CILEX AND CILEx REGULATION APPLICATION FOR APPROVAL OF THE PRACTISING CERTIFICATE FEES TO BE APPLIED IN 2023

3 November 2022

SECTION 1: SUMMARY AND OVERVIEW

Summary of fee proposal for 2022 PCF

1. CILEX and CILEx Regulation (CRL) have budgeted to hold the PCF applied to all parts of the regulated community at the 2022 fee levels. The proposed fees for 2023 are as follows:

Fee type	**Paid by**	**2022**	**Proposed 2023**
PCF	CILEX Fellow	£367	**£367**
PCF	Associate Prosecutor	£271	**£271**
Practice Rights top up	CILEX Fellow with additional practice rights (per right)	£60	**£60**
Practice Rights top up	Other CILEX members with additional practice rights (per right)	£60	**£60**
Advocacy rights	CILEX Fellows with additional rights of audience	£151 (every 3 years	**£151 (every 3 years**
PCF	Non-member with practice rights	£453	**£453**
ACCA PCF (Individuals)	Probate practice	£100	**£100**
Entity application/renewal	Entity	See Appendix 1	**See Appendix 1**
ACCA (firms)	Probate practice (no client money)	£200	**£200**

How the Approved Regulator would continue to operate in the event that the PCF application is not agreed within the timeframe

2. CILEX has healthy reserves which have been accumulated from its commercial activities outside of the regulation of authorised persons. These reserves would be available to cover the short-term inability to invoice the regulated community for the PCF. In addition, CRL has a target reserve, independent of the CILEX reserves, which is set at between 3-6 months of operating costs. It is considered that should the CILEX/CRL PCF application not be agreed within the expected timeframe, CILEX and CRL would be able to continue to operate using these reserves (see section 4, page 28 for more detail).

Addressing issues from the 2021 decision notice

3. Two key issues arose from the LSB's decision notice from 2021:

- CRL and CILEX to reflect on the reasons for the significant decrease in consultation responses this year and take steps as appropriate to increase engagement in future.
- CRL and CILEX to outline the results of the research into why certain groups are disproportionately impacted by the PCF and how that research has influenced the PCF set in 2023.

Reserves

4. CRL has its own reserves policy (**Appendix 5**), which sets out the oversight of the CRL reserves. The policy sets out how CRL ensures that it can identify and withstand medium term risk factors as part of the management of the CRL reserves. A reserves statement has also been provided, which sets out the reserves held by CRL (both committed and uncommitted) and how these reserves are held. Full details of the CRL and CILEX Reserves policies can be found at section 4, page 28.

Equality Impact Assessment

5. All CILEX members, including authorised persons have been required to complete EDI data since the 2021 renewals process. This has provided CRL with a full data set on the regulated community and has enabled a more insightful equality impact assessment. CRL also included an EDI questionnaire, with supplementary questions in relation to employment and income, as part of the consultation process in 2022. This has enabled CRL to review responses to the consultation against a range of data collected to understand better the potential impacts of the CILEX/CRL PCF on the regulated community. Full details of the impact assessment are included at section 6, page 37.

Regulatory performance

6. CRL's regulatory performance was assessed as 'green' or 'met' across all areas of assessment for 2021, this included a review of WL2 in June 2022, which was again assessed as 'green' or 'met'.

Actions taken after informal discussions with the LSB on this application

7. CILEX and CRL have not submitted the application in draft for review. However, the format of this application follows the format of last year's application.

SECTION 2: ALLOCATION OF PRACTISING FEE TO PERMITTED PURPOSES

Allocation of the practising fee between CILEX, CILEx Regulation and the levies is as follows:

CILEX	CILEx Regulation	Levies (LSB, OLC and OPBAS)
£821,686 (32.7%)	£1,529,136 (60.7%)	£166,625 (6.6%)

Distribution of the practising fee across the regulated community

8. The distribution of the expected practising certificate fee income from individuals with additional rights, Chartered Legal Executives and Associate Prosecutors v firms is as follows:

	Individuals	Firms
2023	1,465,691 (96%)	63,445 (4%)
2022	1,402,533 (96%)	56,006 (4%)

9. Only a proportion of the total CILEX membership (42% compared with 35% in 2021) are authorised persons and require a practising certificate and therefore the funding is calculated on the basis of direct cost recovery with all Fellows paying an equal share. However, all CILEX members are regulated by CRL, and funds raised through the PCF to be allocated to CRL as the regulatory body, are also used to regulate these members for enforcement activity (all members) and CPD compliance (where applicable). This is allowable as a permitted purpose under section 51 of the Act. CRL has consulted this year on the option to introduce a regulatory charge for CILEX members who are regulated by CRL but do not currently contribute to the cost of regulation. To provide some context for this, of the 169 complaints received by CRL since 2020, 64 are against members who do not pay for regulation and of the CPD non-compliers in 2022, 2,130 (61%) are non-authorised CILEX members. The outcome of the proposal within the PCF consultation on this issue was supportive (77%) of further exploration of sharing the cost of regulation of all CILEX members and therefore, CRL will discuss this further with CILEX and others interested over the coming months. However, should CILEX agree to consider introducing a regulatory charge to other members, this would require formal consultation by CILEX and changes to its Charter and Bye Laws. Therefore, it would not influence the 2023 PCF.

Programme of activity (CILEx Regulation) for 2023.

10. As a smaller regulator, with 23 staff, 74% of the PCF income is spent on day-to-day regulatory activities (comprising education, authorisation, supervision, enforcement, governance, services shared with CILEX (e.g., IT support) and 5 general management

activities (e.g., business support and contract management). The remaining 26% of the PCF income is spent on activities which flow from the strategic objectives.

11. CRL spending for each of these areas breaks down as follows:

Core regulatory activities at CRL

Description of activity	% total PCF allocated to activity	PCF actual £	Permitted purpose	Strategic objective or business as usual activity	Regulatory or representative activity
Education standards: keeping the standards for authorisation under review, accrediting training providers, acting as External Quality Assurer for the Chartered Legal Executive apprenticeship, annual review of accredited providers and exemptions	2% (or 1% of total PCF)	32,915	Regulation, accreditation, education and training of relevant authorised persons and those wishing to become such persons	Business as usual activity	• protecting and promoting the public interest, • protecting and promoting the interests of consumers • encouraging an independent, strong, diverse and effective legal profession
Authorisation: authorising individuals and firms as authorised persons (includes assessment of qualifying employment, competence for admission and oversight by committees.)	6% (or 4% of total PCF)	95,089 *Other income from application fees* *266,826*	Regulation, accreditation, education and training of relevant authorised persons and those wishing to become such persons	Business as usual activity	• protecting and promoting the public interest, • improving access to justice • protecting and promoting the interests of consumers • encouraging an independent, strong, diverse and effective legal profession
Supervision: ensuring competence of individuals through CPD activity monitoring and firm supervision via annual returns and visits.	2% (or 1% of total PCF)	35,205 *Other income from renewal fees* *77,792*	Regulation, accreditation, education and training of relevant authorised persons and those wishing to become such persons	Business as usual activity	• protecting and promoting the public interest, • protecting and promoting the interests of consumers • encouraging an independent, strong, diverse and effective legal profession
Enforcement: includes review of the annual prior conduct declarations and investigations of misconduct together with oversight from enforcement panels.	24% (or 15% of total PCF)	373,098	Regulation, accreditation, education and training of relevant authorised persons and those wishing to become such persons	Business as usual activity	• protecting and promoting the public interest, • supporting the constitutional principle of the rule of law • protecting and promoting the interests of consumers • promoting and maintaining adherence to the professional principles

Governance (including oversight and engagement)**:** Board meetings and preparation, including risk management, performance, strategy and business planning and liaison with other regulators and government.	11% (or 7% of total PCF)	165,131	Regulation, accreditation, education and training of relevant authorised persons and those wishing to become such persons Law reform and legislative change Collaboration and co-operation with other regulators and government	Business as usual activity	• protecting and promoting the public interest; • supporting the constitutional principle of the rule of law; • improving access to justice; • protecting and promoting the interests of consumers; • promoting competition in the provision of services within subsection (2); • encouraging an independent, strong, diverse and effective legal profession; • increasing public understanding of the citizen's legal rights and duties
General management: Calculation of the practising certificate fee, finance activities, professional fees not covered in other activities, expenses, networking, CRM development and business support and wellbeing	16% (or 9% of total PCF)	239,087	Regulation, accreditation, education and training of relevant authorised persons and those wishing to become such persons	Business as usual activity	• protecting and promoting the public interest • encouraging an independent, strong, diverse and effective legal profession
Total	**61% (or 37% of total PCF)**	**940,525**			

Strategic objectives and business plan for 2023:

Description of activity	**% total PCF allocated to activity**	**PCF actual £**	**Permitted purpose**	• **Strategic objective or business as usual activity**	• **Regulatory or representative activity**

Consumer: Enhancing the information available to consumers to improve accessibility to legal services	8.6% (or 5% of total PCF)	130,698 (including the contribution to Legal Choices)	Regulation, accreditation, education and training of relevant authorised persons and those wishing to become such persons
			
			Law reform and legislative change
			
			Collaboration and co-operation with other regulators and government
				• Contribute to and agree the development plan for legal choices 2023. Including possible review of navigation on website.
				• Continue to contribute to cross-regulator initiatives
				• <u>MTCOG subgroup (regulatory information service)</u>
				  ○ Cost/benefit analysis
				  ○ Product live
					• protecting and promoting the public interest,
					• protecting and promoting the interests of consumers

				• <u>Improving access to regulatory information</u>
				    ○ Review quality indicators pilot
				    ○ Agree cross-regulator actions
				    ○ Implement changes
				    ○ Guidance and support issued to all ACCA firms to ensure compliance
				• Evaluation of Transparency Rules in accordance with gap analysis provided to LSB and participation in subsequent initiatives led by LSB (where instigated)
				• Continued involvement in legal tech forums and groups with focus on improving legal services for consumers	

Diversity: Championing fair access for all in the legal services market	8.6% (or 5% of total PCF)	130,698 (including research budget)	Regulation, accreditation, education and training of relevant authorised persons and those wishing to become such persons Collaboration and co-operation with other regulators and government	• Renewed EDI campaign reporting of learnings at CRL Entities Event, including discussion of EDI at CRL Entities Event • review outcomes of soft EDI engagement with CRL entities • publish the Data Diversity Report in similar format to 2021 updated to include	• protecting and promoting the public interest • promoting competition in the provision of legal services • encouraging an independent, strong, diverse and effective legal profession • improving access to justice • protecting and promoting the interests of consumers • increasing public understanding of the citizen's legal rights and duties

				benchmark progression data • develop a plan to address any issues of concern which are identified and celebrate successes • Initial research and scoping • Outreach to other regulators and stakeholders to identify areas where we can make a difference • Commissioning new research • Review research findings and publish • Develop a plan for 2024 roll out of initiatives identified where we can make a difference	
Standards: Upholding standards whilst pursuing innovative models to improve access and minimise the regulatory burden	8.7% (or 5% of total PCF)	130,698	Regulation, accreditation, education and training of relevant authorised persons and those wishing to become such persons	• Develop proposals for entity reform • Desk-based and possibly additional research into the legal services landscape to understand regulatory issues referencing research from LSB and other frontline regulators • Implement ongoing competence and use risk-based model to improve individual supervision • Review the activity-based model of authorisation of individual practitioners • Utilise individual risk profiles to develop	• Encourage strong, independent, diverse and effective profession • Access to justice • Protect and promote interests of consumers • Encourage competition • Professional principles: proper standards

				risk-based enforcement • Develop practice rules and guidance to support the principles-based code of conduct • Continue to embed a culture of innovation internally and externally	
Total	**26% (or 16% of total PCF)**	**392,094**			

12. Most of the budget for the strategic objectives comes from apportionment of staff time, although there is an allocation for the Legal Choices fee and research.

13. The remainder of the budget is spent on services shared with CILEX as follows:

Description of activity	**% total PCF allocated to activity**	**PCF actual £**	**Permitted purpose**	**Strategic objective or business as usual activity**	• **Regulatory or representative activity**
Shared services: this includes HR (see para 17 below), Finance (see para 18 below), IT, insurance, Facilities (see para 15 below), issuing of the practising certificate and regulated member support (see para 20 below)	13% (or 8% of total PCF)	196,517	Regulation, accreditation, education and training of relevant authorised persons and those wishing to become such persons	Business as usual activity	• protecting and promoting the public interest • encouraging an independent, strong, diverse and effective legal profession
Total	**13% (or 8% of total PCF)**	**196,517**			

Shared services explained

14. The shared services are based on headcount and are apportioned as follows:

15. **Facilities**: insurance costs only for 2023.

16. **IT** equipment and training CILEX/CRL shared services costs relate only to licensing and salary costs for IT team.

17. **HR:** this covers learning, development, wellbeing, professional subscriptions, recruitment, and staff benefits. CILEX has given CRL notice that it will cease providing most of these services with effect from 31 March 2023. Therefore, CRL has included within its staff budget an allowance for a part-time HR staff member to compensate for this change.

18. **Finance**: In April 2022, CRL brought the CILEX/CRL Business Partner in-house and salary costs for this member of staff were included within the CRL budget with effect from that date. CILEX reduced the cost of finance to CRL by £26,466 to £29,371. For 2023, the cost of finance provision from CILEX is £50,739. This represents an increase to CRL of 73%. The increase by CILEX to the Finance shared services is because of a salary review which has been undertaken for the first time in three years. Therefore, the change to the Finance shared services charge for 2023 reflects the revised salary apportionments.

19. **Insurance**: Share of Group insurance (see Facilities above)

20. **Regulated member support** (including issuing the practising certificate and practice advice): This cost has been removed from shared services for 2023 and instead forms part of CILEX's permitted purposes budget.

21. **Capital expenditure –** not part of the shared services calculation.

Programme of activity (CILEX)

Strategic priorities for the Approved Regulator in 2023

22. For a second year in a row, CILEX will hold our share of the fee at £121 for 2023 and absorb any inflationary and additional costs. CILEX believe by holding the fee at £121 for 2023 we are still able to deliver our work on behalf of Fellows across customer services, operations, business development and marketing as well as in policy/governance and central services. Our 2023 strategy will continue to build upon our objectives in these areas.

    - Through our Awarding Body and education function, continue our programmes of education and training, and

- Through our public affairs agenda, maintain and raise the profile of the regulated community and our professional standards, increase public understanding of citizens legal rights and duties and as the approved regulator, participate in law reform and the legislative process.

Area of work	**Activity**	**% PCF allocated for 2023**	**Non-PCF budget allocated to these activities (% and figures)**	**Permitted purpose (section 51 of the Act)**	**Regulatory Objectives**
Includes Membership, Sales and Development, Awards and Education (£474,727) Total budget for this area is £1,530,823. The proportion of this budget allocated from PCF is 31%	*Maintaining the Fellow, Associate Prosecutor and member database, *Issuing the PCF invoices, *Liaising with Authorised Persons, *Maintaining CPD records, * Providing information to CILEx Regulation about Authorised Persons and members, *Providing support to assure the quality of the academic qualifications, *Ensuring training and assessment is fit for purpose, *Providing assessment results for candidates by centre and learner, *Providing relevant committee meeting minutes, *Liaison with Ofqual, *Providing details of alleged misconduct, *Attending stakeholder meetings and attending professional institute forums * Support and nurture Fellows * Printing and despatching Practice Certificates * Practice support for Fellows * Qualification: regulation, compliance, development * Accreditation	58% of CILEX share of PCF (or 19% of total PCF)	69% other sources of funding £1,056,897	*Education and Training *Preventing any person, who is not a relevant authorised person and/or does not hold a current relevant practising certificate, purporting to be such a person or to hold such a certificate *Maintaining and raising of their professional standards *Giving of practical support, and advice about practice management, in relation to practices carried on by such persons	➢ protecting and promoting the public interest ➢ improving access to justice ➢ protecting and promoting the interests of consumers ➢ promoting competition in the provision of services ➢ encouraging an independent, strong, diverse and effective legal profession

Policy & Governance formerly Regulatory Affairs (£67,718) Total budget for this area is £406,878. The proportion of this budget allocated from PCF is 17%	*Providing representation, *Liaison and support in the areas of law reform, policy, lobbying, equality and diversity, Stakeholder engagement as an Approved Regulator with the LSB, other Approved Regulators and government	8% of CILEX share of PCF (or 3% of total PCF)	83% other sources of funding £339,160	*Participation of approved regulator in law reform and legislative process *The promotion of relations between the approved regulator and relevant national or international bodies, governments or the legal professions of other jurisdictions	➢ protecting and promoting the public interest ➢ improving access to justice ➢ protecting and promoting the interests of consumers ➢ promoting competition in the provision of services ➢ encouraging an independent, strong, diverse and effective legal profession
Communications (£8,952) Total budget for this area is £1,442,973. The proportion of this budget allocated from PCF is <1%	*Provision of Journal content relevant to regulatory matters inc publication of discipline findings & resulting practice advice *Editorial support, *Educational articles, *Direct mailings to Authorised Persons, *CILEx Regulation publications, *Press releases. *Journal publication of disciplinary *Publication of the newsletter	1% of CILEX share of PCF (or <1% of total PCF)	99% other sources of funding £1,434,021	*Increasing public understanding of the citizen's legal rights and duties *Education and Training	➢ ➢ ➢
Central Resources and Administration (£270,290) Total budget for this area is £960,681. The proportion of this budget allocated from PCF is 38%	CILEX central shared services used to act as the Approved Regulator which is made up of a proportion of overhead costs including Board and Senior Leadership resource spent on activities as Approved Regulator	33% of CILEX share of PCF (or 11% of total PCF)	72% other sources of funding £690,391	*Participation by the approved regulator in law reform and the legislative process *Maintaining and raising of their professional standards *Giving of practical support, and advice about practice management, in relation to practices carried on by such persons	➢ encouraging an independent, strong, diverse and effective legal profession ➢ protecting and promoting the interests of consumers ➢ improving access to justice
Total of PCF		**100%** **(or 33% of total PCF)**			

SECTION 3: FINANCIAL INFORMATION

23. The practising certificate income is made up of 2 main areas:

- The income for Chartered Legal Executives and Associate Prosecutors (who work at the CPS); and
- The income received at CRL for those seeking authorisation (and those who are authorised) for additional areas of activity.

24. These comprise:

- CILEX Advocates
- CILEX Practitioners (including ACCA-Probate)
- CILEX Authorised Firms (including CILEX-ACCA Probate Firms)

25. CRL also regulates all CILEX members for conduct and some CILEX members for CPD compliance. This is also funded via the PCF as a permitted purpose under section 51 of the Legal Services Act 2007 (the Act).

26. CRL calculates its expenditure by looking at its usual operating activities and activities to meet our strategic objectives. This provides the estimated cost of regulation for the next 12 months. The anticipated income CILEx Regulation will receive from CILEX Advocates, CILEX Practitioners and CILEX firms is then subtracted, leaving the net figure to apply to Chartered Legal Executives and Associate Prosecutors.

27. CILEX calculates the permitted purposes it requires to cover the regulatory activities allowed under section 51 of the Act, which it will carry out on behalf of CILEX members. The likely levies that will be charged by the Legal Services Board, the Office for Legal Complaints and OPBAS are also estimated. Adding the net regulatory costs of CRL to the permitted purposes for CILEX and the levies, provides the amount remaining to be collected from Chartered Legal Executives and Associate Prosecutors as the practising certificate fee for these groups. This is then calculated based on the expected number of renewals from these two groups.

2023 PCF Budget

28. Having reviewed the paying chartered legal executives and Associate Prosecutors for 2022, CRL and CILEX has been able to increase the estimated number of renewals for 2023, which has in turn enabled CILEX and CRL to increase the PCF budget without increasing the fee payable to the regulated community.

Proposed income and expenditure 2023

29. Full details of the CILEX and CRL budgets are set out at Appendix 2, the calculation of the PCF for 2023 is shown at Appendix 3. This demonstrates that the direct regulatory costs and a contribution to the permitted purposes will be covered by the PCF.

30. As stated at paragraph 28, although the PCF budgets for both CILEX and CRL have increased for 2023, there is no corresponding rise in the PCF for 2023 owing to the anticipated increase in the number of paying authorised persons.

Income	**Budget**
PCF	£2,517,447
Other sources of income	£9,376,908
Total	£11,894,355

Expenditure	**Budget**
CILEx Regulation	£1,902,254
Levies	£166,625
CILEX	£9,779,402 (including PCF proportion £821,686)
Total	£11,848,281

Previous years PCF surplus

31. CRL has asked CILEX to provide a reconciliation of practising fees collected on behalf of CRL and for any surplus to be distributed. A referral has been made to the LSB for review under Internal Governance Rule 14.

32. In addition, CRL expects there to be a surplus at the end of 2022. CRL's share of the surplus is anticipated to be (based on CRL's calculation using records from the shared CRM and from CILEX's projected income) approximately £35,000 at the end of 2022. CILEX has agreed that any surplus available at the close of the 2022 financial year will be distributed in accordance with the agreed PCF % split.

Allocation of PCF to Permitted Purposes

33. **Appendix 3** shows the allocation of PCF to permitted purposes between regulation and representation for 2023 and against 2022 for comparison. Prior to 2022, CILEX has made a contribution to the costs of the insurance premium covering the compensation fund. Following the decision of the Royal Sun Alliance not to renew the insurance policy which covered the CILEX compensation

arrangements in 2021, no contributions have been made by CILEX since 2020. CILEX has continued to provide ring-fenced reserves of £250,000 matching CRL's ring-fenced reserves to support the CILEX compensation fund.

34. All CRL costs are for permitted purposes activities.

35. The CILEX permitted purposes are allocated on the basis of the analysis at paragraph 9.

36. Total expenditure on permitted purposes in 2023 is £2,890,565 which is an increase of £117,401 (4.2%) over 2022. Total income from the PCF has increased from the 2022 submission to £2,517,447 in 2023. This is an increase in income of £114,391 (4.8%).

37. This comes from an anticipated increase in Fellows for 2022, when compared with 2021. Regulatory permitted purposes costs undertaken by CILEX for 2023 have increased when compared to 2022 by £43,794 (including LSB £5,528) and there is an increase of £70,597 on CRL's regulatory expenditure. Total Representation expenditure has increased from £5,853,467 in 2022 to £6,838,683 in 2023.

Analysis of Representative costs between Permitted Purposes and Other

38. Appendix 3 shows the split of the costs of the representative function between permitted purposes and other expenditure, and between Approved Regulator activities and Representation for 2022 and 2023.

Budget setting, forecasting and financial oversight

39. The final draft CRL budget for 2023 was considered and agreed by the CILEx Regulation Ltd Board on 28 September 2022. Previous drafts were reviewed by the CRL Board at its May and July meetings.

40. The draft CILEX Permitted Purposes 2023 budget (**Appendix 2**) identifies that the regulatory activities carried out, will be covered by a PCF charged to Fellows of £367. This is the same fee as was charged in 2022 and is projected to generate income of £2,484,091. The PCF charged to Associate Prosecutors will remain at £271 for 2023. This fee has been held at the same level since 2019, it is funded by the Crown Prosecution Service, and it is expected to generate total income of £33,356.

41. Total net regulatory and permitted purposes expenditure is expected to increase in 2023 compared to the 2022 submission by £139,103. The changes to the draft budgets for 2023 compared to the 2022 submission have resulted in an increase in net costs (i.e. before PCF income) in CILEx Regulation of £95,309, an increase in LSB and other regulatory levies of £5,528, and an increase in permitted purposes

expenditure in CILEX of £38,266. The effect of these changes keeps the CILEx Regulation proportion of PCF at £222 and CILEX permitted purposes proportion at £121. The amount included in the PCF for regulatory levies has remained the same at £24 per authorised person.

Development of the draft CILEX Group 2023 budget

42. The CILEX Group financial statements for 2021 show a surplus before taxation of £346,545, and we are projecting a deficit for 2022 of £1million. The surplus/deficit in both years is entirely attributable to non-PCF activities. Reserves enable the Group to make strategic investments, when required and provide reassurance against the risks of an unstable market. The pandemic, cost of living crisis and economic downturn has resulted in a change to buyer behaviour, which is currently impacting CILEX non-PCF income. These trends are anticipated to continue into 2023.

43. Full details are set out in **Appendix 2** to the application. The projected figures (to the year-end 2022) below are based on the most recent reforecasts carried out by CILEX and CRL

44. **Appendix 3** shows the draft CILEX Group budget submissions for 2022 and 2023. This analysis, by year, income and expenditure by regulatory-related activity, other permitted purposes activity (with a sub-total for total permitted purposes activity), other activities that are not regulatory or other permitted purposes activities, and for the CILEX Group.

Regulatory Function

45. 2022 is the first year of CILEx Regulation's 3-year strategic plan. CRL has developed its budgets independently, using the 2023 Business Plan drafted from its 2022-24 strategy. The CILEx Regulation Board determined its resource requirements for 2023 by considering the projected budget against its strategic aims. CRL continues to utilise a hybrid approach and staff continue to work predominantly from home. There continues to be available to CILEX members in hardship, additional mitigation through the CILEX Charitable Foundation. The CRL budget was considered at the CILEx Regulation Board meeting on 28 September 2022. The budget was thereafter incorporated into the draft 2023 CILEX Group budget.

46. **Appendix 2** shows how PCF income is spent on regulatory activities, including CILEx Regulation.

CRL and CILEX discussions on PCF budget

47. CRL created its first draft budget in April 2022 and this was presented to the May 2022 Board for their consideration. After which, CILEX and CRL worked together to create the overall PCF budget ready for consultation in July 2022. This was signed off by the CRL Board in July and was published between 25 July 2022 and 31 August 2022. After the consultation closed, responses to the consultation were reviewed and the budget and PCF were finalised for 2023.

48. Owing to a projected increase in the number of authorised persons expected to pay the PCF in 2023, CRL and CILEX have been able to hold the 2023 PCF at the 2022 level.

49. The final PCF application was reviewed by the CILEX Finance Committee on 31 October 2022 and final approval of the application was delegated to the CRL Chair by the CRL Board on 19 October 2022. The application has been signed by the CILEX and CRL CEOs prior to submission to the LSB.

2022 PCF Income

50. Full details are set out in Appendix 2 to the application. The projected figures below are based on recent reforecasts carried out by CILEX and CRL.

Income	**Budget**	**Actual**	**Variance (£)**	**Variance (%)**
PCF	2,403,056	2,461,820	58,764	2.4%
Other sources of income	348,406	323,513	-24,893	- 7.1%
Total	2,751,462	2,785,333	33,871	1.2%

51. The variance between income budgeted and received from the PCF in 2021 is 2.4%, however this value includes not yet fully paid-up Fellows and Associate Prosecutors.

2022 PCF income (CRL)

Income	**Budget**	**Actual**	**Variance (£)**	**Variance (%)**
PCF	1,458,539	1,458,539	-	-
Other sources of income	348,406	323,513	-24,893	- 7.1%
Total	1,806,945	1,782,052	-24,893	- 1.4%

52. The negative variance recorded against the CRL ‘other sources of income’ is largely as a result of the expected decrease in CRL regulated firms following the CILEX announcement and the compensation fund issues.

2022 PCF expenditure

53. This is set out in appendix 2 to the application; a summary is set out below.

Expenditure	Budget	Actual	Variance (£)	Variance (%)
CILEx Regulation	1,817,436	1,701,585*	115,851	6.4%
Levies	161,097	169,981	-8,884	-5.5%
CILEX	783,420**	783,420		-
Total	£2,761,953	2,654,986	106,967	3.9%

*****Excluding exceptional expenditure (see para 74)

**£25,000 – CILEX reduced its portion of the PP to accommodate the requirement to reduce the CILEX share of the PCF budget in 2022 as part of the agreed reduction of the PCF from a proposed 2% increase to a 0.8% increase. This funding was previously allocated by CILEX to contribute to the CILEX Compensation Fund insurance premium, which was not required owing to the late withdrawal of the insurer from the compensation insurance policy.

2022 Budget v Actuals (CILEx Regulation)

54. CRL has set out below the expenditure for each area of activity undertaken by CILEx Regulation. These are divided into business-as-usual activities and activities undertaken to progress our strategic objectives. CRL has set out the services shared with CILEX as a separate line. For each set of activities, we have explained variances greater than 5.

Business as usual activities at CRL

Description of activity	Budget	Actual	Variance (£)	Variance (%)
Education standards: keeping the standards for authorisation under review, accrediting training providers, acting as External Quality Assurer for the Chartered Legal Executive apprenticeship, annual review of accredited providers and exemptions	47,260	36,937	-10,323	-21.84%
Authorisation: authorising individuals and firms as authorised persons (includes assessment of qualifying employment, competence for admission and oversight by committees.)	PCF income: 64,299 Income - other sources*:* *281,063* **345,362**	PCF income 75,652 Income - other sources 278,265 **353,917**	11,353 Income - other sources -2,798 **8,555**	2.47%

Supervision: ensuring competence of individuals through CPD activity monitoring and firm supervision via annual returns and visits.	PCF income: 34,400 Income - other sources *45,335* **79,735**	PCF income 67,111 Income - other sources 36,576 **103,687**	32,711 Income - other sources *-8,759* **23,952**	30%
Enforcement: includes review of the annual prior conduct declarations and investigations of misconduct together with oversight from enforcement panels.	346,400	311,975	-34,425	9.94%
Governance: (including oversight and engagement)**:** Board meetings and preparation, including risk management, performance, strategy and business planning and liaison with other regulators and government.	167,076	170,433	3,357	2.01%
General management: Calculation of the practising certificate fee, finance activities, professional fees not covered in other activities, expenses, marketing, networking, CRM development and business support and wellbeing	170,074	142,907	-27,169	-15.97%

Explanation of business-as-usual activities

55. CRL restructured its organisation in January 2022 (which included the transfer of the CILEX/CRL Business Partner from the shared services to the CRL staff salary budget), which has reapportioned activities against all budget lines and as a result there are unanticipated variances against some lines (notably education and general management). All areas have also been impacted by a salary uplift to all staff in 2022 of 5% against the budgeted 2.5% uplift (see para 74 below).

56. Other issues which have impacted on variances for 2022 are as follows:

   a. Supervision: this variance is explained by the significant expected fall in entity renewals against predicted budget as a number of firms have decided not to renew with CRL following the CILEX announcement. In addition, CRL had lower than anticipated ACCA transfers.
   b. Enforcement: As part of the restructure in 2022, CRL has introduced more flexibility into its operational functions which has enabled CRL to reallocate staffing at peak times, this has slightly increased staff time spent in enforcement this year.

Strategic objectives at CRL

Strategic objective	Description of activity	Budget	Actual	Variance (£)	Variance (%)
	Strategy (24% of total)	323,949	315,765	-8,184	-2.53%
Diversity objectives	• Develop and publish D&I strategy • Working with CILEX and other regulators develop definition of progression and benchmark to enable progress to be monitored • Use CRL and other data to benchmark D&I, agree and build evaluation activities to monitor progress • Desk-based review of existing research into D&I barriers, commission research to address gaps in current research and working with others identify actions to improve outcomes (carried forward to 2023)				
Standards objectives	• Continue to work with other stakeholders to support and monitor changes to technology and innovation • Desk-based and possibly additional research into the legal services landscape to understand regulatory issues (carried forward to 2023) • Review entity regulatory model to determine possible actions for change and improvement (including compensation arrangements – including research into TPMA and other solutions) • Participate in the LSB review of ongoing competence and use risk-based model to suggest improvements to individual supervision • Work with training providers to increase embedding on CRL education standards into legal qualifications				

Consumer objectives	• Review compliance with transparency requirements with other regulators and review effectiveness • Research current consumer protections, identify gaps and develop alternative solutions (carried forward to 2023) • Consider legal tech developments from the consumer perspective (carried forward to 2023)				
	Legal Choices	26,100	26,100	0	0%

Shared Services

Description of activity	**Budget**	**Actual**	**Variance (£)**	**Variance (%)**
Shared services: this includes HR, Finance, IT, insurance, Facilities, issuing of the practising certificate and regulated member support	289,522	241,684	-47,838	-16.5%

57. The reduction in the shared services costs in part reflects the change to staffing from Finance shared services to the CRL staff budget set out at paragraph 53. The other change relates to the removal of the shared services salary costs relating to Facilities following the closure of CILEX's offices in December 2021, which meant CRL had to relocate.

CRL employment costs

CRL staff costs (including Board)				
	Budget	**Actual**	**Variance (£)**	**Variance (%)**
2022	1,151,074*	-	-	-
2022 (post-restructure)	-	1,143,723*	7,351	0.64%
2023	1,295,683**		-144,609	-13.4%

*Excludes exceptional costs (see para 74) **See explanation at paragraph 58 below

58. The variance between 2022 and 2023 is explained as follows:

- Finance Manager and HR Officer (p/t reapportioned from shared services budget) (£60,341)
- Additional cost of NI (staff = £9,802 Board = £500)
- 2.5% additional increase in cost-of-living pay rise (2022) (£22,021)
- Cost of living assumed 5% increase WEF April 2023 (£44,042)
- Slight increase based on 2022 restructure (£7,903)

Other sources of income: CRL

59. CRL receives additional income from dealing with individual applications for assessment of qualifying employment, applications to become Chartered Legal Executives and for authorisation with additional practice rights. The number of applications each year has been static for several years and at present the majority of these applications can be gauged from the number of individuals in the CILEX Advanced Paralegal grade of membership, many of whom will apply to become Chartered Legal Executives. The risk to the income for 2023 has increased since the 2021 PCF application as the number of members in the CILEX Advanced Paralegal grade of membership at CILEX has decreased by 15.5% from 2021 to 2022. However, the income lines for qualifying employment applications and applications to become Chartered Legal Executives have been estimated conservatively.

2022 Budget v Actuals (CILEX)

	Budget	Actuals	Variance (actual)	Variance (%)
Income to be generated excluding PCF 2022	9,693,636	£9,259,918	-433,718	-4.5%
PCF (Actuals 7.5% of total income)	£783,420	£ 783,420	-	%
Total income	10,477,056	£10,043,338	-433,718	-4.1%

Allocation of income to expenditure (CILEX) 2022

Area of work	Action	% PCF allocated for 2022	% 2022 PCF spent to date	BUDGET	ACTUAL to date	Variance value	Variance %
Includes Membership, Sales and Development, Awards and Education	<u>Supporting Chartered Legal Executives and Associate Prosecutors</u>: • Liaising with Authorised Persons • Support and nurture of Fellows • Practice advice and support for Fellows <u>Supporting those seeking to become Chartered Legal Executives</u>: • Providing support to assure the quality of the academic qualifications • Ensuring training and assessment is fit for purpose, • Providing assessment results for candidates by centre and learner • Providing relevant committee meeting minutes, • Liaison with Ofqual (including, providing details of alleged misconduct, attending stakeholder meetings, and attending professional institute forums) • Qualification: regulation, compliance, development • Accreditation of centres <u>Regulatory work</u> • Maintaining the Fellow, Associate Prosecutor, and member database, • Issuing the PCF invoices, • Maintaining CPD records, Providing information to CILEx Regulation about Authorised Persons and members,	58%	55%	466,339	444,631	£21,708 There is no expectation that CILEX will exceed the spend allocated against PCF spend in this area by the year end.	5% to be spent by year end

Policy & Governance formerly Regulatory Affairs	Supporting Chartered Legal Executives and Associate Prosecutors: • Providing representation for authorised persons • Liaison and support in the areas of law reform, policy, lobbying, equality and diversity, pro bono and judicial appointments Regulatory work Managing the relationship with the LSB, other Approved Regulators and government	8%	7.5%	67,230	60,632	£6,598 There is no expectation that CILEX will exceed the spend allocated against PCF spend in this area by the year end.	10% to be spent in the final months of 2021
Communications	Supporting Chartered Legal Executives and Associate Prosecutors: • Providing the Journal online • Editorial support • Educational articles • Direct mailings to Authorised Persons • Press releases • Publication of the newsletter Regulatory work • CILEx Regulation publications, Journal publication of disciplinary decisions	1%	>1%	8,330	7,850	£480 There is no expectation that CILEX will exceed the spend allocated against PCF spend in this area by the year end.	6% To be spent by year end
Central Resources and Administration	Regulatory work • Proportion of contribution of overhead costs including Board and Senior Leadership resource spent on activities as Approved Regulator	33%	30%	266,521	242,546	£23,995 There is no expectation that CILEX will exceed the spend allocated against PCF spend in this area by the year end.	9% To be spent by year end
Total of PCF		**100%**		£808,420 of which CILEX has funded £25,000 from non-PP income (783,420)	£755,639	£52,781 (£27,781)	3.4% (3.5%) To be spent by year end

CILEX employment costs

60. The total direct salary costs for CILEX, which incorporate the above activities, but also include the activities outlined below are:

	CILEX total staff costs	CILEX PCF staff allocation - Budget	Actual	Variance (£)	Variance (%)
2022	4,170,782	681,687	681,687	-	-
2023	4,280,585	699,634	-	-	-

Other sources of income (CILEX)

61. PCF income is not a primary source of revenue for CILEX. The majority of CILEX business activities and therefore overhead costs are funded through alternative income streams. CILEX achieves this income as the professional membership association of other grades, not just authorised persons; through CILEX awarding body and through CILEX Law School. This gives greater financial resilience than would otherwise be the case if CILEX was solely dependent on PCF income. The healthy reserves, which are funded through non-regulatory income, also supports CILEX's ability to be resilient in a changing economic climate, such as that created by COVID or a recession. The pandemic has created risks across all market sectors and CILEX has addressed these risks by reducing costs through our redundancy programme in 2020 and through our decision to become a virtual organisation and therefore no longer maintaining an estate with its associated costs.

62. CILEX Group costs by department as set out in Appendix 3 are split between Permitted Purposes and Other Activities as follows:

CILEx department	All permitted purposes activities	Other activities	Total
Operations (including Membership, Sales and development, Awards and Education)	474,727 (31%)	1,056,097 (69%)	1,530,823
Communications (including business development, marketing and the Journal)	67,718 (17%)	339,160 (83%)	406,878
Policy and Governance (formerly Regulatory Affairs)	8,952 (1%)	1,434,021 (99%)	1,442,973
Central Resources and Administration	270,290 (28%)	690,391 (72%)	960,681

63. These percentage splits are based on the assessment of the CILEX Executive Team of the amount of departmental time spent on permitted purposes activities or in providing services to CILEx Regulation under a service level agreement. The Other Activities column

relates to activities which do not relate to regulatory activities or permitted purposes activities for example training provision through CILEX Law School.

64. Activities which CILEX has identified within permitted purposes include:
    - Operations: maintaining the Fellow, Associate Prosecutor and member database, issuing the PCF invoices, liaising with Authorised Persons, maintaining CPD records, providing information to CILEx Regulation about Authorised Persons and members, providing support to assure the quality of the academic qualifications, ensuring training and assessment is fit for purpose, providing assessment results for candidates by centre and learner, providing relevant committee meeting minutes, liaison with Ofqual, providing details of alleged misconduct, attending stakeholder meetings and attending professional institute forums
    - Communications: providing the Journal online, editorial support, educational articles, direct mailings to Authorised Persons, CILEx Regulation publications, press releases.
    - Policy and Governance: providing representation, liaison and support in the areas of law reform, policy, lobbying, equality and diversity, pro bono and judicial appointments, managing the relationship with the LSB, other Approved Regulators and government
    - Central Resources and Administration: CILEX central shared services used to act as the Approved Regulator which is made up of a proportion of overhead costs including Board and Senior Leadership resource spent on activities as Approved Regulator.

Risk to the alternative sources of income at CILEX

65. The PCF is not CILEX's primary source of revenue and therefore it is most unlikely that all CILEX sources of income would disappear simultaneously. However, should this unlikely event happen, it would present a risk to achieving CILEX objectives and would require a revised CILEX business plan, which would most likely include another staff redundancy programme. The assessment of risk at this time is low.

SECTION 4: RESERVES

Introduction

66. The CRL Reserves policy is attached at **Appendix 5**.

CILEx Regulation Reserves

The CRL Reserves Policy:

67. The Reserves Policy sets out the following:

- Types of reserve held by CILEx Regulation;
- General principles which govern how the CILEx Regulation reserves are held and managed;
- How we set out target reserves and how this is reviewed and managed;
- How we identify committed reserves;
- Our target for uncommitted reserves;
- Actions we will take should our reserves be below or above our target;
- What events might trigger access to our reserves;
- How we decide whether reserves should be utilised; and
- The administration of the CILEx Regulation reserves within the CILEX Group Reserves.

Setting and managing the target reserve:

68. When setting the target reserves, CRL takes into account known risks to the organisation, assessed through analysis of the risk register and identifies major strategic risks to the organisation, which the reserves aim to mitigate. In setting the target, CRL ensures that there is a balance between ensuring risks can be insured against and not increasing costs to the regulated community unnecessarily. Having undertaken this analysis, CRL identified committed reserves for the next 12-month period by considering the following factors:

- Specific projects for which financing from reserves is required
- Funds required for regulatory or disciplinary action
- To cover identified risks

and calculate the funds which will form the uncommitted reserves.

69. Where the uncommitted reserves held are higher than the target, CILEx Regulation will consider actions to bring the reserves back within the target range, for example:

- to further our strategic objectives,
- to provide additional regulatory activities in accordance with the regulatory objectives,
- to enable future investment in innovation, which is considered essential in the current legal services market, or
- reducing the practising fee to bring reserves back into alignment with 6 months operating costs

CRL also reserves the right to increase the reserve beyond 6 months of operating costs (with a rationale).

Different types of reserve held:

70. CILEx Regulation controls 2 types of reserve:

- Contingency reserves, held centrally within the CILEX Group Reserves, and
- Working Capital reserves, held locally at CRL

Uncommitted reserves targets:

	Target
Uncommitted Contingency Reserve and Working Capital Reserves	3 months to 6 months of operating costs
Uncommitted Working Capital Reserves	Up to 2 months of operating costs

71. The 2021 CRL outturn was a surplus after tax of £97,647, which has resulted in working capital reserves of £83,080 carried forward to 2021. The total working capital reserves currently held by CRL have been accumulated as follows:

Year	***Reason***	***Amount £***	***C/f reserves***
2017	*Year end surplus*	*53,681*	*53,681*
2018	*Year end surplus*	*123,681*	*177,362*
2019	*Year end deficit*	*- 16,905*	*160,457*

2019	*Audit adjustment - deferred tax*	*- 2,209*	*158,248*
2020	*Year end surplus*	*201,486*	*359,734*
2021	*Year end surplus*	*83,080*	*442,814*
2022	*Estimated year end position including exceptional items (see para 73 below)*	*- 320,094*	*122,720*

72. The current CRL working capital reserve (both committed and uncommitted) is £442,814, with an estimated reduction to the reserves of £320,094 by the end of 2022.

73. The reserves spent during 2022 have covered a number of items including: maternity leave, research for entity review and compensation arrangements, salaries relating to the restructure, an unexpected change to the level of partial exemption for VAT, tax advice from new auditors, covering the deficit budget for 2022, additional special leave and exceptional, unanticipated work connected with CILEX's announcement (including communications and legal work).

74. This leaves predicted uncommitted reserves of £122,720 at the end of 2022. This is within the current allowance for working capital reserves which is up to 2 months of operating costs.

75. In addition, CILEX holds on behalf of CRL, as part of the Group Investment, £700,000 in contingency reserve. The breakdown of this reserve into committed and uncommitted reserves is as follows:

Total held in CILEX investment	£700,000
Committed for compensation fund	£250,000
Committed for interventions	£70,000
Total uncommitted contingency reserve	**£380,000**

76. Therefore, the total uncommitted reserves in CRL's control is £502,720, at 3.6 times monthly operating expenses this falls within both the CRL target and the target range set within the PCF rules and guidance (i.e. 3-6 months of operating costs).

77. Although the PCF budget is intended to deliver a balanced budget for 2022, any additional collections over and above those budgeted for will be added to the CRL reserves, to ensure that any accumulated PCF reserves are kept separate.

78. In addition to the current reserves position, CRL has requested that CILEX provide a reconciliation of PCF allocations and that any surplus be distributed. CILEX has agreed that any surplus that remains at the close of the 2022 financial year end will be allocated in accordance with the PCF % split between CILEX and CRL.

CILEX Reserves

79. The CILEX Group Reserves Policy is attached at Appendix 4. It requires six months' operating costs for all entities in the Group and an additional strategic reserve for investment (such as CPQ), with both reserves held and controlled by CILEX, with the exception of the CRL contingency reserve which is controlled by the CRL Board via the CRL Reserves policy outlined above. CRL also has additional access to the CILEX Reserves if it makes a 'reasonable resources' request under section 30 of the Act. It was not felt necessary to amend CILEX Group Reserves policies.

80. PCF income is not a primary source of revenue for CILEX. This income is achieved as the professional membership association of other grades, not just authorised persons; through the CILEX awarding organisation and through CILEX's commercial law school. This gives CILEX greater financial resilience than it would otherwise have if it were solely dependent on PCF income. CILEX's healthy reserves, which are funded through non-regulatory income, also support CILEX's ability to be resilient in a changing economic climate, such as that created by COVID or a recession.

81. CILEX's uncommitted reserves have been funded through and are associated with non-regulatory income streams, in particular education activities. The attached CILEX Reserves Policy (Appendix 4) indicates CILEX uncommitted reserve aspirations.

Management of risk at CILEX

82. The PCF is not CILEX's primary source of revenue and therefore, it is most unlikely that all CILEX sources of income would disappear. However, should this unlikely event happen, it would present a risk to achieving CILEX objectives and would require a revised CILEX business plan, which would most likely include a staff redundancy programme. The risk of such an occurrence is currently assessed as low. CILEX has an annual budget and quarterly forecast process, supported by monthly financial reporting. Horizon scanning feeds into both budgeting and forecasting processes and CILEX ensures the CILEX Reserves Policy is appropriate to cover unforeseen risks.

SECTION 5: CONSULTATION AND ENGAGEMENT

***Length of time consultation was open*:**

83. The PCF consultation opened on 25 July 2022 and closed on 31 August 2022. It can be found here. In addition to being published on the CRL website for 5 weeks, it was emailed to Chartered Legal Executives, CILEX Practitioners and Advocates (including the ACCA-Probate practitioners), and CILEX Firms (including CILEX-ACCA Probate firms). CRL sent the PCF proposal for Associate Prosecutors to the Crown Prosecution Service for their view. The CPS has confirmed it is happy with the fee proposal for 2023.

Level of engagement:

84. CRL received the following responses:

Regulated person type	Number of responses	% regulated community	In favour	Against
Chartered Legal Executive	244 of 7252	3%	88%	12%
CILEX Practitioner and/or Advocate	30 of 291	10%	90%	10%
CILEX Firm	6 of 23	26%	83%	17%
ACCA regulated community	3 of 55	5%	100%	-

85. Although the response level from the regulated community in this consultation is lower than in either 2020 or 2021, CRL has monitored the engagement with the consultation from the regulated community. Our communications about the consultation and the level of engagement with our communications are set out below:

Statistics from the CRL website:

- The PCF consultation was live on the CRL website between 25 July 2022 and 31 August 2022. The 'open consultations' webpage received 1027 visits (of which 24% came from CRL's social media campaign).

Statistics from CRL's August Newsletter

- This is emailed to the regulated community and had a 43% open rate. 10% of those opening the link then clicked on the PCF consultation page link.

Statistics from the PCF direct email: 25 July 2022

CRL emailed all its authorised regulated community to notify them of the PCF consultation. The engagement with this process was as follows:

- Entities: 65% opened the email, 21% clicked through to the consultation webpage (of the 21%, 36% clicked onto the consultation document and 54% clicked onto the survey)
- Chartered Legal Executives/Fellows: 64% opened the email, 5% clicked through to the consultation webpage (of the 5%, 28% clicked onto the consultation document and 41% clicked onto the survey)
- Advocates and CILEX Practitioners: 69% opened the email, 11% clicked through to the consultation webpage (of the 11%, 25% clicked onto the consultation document and 41% clicked onto the survey)
- ACCA Probate Practitioners: 55% opened the email, 15% clicked through to the consultation webpage (of the 15%, 18% clicked onto the consultation document and 27% clicked onto the survey)

Statistics from the reminder email: 23 August 2022

- Entities: 35% opened the email, 6% clicked through to the consultation webpage (of the 6%, 66% clicked onto the consultation document)
- Chartered Legal Executives/Fellows: 50% opened the email, 2% clicked through to the consultation webpage (of the 2%, 53% clicked onto the consultation document)
- Advocates and CILEX Practitioners: 50% opened the email, 3% clicked through to the consultation webpage (of the 3%, 81% clicked onto the consultation document)
- ACCA Probate Practitioners: 45% opened the email, 15% clicked through to the consultation webpage (of the 15%, 100% clicked onto the consultation document)

Summary of consultation responses (Fellows):

This year, CILEX's and CRL's share of the PCF was consulted upon separately. In both parts of the consultation, chartered legal executives (at 88% in favour) overwhelmingly supported the proposal to hold the fee at the 2022 level.

Commentary from the consultation in relation to the fee proposal for 2023 included:

CRL's consultation:

- The most common response to this question was that the proposal to hold the fee was supported owing to the current economic climate. Approximately 25% of responses referenced this reason.
- Those in favour of the CRL fee for 2023 cited the function of the regulator as supporting the profession and raising the standing of the profession. Those against, referenced a lack of member benefits, lack of understanding, education, training, and support for the profession and that CRL has large reserves which CILEX does not, so the fee should be rebalanced.
- As in previous years, a number of responses (approximately 7%) noted that the fee is higher than the fee charged to solicitors.

This section of the consultation was also used to air grievances in relation to the CILEX proposal to move regulation from CRL to the SRA. Some Chartered Legal Executives were in favour of the move and others against. However, the most common issue raised was the need for resolution of the matter and formal member consultation on the proposal.

CILEX's consultation:

- The most common response noted that the cost of living 'crisis' was the reason for their answer.
- Approximately 10% noted that the solicitors pay less and get more for the permitted purposes portion of the fee
- Some responses noted lack of email response or call back, delayed issue of their practising certificate, lack of accessible training on website and the reduced overheads of being a remote business and the possibility of the issue of a digital badge not being translated to a fee reduction.
- Others noted that CILEX should increase its share of the PCF if it is struggling for money.
- Finally, there was reference to the CILEX proposal to move to the SRA and the costs being incurred by CILEX.

Summary of consultation responses (CILEX Practitioners and Advocates):

Reasons for the responses included:

- The cost-of-living crisis meant fees should not increase
- CRL's fees are higher when compared with the solicitors practising fee
- All Fellows should be levied £50 to fund the compensation fund

Summary of consultation responses (Firms)

Reasons for the responses included:

- The fee should be reduced to become more competitive when compared to the SRA fees (the fees are too similar)
- CRL should not use practising fees to support entity regulation or the compensation arrangements
- The compensation fund is essential, and contributions should come from all CILEX members

Summary of consultation responses (ACCA)

No additional commentary.

Engagement with non-commercial bodies:

86. We have not consulted with organisations such as law centres and Citizens Advice as, according to CILEX data, there are a very small number of Chartered Legal Executives working in such organisations.

Actions taken as a result of the consultation responses:

87. In the 2021 PCF application (for the 2022 PCF application), CRL agreed to undertake a full equality impact analysis on the consultation responses. The information in relation to this activity is presented in section 6.

SECTION 6: IMPACT ASSESSMENTS

How we assessed the potential for harm:

88. In addition to the collection of EDI data relating to responses received from the regulated community, CRL also requested data this year from respondents in relation to their employment and income. The data collected has enabled CRL to analyse more completely the responses received to the proposals for the 2023 PCF. This was a commitment made by CRL following last year's consultation.

89. To assess the potential for harm, CRL reviewed the analysed data and considered whether the proposal to hold the practising fee for the 2023 PCF had the potential to impact on any group. This information is set out below.

Outcomes:

90. As part of the 2021 PCF application, CRL agreed to undertake a full Equality Impact Assessment as part of the 2023 PCF application (to be submitted in October 2022). In order to complete this assessment, CRL requested additional information from all individuals responding to the PCF consultation. The data is set out below:

EDI data for CLE responses

Summary of information

- There were 233 responses to this part of the consultation

Where respondents work

- 64% respondents work in SRA regulated firms
- 15% work in local authorities
- 11% work in-house
- 2% work in-house for a charity
- 0.5% work outside of the legal sector
- 1% preferred not to answer the question
- 6.5% replied 'other'

'Other' included working as self-employed/locums, retired, for central government, and unemployed.

Who paid for the respondents practising certificate in 2022?

- 32% were self-funded

- 64% were funded by their employer
- 1% preferred not to say
- 3% stated ‘other’

‘Other’ included part-payment from employer, paid up front with costs reimbursed from employer and payment by instalments.

The intention to renew by respondents

- 89% intended to renew
- 4% preferred not to say
- 7% said they would not renew

Of those not renewing, the reasons included:

- 13% were unemployed
- 7% were in non-legal work
- 33% would be regulated by another regulator
- 13% were intending to retire
- 7% preferred not to say
- 27% stated another reason

For those that provided another reason, the cost of the fee and being unemployed were reasons cited.

Who will pay for the practising certificate in 2023

- 26% will be self-funded
- 65.5% will be employer-funded
- 7.5% were unsure
- 0.5% preferred not to say
- 0.5% stated ‘other’

Those stating ‘other’ noted they were considering whether to continue to pay the practising fee once they cross-qualified as a solicitor, reimbursement and by instalments

One respondent noted that as a local government lawyer the fees should be lower than for those in private practice (as is the case for solicitors)[1].

What other benefits are funded by your employer?

- 63% received professional development training
- 31% received no benefits (from the list)
- 22.5% received health insurance
- 12% received car parking
- 3% received help with childcare
- 4% preferred not to answer
- 3% stated they received other benefits

For those who received 'other' benefits, these included lease cars, gym membership, mobile phone, pension, and healthcare.

What is your income bracket?

- Over £60,000 = 16%
- 30,000 - 35,000 = 14%
- 35,000 - 40,000 = 12%
- 50,000 - 60,000 = 11%
- 45,000 - 50,000 = 11%
- 40,000 – 45,000 = 11%
- 25,000 - 30,000 = 8%
- 20,000 – 25,000 = 5%
- Less than 20,000 = 2%
- Prefer not to say = 10%

Responses to other questions:

- 61% respondents earn over £35,000 and 27% earn over £50,000
- On average two thirds of respondents had not received inflationary wage increases in each year since 2019

[1] CRL was unable to find any details of such a reduction on the SRA website

- 37% had changed jobs/roles in the last 18 months, with 50% of those moving to a new employer. Others had moved roles for increased responsibility either within their existing employer or to a new employer for the same salary. Reasons for the changes included relocation, redundancy, promotion, and TUPE
- 21% of respondents are working in an office full-time with most others either at home full-time or in a hybrid role
- Those working a hybrid role most commonly go into the office 2 days per week (36%), others are in the office for 1 day (21%), 3 days (28%) and 4 days (12%)

Age

- The majority of respondents were aged between 35-54 (56%), followed by 25-34 (18%) and 55-64 (17%). 3% respondents were 65+ and the remainder preferred not to say

Gender

- 70% respondents were female, which is lower than the percentage of female chartered legal executives overall

Ethnicity

- 82% respondents were white, with 6.5% choosing ‘prefer not to say’, 11.5% responses came from black and minority ethnic respondents. This is slightly higher than chartered legal executives overall

Disability

- 10% respondents reported a disability, which is higher than chartered legal executives overall

Attendance at a fee-paying school

- Only 5% respondents attended a fee-paying school, which is lower than chartered legal executives overall

University attendance

- 42% respondents did not attend university and a further 34% were the first generation in their family to attend university

Caring responsibilities

- 32% respondents had caring responsibilities for children under the age of 18 and 26% provided support to other family members and neighbours

EDI data for CILEX Practitioners and Advocates

Summary of information

- There were 28 responses to this part of the consultation

Where respondents work

- 82% respondents work in SRA regulated firms
- 7% work in local authorities
- 4% work in-house
- 7% replied ‘other’

‘Other’ included working in own firm and as a consultant.

Who paid for the respondents practising certificate in 2022?

- 21% were self-funded
- 79% were funded by their employer

The intention to renew by respondents

- 100% intended to renew

What other benefits are funded by your employer?

- 75% received professional development training
- 21% received no benefits (from the list)
- 14% received health insurance
- 18% received car parking
- 7% preferred not to answer
- 7% stated they received other benefits

For those who received ‘other’ benefits, these included life insurance, expenses and savings scheme.

What is your income bracket?

- 40,000 – 45,000 = 18%

- 50,000 - 60,000 = 14%
- Less than 20,000 = 14%
- 35,000 - 40,000 = 11%
- 25,000 - 30,000 = 11%
- Over £60,000 = 7%
- 30,000 - 35,000 = 7%
- 45,000 - 50,000 = 7%
- 20,000 – 25,000 = 0%
- Prefer not to say = 10%

Responses to other questions:

- In 2019 and 2020, on average 10% had received inflationary increases. In 2021 and 2022, on average 18% had received inflationary increases
- 32% had changed jobs/roles in the last 18 months, with 22% of those moving to a new employer. Others had moved roles to become a partner, take a pay rise, or had been made redundant
- 18% of respondents are working in an office full-time with most others either at home full-time or in a hybrid role
- Those working a hybrid role most commonly go into the office 1 or 2 days per week (33% for each), others are in the office for 3 days (28%) and 4 days (6%)

<u>Age</u>

- The majority of respondents were aged between 55-64 (36%) or 35-54 (36%), followed by 25-34 (14%) 14% respondents were 65+.

<u>Gender</u>

- 64% respondents were female, which is lower than the percentage of female chartered legal executives overall

<u>Ethnicity</u>

- 89% respondents were white and 11% responses came from Black and minority ethnic respondents. This is slightly higher than chartered legal executives overall

<u>Disability</u>

- 14% respondents reported a disability, which is higher than chartered legal executives overall

Attendance at a fee-paying school

- Only 4% respondents attended a fee-paying school, which is lower than chartered legal executives overall

University attendance

- 61% respondents did not attend university and a further 36% were the first generation in their family to attend university

Caring responsibilities

- 36% respondents had caring responsibilities for children under the age of 18 and 46% provided support to other family members and neighbours

91. Owing to the small number of CILEX Practitioners/Advocates who did not support holding the fee at current levels (3), full EDI data analysis has not been completed for this regulated group.

Potential for harm to protected groups:

a. EDI data and those CLEs that did NOT support holding the PCF at current levels for 2023

Note: there were 29 chartered legal executive respondents who said they did not support the proposal for the 2023 PCF. Therefore, these percentages are based on very small numbers and the analysis should be treated with caution

- 24% are self-funding the certificate versus 26% of respondents overall

- 7% earn less than £20,000 (v 2% overall)
- 10% earn 20-25k (v 6% overall)
- 10% earn 25-30k (v 9% overall)
- 24% earn 35-40k (v 12% overall)
- 7% earn 40-45k (v 11% overall)
- 3.5% earn 45-50k (v 11% overall)
- 7% earn 50-60k (v 11% overall)
- 17% earn over 60k (v 16% overall)
- 7% PNS
- 7% blank

- 52% Female
- 21% Black and minority ethnic
- 33% were Female and Black and minority ethnic
- 4% declared a disability

92. Respondents who said they did not agree with the proposal to hold the PCF at the 2022 rate were more likely than respondents overall (and the CLE population overall) to be male. They were also more likely to come from a Black and minority ethnic background.

93. Of the respondents who were from a Black and minority ethnic background and who did not support the proposal to hold the fee at the 2022 rate, all had self-funded the practising fee in 2022 and half of them expected to self-fund for 2023. Salary ranges for these individuals were most commonly £35,000 - £40,000 but ranged from less than £20,000 to £45,000-50,000.

b. Local Authority CLEs

94. Last year, the responses to the PCF consultation questions indicated that a fee increase may disproportionately impact on chartered legal executives who are from a Black and minority ethnic background, or who work in a local authority. As a result, CRL made a commitment to collect additional data from consultees to enable a more complete analysis of those responding to the PCF consultation in 2023.

95. There are two notable differences from the responses received in 2022 (for the 2023 PCF) and last year's consultation responses:

- The consultation last year proposed a 2% fee increase (which was, as a result of the negative feedback received, reduced to a 0.8% increase), and
- CRL and CILEX have received significantly reduced numbers of responses to the 2023 PCF consultation. This is despite the increased engagement undertaken for this year's consultation (see above).

Analysis of information provided by respondents to the 2023 PCF consultation who work in Local Authorities

- 15% respondents work in local authorities (35)
- 74% of these respondents were white (26)

- 74% of these respondents were female (26)
- 23% (8) earned less than £35,000 compared with 37% of respondents overall
- 46% (16) pay for their own practising certificate compared with 32% of respondents overall
- 29% (average 10) had had at least one inflationary pay rise in the last 4 years compared with 30% overall

96. Therefore, in reviewing the information relating to PCF respondents who work within local authorities, it can be seen that respondents are more likely to be Black and minority ethnic and more likely to be female. These respondents are also more likely to have to fund their own practising certificate and therefore providing views on an increase to the PCF may be more important to this group. However, local authority respondents are more likely to earn more than those respondents who work in private practice and pay-rises for this group are consistent with pay-rises across the sector.

97. As a result of this detailed analysis, CRL has concluded that the impact of an increase to the PCF would not disproportionately impact chartered legal executives who work in local authorities.

Possible actions:

98. CRL has decided to proceed with the decision to hold the practising fee at the level set in 2022 for 2023. This is against a backdrop of inflation (currently 10.1%). CRL's decision to proceed with the proposal to hold the practising fee for 2023 has taken into account the analysis provided above in relation to those respondents who did not support the proposal for the 2023 PCF as the data involves very small numbers of individuals and the overall levels of engagement CRL has undertaken with the regulated community (which is set out above).

99. CRL will continue to monitor responses in future years to determine whether any trends can be identified from the data collected.

Regulatory impact

100. There were no particular areas of concern raised through the PCF application this year. Respondents were generally supportive of the proposal to hold the PCF at its current rate, given the wider economic issues and cost of living crisis. Overall, 12% of respondents did not support the fee being held at the 2022 rate. Reasons for lack of support included:

  - the move to digital and remote delivery of services at CILEX
  - respondents not being clear what member benefits are provided for the fee
  - comparison with the SRA fee charged
  - the unfairness that CRL takes a higher share than CILEX of the member fee

- CRL should get a larger share as it is a regulatory fee
- it is too expensive
- the fee should be reduced owing to the impact of the CILEX/CRL ‘saga’, and
- CRL has large reserves and CILEX does not. An analysis of those who answered ‘no’ to the fee was undertaken.

101. In relation to reviewing respondents who did not support the fee, whilst it was identified that respondents were more likely to be male and Black and minority ethnic, were in the lower income bands and more likely to fund the fee themselves, this data related to 6 of the 244 responses and therefore the outcome has been treated with caution. In addition, the engagement rate with the consultation was significantly higher than the response rate, with 64% of chartered legal executives opening the direct email sent by CRL.

102. CRL will monitor responses in future years to determine whether trends can be identified from the responses provided.

103. CRL has reviewed all the evidence from the consultation responses received and decided to proceed with the proposal to hold the PCF at the 2022 level for 2023.

SECTION 7: TRANSPARENCY OF PCF INFORMATION TO RELEVANT AUTHORISED PERSONS

104. A copy of the communications to be issued to PCF payers for 2023 is not yet finalised. However, these communications will include:

- the level of the PCF
- how the PCF has been set
- a breakdown of how the PCF income will be allocated to non-regulatory/regulatory and shared services
- an explanation of why commercial income arising from PCF funded permitted purposes is to be used for non-permitted purposes.
- an accurate presentation and representation of the LSB and Office for Legal Complaints (OLC) levies so the regulated community is clear about the proportion of PCF attributable to the levies

105. In addition, as in previous years, CRL and CILEX will provide the regulated community with more explanation as to the services and activities funded through their practising certificate fee and the separation and distinction of operating and decision making between CILEX and CRL.

SECTION 8: CHECKLIST OF ENCLOSURES

Income and expenditure forecasts, including practising fee income, for three years from and including the year for which the practising fee is to be levied.

Financial information for the previous year, including a comparison of actual and budgeted income and expenditure.

Copy of the information that will be provided to fee paying members

Details of any other supporting documents provided with the PCF application

SECTION 9: COMPLIANCE STATEMENT

We certify that the information provided in this application is accurate and complete to the best of our knowledge and we have taken reasonable steps to ensure that the application complies with the Rules.

Janine Griffiths-Baker
CEO, CILEx Regulation

Linda Ford
CEO, CILEX

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