

## **CILEX/CILEX REGULATION PCF CONSULTATION 2022**

### **Introduction**

1. Each year, the Chartered Institute of Legal Executives and CILEx Regulation consult upon the proposed practising certificate fees to be charged to the regulated communities.
2. This consultation sets out the proposals for the 2022 practising certificate fee. We are proposing a small increase in line with the predicted Consumer Price Index rise for 2022 of between 2 and 2.07% depending on the practising certificate applied for<sup>1</sup>. This will be the first rise applied to individuals and firms regulated by CILEx Regulation since 2017.
3. The structure of this year's consultation is different from that in previous years. We have provided additional information on what we are allowed to use the practising fee for (as set out in the Legal Services Act 2007), how we calculate each fee, the fee distribution between individuals and firms and how we intend to use your fee in 2022, linking this back to our strategic objectives and our day-to-day regulatory activities. We have also provided a breakdown of the 2021 practising fee to show how we have used the fee so far this year and our further aims to the end of 2021.
4. By setting out this additional information, we hope that you will be able to engage effectively with the consultation.
5. To help us to understand the current environment in which authorised persons and firms are operating, following the pandemic, we have included a series of questions similar to those we asked you last year.
6. We have also included an equality and diversity questionnaire as part of the consultation response form. This will enable us to identify any potential differential impacts of the 2022 practising fee on protected groups.

### **Summary of the 2022 practising fee budget:**

7. The practising certificate fee paid by the regulated community covers 3 elements:
  - The direct cost of regulation (i.e. the operating costs CILEx Regulation)
  - The costs incurred by the Chartered Institute of Legal Executives to cover permitted purposes (those costs carried out by CILEX which contribute to regulation such as maintaining CPD records, administrative and technical support, and policy influencing etc.).
  - The levy paid to the Legal Services Board (LSB) to cover the costs of the LSB and the Legal Ombudsman as well as a levy to OPBAS<sup>2</sup>. The first two increased in 2021 by 4.4% and 13% respectively.

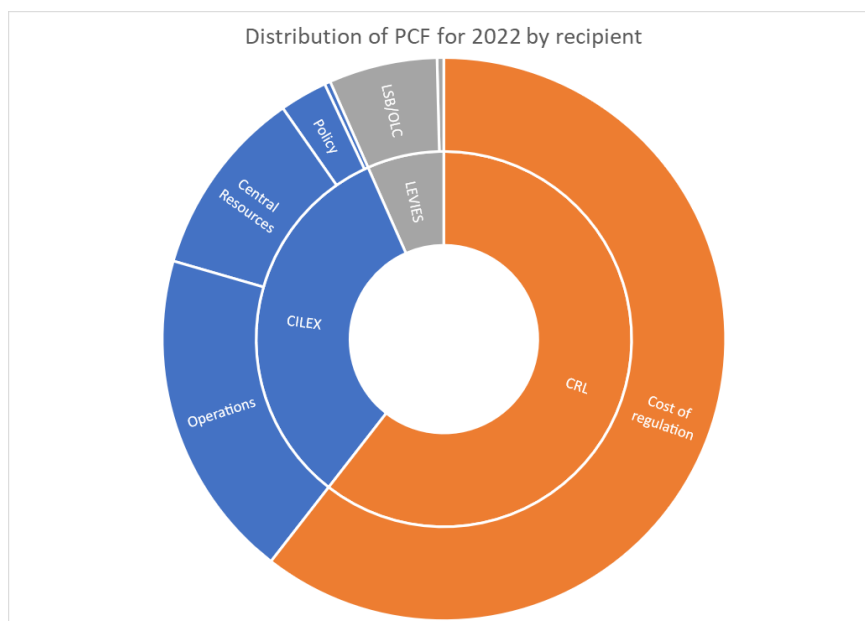
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<sup>1</sup> All fees can be found collated at **Appendix 1**

<sup>2</sup> Office for Professional Body Anti-Money Laundering Supervision

8. These 3 elements combined total £2,563,058 and make up the total practising certificate fee to be paid by the regulated community. The breakdown of how the PCF will be apportioned in 2022 is set out below:

<b>CILEx Permitted Purposes</b>		£
	Membership/Operations	485,825
	Policy and Governance	70,034
	Comms and Marketing	8,675
	Central Resources/Admin	277,651
<b>CILEx Total</b>		<b>842,185</b>
	PCF contribution to cost of regulation	<b>1,551,169</b>
<b>CILEx Regulation Total</b>		
<b>Levies</b>		
<b>Legal Services Board/Office of Legal Complaints<sup>3</sup></b>	Levy	159,704
		10,000
<b>OPBAS</b>	Anti-Money Laundering	
		<b>169,704</b>
<b>TOTAL PCF for 2022</b>		<b>2,563,058</b>



<sup>3</sup> The cost of these bodies has been estimated by CILEX and CILEx Regulation as their budget cycle is later in the year and charged to Approved Regulators in arrears. The levy payable to the LSB for 2020/21 was £151,377. The levy payable to the OLC was £5,000.

## HOW WE CHARGE THE PRACTISING CERTIFICATE FEES AT CILEX AND CRL:

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 we receive at CRL for those seeking authorisation (and those who are authorised) for additional areas of activity. These comprise:
  - CILEX Advocates
  - CILEX Practitioners
  - CILEX Authorised Firms
  - From 2022, this will also include CILEX Practitioners (ACCA-Probate) and CILEX-ACCA Probate Firms

At CILEx Regulation, expenditure is calculated by looking at our usual operating activities and activities to meet our strategic objectives. This provides us with the estimated cost of regulation for the next 12 months.

We then subtract the anticipated income CILEx Regulation will receive from CILEX Advocates, CILEX Practitioners and CILEX firms, leaving us with the net figure to apply to Chartered Legal Executives and Associate Prosecutors.

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. We also estimate the likely levies that will be charged by the Legal Services Board, the Office for Legal Complaints and OPBAS.

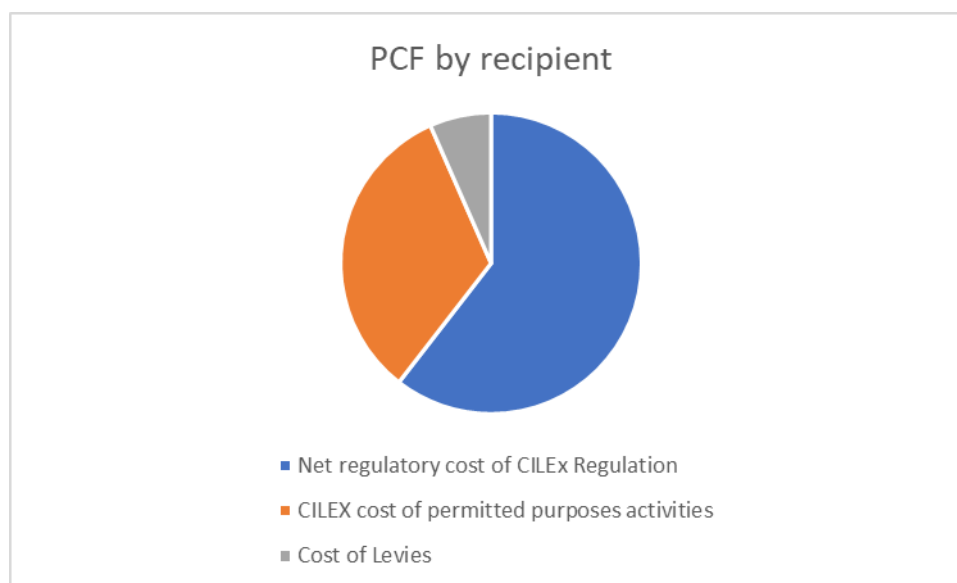
Adding the net regulatory costs of CRL to the permitted purposes for CILEX and the levies provides the amount remaining to be collected from Chartered Legal Executives and Associate Prosecutors as the practising certificate fee for these groups. This is then calculated based on the expected number of renewals from these two groups.

For 2022, the calculation is as follows:

	Expenditure	Income	Total
Cost of regulation (CILEx Regulation)	£1,894,755		<b>£1,894,755</b>
Income to CILEx Regulation from (applications and renewals) CILEX Advocates, CILEX Practitioners, CILEX Authorised Firms (including ACCA)		This income is made up of PCF renewal income and non-PCF application income	<b>£343,586</b>
<b>Cost of regulation to CLEs and APs</b>			<b>£1,551,169</b>
CILEX cost of permitted purposes activity	£842,185		<b>£842,185</b>
Cost of Levies	£169,704		<b>£169,704</b>
<b>Total for CLE and AP PCF</b>			<b><u>£2,563,058</u></b>

## PROPOSED PRACTISING CERTIFICATE BUDGET FOR 2022

### Diagram for share of PCF between CILEX, CILEx Regulation and Levies



This breakdown is compared with 2021 is set out below:

RECIPIENT	PERCENTAGE OF PCF 2022	PERCENTAGE OF PCF 2021
CILEx Regulation	60%	59%
CILEx	33%	34%
Regulatory Levies	7%	7%

### Distribution between individuals and firms of the PCF for CILEx Regulation

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:

	2022	2021
Individuals	£1,510,316 (97%)	1,441,074 (98%)
Firms	£40,853 (3%)	£27,853 (2%)

The reason for this change is primarily relating to the expected income from the regulation of CILEX-ACCA probate firms which is anticipated to start from 1 January 2022 (subject to Legal Services Board approval).

### PCF allocation for the levies and CILEX

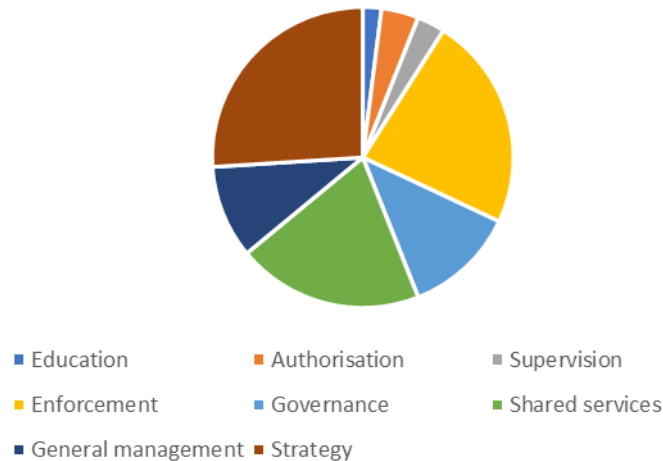
The CILEx permitted purposes and the levies paid come from individual contributions.

### How we propose to spend the 2022 PCF at CILEx Regulation

As a smaller regulator, with 22 staff, 74% of the PCF income is spent on our day-to-day regulatory activities (comprising education, authorisation, supervision, enforcement, governance, services we share with CILEx (e.g. Human Resources and IT support) and

general management activities (e.g. developing an improved customer relationship management system to give a better service to those we regulate). The remaining 26% of the PCF income is spent on activities which flow from our strategic objectives. Our spending for each of these areas breaks down as follows:

% share of PCF by activity for 2022



**WORK INCLUDED IN THE CATEGORIES (2022):**

**Education:** implementation of the new education standards, marketing and the development and implementation of the alternative route to practice rights, accreditation and oversight of training providers

**Authorisation:** Qualifying Employment applications, Work-Based Learning applications, practice rights applications, advocacy applications, firm applications and ACCA applications. *This area is subsidised by application fees (the PCF provides 20% costs)*

**Supervision:** CPD, Anti Money Laundering, individual and firm supervision (including renewals). *This area is subsidised by renewal fees (the PCF provides 55% costs)*

**Enforcement:** administration of conduct complaints and declarations of prior conduct

**Governance:** Board and Board management costs, liaison with LSB and other stakeholders including government. *Costs previously included elsewhere and included in this category for 2022: Legal & Risk, performance and strategy and business planning.*

**Shared services:** Finance, HR, IT, facilities, insurance, subscriptions and customer services *(these services are shared with CILEX)*

**General management:** Finance activities (including PCF calculation), professional fees, expenses, networking, CRM and business support/wellbeing activities.

**Strategy:** see detail outlined in the consultation document below.

Our **strategic objectives for 2022** are centred on 3 areas:

- Upholding **standards** whilst pursuing innovative models to improve access and minimise the regulatory burden
- Enhancing the information available to **consumers** to improve accessibility to legal services
- Championing **fair access for all** in the legal services market

Against these areas we are intending to undertake the following activities in 2022:

**For standards:**

Following the LSB’s approval of our revised education standards, we will be working to promote them in the sector and encouraging legal education providers to adopt them into their qualifications.

We will continue to work with others across the sector to build understanding and adoption of technology which can support both the regulated community and consumers.

We will begin a review of our regulatory model, starting with our approach to entity regulation. We will research how different sectors approach regulation and from this consider possible options for change, whilst ensuring consumer protection, high standards and accessibility to owning a law firm to a diverse range of legal professionals.

We will also be looking at the legal landscape more widely to understand how the legal services market delivers both for the regulated community and consumers. Where we identify gaps, we will consider potential for improvement.

Building on the data we collected from our regulated community in 2021, we will continue to develop tools which can enhance our supervisory activities. This work will complement the work currently underway at the LSB in relation to developing a cross-sector process to strengthen ongoing competence and we will work with the LSB to introduce improvements to our current approach.

#### **For consumers:**

We will look to collaborate with other regulators to increase information available to consumers on legal services, including continuing to develop the Legal Choices website, exploring the development of a single digital register for legal professionals and working with the Market Transparency Co-ordination Group led by the LSB.

We will be reviewing the work we have done so far in making improvements to transparency as a result of the CMA report, published in 2016 and we are planning research to identify current consumer protections, any gaps in redress and the potential for consumer detriment as a result.

As part of our work on supporting the development of legal technology in 2021, we made a joint bid for funds from the Regulators' Pioneer Fund with the SRA and CLC, with the Open Data Institute in support, to understand the data available in law firms in relation to conveyancing. We will progress this work during the latter half of 2021 and into 2022 if we are successful.

#### **For fair access for all (Diversity):**

A major priority for us is to improve access to, and success in, the profession for those from diverse backgrounds.

To support this work, we intend to publish a D&I strategy which will define progression so that we in collaboration with the other regulators can use to benchmark and chart changes to determine progress. We will also seek to actively engage with CILEX to campaign for progression.

In 2021, we collected whole-regulated community D&I data to allow us to build a baseline to enable us to monitor trends and progress and we have committed to publish CILEX Regulation's own D&I data on our website.

We will be seeking to gain insights from work undertaken by other stakeholders in the sector (including the Bridge Group) in relation to consumer access to legal services. From this we will be able to build our understanding of existing barriers and we may commission additional research to support this objective.

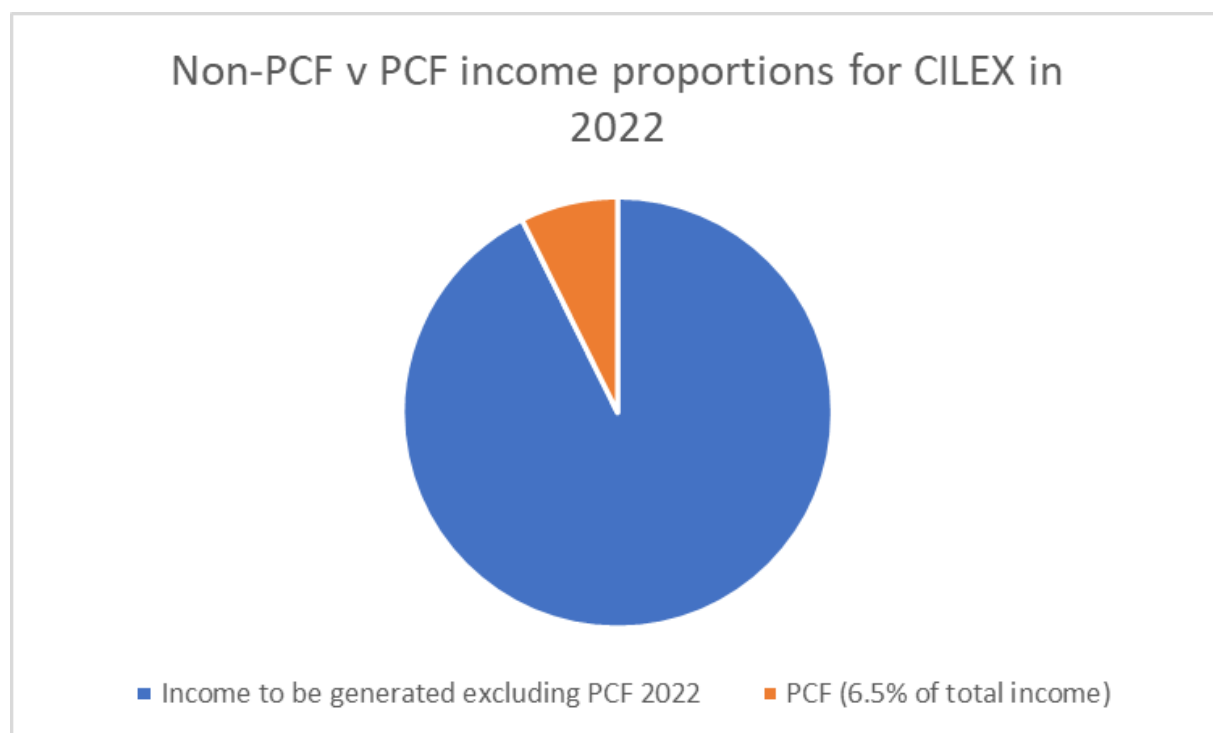
Using this information that we will begin to develop in 2022, we aim to be able to identify the areas in which we can make a difference to progression in legal careers for those from diverse backgrounds.

**How CILEX intends to spend the 2022 PCF on permitted purposes:**

In addition to the PCF, CILEX receives income from other sources (e.g. the Law School, sale of assessments etc.).

CILEX’s share of the PCF as a percentage of its total income is as follows:

Income to be generated excluding PCF 2022	£10,650,332
PCF (6.5% of total income)	£ 842,185
Total income	£11,492,516



**Introduction**

As a result of the change programme described in the 2021 review section below, and recognising the challenging circumstances for our members, CILEX will keep its share of the fee to £124 for 2022 and absorb any inflationary and/or any additional costs. With the fee at £124 for 2022 we are able to deliver our work on behalf of Fellows across membership services, operations, business development and marketing as well as in policy/governance and central services. Our 2022 strategy will continue to build upon our existing objectives in these areas.

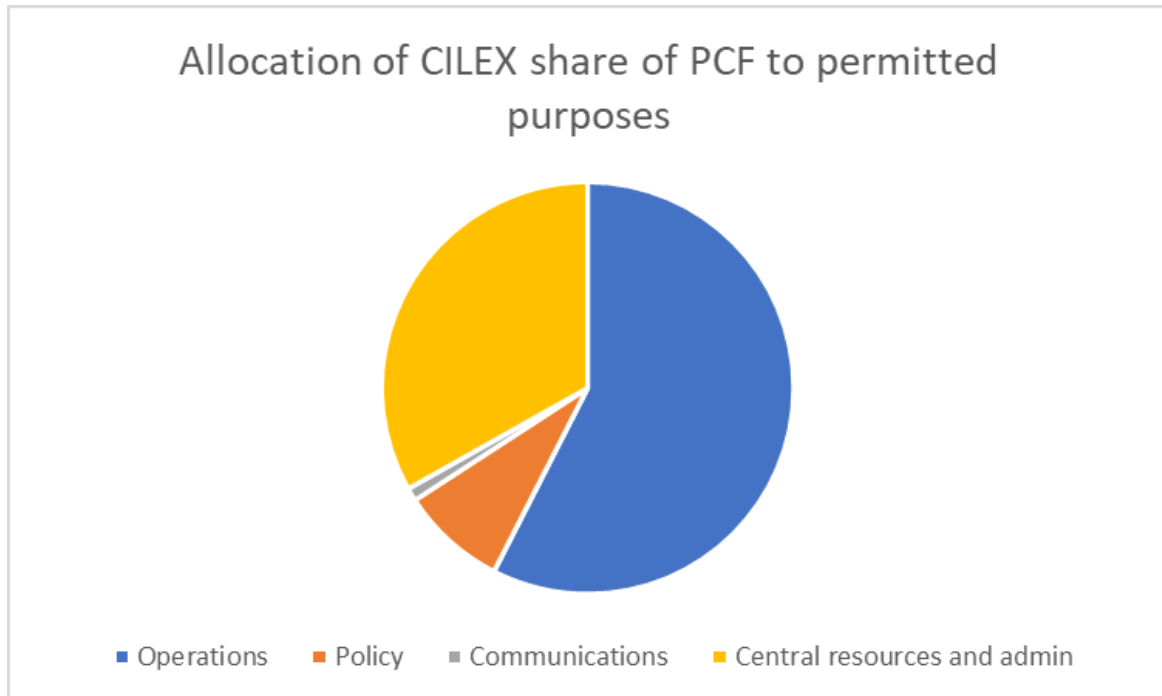
**How CILEX uses its share of the PCF**

CILEX uses the PCF to fund permitted purposes only. These are defined in the Act. These activities are broken down into the following activities:

- Operations (including Education)

- Policy and Governance
- Communications
- Central Resources and Admin

The CILEX share of the PCF as allocated to each of these activities is as follows:



### **Nature of activities to be used by CILEX by category**

#### ***Operations***

The activities falling within this heading which will be undertaken by CILEX using the PCF as permitted purposes activities are:

- 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 (including: providing details of alleged misconduct, attending stakeholder meetings and attending professional institute forums)
- Support and nurture of Fellows
- Practice support for Fellows
- Qualification: regulation, compliance, development
- Accreditation

#### ***Policy and Governance***

- Providing representation for authorised persons



- Liaison and support in the areas of law reform, policy, lobbying, equality and diversity, pro bono and judicial appointments
- Managing CILEX's relationship with the LSB, other Approved Regulators and government

### ***Communications***

- Providing the Journal online
- Editorial support
- Educational articles
- Direct mailings to Authorised Persons,
- CILEx Regulation publications,
- Press releases.
- Journal publication of disciplinary decisions
- Publication of the newsletter

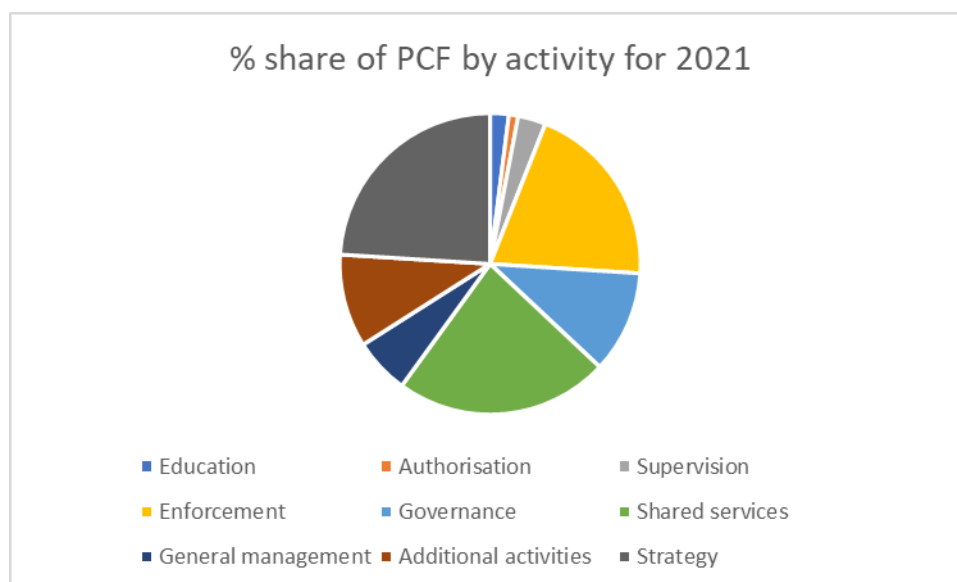
### ***Central Resources and Admin***

Proportion of contribution of overhead costs including Board and Senior Leadership resource spent on activities as Approved Regulator

## A REVIEW OF THE WORK WE HAVE UNDERTAKEN IN 2021

### The 2021 PCF at CILEx Regulation

As for 2022, the majority of the PCF at CILEx Regulation is allocated to day-to-day operational activities. These are allocated to the same categories as for 2022. For comparison purposes the 2021 budget is displayed below in the same format as for 2022.



#### WORK INCLUDED IN THE CATEGORIES (2021):

**Education:** approval and implementation of the new education standards, marketing and the development and implementation of the alternative route to practice rights, accreditation and oversight of training providers

**Authorisation:** Qualifying Employment applications, Work-Based Learning applications, practice rights applications, advocacy applications and firm applications. *This area is subsidised by application fees (the PCF provides 7% costs)*

**Supervision:** CPD, Anti Money Laundering, individual and firm supervision (including renewals). *This area is subsidised by renewal fees (the PCF provides 49% costs)*

**Enforcement:** administration of conduct complaints and declarations of prior conduct

**Governance:** Board and Board management costs, liaison with LSB and other stakeholders including government.

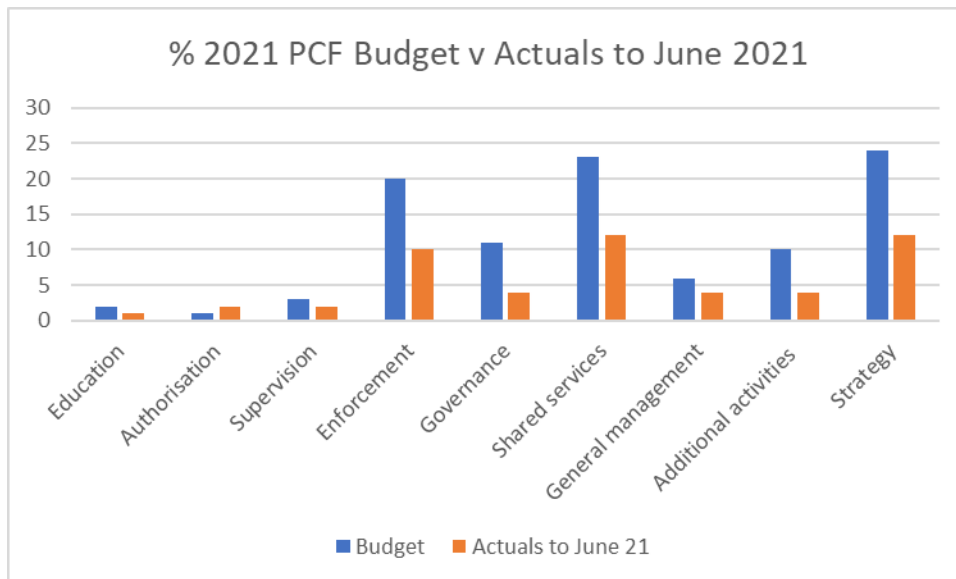
**Shared services:** Finance, HR, IT, facilities, insurance, subscriptions and customer services *(these services are shared with CILEX)*

**General management:** Finance activities (including PCF calculation), legal and risk, performance, strategy and business planning, professional fees, expenses, networking.

**Additional activities arising in 2021:** We have been working on the implementation of the new PCF rules and guidance issued by the LSB, refining our QA processes (including rule changes), reviewing the operation of the IGR, finalising implementation of the CRM and working with other regulators on a range of activities

**Strategy:** see detail outlined under strategic priorities below.

The chart below provides the budget allocated and how much we have spent to the end of June 2021.



In relation to our **strategic priorities for 2021**, these revolve around the same areas of interest:

- Protecting **consumers** and improving consumer experience
- Strengthening **diversity** within the legal profession and accessibility to legal services
- Promoting high **standards**

Below we have set out what we intend to achieve by the end of the year and what we have done so far:

**For consumers:**

We are currently working collaboratively with other legal regulators on enhancing the consumer experience through the Legal Choices website and will continue to support this valuable work in the longer term.

Also, to improve consumer choice, we are working in partnership with the other legal regulators on the outcomes from the Competition and Markets Authority (CMA) review, to determine how best to implement consumer tools such as quality indicators and digital ID.

We will, before the end of 2021, extend the scope of our transparency rules to include immigration activities.

**For diversity:**

We continue to actively address barriers that CILEX regulated individuals and firms face when delivering legal services, including access to lender panels, professional indemnity insurance and we are progressing an application with the Financial Conduct Authority and HM Treasury to become a Designated Professional Body, which will allow CILEX law firms to sell ancillary insurance products as part of their legal services provision.

We have agreed an action plan with the LSB as part of the cross-sector effort to improve diversity in the sector and we provide periodic updates to the Legal Services Board on progress. This year, for the first time, we have been able to capture whole regulated community diversity data which will allow us to benchmark and monitor progress in future years. We are also working with CILEX in relation to their in-depth member survey focused on diversity and inclusion for CILEX members.

We are building tools to help us to understand differential outcomes that different groups may face when they are subject to disciplinary findings.

### **Standards:**

The Education Standards application submitted to the Legal Services Board was approved by them in June. This concludes a significant piece of work which commenced in 2017 and incorporates authorisation for a practice right in the area of specialisation as well as additional competencies focused on legal technology and emotional competence. Shortly after their approval, we accredited the CILEX Professional Qualification as meeting our standards. We are now working to enhance our existing guidance on the standards.

Over the last couple of years we have been developing an approach to assess individuals' and firms' profile to enable us to better target our supervision of our regulated community. We are now in the final stages of implementation of the tool which will enable us to monitor this and as a consequence better target our supervisory activity. This fits well with the Legal Service Board's review into ongoing competence for legal professionals and this work will continue into 2022.

We have been working legal regulators and other stakeholders interested in the development of legal technology and this year we worked with the ISCF Next-Gen Services for Professional Services Project to run a cross-sector design sprint focused on identifying key challenges in conveyancing transactions, considering how AI may alleviate any barriers. As a result of this and following discussions with stakeholders, we have made a bid to the Regulators' Pioneer Fund in collaboration with the SRA and CLC and with the Open Data Institute as a partner.

### **The 2021 PCF at CILEX:**

#### ***Introduction***

During 2020/21, CILEX initiated an organisational efficiency programme, which included a number of redundancies, to optimise its business functions around a digital-first customer journey, remote working, and its new professional qualification. These changes have enabled CILEX to absorb any impact on membership numbers caused by the pandemic and any economic uncertainty.

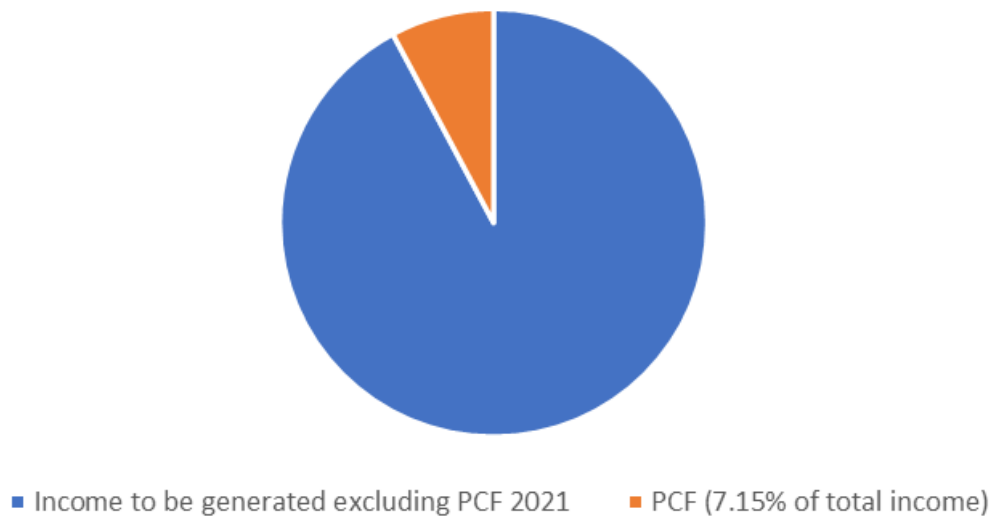
#### ***Use of the PCF at CILEX for 2021***

In addition to the PCF, CILEX receives income from other sources (e.g. the Law School, sale of assessments etc.).

CILEX's share of the PCF as a percentage of its total income is as follows:

Income to be generated excluding PCF 2021	£10,405,866
PCF (7.15% of total income)	£ 882,443
Total income	£11,288,309

### CILEX share of 2021 PCF as a proportion of total CILEX income

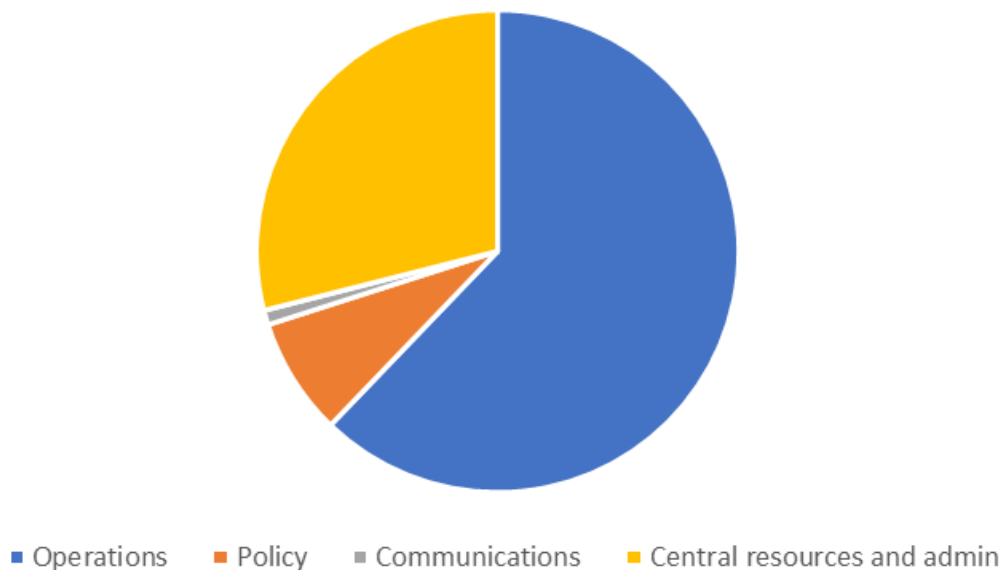


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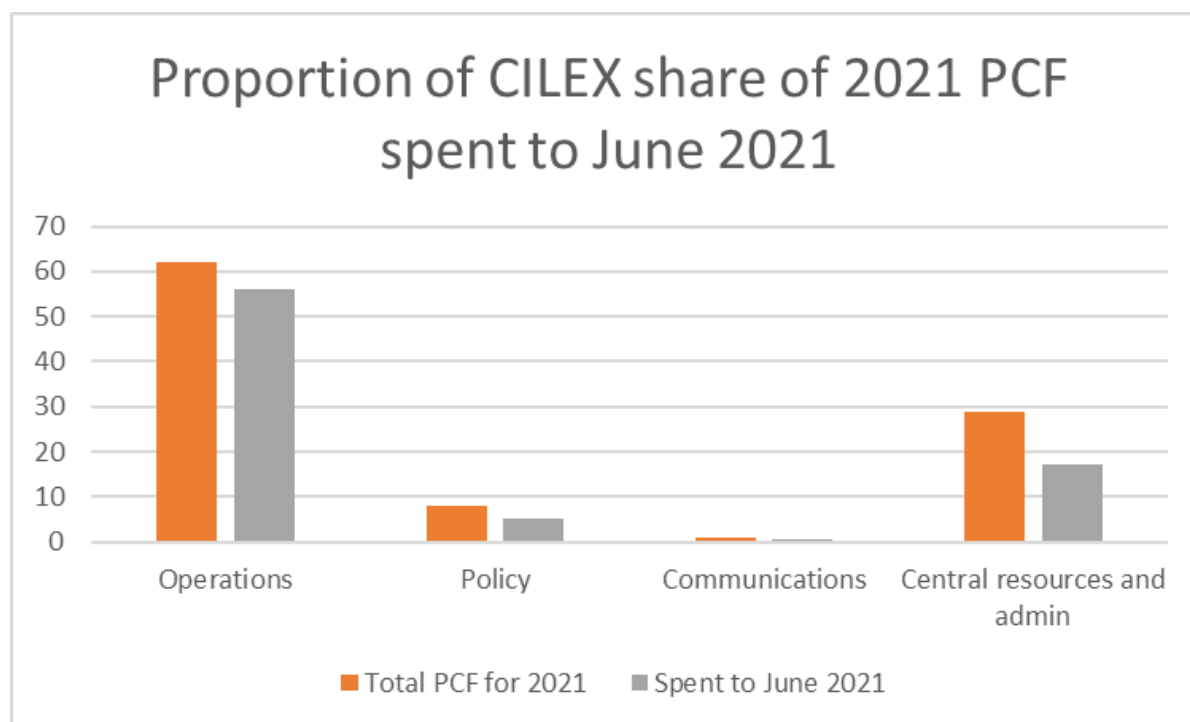
- Operations (including Education)
- Policy and Governance
- Communications
- Central Resources and Admin

The CILEX share of the PCF as allocated to each of these activities is as follows:

### CILEX permitted purposes 2021 by activity



## Proportion of CILEX share of 2021 PCF spent to June 2021



## Nature of activities to be used by CILEX by category

### **Operations**

The activities falling within this heading which will be undertaken by CILEX using the PCF as permitted purposes activities are:

- 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 (including: providing details of alleged misconduct, attending stakeholder meetings and attending professional institute forums)
- Support and nurture of Fellows
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### **Policy and Governance**

- Providing representation for authorised persons
- Liaison and support in the areas of law reform, policy, lobbying, equality and diversity, pro bono and judicial appointments

- Managing CILEX's relationship with the LSB, other Approved Regulators and government

### ***Communications***

- Providing the Journal online
- Editorial support
- Educational articles
- Direct mailings to Authorised Persons,
- CILEx Regulation publications,
- Press releases.
- Journal publication of disciplinary decisions
- Publication of the newsletter

### ***Central Resources and Admin***

Proportion of contribution of overhead costs including Board and Senior Leadership resource spent on activities as Approved Regulator

## APPENDIX 1: PCF fees for 2021 and proposed fees for PCF 2022

FELLOWS	
2021	2022
£364	£372

### Fees for Fellows who hold additional practice rights

	Current fee	Proposed fee (2% increase)
Advocacy (authorisation)	£110	£112
Advocacy (first renewal)	£150	£153
Advocacy (subsequent renewal once every 3 years)	£150	£153
Practice Right (authorisation)	£450	£459
Practice Right (renewal)	£60	£61

### Fees for non-Fellow CILEx members who are CILEx Practitioners

	Current fee	Proposed fee
Practice Right (authorisation)	£450	£459
Practice Right (renewal – CILEx member)	£60	£61
Practice Right (renewal – non-member)	£450	£459

### Current Entity Fees

Turnover	Non-ABS Entity		ABS Entity		Renewal	
	CRL (Client money)	CRL (No client money)	CRL (Client money)	CRL (No client money)	CRL (Client money)	CRL (No client money)
£0 - £100,000	£1,250	£761	£2,100	£1,611	£1,100	£611
£100,001 – £250,000	£1,500	£1,066	£2,350	£1,916	£1,350	£916
£250,001 – £500,000	£1,750	£1,350	£2,600	£2,200	£1,600	£1,200
£500,001 – £1m	£3,350	£2,550	£4,200	£3,400	£3,200	£2,400
£1m – £3m	£4,950	£3,550	£5,800	£4,400	£4,800	£3,400
£3m +	£6,560	£4,560	£7,410	£5,410	£6,410	£4,410



## Proposed Entity Fees for 2022

Turnover	Non-ABS Entity		ABS Entity		Renewal	
	CRL (Client money)	CRL (No client money)	CRL (Client money)	CRL (No client money)	CRL (Client money)	CRL (No client money)
£0 - £100,000	£1,275	£776	£2,142	£1,643	£1,122	£623
£100,001 – £250,000	£1,530	£1,087	£2,397	£1,954	£1,377	£934
£250,001 – £500,000	£1,785	£1,377	£2,652	£2,244	£1,632	£1,224
£500,001 – £1m	£3,417	£2,601	£4,284	£3,468	£3,264	£2,448
£1m – £3m	£5,049	£3,621	£5,916	£4,488	£4,896	£3,468
£3m +	£6,691	£4,651	£7,558	£5,518	£6,538	£4,498

## Compensation Fund Contributions (2021 and 2022)

Turnover	Client Money	No Client Money
<b>Litigation and Immigration</b>		
£0 to £250,000	£700	£500
£250,001 to £500,000	£1,400	£1,000
£500,001 – £1m	£2,100	£1,500
£1m – £3m	£3,500	£2,500
£3m +	£5,075	£2,538
<b>Probate and Conveyancing</b>		
£0 to £250,000	£750	£500
£250,001 to £500,000	£1,500	£1,000
£500,001 – 1m	£2,500	£1,500
£1m – £3m	£4,000	£2,500
3m +	£6,090	£2,538