |
| £500,001 – £1,000,000    | 23                       | 25                          | 48                        | 48%                    | 15.00                       | 14,253                           |
| £1,000,001 – £2,000,000  | 10                       | 6                           | 16                        | 63%                    | 19.00                       | 18,054                           |
| £2,000,001 – £4,000,000  | 6                        | 0                           | 6                         | 100%                   | 32.07                       | 30,474                           |
| £4,000,001 – £8,000,000  | 5                        | 1                           | 6                         | 83%                    | 34.00                       | 32,309                           |
| £8,000,001 – £16,000,000 | 5                        | 0                           | 5                         | 100%                   | 45.33                       | 43,078                           |
| £16,000,001 and over     | 2                        | 0                           | 2                         | 100%                   | 53.00                       | 50,363                           |
|                          | 83                       | 136                         | 219                       |                        | 216.74                      | 205,953                          |

17. The overall increase in Practice Fee contributions equates to 16.72% across the board to fund the CLC operating cost and the OLC cost. The proposed OLC recovery model (70% availability cost and 30% case cost recover) would have the following impact on practices' regulatory costs:

- 152 practices (69.4% of the base) would see their regulatory cost increase by less than 16.72%
- 67 practices (30.6% of the base) would see their regulatory cost increase by more than 16.72%. Of these practices:
  - 16 are practices with a turnover of under £100k which will see an increase of up to £253.28 (9 practices) due to the revision to the minimum cost and the allocation of the OLC availability cost.
  - 51 practices have an OLC case incidence more than 0.78 per £1m of turnover and will pay an increase of 16.72% plus an additional fee due to high case numbers. These costs over and above the 16.72% are summarised as follows:
    - 2 practices will pay more than £10k (£16k and £12k)
    - 16 practices will pay between £5,168 and £1,044 more (average of £2,094.98)
    - 33 practices will pay between £821 and £25 more (average of £289.15)

18. The CLC expects that over time (3-4 years) the usage charge element of the OLC recharge will increase to around 80% of the cost. Any proposal to increase the usage charge will be included in future PCF application and based on policy objectives, trends and data collected from monitoring of complaint handling.

## **C - Monitoring and responding to the impact**

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19. The approach we are taking to monitoring and data analysis will give us real time information on impact of the proposal and give us the data to inform any year-on-year recalibration. This is also a mitigation against the challenges of the more traditional consultation route where sector wide, only a small percentage engage. We will be engaging with individual practices throughout the year on this particularly as well as through our usual regulatory processes.
20. The benefit of taking a progressive approach to implementation include providing an opportunity to weigh the impact of both the implementation and the principle itself in driving behaviours (which will then be reflected in annual practice fee applications to the LSB); giving practices the opportunity to consider and evolve their complaints handling practices as well as being an important source of data generation around this important support incentive for transparency and improved consumer facing behaviours.
21. The CLC will use several tracking metrics (some of which we already use, others of which we have ready to roll out to enhance the set) as well as triangulating data sets, which may evolve with time, for example those from Land Registry on transaction volumes and the OLC's complaints data.
22. This close monitoring of the impact of the phased introduction of the user-pays element will allow the CLC to understand whether it is having the intended positive effect on complaints handling and consumer experience. The data will inform the ongoing implementation of the user-pays approach and annual submissions to the Legal Services Board to approve that.
23. The CLC will capture and track the number of referrals to the OLC and comparing practice records with that information as soon as that is possible. We of course anticipate a reduction in the number of cases referred to the OLC as firms (particularly in those outlier firms with high numbers of referrals) improve complaints handling processes. This will have the benefit of reducing the demands on the OLC. However, the data will also allow us to identify where firms may be taking the wrong measures to reduce referrals, such as simply increasing payments, and allow us to take corrective action. We also anticipate an increase in the proportion of cases upheld by OLC because of improved case handling by firms.
24. The CLC will track payments made in settlement of first tier complaints and instances when legal fees are reduced in compensation for a complaint. This information will be used to compare against awards made by the OLC and their guidance on awards as may

be from time to time updated. An uptick in unjustified compensation would be an indicator of concern that would prompt immediate contact with a firm.

25. The CLC will triangulate data from all sources to assess trends. This will of course need to be done over several years as we implement user-pays and evolve the balance between the availability fee and the user-pays element. We already have baseline information on complaints from our own inspections and that will continue to be a core part of our inspection and monitoring regime. Rules and guidance are already extant for complaints handling and referral to OLC, and these can be enhanced as necessary.
26. Practices who fall into the polluter category due to a high proportion of complaints will be subject to enhanced monitoring – this has already been trailed with them through our webinars and engagement on complaints. The CLC already monitors practices' financial sustainability and viability. That will now consider the impact of case fee payments on finances, and the CLC will be able to take speedy action should it become necessary in relation to a particular firm.

## **D - The Regulatory Objectives**

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27. The introduction of the user-pays approach to the recovery of OLC costs supports the regulatory objectives in the following ways.
- ***RO 1 Protect and promote the public interest***
    - Improves transparency of costs of complaints
    - Incentivises legal services providers to improve service complaints and so reduce costs of regulation
  - ***RO 4 Protect and promote the interests of consumers***
    - Improves complaints handling and client service and so improves consumer experience
  - ***RO 5 Promote competition in the provision of legal services***
    - Fairer distribution of the costs of complaints handling removes an advantage enjoyed by practices not implementing good complaints handling
  - ***RO8 Promote and maintain adherence to the professional principles***
    - The user-pays element encourages better client service and complaints handling at first tier

## 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

### Practice Fee rate table

| <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 |

## ANNEX C

### Compensation Fund rate table

| <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 |