28 October 2022

Approval of 2023 Practising Fee application made by the Institute of Chartered Accountants in England and Wales (ICAEW) to the Legal Services Board (LSB) under section 51 of the Legal Services Act 2007 (the Act)

1. The LSB has approved an application made by ICAEW to the LSB under section 51 of the Act. Section 51 of the Act relates to the control of Practising Fees charged by approved regulators.

2. Practising Fees are payable by a person under an approved regulator's regulatory arrangements, in circumstances where the payment of the fee is a condition which must be satisfied for that person to be authorised by the approved regulator to carry on one or more activities which are reserved legal activities. An approved regulator may only apply amounts raised by Practising Fees for one or more of the permitted purposes which are set out in section 51(4) of the Act and the Practising Fee Rules 2021 ((Rules)[1].

3. Practising Fees are payable under the regulatory arrangements of an approved regulator only if the LSB has approved the level of the fee as required by section 51 of the Act. ICAEW is an approved regulator, and has delegated its regulatory functions to the ICAEW Regulatory Board to whom executive support is provided by the Professional Standards Directorate (the regulatory body).

4. In making an application, an approved regulator must comply with the provisions of the Rules. The Rules provide a framework for the Practising Fee application and approval process. An approved regulator must also have regard to the LSB's Guidance on the Practising Fee Rules 2021 (Guidance)[2] which gives guidance on each of the Rules.

5. This notice sets out the decision taken, including an assessment of the Practising Fees application.

Summary and overview of Practising Fees application and decision

6. The application submitted by ICAEW provides that Practising Fees to be charged to firms will increase 5% for sole practitioners and 7% for all others in 2023 from the fee levied in 2022 as set out in the table below. ICAEW's projected total Practising Fees income for 2023 is £636,853 (an increase from the forecast registration fee income of £580,480 in 2022), based on the assumption of 378 firms paying a Practising Fee.

[1] https://legalservicesboard.org.uk/wp-content/uploads/2021/02/PCF-Final-Rules-2021-Accessible.pdf
[2] https://legalservicesboard.org.uk/wp-content/uploads/2021/01/PCF-Final-Guidance-for-publication-accessible.pdf

Proposed 2023 Practising Fee.

AUTHORISED FIRM

Principals	Offices 1	2-10	11+
Sole	394	699	1,227
2 - 5	699	1,227	2,155
6 - 9	1,227	2,155	3,781
10 - 50	2,155	3,781	6,635
51+	4,310	7,565	13,272

LICENSED FIRM

Principals	Offices 1	2-10	11+
Sole	394	699	1,227
2 - 5	1,397	3,679	8,619
6 - 9	2,452	6,464	15,128
10 - 50	4,310	11,346	26,543
51+	8,619	22,693	53,087

Fee increases compared to 2022 Practising Fee

AUTHORISED FIRM

Principals	Offices 1	2-10	11+
Sole	19	46	80
2 - 5	46	80	141
6 - 9	80	141	247
10 - 50	141	247	434
51+	282	495	868

LICENSED FIRM

Principals	Offices 1	2-10	11+
Sole	19	46	80
2 - 5	91	241	564
6 - 9	160	423	990
10 - 50	282	742	1,736
51+	564	1,485	3,473

7. Of the total amount of Practising Fees to be collected of £636,853, everything will be allocated to the regulatory body. Page 71 of the application shows that £51,000 (8%) will be used to help fund the work of the Legal Ombudsman, the Legal Services Board and Legal Choices[3].

8. We are satisfied that ICAEW's activities for 2023 which will be funded by the Practising Fees fall within the permitted purposes, in compliance with section 51(2) of the Act. We are satisfied that the regulatory body of ICAEW set its budget independently from the representative side of ICAEW. We are satisfied that ICAEW intends to discharge its regulatory functions in a way that is compatible with the regulatory objectives set out in section 28 of the Act.

9. Further, the application enables the LSB to be confident that ICAEW has carefully and properly planned its financial position for the forthcoming year. We are satisfied that the application provides transparency to the regulated community about the reserves and financial resilience of ICAEW.

10. We are satisfied that the application provides transparency to the regulated community about the allocation of ICAEW's resources (including Practising Fees income). We are satisfied that the engagement strategy of ICAEW has allowed it to meaningfully consult with its regulated community.

11. We consider that the application provides meaningful consideration of equality issues, which are particularly relevant to the regulatory objective of encouraging an independent, strong, diverse and effective profession.

[3] Legal Choices is a website which supports consumers legal choices by giving independent, factual information about legal issues and legal advisers. It can be accessed here**.** Legal Choices is run by legal services regulators in England and Wales

12. We consider that ICAEW has given due consideration to the impact of the level of the Practising Fees on the conduct of legal services by its regulated community in setting the Practising Fees for 2023.

13. We encourage ICAEW to consider whether more clearly tailoring the narrative and information presented in its application to the requirements of the Practising Fee Rules[4] and its Guidance[5] might aid transparency and accountability on ICAEW's proposals and expenditure.

14. The LSB's decision is to approve in full the levels of the Practising Fees for 2023 to be charged to firms as set out in the application by ICAEW.

LSB assessment

Allocation of Practising Fee to permitted purposes

15. Pages 6-10 of the application provide a detailed view of ICAEW's regulatory programme and link these activities to the LSB's Reshaping Legal Services Strategy and the Regulatory Objectives. Appendix 4 sets out ICAEW's Regulatory Board legal services strategy. Finally, page 19 of the application provides cost information by high level activity such as registration and supervision.

16. We asked ICAEW for more information about the link between the strategy, the programme of activities and costed activities. ICAEW responded that it has not cross referenced the costs and programme of activities to the strategy but that it would consider this for future applications. As set out in the Guidance on Rules 14(a), (c), (d) and (e) for future applications, we encourage ICAEW to increase transparency by setting out the link between its strategy, the regulatory objectives, the programme of activities, and how money raised by the Practising Fee is distributed against these activities. The information in the application reassures the LSB that ICAEW's programme of activity, costs and ICAEW's strategy all fall under the permitted purposes.

17. Page 23 of the application explains the budget setting process for the Practising Fee. We asked ICAEW to explain whether the budget and PCF setting process is independent of the representative side of the ICAEW. ICAEW has confirmed that the budget and PCF setting process is independent. ICAEW noted that the approvals for this operates to its own process, and the ICAEW Regulatory Board approves the fee level proposal to the LSB.

18. We asked ICAEW to confirm whether it is planning to assess the benefits of the 2023 fee activities in the same manner as set out in Appendix 22. We note this appendix provides a detailed overview of how ICAEW has assessed the benefits of past regulatory activities and that ICAEW has published this information via its business plan and the budget and Practising Fee consultation. ICAEW responded that it will

[4] https://legalservicesboard.org.uk/wp-content/uploads/2021/02/PCF-Final-Rules-2021-Accessible.pdf
[5] https://legalservicesboard.org.uk/wp-content/uploads/2021/01/PCF-Final-Guidance-for-publication-accessible.pdf

assess activities similarly and publish details in a summary form so that firms regulated by ICAEW can see everything in one place.

Budget for 2022 and financial information

19. We asked ICAEW some questions about the financial information included in the application to clarify our understanding of the information provided. ICAEW has confirmed that in the budgets set out on page 20 and 21 of the application monies for LSB levy (£11K), OLC[6] levy (£5K) and Legal Choices (£35K) are all grouped together under projects. ICAEW clarified that the projects category on pages 20 and 21 of the application also include funds for areas such as working with the SRA on a single register of firms, policy or regulatory changes which will require approval from the LSB, a system or process change, activities requested of ICAEW such as the single search function or disciplinary database, and urgent communications related to UK or world events.

20. We asked ICAEW to explain whether the budgeted increase in staff costs from 2022 to 2023 reflects pay increases or increased Full Time Equivalent working on probate regulation matters. ICAEW confirmed that the cost increase reflects pay increases. ICAEW explained that in reaction to the high inflationary economy, pressure on retention and recruitment, ICAEW responded with two pay increases in 2022 instead of one, and a further increase is planned for March 2023.

21. Based on the information included in the application and provided in response to our questions, LSB is confident that ICAEW has carefully and properly planned its financial position for the forthcoming year.

Reserves and financial resilience

22. Page 29 of the application sets out that a dedicated reserve was established, as per ICAEW policy, at the inception of ICAEW being approved as a probate regulator. We asked ICAEW to clarify whether the regulatory body part of ICAEW has unfettered access to this reserve. ICAEW has confirmed that the regulatory body part of ICAEW has unfettered access to the probate reserves.

Decision

23. The LSB has approved the Practising Fees application submitted by the ICAEW for 2023 under section 51 of the Act.

Summary of expectations for next application

24. In the next application the LSB requests that ICAEW consider:

[6] OLC is the Office for Legal Complaints which is the Board of the Legal Ombudsman.

- more clearly tailoring the narrative and information presented in its application to the requirements of the Practising Rules[7] and its Guidance[8] to aid transparency and accountability on ICAEW's proposals and expenditure.

- setting out the link between its strategy, the regulatory objectives, the programme of activities funded by the Practising Fee, and how money raised by the Practising Fee is distributed against these activities.

Matthew Hill, Chief Executive
Acting under delegated authority granted by the Board of the Legal Services Board
28 October 2022

[7] https://legalservicesboard.org.uk/wp-content/uploads/2021/02/PCF-Final-Rules-2021-Accessible.pdf
[8] https://legalservicesboard.org.uk/wp-content/uploads/2021/01/PCF-Final-Guidance-for-publication-accessible.pdf