ADDENDUM TO THE CILEX/CILEx REGULATION LTD (CRL) PRACTISING CERTIFICATE FEE (PCF) APPLICATION FOR 2022

Application to approve the 2022 PCF for ACCA individuals and firms conducting probate activities regulated by CRL

7 April 2022

Summary

1. This application seeks approval from the Legal Services Board to enable CILEx Regulation (CRL) to charge a practising certificate fee (PCF) to those ACCA firms and individuals regulated by CRL for probate activities.

2. The application is presented as an addendum to the 2022 PCF application, which was made by CRL and CILEX on 26 October 2021. This approach to seeking PCF approval for ACCA individuals and firms was agreed with the Legal Services Board (LSB) prior to the submission of the 2022 PCF application, owing to the transfer timeline for ACCA individuals and firms into CRL regulation.

3. CRL is proposing the following practising fees for ACCA individuals and firms conducting for probate activities and regulated by CRL:

ACCA individuals	£100
ACCA firms	£200

Allocation of practising fee to permitted purposes

4. During 2021, the LSB approved an application from CRL[1], which enabled it to introduce rules for the regulation of ACCA-Probate practices. This followed the decision of ACCA to cease its involvement in the regulation of probate activities.

5. Owing to the timing of the:

    a. CILEX/CRL PCF application[2] (submitted 26 October 2021),
    b. approval of the CRL application to regulate ACCA-probate practices (19 October 2021), and
    c. subsequent authorisation of these individuals and firms as part of the 2022 PCF application (from November 2021 onwards)

    CRL was unable to consult with this part of its regulated community during the usual PCF cycle.

6. However, CRL made provision within the 2021 PCF application for PCF income which may be received from ACCA regulated individuals and firms, who would become regulated by CRL from November 2021 onwards.

[1] CILEX Regulation ACCA Application (legalservicesboard.org.uk)
[2] PCF-Application-with-appendix.pdf (legalservicesboard.org.uk)

7. This approach enabled CRL to make provision in the 2022 PCF application, for the receipt of income from ACCA-probate practices in 2022, before the transfer of these practices to CRL had completed.

8. The income, included within the 2022 PCF application, is referenced at paragraphs:

    a. 8 (which sets out the increase in fees received through entity regulation between 2021 and 2022 as a result of CRL taking on the regulation of ACCA probate practices),
    b. 11 (as part of the authorisation/supervision income), and
    c. 25 (which explains that this application will be submitted separately once ACCA-probate practices have been authorised, to enable the consultation to commence).

9. CRL also outlined indicative fees that would be charged for regulation of ACCA members in its application to become the regulatory body for ACCA individuals and firms (approved by the LSB in October 2021, referenced above at footnote 1). References to the indicative fees within this application are located in paragraphs 12, 49, 192-194 and 224. The fees referenced in the application to introduce ACCA-Probate regulation remain the same as the fees which were consulted upon and for which approval is now sought.

Consultation and engagement

10. CRL has been working with ACCA firms seeking regulation of probate activities since November 2021. At present, CRL has authorised 34 firms and 44 individuals, with a further 10 firms and 27 individuals still to finalise their applications.

11. CRL issued the PCF consultation to the 71 ACCA individuals who had been in contact since the transfer process opened. The consultation was open between 21 January 2022 and 18 February 2022 and CRL received 22 responses (31%).

12. Of the 22 respondents who completed the survey:

    a. 16 supported the fee structure (73%), and
    b. 6 did not support the fee structure (27%).

13. Of those who did not support the proposed fees, 5 individuals provided written responses, as follows:

    a. I don't believe there should be two fees to pays. The individual has already incurred a fee from ACCA

    b. Far too confusing and expensive

    c. Does this mean for a single individual practicing through a company (the set-up that was proposed, this will be 100+200=300? That seems high

    d. For a sole practitioner like myself with some but very little probate income the firm's costs are very high, especially bearing in mind that my client monies account is already regulated by the ICAEW. This seems like unneeded duplication.

e. *I believe the fees need to take into consideration small businesses whose main business pre CILEx-ACCA was accounting and therefore only a small amount of probate income is recognised in the new probate entity. The individual fee of £100 is reasonable but the entity fee of £200 is not viable where the entity may only have a couple of probate clients, who are spin offs from the accounting work they do.*

<u>CILEx Regulation response</u>

14. The general comments from those who did not support the PCF for 2022 related to the costs being too high for an ancillary service provided by accountants. However, CRL had outlined the proposed fees on several occasions, including:

    a. in the CRL application to the LSB seeking approval to become the regulatory body for ACCA probate practitioners, and
    b. during the negotiations with the ACCA.

15. In comparison with the fees charged by ACCA (which were unchanged from 2019), CRL notes:

    a. The ACCA charged a fee to accountancy firms undertaking probate activities in addition to the accountancy fees payable to ACCA for their ACCA membership.
    b. The calculation for the ACCA practising certificate to undertake probate activities was charged based on the number of individuals within the accountancy firm (all of whom had to be authorised for probate). In 2020, the practising fee was £262 per individual.
    c. ACCA had intended to increase the practising fee for 2020, although this was not implemented as the ACCA did not submit a practising certificate fee application.

16. Therefore, whilst the practising fee charged for an individual is slightly higher for a sole practitioner at £300 vs £262 (based on ACCA 2020 fees), for a two-partner firm the cost is lower overall (£400 vs £524).

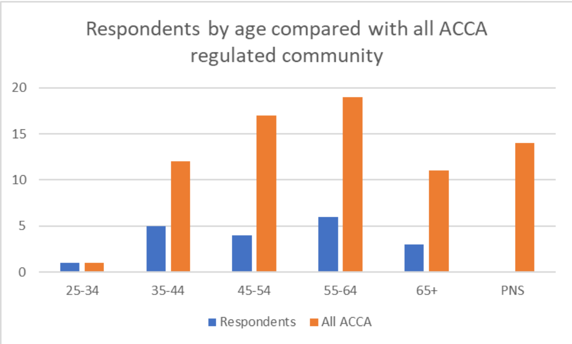
17. The marginal increase to the proposed ACCA PCF for 2022 reflects the separation of regulation between legal services and accountancy services as well as the requirement to maintain separate regulatory information and checks at ACCA and CRL.

18. Therefore, CRL considers that the fee structure is fair and proportionate.

Impact assessment

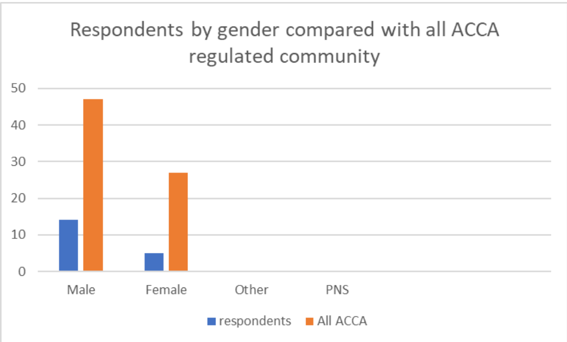
19. CRL collected EDI data as part of the ACCA PCF survey as well as for all ACCA individuals applying to CRL for authorisation. This has enabled CRL to compare the EDI data for respondents to the consultation with the EDI data held for all ACCA probate individuals at CRL.

20. The outcomes are set out below (note not all categories of data collected have been included as this would risk identification of individuals in some instances, owing to the low numbers)



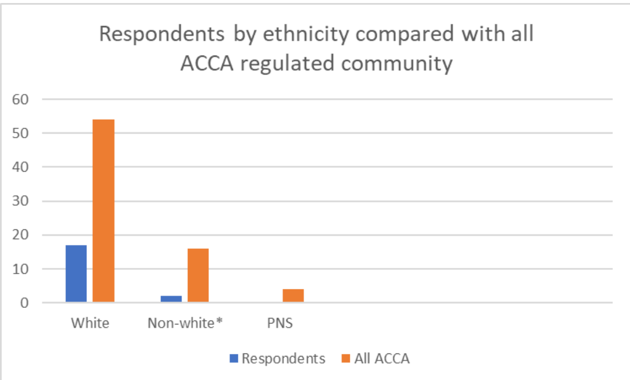
AGE:

There were higher response rates to the consultation in the younger age groups than in the older groups. In particular, the 55-64 age range was less responsive.



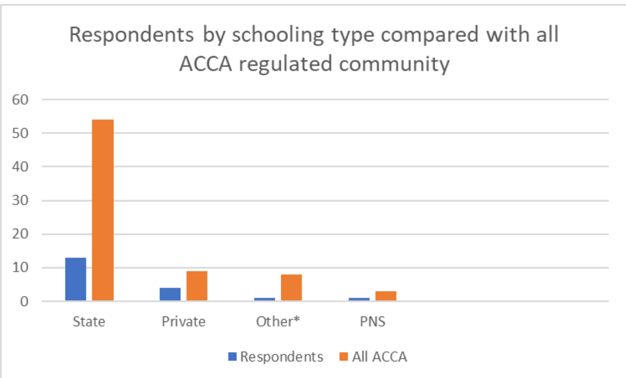
GENDER:

19% females responded to the consultation whereas 30% males responded.



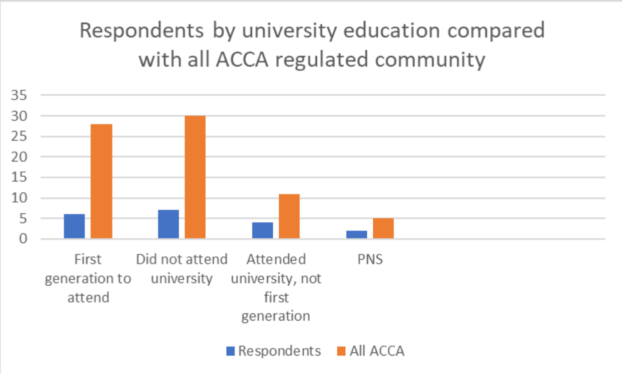
ETHNICITY:

31% white ACCA members responded to the consultation compared with 13% non-white ACCA members.



Schooling:

24% state school educated ACCA members responded to the consultation compared with 44% of those educated privately.



University status:

36% of ACCA members who were not in the first generation of their family to go to university responded to the consultation compared with 21% of those who were in the first generation and 23% of those who did not attend university.

21. The data indicates that younger, white males who were educated independently and were not the first generation in their family to go to university were more likely to respond to the consultation than other groups.

22. In relation to the EDI data for those respondents who did not support the fee, the data was as follows:

    a. 50% were aged 55-64 (the highest age group across the ACCA regulated community)
    b. 67% were male
    c. 67% were white
    d. None were disabled
    e. 50% attended independent schools
    f. None were in the first generation to go to university

23. Therefore, there is no evidence that the introduction of the proposed fees would have a disproportionate impact on any protected group.

Transparency of information

24. A copy of the information which CRL will issue to ACCA individuals and firms once the PCF has been approved is set out below:

Annual Practising Certificate Fee 2022: ACCA members regulated by CILEx Regulation

Dear [insert name],

Please find below details of the PCF payable for 2022:

<u>Level of the PCF</u>

*The Practising Certificate Fee (PCF) payable for 2022 is **£200 per firm** and **£100 per individual**. This is the fee on which we consulted in January and February this year. The level of the PCF was broadly supported by ACCA members authorised to deliver probate activities regulated by CILEx Regulation, with 73% respondents supporting the proposed fee for 2022. Thank you for your responses.*

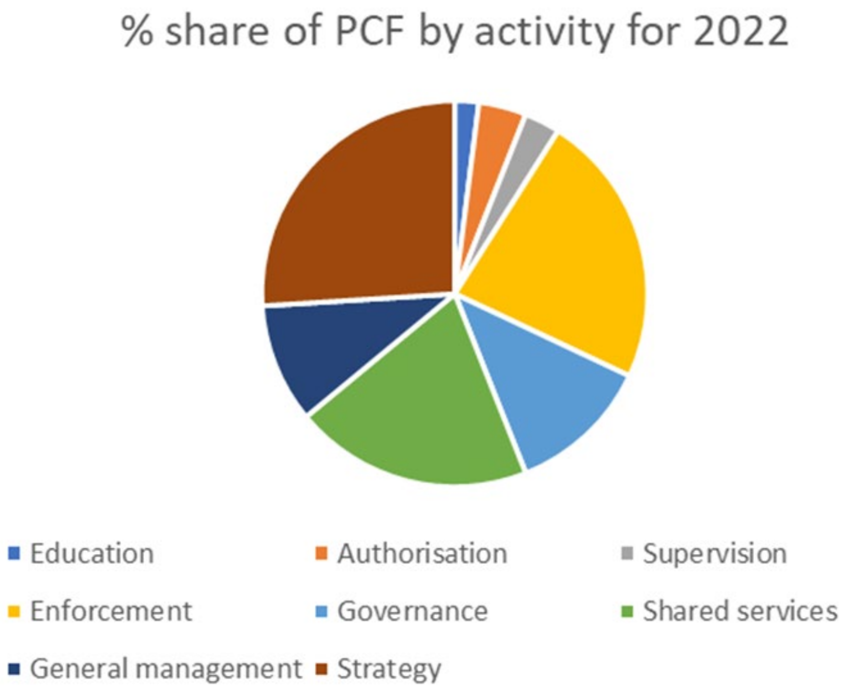
<u>How the PCF is calculated</u>

The PCF may only be used for certain activities, which are defined in section 51 of the Legal Services Act 2007. These activities cover the cost of regulation (both for CILEx Regulation and other bodies that are funded by a levy on the profession (e.g., the Legal Services Board)). The PCF may also cover some activities that CILEX is permitted to deliver.

However, as non-members of CILEX, the PCF payable by you will not contribute to any activities that CILEX is able to deliver. Your PCF will contribute directly to the cost of regulation provided by CILEx Regulation.

<u>How the PCF is allocated to our activities</u>

CILEx Regulation will use its share of the PCF for 2022 as follows:



I hope that you find this information helpful. However please do get in touch with us if you would like any additional information.

Yours sincerely,