

A CONSULTATION RESPONSE ON THE LEGAL SERVICES BOARD'S REVIEW OF THE LEVY RULES

Introduction

1. This response represents the joint views of The Chartered Institute of Legal Executives (CILEx), an Approved Regulator under the Legal Services Act 2007 (the 2007 Act), and ILEX Professional Standards Limited (IPS), the regulatory body for 22,000 members of CILEx. The consultation was separately considered by CILEx and IPS. The outcomes of those respective considerations were exchanged and with no significant difference of opinion between the two organisations, a joint response is tendered. For the purposes of this response, 'we' is used to mean both CILEx and IPS unless the context indicates otherwise.
2. CILEx and IPS promote proper standards of conduct and behaviour among Chartered Legal Executives and other members of CILEx. We aim to ensure CILEx members are competent and trusted legal practitioners and are fully aware of their obligations to clients, colleagues, the courts and the public. We aim to help good practitioners stay good and improve throughout their careers and to ensure the public know the quality of work Chartered Legal Executives can provide.

Rules for recouping the expenditure of the Legal Services Board

Question 1- Do respondents agree that a 'do nothing approach' (that is not to change the current methodology for recouping the expenditure of the LSB) is the correct option at this time?

3. The current methodology for recouping the expenditure of the LSB is at present working well. However as time progresses the LSB should have sufficient data available to them to make the calculation more sophisticated and reflective of the performance of the regulator.

4. The LSB has to be aware that the 'do nothing approach', presents a risk that there may be a disproportionate effect on some regulators with large membership numbers whose members represent a lower regulatory risk and which do not take as much LSB time compared to a small membership based regulator whose members represent a higher regulatory risk and which takes more LSB time. We believe that the proposed changes may be suitable for the present time, however a more sophisticated model for the calculation of recouping expenditure may be necessary in the future, for example a formula based on usage.

Question 2- Do respondents agree that levying a fixed fee for new (or ICAS and ACCA) who have regulatory arrangements approved during a year (1 April to 31 March) is a proportionate approach?

5. CILEX and IPS believe that the levy on new approved regulators is proportionate as there is no fee paid for rule change applications and these regulators pay no other levy which may otherwise cover costs of such work at the LSB. Otherwise the obligation falls on the rest of the legal sector to cover the LSB's time working on such regulatory approvals.

Question 3 - Do respondents agree that using an average of complaints for a three year period, initially ending 31 March 2014, is the most appropriate methodology for recouping the leviable expenditure of the OLC?

6. Using an average of three years data for complaints seems a reasonable, proportionate and a targeted approach to take. Assessing the levy for regulators based on the actual numbers of complaints is a much fairer than basing it on an estimate, as had to be done in the first years of the OLC's operation.

Question 4 - Do respondents agree that all approved regulators who have regulatory arrangements approved, should pay a minimum contribution of £5,000 towards the costs of the Legal Ombudsman and the balance would then be apportioned as in question 3?

7. We note the impact of this proposal, where some regulators, including CILEx, even if they have no complaints will have to pay the initial £5,000. If this approach is implemented we hope to achieve full collaborative working relationship with LeO.

8. However, we believe that it is important for consideration to be given to the risk of disproportionate effects of this approach. CILEx has had an average of 0 complaints in the 3 year period ending 30/09/2013. Therefore the OLC estimated levy for CILEx is £0. However, the obligation to pay a fixed fee sum of £5,000 each year means CILEx would have to pay a minimum of £5,000 per annum. This formula based on actual figures of complaints is better than being based on estimates and thus leads to a more consistent methodology. Regulators with none or less than three complaints per annum will have to pay the minimum fee of £5,000 towards the Legal Ombudsman costs. As the organisation had been set up for the benefit of all regulators, the payment of this fixed sum can be seen as a fair and proportionate approach.