

**APPLICATION TO THE LEGAL SERVICES BOARD
TO AMEND REGULATORY ARRANGEMENTS**

APPLICATIONS FOR FELLOWSHIP

WORK BASED LEARNING

**SUBMISSION
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Introduction

1. This is an application made by ILEX Professional Standards (IPS) to alter the Membership Requirement Regulations of CILEx in respect of the qualifying employment element for admission as a Fellow and to create Application for Fellowship Work Based Learning Rules and Admission for Fellowship (Transitional arrangements).
2. Admission as a Fellow is currently dealt with at Membership Requirement Regulation 5 and qualifying employment at Membership Requirement Regulation 6.
3. This application is made under part 3 of schedule 4 of the Act and the rules made by the LSB under paragraphs 20(1) and 23(3) of part 3 of schedule 4 of the Act which enables the LSB to approve alterations of Approved Regulators regulatory arrangements.
4. The revisions to the Membership Requirement Regulations can be found at Annex 1. The new Work Based Learning Scheme Rules and Transitional Rules for Fellowship Applications can be found at Annex 2.
5. The existing application procedure requires applicants to provide an outline of their examinations and work experience on an application, which is normally supported by a reference from their current employer. IPS has developed a work based learning scheme. During the development phase of work based learning, IPS developed 8 competencies each broken down into a series of learning outcomes. These competencies outline the standard expected of a newly qualified Fellow of CILEx. The proposed scheme still collects much of the information already collected, but also provides a mechanism which enables IPS to objectively assess the competence of each applicant. IPS

seeks approval to replace the existing procedure for applying for Fellowship with assessment through the work based learning scheme.

6. The proposed scheme will create a consistent, objective, fair and robust assessment method against which applications can be assessed and adjudicated. By the introduction of an improved application and assessment process IPS proposes a reduction in the number of years that must be served in qualifying employment prior to making an application for Fellowship.
7. The revised application process has been developed over more than 2 years and has involved considerable consultation with stakeholders as follows:
 - Consultation 1: open for 12 weeks, closing in October 2010
 - Consultation 2: open for 12 weeks, closing in November 2011
 - Work Based Learning Pilot: open for 6 months between February 2012 and July 2012
 - Education Reference Group: held in September 2012
 - Meetings with two key stakeholders (the SRA and the Law Society)
8. The responses gained from the above have been analysed and considered by IPS. The analysis can be found at Annex 3 of this document.
9. IPS has developed a scheme handbook which provides guidance to applicants on the work based learning scheme. The scheme handbook has been included to provide context and supporting information to this application. It can be found at Annex 4.

Current Arrangements for application for Fellowship

10. An Application made by a Graduate Member of The Chartered Institute of Legal Executives (CILEx) for Fellowship of CILEx is governed by the Membership Requirement Regulations.
11. In order to be admitted as a Fellow of CILEx, the applicant must satisfy a number of requirements:
 - they must be a Graduate Member who is in qualifying employment,
 - they must have been in qualifying employment for at least 5 years and must have been a Graduate Member of CILEx for at least 2 consecutive years immediately prior to making the application to become a Fellow.
 - they must provide a Certificate of Fitness signed by a Fellow, Solicitor, Barrister or Licensed Conveyancer (although IPS has discretion to accept a Certificate signed by another person who supervises the applicant's work, confirms the nature of their duties and that the applicant is competent to be a Fellow).
12. Qualifying employment is defined as employment either by a solicitor (or firm of solicitors) in private practice, a Licensed Conveyancer or by an organisation where the employment is subject to supervision by a Fellow, solicitor, barrister or Licensed Conveyancer and involves duties of a legal nature for that organisation. The employment being undertaken must involve work wholly or principally of a legal nature.
13. Where the applicant works less than 30 hours per week, they are considered to be a part-time worker and may be admitted as a Fellow, but may be required (at the discretion of IPS) to work for a period longer than the 5 years period stipulated for full time applicants. Employment of less than 20 hours per week is not normally accepted as

qualifying employment, although IPS has the discretion to accept work of less than 20 hours per week as qualifying employment.

14. The applicant must also be up to date with their subscriptions and other fees payable to CILEx and accept any obligations imposed on them by the Charter and Bye-Laws and regulations made by the Council.

The nature and reasons for the proposed changes

15. The existing application requirements for a Graduate Member seeking Fellowship are complex and can result in confusion for the applicant. In addition, the applicant is currently assessed on the basis of the information they have provided on an application form.
16. This information is supported by a certificate of fitness provided by their current employer. While this method provides some assurance that the applicant is considered to be competent by their employer, it does not offer an objective and independent standard against which the applicant may be objectively measured for competence.
17. IPS sought to introduce a method of assessment which would enable consistent and fair assessment of all Fellowship applications which is based on the use of common standards and criteria. At the same time, IPS sought to simplify and clarify the definition of qualifying employment and other requirements to be satisfied during the application process.
18. In summary, IPS is proposing the following changes to the procedure for application for Fellowship:
 - To introduce an objective and robust method of assessment of competence of applicants for Fellowship. This has been achieved through the introduction of 27 learning outcomes arranged under 8

competencies, which IPS has determined are the minimum necessary to define a newly qualified Fellow.

- To simplify the definition of qualifying employment to reduce misunderstanding of what is meant by qualifying employment for the purposes of Fellowship, including clarification of the rules on part-time employment.
- To reduce the period of qualifying employment from 5 years to 3 years, justified on the ground that the ability to objectively assess the competence of applicants for Fellowship, reduces the requirement for 'time served' in qualifying employment.
- To remove the waiver, currently available to a CILEx Graduate Member who has not served 2 years of the 5 years required for qualifying employment. This is justified on the ground that the total period of qualifying employment is to be reduced from 5 years to 3 years and the requirement to serve 2 years in the Graduate grade of membership has been reduced to 1 year.

19. Each of the changes is set out in detail below. This identifies the nature of the current arrangements, the proposal for change to the arrangement, the reasoning for the change and supporting evidence where applicable.

The definition of qualifying employment

20. Qualifying employment is currently defined as employment either by a solicitor (or firm of solicitors) in private practice, a Licensed Conveyancer or by an organisation where the employment is subject to supervision of a Fellow, solicitor, barrister or Licensed Conveyancer and involves duties of a legal nature for that organisation. Under the proposed application procedure, a person is in qualifying employment where they are employed by an *authorised person* in private practice or by an organisation where the employment is supervised by an *authorised*

person who is employed in duties of a legal nature by that organisation. IPS has amended the definition to use the term 'authorised person' which is used in the Legal Services Act 2007. This change will better reflect the changes to the legal services market introduced by the Legal Services Act 2007, such as Alternative Business Structures and the emergence of new practitioners authorised to deliver reserved legal activities.

21. The applicant must also demonstrate that their 'duties' consist of work which is 'wholly or principally of a legal nature rather than an administrative nature'. Applicants have found this definition creates a degree of uncertainty in its application as it is open to interpretation. It is unclear from the use of the word 'principally' in this definition how much of the applicant's work should be legal work and reference to 'duties' has caused similar confusion as this may be part of the applicant's workload, rather than all of it. In addition, reference to 'rather than of an administrative nature' has created situations where members and their employers think that their work is legal in nature but may be deemed to be administrative once their application is submitted.
22. This definition has been simplified as part of the review of the scheme, to become 'work of a legal nature' and this was considered in the 1st consultation. A series of examples of what amounts to qualifying employment to support the revised definition were also included. The definition which appears in the regulations does not include the examples; these are included in the supporting guidance for the scheme.
23. Consultees responded that the examples were restrictive in that they were drawn from private practice only, and that it could therefore be inferred that applicants who were involved in, for example, in-house legal work, would not be conducting work of a legal nature. This was not the intended consequence of the revised definition and as a result, the

definition, supported by a wider series of examples was consulted upon in August 2011. The response to the revised definition and broader list of examples was well received by consultees in the second consultation and this has been adopted for the proposed scheme.

The period of qualifying employment

24. During the review of the application procedure for Fellowship, consideration was given to the requirement that a member must be in qualifying employment for at least 5 years, with an additional requirement that for at least 2 years immediately prior to the application being made the applicant should be a Graduate Member.
25. In the 1st consultation which ran for 12 weeks from August 2010, consultees were asked to consider whether the 'time served' aspect of qualifying employment should be reduced from 5 years to 3 years. Respondents generally agreed that a reduction to 3 years was sensible, that it provided an appropriate amount of time served which balanced against demonstrating meeting the learning outcomes (which are discussed in detail later in this document). This is because the learning outcomes provide robust criteria upon which to assess the competence of applicants.
26. Consultees were also asked how much of the three year qualification period should be served in the Graduate membership grade. Provided with 3 options (1 year, 2 years or none) the majority of respondents supported 12 months to be served in the Graduate grade of membership, as this was considered to provide an appropriate balance between practical learning after the academic stage of qualification and a overly rigid post-qualification requirement which was likely to lead to a number of requests for waiver from this condition.

27. As a consequence, IPS seeks to reduce the period of qualifying employment from 5 years to 3 years with a reduced requirement for post-Graduate Membership immediately preceding the application for Fellowship from 2 years to 1 year.

The removal of the waiver from the requirement to serve a period of time in the Graduate Membership grade

28. Under the current regulations, applicants may apply for a waiver from the requirement to serve 2 years in the Graduate Membership grade immediately prior to submission of their application for Fellowship where they have already completed the requirement for 5 years in qualifying employment. It is proposed that under the revised scheme, the waiver will be removed. This is considered proportionate for 2 reasons: firstly because it is important for applicants for Fellowship to demonstrate that they have utilised their knowledge gained in the examinations, by meeting the work based learning outcomes; and secondly, because of the overall reduction in the period of qualifying employment (from 5 years to 3 years) and the reduction in the period required to be served as a Graduate Member (from 2 years to 1 year). The removal of the waiver was consulted upon in the first consultation and was supported by respondents provided the period of post Graduate Member experience required was reduced to 1 year.

Continuity of qualifying employment

29. The current application procedure for Fellowship stipulates that the applicant must be in continuous qualifying employment for at least the 2 years immediately preceding the application. This requirement is to be retained. The reason for the retention of this requirement is to provide applicants with a sufficient period of time in which to demonstrate recent and consistent use of their learning in the workplace.

30. Under the existing scheme, there are detailed and potentially complex regulations which govern what amounts to a break in continuity of employment for the purposes of qualifying employment, based on the length of the break and the reason for the break in employment. Under the new scheme, the regulations have been simplified, so that a break in employment (whatever its purpose) for up to a maximum of 12 months will not break continuity of service in the context of the application of the rules relating to qualifying employment. IPS will still ask for details of the break from employment, but the rules have been changed to create a simple, fair and consistent application of the rules with regard to breaks in employment.

The Counter-signatory

31. The existing requirements require all applicants to complete an application form, which in accordance with the rules, requires the applicant's employer to complete a Certificate of Fitness. The rules state that the person who signs off the Certificate of Fitness, which confirms the applicant as a fit and proper person for admission as a Fellow of CILEx, should be a Fellow, Solicitor, Barrister or Licensed Conveyancer.
32. IPS has simplified the definition as to who can sign the certificate of fitness, in the regulations to use the terminology from the Legal Services Act 2007 (i.e. the Certificate of Fitness should be signed by an *authorised person*). This change has been introduced to recognise that members may work for authorised persons other than those outlined above and also in recognition of the changes brought about by the Legal Services Act 2007.
33. IPS also has the discretion to accept another person who, is not an authorised person but supervises the work of the applicant, confirms the nature of the applicant's work and that they are competent to be a

Fellow. It is intended that IPS will retain this discretion under the new scheme. This requirement is essential to capture applicants working in new business models which have been introduced by the Legal Services Act 2007.

Part-time employment

34. Part-time employment may be qualifying employment. The current definition of part-time employment is that any individual who works for less than 30 hours per week will be classed as working part-time. In addition, the current regulations indicate that applicants working less than 20 hours per week will not generally be considered to be in qualifying employment. However, under the current rules, IPS has discretion to accept work of less than 20 hours per week as qualifying employment. IPS also has the discretion to request that part-time workers should serve a longer period of qualifying employment prior to being admitted as a Fellow. The reasoning for this requirement is to ensure that the work undertaken by the applicant provides sufficient opportunity and period of time to develop practical expertise before admission as a Fellow.
35. The nature and diversity of the CILEx membership is such that it attracts part-time workers. In addition, the economic climate has led to a wider number of part-time roles. Therefore it is essential that IPS applies a fair and consistent approach to part-time workers applying for Fellowship.
36. During the 2nd consultation, IPS received extended commentary from a consultee who was employed full time, but carried out work which could be classified as qualifying employment as a percentage of their full-time duties. The applicant looked at the operation of the definition and determined that it could operate to indirectly discriminate against

applicants whose full time work was a hybrid role, divided between legal and non-legal work.

37. As a result of the information provided by the consultee and the nature of the CILEx workforce, IPS reframed and simplified the proposed definition of qualifying employment as it applies to part-time working. The revised definition states that applicants must undertake work wholly of a legal nature for at least 20 hours each week in order for their work to be considered to be qualifying employment. Where the applicant works less than 20 hours per week, their work will not generally be considered to be qualifying employment, although IPS retains discretion to accept work of a legal nature for less than 20 hours per week. During the work based learning pilot, 12% of applicants who identified their working pattern as part-time all worked at least 20 hours per week and of those who answered the question, 83% found that the scheme worked equally well for them.

Credit for the Bar Professional Training Course

38. As part of the period of qualifying employment, applicants can currently claim credit for up to 43 weeks for attendance on a Legal Practice Course (LPC), recognised by the Law Society of England and Wales in connection with qualification as a solicitor. The same credit is not available to applicants who have attended a Bar Professional Training Course (BPTC), recognised by the Bar Council in connection with qualification as a Barrister.
39. In order to ensure that there is flexibility and fairness in the application process, IPS has decided to allow credit for up to 43 weeks for attendance on either the LPC or BPTC towards the period for qualifying employment.

The role of the Admissions and Licensing Committee (the Committee)

40. Under the current rules, an IPS Officer can approve applications for Fellowship and confirm that work carried out by a member is qualifying employment. Applications for an assessment of qualifying employment and applications for Fellowship, which the Officer is unable to approve, and all applications for waiver from the usual requirements for Fellowship must be referred to the Admissions and Licensing Committee for their assessment.
41. This procedure will be retained, with the exception of the referral of applications for waiver from the requirements to serve time in the Graduate grade of membership, which is to be removed as outlined at paragraph 13 above.
42. In addition to the above referrals, the Committee will consider all applications under the new procedure where the applicant seeks to rely upon evidence which is more than 3 years old as at the date of submission.

Work Based Learning Outcomes

43. The current procedure for assessment of applications for Fellowship relies on the completion of an application form in which the applicant outlines the work that they have undertaken in the preceding 5 years. The application is determined on the basis of the information provided by the applicant and supported by a reference from their current employer. Where necessary, IPS writes to the applicant to seek further information to help to reach a determination.
44. The current application processes do not provide a mechanism for an assessment against objective standards to take place. As a result, IPS

decided that a series of work based learning outcomes should be developed which set out what a Fellow should be able to do upon qualification.

45. Applications for Fellowship will, under the proposed scheme, be assessed against both the requirements for qualifying employment set out above and achievement of the work based learning outcomes.
46. Applicants will produce a portfolio of evidence. Each piece of evidence is supported with a log-sheet, which clearly states how each outcome has been met and provides supporting evidence from their legal work.
47. The learning outcomes have been developed by IPS over the last 2 years and set out what a newly qualified Fellow should be able to do. In the course of the development of the outcomes, IPS researched the sector, including the work carried out on a similar project by the Solicitors Regulation Authority and approach to the development of work based learning and learning outcomes more generally. IPS also undertook 2 consultations and tested the proposals and scheme documents through the operation of a 6 month pilot.
48. The outcomes as initially drafted covered 7 areas of competence designed to cover all types of legal practice: practical application of the law and legal practice, communication, client relations, management of workload, professional conduct, self-awareness and development and working with others. IPS decided that these were the key skills which Fellows should have to be able to deliver legal services competently and with the required skills to work with clients.
49. The first consultation provided general support for these areas of competence, and agreed that it would provide a common threshold of skills and behaviour which would lead to an effective and robust evaluation of members' skills. Consultees noted that 'business

awareness' had been omitted from the list and took the view that it was a required skill which practitioners should be able to demonstrate.

50. Each of the areas of competence was sub-divided into a series of learning outcomes, the first draft of which included 40 outcomes: a number of consultees considered this to be too many. They commented that some of the outcomes were repetitive and that not all of the identified outcomes related to legal work.
51. There was a requirement in the first draft of the outcomes for each outcome to be met 3 times. Some consultees considered that this was too onerous a requirement, given the large number of outcomes. There was also some question as to whether the applicants would be able to meet each of the outcomes as they were too detailed and specific, this was considered to relate particularly to applicants working outside of private practice.
52. IPS redeveloped the outcomes in response to the first consultation. Some of the outcomes were amalgamated and redrafted and the competency of 'business awareness' was added. The resulting outcomes were clear and wide enough to enable applicants working in different models of practice to be able to meet the outcomes while retaining the requirement that the outcomes be met through legal work.
53. The responses received, following the second consultation, in relation to the revised outcomes were primarily positive. A number of minor changes were recommended to consolidate and simplify the outcomes. These were incorporated into the outcomes, which were tested via the work based learning pilot which took place between February and July 2012.
54. During the operation of the pilot scheme, IPS collected a significant amount of data from the applicants about their experiences and ability to evidence meeting the learning outcomes. Whilst there were some

difficulties with evidencing a number of the learning outcomes, this was largely as the applicants had misunderstood the requirements. As a result IPS reviewed and updated the guidance provided to applicants.

55. However, the pilot results showed that it was not appropriate for all outcomes to be met 3 times as they relating to overarching practice matters as opposed to matters to be dealt with through legal practice work. As a result some of the outcomes have been identified as only needed to be demonstrated once. These have been identified in the Work Based Learning rules with shaded boxes.

56. The outcomes which have been identified as only needing to be evidenced once by the applicants are as follows:

- Plan your workload to give a good legal service to clients or service users
- Maintain files and records in accordance with procedures
- Demonstrate an understanding of the business environment of a legal practice or organisation
- Evaluate the risks, costs and benefits of alternative courses of action to the business
- Understand the need to avoid discrimination and promote equality and diversity
- Evaluate your professional skills and legal knowledge
- Understand the limitations of your professional skills and legal knowledge

57. The reason for reducing the requirement to evidence each of these outcomes to once each, is based on the findings of the pilot. Each of these outcomes was often met with personal statements or copies of diary entries, appraisal forms etc. As a request for 3 sets of evidence for these outcomes was unlikely to demonstrate the application of different

approaches to meeting these outcomes, IPS decided to reduce the requirement to 1 piece of evidence for these outcomes.

Designatory Letters

58. Although not part of the changes introduced through the proposed work based learning scheme, IPS has taken the opportunity to make changes to the designatory letters included in the Membership Regulatory Requirements which have been introduced by CILEx having received a Royal Charter in January 2012. These are as follows:

- For Graduate Members GCILEx
- For Associate Members ACILEx
- For Fellows FCILEx

The effect of the proposed changes

59. In order to qualify as a Fellow of CILEx, an applicant must have completed the academic stage of the training and have gained 5 years in qualifying employment, 2 years of which must be continuous service carried out whilst in the Graduate Member grade.

60. Qualifying employment is currently demonstrated by the applicant through the completion of an application form which outlines their work history for at least the preceding 5 years.

61. IPS uses the information on the application form to determine whether or not the applicant has met the requirements for qualifying employment. Applications may be supported by references and further information which has been requested by IPS to make the decision.

62. The current application process does not objectively and independently consider the competence of the applicant when determining an application for Fellowship, although the requirement that the current

employer provides a Certificate of Fitness in support of Fellowship applications, provides an indication that successful applicants are considered to be suitable by their employer.

63. IPS determined that the application process for Fellowship should be revised, to enable IPS to make an objective and independent assessment of competence, which will be judged against the competencies identified as necessary for a newly qualified Fellow.
64. IPS considers that this additional process together with amendments to the definition of qualifying employment will make the application process more robust as well as making the process more objective and therefore fairer to applicants. This is because it takes place against transparent and agreed criteria.
65. The additional requirements included in the revised scheme mean that applicants will be able to demonstrate competence against the agreed outcomes. IPS considers that this justifies a reduction in the period of qualifying employment required for Fellowship and therefore that the requirements should be reduced as follows;
 - From 5 years with 2 years continuous service in the Graduate Member grade
 - To 3 years in qualifying employment with at least 1 year served in the Graduate Member grade and 2 years continuous service.
66. Prior to making this application, IPS has consulted on the proposed changes twice (in August 2010 and August 2011) both of which were open for 12 weeks and ran a 6 month pilot (between February 2012 and July 2012) to test the operation of the scheme. IPS also ran an Education Reference Group in September 2012 to consider the issues raised by the operation of the pilot. Analysis from these consultations is included at Annex 3.

67. The proposed scheme was originally developed by IPS on the basis of research gathered on the operation of similar schemes from both the legal profession and other professions. The scheme was refined in light of the responses to the first consultation and was the subject of a second consultation 12 months later. The scheme was then tested to ensure that it would operate effectively once live. Feedback on the analysis of the pilot was sought from an Education Reference Group held on 28 September and the scheme was agreed by IPS in November 2012 and CILEx in January 2013.
68. In order to ensure that existing members who have been in qualifying employment for more than 3 years and have less than 2 years to serve in the Graduate grade of membership are not disadvantaged, transitional arrangements have been put into place.

Transitional arrangements

69. IPS is aware that the change to the application process for Fellowship, from its current form, to a process which requires an applicant to demonstrate meeting learning outcomes over a period of time may disadvantage an applicant who is close to meeting the requirements under the current scheme or those who began the process under the current arrangements. In order that no applicant is disadvantaged through the introduction of the new scheme, transitional arrangements will be in place for a period of 2 years following the introduction of the scheme. Most applicants will benefit from the revised arrangements as it will enable them to obtain Fellowship sooner than under the existing arrangements. However, for an applicant who has at least 3 years qualifying employment and less than 2 years to serve in the Graduate grade of membership, the new scheme would require additional work and time to meet the outcomes which they had not anticipated at the time they began the CILEx qualification. Therefore the existing

application process will be available to them. The transitional arrangements are outlined in the scheme handbook at Annex 4.

Equality Impact Assessment

70. Throughout the development of the scheme, IPS collated information to minimise the risk that an applicant with protected characteristics would be disadvantaged through implementation of the new scheme. IPS has completed an Equality Impact Assessment to consider this information. This is summarised below.
71. Throughout the operation of the work based learning pilot, data was collected in relation to gender, race and disability and this was considered against the outcome of the applications.
72. During the consultation process, no consultee raised the possibility that the outcomes may have a discriminatory effect on applicants from BAME backgrounds.
73. Prior to the operation of the pilot, the most likely group of applicants to be affected by the work based learning scheme was considered to be those in part-time employment. Because part-time workers are more likely to be female, a disproportionate impact on part-time workers could be indirectly discriminatory. However, data collected through the operation of the pilot scheme did not support this theory and part-time applicants did not consider themselves to have been disadvantaged by the process. The data collected did not indicate a significant difference in the success of female applicants as compared to male applicants. Data collected during the operation of the pilot indicated that 12% of applicants worked part-time, all worked more than 20 hours per week and only 20% believed the scheme disadvantaged them. Their explanation however related to the lack of time to collect the evidence

and complete the documentation. This was because the collection of evidence in support of the outcomes had to be collected retrospectively for the purposes of the pilot. This issue will not arise once the scheme goes live as evidence will be collected throughout the process.

74. Analysis of the applications indicated that there may be some weak evidence to suggest that the application procedure disadvantaged applicants from a BAME background. However, the number of applicants from a BAME background was very small in relation to the overall number of applications received and of these, most were rejected on the basis that their work did not meet the qualifying employment criteria rather than their ability to meet the learning outcomes. This means that their application for Fellowship would have been rejected irrespective of the method of application.
75. IPS is not able to influence the career opportunities available to CILEx members, and the evidence collected to date does not indicate that the proposed change to base applications on achievement of work based learning outcomes will adversely affect BAME applicants.
76. There were no applicants who declared a disability during the operation of the pilot, as a result, no impact assessment could be carried out in relation to this characteristic.
77. IPS has decided that the equality and diversity information from applicants will be collected with all applications made under the revised scheme and these will be analysed over a two year period following implementation. This will enable IPS to obtain a larger sample from which to determine whether the scheme is having an adverse impact on any protected group under the Equality Act 2010 and take appropriate action if required.

Two Year Review of the success of the Work Based Learning Application Process

78. IPS identified during the operation of the work based learning pilot scheme, that a disproportionate number of BAME applicants were refused admission as a Fellow under the revised scheme. The data was as follows:

- 98 applicants completed an equality and diversity questionnaire
- 80 applicants were White
- 2 applicants were Black
- 8 applicants were Asian
- 6 applicants were of a Mixed background and
- 2 applicants stated their background as Other

79. Of these applicants the following applications were refused:

- 2 applicants from a Black background
- 6 applicants from an Asian background and
- 18 applicants from a White background

80. When the data was analysed however, it became apparent that many of these applicants had been refused admission on the basis that they did not have sufficient qualifying employment to meet the criteria.

81. In addition, there were very few applications received from BAME members. IPS has concluded therefore that it would be appropriate to monitor the equality and diversity data of applicants seeking Fellowship over a 2 year period in order to obtain a larger sample against which to measure any disproportionate impact which the revisions may have on members with protected characteristics.

82. IPS will collect equality and diversity data from all applicants over the 2 year review period (commencing with at implementation of the new

scheme) against the following protected characteristics: gender, race and disability.

83. At the end of the 2 year review period, the data will be collated and considered for adverse impact against any protected characteristic.
84. IPS considers this to be the most proportionate response to the equality and diversity data collected during the pilot scheme.

THE LEGAL SERVICES ACT 2007

The Regulatory Objectives

85. The Legal Services Act 2007 sets out eight objectives, which it is the duty of approved regulators to promote. CILEx is an approved regulator under the Legal Services Act 2007. IPS' application for the changes to the application process for Fellowship supports the regulatory objectives set out under the Legal Services Act 2007.
86. This section identifies how the regulatory objectives have been met.

Protecting and promoting the public interest and the interests of consumers

87. The IPS proposed alterations to the qualification arrangements for application for Fellowship through the work based learning scheme have been designed to protect and promote the interests of consumers and the public interest.
88. The public interest will be protected by the safeguards within the proposed competency framework which ensure competence and quality. They ensure that applicants who gain Fellowship through the revised

process will be demonstrably competent against the eight identified competencies, evidenced through the production of a portfolio of their work assessed against the learning outcomes which underpin the competencies. These competencies were designed around the key skills that a newly qualified Fellow should have. The new scheme provides a mechanism to measure that applicants meet these competencies and thereby ensure that they are able to deliver legal services to consumers with the required skills.

Consumer outcomes

89. In developing its qualification arrangements for Fellowship, IPS has taken into account the seven outcomes which consumers expect that the LSB identified in its report 'Developing measures of consumer outcomes for legal services' published in March 2011. This report found that consumers expect:

- transparency
- initial communication
- on-going communication
- professionalism and integrity
- timeliness
- alignment with consumers' best interests; and
- complaints

The developed work based learning outcomes assess competency in line with these outcomes. The following competencies are particularly focused around the expectations of consumers outlined above:

- Competency 2: Communication Skills
- Competency 3: Client Relations
- Competency 4: Management of Workload

- Competency 6: Professional Conduct

Promoting competition in the provision of services provided by Authorised Persons

90. Protecting and promoting the interests of consumers necessitates the promotion of competition to provide market driven quality. The changes to the application process for Fellowship will introduce an objective and fair assessment of the competence of applicants, thereby providing greater assurance of the ability of Fellows.
91. In addition, competition is promoted through the recognition of new business models delivering legal services and through which work based learning can be obtained.

Encouraging an independent, strong, diverse and effective legal profession

92. CILEx is the most accessible route into the legal profession which is truly open to all, whatever their background. This flexibility allows for the widest possible access to qualification as a lawyer. Over 74% CILEx members are female, 85% come from families where neither parent went to university and 12% are from Black, Asian and minority ethnic backgrounds. The social and economic backgrounds of CILEx practitioners increase the likelihood of consumers seeking legal advice and assistance from practitioners with similar backgrounds.
93. The diversity of CILEx members increases the possibility and opportunity available to them to become CILEx Fellows delivering legal advice and services. The transparent and measurable criteria, together with the cognition that the learning outcomes may be met through new business models and under any authorised person increases the opportunities for

CILEx members to become Fellows, while meeting appropriate standards of experience and skills. This will increase the diversity of the legal workforce bringing it closer to the diversity of the population, delivering an outcome set out by the Consumer Panel in its Consumer Impact Report 2011.

Increasing public understanding of the citizen's legal rights and duties

94. It is important that consumers have clarity and transparency about their rights and responsibilities. Empowered consumers making informed choices drive providers of legal services to deliver the range of quality, access and value that citizens should feel confident to demand. Consumers are not on the whole frequent consumers of legal services. Consumers do not need to and will not know of their legal rights and duties in all situations. IPS can encourage, with the engagement of its regulated community, a better understanding by consumers of rights and responsibilities and greater confidence about where to turn to identify them and their application in a particular situation. IPS' regulatory arrangements will ensure that providers are competent to advise citizens of their rights and responsibilities and routes of recourse where required. This is particularly true of the following competencies:

- Competency 1: Practical application of the law and legal practice
- Competency 2: Communication skills
- Competency 3: Client relations
- Competency 6: Professional conduct

Promoting and maintaining adherence to the professional principles

95. The professional principles govern the behaviour of individual Authorised persons. They firmly place a responsibility on Authorised Persons to act

in a manner that is consistent with the status of belonging to a profession and are set out in the Code of Conduct.

96. Under the revised application arrangements for Fellowship, Fellows will be able to demonstrate that they are competent through meeting the learning outcomes which have been identified as essential to a newly qualified Fellow, and in turn allow adherence to the professional principles. This is particularly true of competency 6: Professional conduct.

Supporting the rule of law and access to justice

97. The proposed changes to application for Fellowship are considered by IPS to have a neutral effect on these regulatory objectives.

BETTER REGULATION PRINCIPLES

98. IPS' proposed scheme is consistent with the better regulation principles.

Proportionate

99. The proposed Fellowship qualification arrangements present a proportionate approach to application for Fellowship of CILEx.
100. In developing its qualification structure IPS assessed what skills, experience and knowledge newly qualified Fellows should be able to demonstrate. That approach assisted in developing a proportionate scheme for the practical elements of the Fellowship qualification.
101. IPS compared its proposals to the proposed work based learning qualification scheme of the Solicitors Regulation Authority. The revised

scheme ensures that CILEx members possess a significant amount of practical experience upon qualification. The practical experience is an invaluable mechanism and is complemented by knowledge gained of relevant subjects at honours degree standard focused on subject areas directly relevant to their work.

102. IPS' proposed qualification scheme is aimed at ensuring Fellows are competent, assessed against common learning outcomes and will have the tools to enable them to develop their expertise further.

Accountable

103. The regulatory arrangements include suitable accountability arrangements.

104. Applications may be assessed either by IPS Officers or by the Admissions and Licensing Committee in situations where the Office is unable to approve the application. When making decisions on applications, it is important to ensure that decision making is consistent as between applicants, between the Office and the Committee and over time.

105. In order to assure consistency in assessment of applications, IPS has developed a 'marking scheme' against which all applications will be assessed. For applications assessed in the Office, there will be periodic monitoring of decision making through sampling of Office-approved applications to ensure each has met the required standard. The Office will make periodic reports to the Committee on the outcome of the consistency of decision making.

106. To ensure that there is consistency of standards between decisions made in the Office and those by the Committee, it is proposed that there will be periodic standardisation meetings. This will ensure that a

consistent standard is maintained between the Office and the Committee and over time.

107. The Admissions and Licensing Committee will be accountable for the qualification of Fellows to the IPS Board. The Committee will have oversight of the administration and application of the competence assessment.

Consistent

108. The approach to the qualification scheme is consistent across all areas of practice. The development of a definition of a newly qualified Fellow, will ensure consistent assessment through the learning outcomes to ensure that all successful applicants are competent.

109. The qualification scheme is intended to be clear. Decisions made by officers of IPS will be subject to scrutiny by the Admissions and Licensing Committee to ensure they are consistent with the rules and in individual cases. Furthermore the Committee will review its own decisions periodically to assure consistent standards are applied over time (see paragraphs 98 and 99 for more information on this).

Transparent

110. IPS has taken a transparent approach to developing the qualification and regulatory arrangements. The public and consumers will be clear as to the standards against which applications to become CILEx Fellows are assessed.

111. IPS has consulted key stakeholders on its regulatory arrangements: CILEx members, Approved Regulators, regulatory bodies, consumer groups and representative bodies. A copy of the consultation responses and IPS comments upon responses appear at Annex 3. IPS conducted a

6 month pilot of the work based learning scheme, analysis of the outcomes from its operation can be found at Annex 3. IPS also held an Education reference group meeting designed to seek direct feedback from consumer representatives and practitioners on its proposed changes to the Fellowship qualification, relevant notes from this meeting can be found at Annex 3

112. The qualification content and assessment standards are clearly stated in the guidance to applicants, provided at Annex 4. Consumers and the public will be certain of the standards of competence that CILEx Fellows are qualified to deliver.

Targeted

113. IPS has developed a qualification scheme which has been targeted at assessing and developing the knowledge, skills and experience required by practitioners to qualify as CILEx Fellows. The competency framework provides a clear statement of the competencies necessary for applicants to become CILEx Fellows.

Impact on other regulators

114. CILEx Fellows are able to qualify as solicitors through an exemption from the training contract which has been agreed with the Solicitors Regulation Authority. Throughout the development process, IPS has kept the SRA informed of the proposals to change the qualification process to become a Fellow of CILEx.
115. The SRA have previously confirmed that they will be unable to make a decision as to whether the training contract exemption which currently exists will continue after the changes to application for Fellowship have been implemented.

116. Now that the scheme has been finalised, IPS will meet again with both the Law Society and the SRA to ensure that any prior concerns they have expressed over the changes outlined in this application have been addressed and that the training contract exemption can be retained.

Next Steps for implementation

117. Once the application for rule change has been approved, IPS will be ready to implement the changes, including the transitional arrangements outlined above, which will be valid for a period of 2 years. All scheme documentation and resources are in place to deliver the new scheme.

Annexes

- Annex 1: Membership Requirement Regulations
- Annex 2: Application for Fellowship – Work Based Learning Rules
Application for Fellowship – Transitional Arrangements
- Annex 3: Consultation documentation
- Annex 4: Work based learning handbook