



Review of Licence and Practice Fee Arrangements
CLC Consultation Paper
May 2016

Deadline for receipt of responses: 5pm on Friday 24 June 2016

Summary

1. For the 2016-2017 year we intend to set regulatory fees applying reduced rates to the bandings which have been in force since 1 November 2010:

- 1) Licence fee payable by individuals – though there may be some variation from the current fee charged of £400
- 2) Practice Fee payable by entities licensed by the CLC – based on turnover. The current intention is to continue to apply the bandings used since 1 November 2010

Turnover £		Bandings
From	To	
0	100,000	110% Base Rate
100,001	500,000	Base Rate
500,001	3,000,000	80% Base Rate
3,000,000	and over	70% Base Rate

- 3) Compensation Fund contributions payable by entities licensed by the CLC – based on turnover. The current intention is to continue to apply the bandings used since 1 November 2010 (set out above).
2. Until it has determined its expenditure budget for the year commencing 1 January 2017 (expected by August 2016), the CLC will not be in a position to decide the exact level of fees payable from 1 November 2016 (subject to LSB approval). However, as announced in March 2016 the CLC plans to reduce regulatory fees for all practices by 20% effective 1 November 2016.
 3. The factors the CLC will take into account in determining the level of fees will remain the same as in previous years
 - 1) All CLC's expenditure is applied for Permitted Purposes (as required by rule 6 LSB Practising Fee Rules 2009 – see Annex 1) and in accordance with the Regulatory Objectives
 - 2) The income requirement is equal to budgeted expenditure including the levy payable by the CLC towards the costs of the LSB and the Legal Ombudsman (ie there is no significant surplus or deficit of income over expenditure)
 - 3) The level of reserves for both Operations and the Compensation Fund are in line with the CLC's Reserves Policy
 - 4) Paragraph 1 of CLC Compensation Fund Operating Framework expressly reserves to the CLC the right to make a specific levy
 4. The CLC anticipates that the actual fees it will charge will be broadly in line with the fees charged in the current licence year (and set out in the draft CLC Fees Framework 2016 at Annex 2):
 - the same licence fee (currently £400) is payable by all individual licensees

- CLC entities pay a Practice Fee based on turnover determined as follows

Turnover Banding		Practice Fee payable				
From	To	Minimum Fee in Band				
0 and	100,000	856	or	1.2%	Of Turnover	Whichever is the greater
		Minimum Fee in Band			On Turnover in excess of	
100,001	500,000	1,200	plus	1.1%	100,000	
500,001	3,000,000	5,600	plus	1.0%	500,000	
3,000,000		28,100	plus	0.9%	3,000,000	

- Compensation Fund contribution payable by each CLC Practice remains at 0.4% of turnover applying the current tiers as follows:

Turnover Banding		Compensation Fund contribution				
		Minimum Fee in Band				
Between	0 and	£100,000	£500			
		Minimum Fee in Band			On Turnover in excess of	
Between	£100,001 and	£500,000	£500	plus	0.4%	£100,000
Between	£500,001 and	£3,000,000	£2,100	plus	0.3%	£500,000
Over	£3,000,000		£9,600	plus	0.2%	£3,000,000

- other fees are payable as set out in the draft CLC Fees Framework 2016.

- Annex 3 provides examples of the Practice Fee and contributions to the Compensation Fund payable.
- The Information provided to CLC licensees in September 2015 is at Annex 4. Notification of the fees payable for the licence year starting 1 November 2016 as approved by the LSB will be published in September 2016.

Question

- Do you agree the fee structure and process for determining the Regulatory Fees payable for the licence year starting on 1 November 2016?

Responding to this Consultation

7. You are invited to respond to the question at page 2. The CLC also welcomes comments on the proposals as a whole including alternative proposals to achieve the policy objectives outlined in this Consultation Paper.
8. When you respond could you please give your name and address and whether you are a licensed conveyancer. If you are not a licensed conveyancer, could you please state, if relevant, your status or professional qualification. The CLC reserves the right to publish any response and to refer to it specifically in any further document it publishes following this Consultation. If you wish your response to be treated as confidential could you please let us know when you respond.
9. All responses should be sent by email to consultations@clc-uk.org or by post to

The Council for Licensed Conveyancers
CAN Mezzanine
49-51 East Road
London N1 6AH

Or to DX36603 FINSBURY

Respond online here [INSERT LINK](#)

Deadline for receipt of responses: 5pm on Friday 24 June 2016

Statutory Framework

10. The Council for Licensed Conveyancers (CLC) was established by the Administration of Justice Act 1985 (AJA) and is an Approved Regulator under the Legal Services Act 2007 (LSA), subject to the oversight regulation of the Legal Services Board (LSB). It licenses and regulates licensed conveyancers and CLC Practices in the provision of reserved legal activities, currently conveyancing and probate services and other non-reserved legal activities (including will writing). It is also a Licensing Authority authorised to license and regulate Alternative Business Structures (ABS). It has no representative function.
11. As an approved regulator the CLC 'must, so far as is reasonably practicable, act in a way which is compatible with the regulatory objectives'.¹

CLC's Approach to Regulation

12. The CLC's role is to safeguard the public interest and consumers by regulating providers to deliver high quality and accessible legal services.
13. The CLC is the specialist regulator of property law services. Its mission is to:
 - Focus on core activities and appropriate, value for money regulation to deliver high standards of practice and consumer protection
 - Maximise the benefits of its specialist approach to regulation of specialist lawyers
 - Engage in developing the future of legal services regulation so that the benefits of the specialist approach are retained in any future framework.
14. The CLC's regulatory activities include:
 - setting educational and training standards for entry to the profession
 - issuing licences to practise to those qualified to provide conveyancing and probate services and to Alternative Business Structures
 - maintaining a register of all licensed conveyancers and regulated bodies
 - setting standards to regulate the professional practice, conduct and discipline of licensed conveyancers and regulated bodies
 - setting standards to maintain adequate professional indemnity insurance and a compensation fund to protect consumers
 - monitoring the work and conduct of regulated bodies
 - providing guidance and advice to regulated bodies to maintain compliance with our regulatory requirements
 - investigating allegations of misconduct and where appropriate taking disciplinary action and

¹ S.28(2) LSA

- collaborating with key stakeholders in the legal services market to monitor and shape future policy.
15. The CLC's approach to regulation is proportionate, risk-based and outcomes-focused. Licence holders are required to demonstrate that they:
- act with independence and integrity
 - maintain high standards of work
 - act in the best interest of clients
 - deal with regulators and ombudsmen in an open and cooperative way and
 - promote ease of access and service.

Fee Approval Process

16. Under s.51(5) LSA 'a practising fee is payable under the regulatory arrangements of an approved regulator [such as the CLC] only if the Board has approved the level of the fee'. As required by s.51(4) LSA those rules specify the permitted purposes for which fees received may be applied (see Annex 1).
17. The Deadline for receipt of responses to this Consultation is 24 June 2016. This allows a short period for the responses to the Consultation to be assessed before a final proposal is put to the Council for determination at its meeting at the end of July 2016.
18. A formal application for approval will then be made to the LSB with a view to consent to the CLC's Fees Rules being granted by September 2016, so allowing a reasonable period for the profession to be notified of the new arrangements for Licence and Practice Fees in time for the licence year commencing 1 November 2016.

Current Funding Arrangements for the CLC

19. The CLC is wholly funded by the profession and, through the profession, by consumers. Since 1 November 2010 the regulatory charges have been as follows:
- a. The same licence fee payable by all licensed conveyancers
 - b. A Practice Fee payable by all CLC Regulated Entities (determined as a percentage of turnover with bandings)
 - c. A contribution to the CLC's Compensation Fund payable by all CLC Regulated Entities (determined as a percentage of turnover with bandings).

The scale of charges is dependent on the CLC's forecast expenditure requirements as set out in the budget which is approved by the Council at its meeting in July for the financial year commencing the following January.

Drivers to current Proposal

20. When it published its Financial Statements for 2015 in March 2016 the CLC announced its plans to reduce regulatory fee rates for all firms by 20%, effective from November 2016². This is in line with the Government's initiative across the national economy to reduce the costs of doing business. The LSB has responded committing to a 18% reduction in its costs over the lifetime of this Parliament³. The Legal Ombudsman has committed to a further reduction in expenditure for 2016-17 taking account of an anticipated reduction in case load⁴. In its thematic report on the performance of legal services regulators the LSB commented 'We consider that regulatory budgets and staffing must be set at a proportionate level for risks associated with the market... We will encourage the regulators to continue to consider how they can meet their legal obligations and duties without the need to raise their fees.'⁵
21. The CLC has completed a restructure of its staffing and re-location to current offices in London⁶. The budgeting and finances of the CLC have moved to a steadier state, as evidenced by the fact that in 2015 it was able to absorb both the restructure and re-location into our operating budget without a call on the CLC's reserves. Whilst the current fee rates have remained unchanged since 2012, practice fee income has increased steadily in line with the growth in turnover of CLC practices.
22. The CLC's Council has decided that whilst contributions to the CLC's Compensation Fund should remain unchanged, savings should be delivered through reduction in the practice fee rates. In making a commitment to reduce the Practice Fee by 20% the following assumptions have been made:
- a. There will be no significant adverse impact on the national economy (and the conveyancing market in particular) over the next 3-5 years which results in a reduction in turnover of CLC practices similar to the recession of 2007-2010
 - b. The scope of work which the CLC currently undertakes will remain broadly the same, except that it is due to cease direct delivery of education services in 2016
 - c. The number of CLC practices will remain constant, though the total turnover of CLC practices will increase 5% year on year
 - d. The number of licensed conveyancers will remain static
 - e. Following implementation of any reductions (whether one off or phased) rates will remain the same or substantially the same for a 3-5 year period
 - f. Fee rates will continue to be subject to annual review by the Council.

² See e.g. <http://www.legalfutures.co.uk/latest-news/news-brief-unbundling-appeal-rejected-clc-cuts-fees>

³ See paragraph 64 http://www.legalservicesboard.org.uk/Projects/pdf/20160412_LSB_Business_Plan.pdf

⁴ http://www.legalombudsman.org.uk/wp-content/uploads/2014/09/LeO_2016-2017_budget-consultation1.pdf

⁵ Paragraph 76 LSB's Thematic Regulatory Standards Report 2015/16 at http://www.legalservicesboard.org.uk/Projects/developing_regulatory_standards/pdf/1605_THEMATIC_REPORT.pdf

⁶ See <http://www.clc-uk.org/CLCSite/media/Corporate-Docs/CLC-Annual-Report-2015.pdf>

Likely Effect of Proposed Changes

23. The total funding requirement for 2017 is currently estimated at £2,277,773. Reducing the Practice Fee by 20% (as announced in March 2016) will generate an income of £1,779,753 in 2017:

Operating Fund	Budget	Estimate	
	2016	2017	Variance
Practice Fee	2,119,840	1,779,753	(340,087)
Licence Fee	496,225	517,700	21,475
Education Revenues	135,834	0	(135,834)
Other Income	42,990	42,990	0
Total Income	2,794,889	2,340,443	(454,446)
			0
Funding Requirements	(2,708,112)	(2,277,773)	430,339
Surplus before Interest and Tax	86,777	62,670	(24,107)

24. Taken with the Licence Fee Income and Other Income there will be a Total Estimated Income for 2017 of £2,340,443 leading to a budgeted surplus of income against expenditure of £62,670. The surplus is approximately 3% of Income and is consistent with the 2016 budget. We plan for a small surplus to accommodate any unforeseen expenditure such as intervention related expenditure.
25. Expenditure analysis can be found in Annex 5. Please note that all expenditure relates to regulatory activities.
26. Applying 2015 turnover declared by CLC practices the Compensation Fund is currently estimated in 2017 to make a surplus of £7,917.

Compensation Fund	Budget	
	2016	
Contributions	486,079	
Interest	22,947	
Total Income		509,026
less		
Compensation Grants Provision	(240,000)	
Minimum Reserve Allocation	(250,000)	
LC Run Off Cover	(11,109)	
Total Funding Requirement		(501,109)
Surplus (Shortfall)		7,917

Annex 1
Permitted Purposes
Extract LSB Practising Fee Rules

Monies raised through practising fees must not be applied for any purpose other than one or more of the permitted purposes.

The permitted purposes are:

- (a) the regulation, accreditation, education and training of applicable persons and those either holding themselves out as or wishing to become such persons, including:
 - (i) the maintaining and raising of their professional standards; and
 - (ii) the giving of practical support, and advice about practice management, in relation to practices carried on by such persons;
- (b) the payment of a levy imposed on the approved regulator under section 173 [Legal Services Act 2007];
- (c) the participation by the approved regulator in law reform and the legislative process;
- (d) the provision by applicable persons, and those either holding themselves out as or wishing to become such persons, of legal services including reserved legal services, immigration advice or immigration services to the public free of charge;
- (e) the promotion of the protection by law of human rights and fundamental freedoms;
- (f) the promotion of relations between the Approved Regulator and relevant national or international bodies, governments or the legal professions of other jurisdictions;
- (g) increasing public understanding of the citizen's legal rights and duties.



The CLC Fees Framework ~~2012~~2016

Made ~~4 September 2012~~[date] 2016 by the Council for Licensed Conveyancers with the approval of the Legal Services Board in accordance with s.14, 32 and 38 Administration of Justice Act 1985 and s.51 Legal Services Act 2007.

CITATION, COMMENCEMENT AND REVOCATION

1. This Framework may be cited as the CLC Fees Framework 201~~6~~2 and shall come into force on 1 November ~~2012~~2016 on which date the Council for Licensed Conveyancers' Fees Rules 201~~2~~1 shall cease to have effect.
2. "CLC Body" is a Recognised Body or a Licensed Body regulated by the CLC.

LICENSED CONVEYANCERS

3. The fees payable as provided by the CLC Licensed Conveyancers – Licensing Framework shall be as follows: -
 - (1) under paragraph 3(a)(ii) for the issue of a licence:

for the first time, or where such a licence is not in force at the time of the application (and has not been in force for at least 12 months prior to that date):
£150;
to provide Conveyancing Services: £400
to provide Probate Services: £75;
 - (2) under paragraph 17 and 25 for an amendment to a licence: £75;
 - (3) under paragraph 27 for a duplicate licence, where chargeable: £50.
4. The additional fee of £100 is payable for failure to submit an Accountant's Report within the time limited (see paragraph 16.2 of the Accounts Code and Guidance).

CLC BODIES

Practice Fee

5. The fee payable by a CLC Body as provided by

- (1) paragraph 5(a)(ii) of the CLC Recognised Bodies – Recognition Framework; and
- (2) paragraph 7.10 of the CLC Licensed Body (ABS) Licensing Framework

shall be the turnover declared by the CLC Body for the purpose of determining the applicable annual premium payable in accordance with 10.1 of the CLC Professional Indemnity Insurance Code & Guidance as follows:

Turnover Banding			Practice Fee payable				
			Minimum Fee in Band				
Between	0 and	£100,000	£1,070	or	1.5%	Of Turnover	Whichever is the greater
			Minimum Fee in Band			On Turnover in excess of	
Between	£100,001 and	£500,000	£1,500	plus	1.4%	£100,000	
Between	£500,001 and	£3,000,000	£7,100	plus	1.2%	£500,000	
Over	£3,000,000		£37,100	plus	1.1%	£3,000,000	

Turnover Banding		Practice Fee payable				
From	To	Minimum Fee in Band				
0 and	100,000	856	or	1.2%	Of Turnover	Whichever is the greater
		Minimum Fee in Band			On Turnover in excess of	
100,001	500,000	1,200	plus	1.1%	100,000	
500,001	3,000,000	5,600	plus	1.0%	500,000	
3,000,000	-	28,100	plus	0.9%	3,000,000	

Compensation Fund Contribution

6. The Compensation Fund contribution payable by a CLC Body as provided by

- (1) paragraph 5(a)(iv) of the CLC Recognised Bodies – Recognition Framework; and
- (2) paragraph 7.11 of the CLC Licensed Body (ABS) Licensing Framework

shall be the turnover declared by the CLC Body for the purpose of determining the applicable annual premium payable in accordance with paragraph 10.1 of the CLC Professional Indemnity Insurance Code & Guidance as follows:

Turnover Banding			Compensation Fund contribution			
			Minimum Fee in Band			
Between	0 and	£100,000	£500			
			Minimum Fee in Band			On Turnover in excess of
Between	£100,001 and	£500,000	£500	plus	0.4%	£100,000
Between	£500,001 and	£3,000,000	£2,100	plus	0.3%	£500,000
Over	£3,000,000		£9,600	plus	0.2%	£3,000,000

WAIVER

7. The CLC may in writing waive or vary any of the provisions of this Framework and may revoke any waiver in any particular case.

Annex 3

Examples of the Practice Fee and
Compensation Fund contributions payable
(comparing current and proposed rates)

Practice Fee				
Turnover	Current	Proposed	Saving to Practice	% change
	Base 1.4%	Base 1.1%		
30,000	1,070	856	(214)	80
50,000	1,070	856	(214)	80
150,000	2,200	1,750	(450)	80
550,000	7,700	6,100	(1,600)	79
1,500,000	19,100	15,600	(3,500)	82
3,500,000	42,600	32,600	(10,000)	77
15,000,000	163,700	136,100	(27,600)	83
Compensation Fund				
Turnover	Current	Proposed	Saving to Practice	% change
		no change	no change	no change
	Base 0.4%	Base 0.4%		
30,000	500	500	0	100
50,000	500	500	0	100
150,000	700	700	0	100
550,000	2,250	2,250	0	100
1,500,000	5,100	5,100	0	100
3,500,000	10,600	10,600	0	100
15,000,000	33,600	33,600	0	100
Total				
Turnover	Current	Proposed	Saving to Practice	% change
30,000	1,570	1,356	(214)	86
50,000	1,570	1,356	(214)	86
150,000	2,900	2,450	(450)	84
550,000	9,950	8,350	(1,600)	84
1,500,000	24,200	20,700	(3,500)	86
3,500,000	53,200	43,200	(10,000)	81
15,000,000	197,300	169,700	(27,600)	86

Annex 4
Information to the profession
CLC regulatory charges
2015-2016

1. This notification sets out the CLC’s determination about:
 - The licence and practice fee structure and the way in which Compensation Fund contributions payable by licence holders will be applied; and
 - the licence and practice fees and the contribution the CLC has determined are payable for the licence year starting on 1 November 2015.

The CLC’s licence and practice fee structure, and contributions to the CLC Compensation Fund

2. Following the consultation with the profession in February 2010 the CLC introduced the current practicing fee structure for the profession which can be summarised as follows:

- 1) Licence fee (a fixed sum);
- 2) Practice fee (as a percentage of turnover subject to a minimum fixed fee); and
- 3) Contributions to the Compensation Fund (as a percentage of turnover subject to a minimum fixed fee) to be applied solely for purposes relating specifically to the CLC’s Compensation Fund.

3. The Practice Fee and contributions to the Compensation Fund have been subject to tiered banding as follows:

Turnover £		Banding
From	To	
0	100,000	110% Base Rate
100,001	500,000	Base Rate
500,001	3,000,000	80% Base Rate
3,000,000	and over	70% Base Rate

4. The CLC Council has agreed that charges should be linked with regulatory activity and risk. The CLC has trialled a number of models. The Council is not yet satisfied that any of the models have been developed to such a stage that they meet the better regulation requirement to be transparent, accountable, proportionate, consistent and targeted. The Council’s review is continuing.
5. The CLC published a consultation⁷ on the current fee structure which ended on 26 June 2015. Although the consultation was promoted in newsletters to the profession,

⁷ <http://www.clc-uk.org/CLCSite/media/PDFs/Practice-Fees-Consultation-2015.pdf>

on the website and in direct emails, there were no responses. The same consultation in 2014 garnered just five responses.

Licence and Practice Fee and Compensation Fund contributions payable for year starting 1 November 2015

6. At its meeting in July 2015, based on the Forecast for the second six months of 2015, Council agreed, subject to the approval of the LSB, that the practising fee rates to be charged for the year commencing 1 November 2015 should remain unchanged. Accordingly, the CLC Fees Framework 2012 at Annex **[numbered]** remains unchanged.
7. Examples of the effect the Practice Fee rates and Compensation Fund contributions will have on practices are set out at Annex **[numbered]**.
8. The CLC's Strategy⁸ is to:
 - Focus on core activities and appropriate, value for money regulation to deliver high standards of practice and consumer protection
 - Maximise the benefits of its specialist approach to regulation of specialist lawyers
 - Engage in developing the future of legal services regulation so that the benefits of the specialist approach are retained in any future framework
9. The 2015 Business Plan commits the CLC:
 1. To gather high quality intelligence and respond quickly to emerging risks
 2. To ensure that the CLC's specialist approach is understood and appreciate
 3. To have in place financial protection arrangements that are effective in protecting consumers and the operations of the CLC
 4. To have open channels of communication with stakeholders in government and other regulators and good engagement with the regulated community
 5. To have a sustainable and resilient organisational structure
 6. To support innovation and flexibility in the delivery of legal services through value for money regulation
 7. To optimise the efficiency and value for money of the CLC's operations.
10. Annex **[numbered]** compares the audited expenditure for 2013 and 2014, the expenditure budget for 2015, the forecast outturn for 2015 and the estimated expenditure for 2016. The changes shown in percentage and monetary terms compare the 2015 budget expenditure and the estimated expenditure for 2016, with comments explaining the greater variances.

⁸ <http://www.clc-uk.org/CLCSite/media/Word-Docs/118842-CLC-Business-Plan-20142015.pdf>

11. The estimated total funding requirement for 2016 is ~~£2,711,939~~. It is estimated that setting the Practice Fee at 1.4% (as determined by Council) will generate an income of ~~£2,080,789~~ based on the turnover of those practices currently regulated by the CLC. Taken with the Licence Fee Income, Education and Other Income there will be a Total Estimated Income for 2016 of ~~£2,710,957~~ leading to a budgeted surplus of income against expenditure of ~~£7,212~~. **[Note: see paragraphs 23-25 above]**

Operations Note: see paragraph 23 above	
	1.4% current
Practice Fee	2,080,789
Licence Fee	504,000
Education	107,258
Other Income	<u>18,910</u>
Total Income	2,710,957
Funding Req (see Annex 1)	(2,711,939)
Less Interest	10,243
Plus Tax	<u>(2,049)</u>
Total Funding Req	(2,703,745)
Surplus (shortfall)	7,202

12. Over the course of 2016 the CLC is planning to start transferring its education quality function to an Awarding Organisation with the result income and expenditure related to education will be substantially reduced, if not completely eliminated.
13. The net result is a small budgeted increase in the CLC's Reserves on Operations though the CLC is satisfied that the level of reserves at the end of 2016 will be well in excess of the lower limit of the CLC's Reserves Policy.
14. The Compensation Fund is estimated to make a surplus of ~~£60,566~~. **Note: see paragraph 26 above**

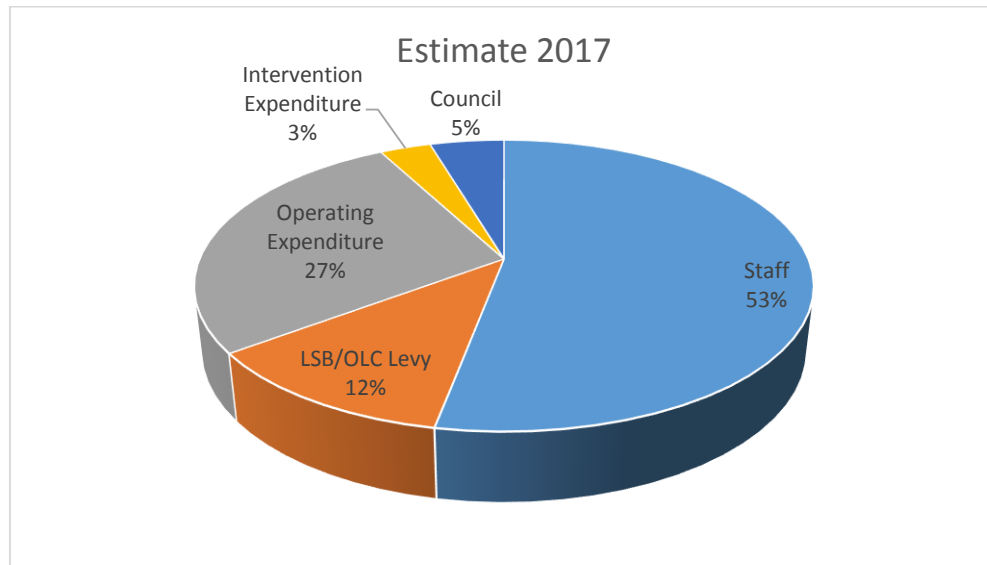
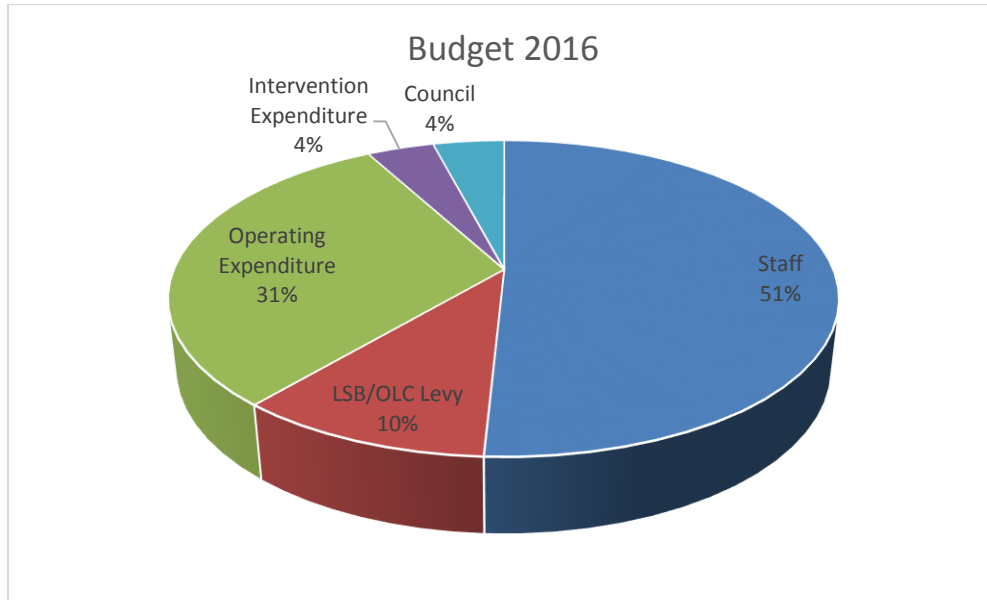
Compensation Fund Note: see paragraph 26 above		
Contributions	520,675	
Other Income	<u>0</u>	
Total Income		520,675
Compensation Fund Grants	(240,000)	

LCs Run-Off Cover	(11,109)	
Funding Requirement		(251,109)
Interest		30,000
Tax		(6,000)
Total Funding Requirement		(227,109)
Surplus (shortfall)		293,566
Allocated to Insurance Fund		233,000
Allocated to General Surplus		60,566

15. In 2014, the Council determined on a cost/benefit analysis not to renew the CLC's Compensation Fund Insurance policy, and instead to create a ring-fenced allocation which is held separately. The CLC is satisfied that the level of reserves (currently estimated to be ~~£3.77~~ million at the end of 2016) will be sufficient to meet the expectations of, and provide confidence to, clients, as well as the mortgage lenders.
16. The other Fees chargeable are as follows (these are unchanged from 2014-2015):

		Fee	Paragraph	Regulatory Arrangements
1.	Probate Licence	£75	3(a)(ii)	Licensed Conveyancer – Licensing Framework
2.	First Manager Licence	£150		
3.	Duplicate licence	£50	17 & 25	Licensed Conveyancer – Licensing Framework
4.	Amendment to licence	£75	27	Licensed Conveyancer – Licensing Framework
5.	Failure to submit Accountant's Report in time	£100	16.2	Accounts Code and Guidance

Annex 5
Expenditure Analysis



The 2017 estimate is based on the 2016 budget figures and expected staff and operational requirements for the 2017 year. A prudent approach was taken in developing the 2017 estimate. Operating Expenditure includes: consultancy fees, insurance, IT costs, professional fees, marketing, outsourced monitoring and inspection and office costs.