

Section 69 Order: To modify the functions of Chartered Institute of Legal Executives (CILEx)

A consultation paper under section 70 of the Legal Services Act 2007 on a recommendation and a proposed draft statutory order to the Lord Chancellor, to be made under Section 69 of the Legal Services Act 2007 for: CILEx to establish compensation arrangements; and be granted intervention powers.

This consultation will close on **Monday 21 July 2014 at 5pm.**

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Introduction

1. Under section 69 of Legal Services Act 2007 (**the Act**), the Legal Services Board (**LSB**) has the power to make a recommendation to the Lord Chancellor that an order is made to modify, or make other provision relating to, the functions of an approved regulator or any other body other than the Board.¹ This can include modifying provisions made by or under any enactment, instrument or document.²
2. Any order made by the Lord Chancellor under section 69 of the Act must be made by statutory instrument³ through the affirmative procedure⁴ i.e. approved by both the House of Commons and the House of Lords to become law.
3. Section 70 of the Act sets out the procedural requirements relating to a recommendation under section 69. Section 70(2) requires the LSB to publish the proposed recommendation and the proposed draft order and invite representations on the proposals, before making a recommendation to the Lord Chancellor. The LSB must state the period in which recommendations must be made. Section 70(1) of the Act requires that the recommendation may only be made under section 69 with the consent of the approved regulator.
4. This consultation invites representations on a proposed draft recommendation and proposed draft order that has two main purposes:
 - i) **To grant certain powers to the Chartered Institute of Legal Executives (CILEx) in respect of compensation arrangements:**
 - to establish and maintain a compensation fund;
 - to require regulated persons to make payments to a compensation fund;
 - to allow CILEx to make rules to allow it to pay compensation claims from a compensation fund; and
 - if a discretionary grant is made, any rights or remedies of the recipient to be subrogated to CILEx.
 - ii) **To apply provisions of Schedule 14 of the Act (a licensing authority's powers of intervention) with such modifications as are prescribed by the order so that it applies in relation to CILEx's capacity as an approved regulator.**

¹ The Act 2007 s69 (1)

² The Act 2007 s69 (6)

³ The Act 2007 s204 (1)

⁴ The Act 2007 s206(4)(h)

5. The outcome of the proposals is twofold:

i) Compensation arrangements.

Enable CILEx to have in place compensation arrangements in order to ensure, as an approved regulator, that it has adequate compensation arrangements to protect clients and consumers who would otherwise have no other means of redress.

ii) Intervention arrangements.

Enable CILEx to have in place an appropriate suite of powers to intervene into entities, for the purpose of protecting clients and consumers. This includes the capability to act quickly through the High Court to obtain an order which will have the effect of freezing an entity's bank accounts, and enable CILEx to manage client files in such a way that they can be returned to clients or transferred to another legal representative.

6. Any representations on the proposals should be made by **5pm, Monday 21 July 2014**. The proposed recommendation and draft order can be found at **Annex A**. A draft impact assessment to accompany the draft order can be found at **Annex B**.

7. Further details on how to make representations can be found on page **8**.

Background to the proposed changes

8. CILEx is an approved regulator under the Act for the reserved legal activities of the exercise of a right of audience, the conduct of litigation and the administration of oaths. It is also a qualifying regulator for authorising and regulating those who provide immigration advice and immigration services. ILEX Professional Standards Limited (IPS) is the body to which CILEx has delegated its regulatory functions.
9. On 25 March 2013 IPS submitted an application under Part 2 of Schedule 4 to the Act seeking a recommendation from the LSB to the Lord Chancellor that an order be made designating CILEx as an approved regulator for probate and reserved instrument activities.
10. LSB considered the applications from IPS in accordance with its rules⁵ and the requirements of the Act and, in December 2013, recommended to the Lord Chancellor that he make two orders designating CILEx as an approved regulator for probate and reserved instrument activities. The decision notice in respect of the designations can be found on our website.⁶
11. On 6 March 2014 the Lord Chancellor approved the recommendations for the orders to be laid designating CILEx as an approved regulator for probate and reserved instrument activities. The necessary parliamentary process to lay the orders is to follow.
12. In November 2013 the LSB approved two applications for changes to regulatory arrangements from IPS in respect of the conduct of litigation and provision of immigration services. As a result of these changes, and the subsequent designation of CILEx as an approved regulator for probate and reserved instrument activities, CILEx will authorise and regulate entities for the first time. Chartered Legal Executives undertaking reserved legal activities will be able to set up independent businesses for the reserved legal activities for which CILEx is designated. Until now, Chartered Legal Executives who have been undertaking reserved legal activities have done so under the supervision of another authorised person, most commonly a solicitor.
13. The regulatory framework that IPS is establishing for entity regulation has the following key features:
 - A risk assessment framework which assesses impact (environment, size) and probability (history, leverage, dependency, systems) criteria

⁵ Rules for designation applications: http://www.legalservicesboard.org.uk/what_we_do/regulation/index.htm

⁶ Decision notice: http://www.legalservicesboard.org.uk/Projects/statutory_decision_making/pdf/IPSDecisionNotice.pdf

- Applicants being subject to a basic risk assessment which will lead to a risk score which will determine, first of all, whether they should be authorised by IPS and if so, the supervision regime that will follow
- An advanced risk assessment, which will include a pre-authorisation site visit for entities where increased risks are identified
- Annual data returns
- Annual risk assessment once authorised
- A consumer feedback mechanism to be delivered through a consumer focused website in which all authorised entities will be required to participate.

14. While the LSB was satisfied in its assessment of the IPS application that this framework was adequate for addressing risk, it also considers it appropriate and sensible for approved regulators to have arrangements and powers in place to respond and take action when things go wrong.

15. CILEx has set aside £1 million to establish a compensation fund. CILEx also want to be able to require entities to make payments into the fund. Where payments are not made, CILEx must be able to recover amounts owed from an entity as a debt. CILEx will also take out an insurance policy in relation to the fund. The fund will be governed by independent trustees who will be appointed to make decisions about grants and how funds are to be invested. Compensation fund rules have been developed that set out the procedure to be followed when a claim is made⁷.

16. With respect to intervention powers, CILEx has existing regulatory arrangements to promote the regulatory objectives of protecting and promoting the interests of consumers and the public interest. However, where risks are identified which require immediate action by way of intervention the existing arrangements will not be sufficient. CILEx is therefore seeking to have this power granted through a section 69 order in order to intervene immediately with the aim of protecting clients and consumers.

⁷ See Part 10 Compensation Arrangements in the CILEx application for probate activities and reserved instrument activities at:

http://www.legalservicesboard.org.uk/Projects/statutory_decision_making/pdf/probate-conveyancing_scheme_rules.pdf

and the Compensation Scheme Rules at Appendix 12 available at:

http://www.legalservicesboard.org.uk/Projects/statutory_decision_making/pdf/probate-conveyancing_scheme_rules.pdf

CILEx proposals set out in the section 69 order

17. This consultation is not seeking views on the policy intentions of IPS in respect of the proposed compensation arrangements or intervention powers. IPS undertook a consultation on the policies in 2012⁸. This consultation focuses on whether the proposed section 69 order (at **Annex A**) as drafted delivers the policy intentions of IPS.
18. The LSB supports the IPS proposals both in respect of the compensation and intervention arrangements. Protecting and promoting the interests of consumers and the public interest are two of the regulatory objectives in the Act, and the orders will help enable IPS to address those objectives.

Compensation arrangements (Articles 2, 3 and 4 of the draft order)

19. Under section 20(2)(a) of the Act, in order to be an approved regulator, a body must be designated as such and have its regulatory arrangements approved. Such regulatory arrangements include compensation arrangements, defined as a means “to provide for grants or other payments for the purpose of relieving or mitigating losses or hardship suffered by persons in consequence of negligence or fraud or other dishonesty... and failure, on the part of regulated persons, to account for money received by them in connection with their activities as such regulated persons”.⁹
20. There is recognition by IPS and the LSB that even with a robust risk based approach to entity regulation, there may be isolated incidents of fraud or dishonesty for which no insurance has been provided. Most dishonesty and fraud claims involve client money and IPS says it has mitigated against that risk by introducing regulatory arrangements giving entities an option to make use of escrow accounts.¹⁰ An escrow account should reduce the opportunity for theft or dishonesty but it cannot entirely eradicate the risk. Therefore, IPS concluded that a compensation fund is required in order to provide last resort protection for consumers who fall victim to fraud.
21. Article 2 of the draft order enables CILEx to establish compensation arrangements, as defined in section 21(2) of the Act, to provide for grants or other payments for the purpose of relieving or mitigating losses or hardship suffered by persons in consequence of negligence, fraud, or other dishonesty on the part of any persons (or their employees) whom the body has authorised; and

⁸ CILEx consultation on Professional Indemnity Insurance and Client Protection Arrangements, details available via the following link:

http://www.cilex.org.uk/ips/ips_home/about_ips/consultations/ips_consultations/closed_consultations.aspx

⁹ See section 21(2) of the Act for a full definition of “compensation arrangements”.

¹⁰ Escrow is a legal requirement where client money is delivered to a neutral third person (an escrow agent) to be held pending the fulfilment of a contract or activities leading to transactions involving client money. On completion of the contract the escrow agent delivers the money to the designated recipient according to the terms of the contract.

failure on the part of regulated persons to account for money received by them in connection with their regulated activities.

22. Article 3 of the draft order enables CILEx to make rules to establish and maintain a compensation fund and Article 4 enables CILEx to take out and maintain a contract of insurance for that purpose.
23. CILEX is not a body established under statute although it is now incorporated by Royal Charter. It therefore has no pre-existing powers to establish a compensation fund. The Act requires compensation arrangements to be established by organisations seeking to become Approved Regulators. The Order, if made, will give CILEx the powers it needs to meet the requirements of the Act in respect of compensation arrangements.

Intervention arrangements (Article 5 of the draft order)

24. The statutory order, if made, will grant CILEx the necessary powers to intervene in entities and needs to be made to enable CILEx to step in and assume control of an entity when required.
25. The need for CILEx to gain intervention powers must be seen in the context of its overall approach to risk. The intention of CILEx, post authorisation of an entity, is to gather intelligence and monitor activity in order to identify risks and to take proportionate enforcement action where there is significant risk.
26. CILEx therefore seeks to apply the provisions of Schedule 14 of the Act with such modifications as are prescribed by the order so that it applies in relation to CILEx as an approved regulator. The effect of this would be to grant intervention powers for CILEx enabling it to apply to the High Court and act to take a number of measures. These would include freezing the entity's bank account, and permitting IPS to manage the entity's clients' files and papers. CILEx would only intervene if absolutely necessary where no other regulatory measures are available to it to protect the interest of clients and the public.
27. Article 5 alters how Schedule 14 is to be read in terms of CILEx intervention. Specifically, references to Schedule 14 of the Act means that "licensed body" is read as a reference to "a CILEx authorised entity", "licensing authority" is a reference to "CILEx" and "licence" is a reference to "authorisation".

Question 1: Do you have any comments on either the draft order or the draft recommendation?

Question 2: Do they deliver the policy intention of CILEX having adequate: i) compensation arrangements; and ii) intervention powers?

Impact Assessment

28. A draft impact assessment has been prepared to accompany the order. **Annex B** contains the draft impact assessment on which views from respondents would be welcome.
29. Given the available evidence, it is the LSB's view that this represents a reasonable assessment of the likely costs, benefits and impact of the leading options.

Question 3: Do you have any comments on the draft impact assessment?

How to respond

30. We would prefer to receive responses electronically (in Microsoft word or PDF format), but hard copy responses by post or fax are also welcome. Responses should be sent to:

Post: Michael Mackay
Legal Services Board
One Kemble Street
London WC2B 4AN

Fax: 020 7271 0051

Email: Consultations@LegalServicesBoard.org.uk

31. The consultation period will end at **5pm on Monday 21 July 2014**, four weeks after publication. In accordance with section 70(3) of the Act, you are given notice that any representation about the proposed section 69 order must be made to the LSB by the end of this period.

32. The LSB is happy to meet respondents to discuss views on the consultation if you would find that helpful. Please send requests to:
Consultations@LegalServicesBoard.org.uk

33. We consider that this consultation satisfies the requirements of section 70 of the Act to publish a proposed draft order and proposed draft recommendation before making a recommendation to the Lord Chancellor under section 69.

34. The LSB plans to publish all responses received during the consultation period on its website. While the LSB is happy to discuss varying this general policy in individual cases, there is a strong presumption in favour of transparency. It will therefore note publicly that a submission has been received from an identified body which had withheld its consent for publication in the summary of the consultation.

Complaints

35. Complaints or queries about the LSB's consultation process should be directed to Michelle Jacobs, Consultation Co-ordinator, at the following address:

Post: Michelle Jacobs
Legal Services Board
One Kemble Street
London WC2B 4AN

Email: michelle.jacobs@legalservicesboard.org.uk

Annex A – Draft recommendation to the Lord Chancellor and draft section 69 order which will be annexed to the recommendation

Draft recommendation by the LSB to the Lord Chancellor under section 69 of the Legal Services Act 2007

Proposed recommendation for CILEx

1. At its meeting on [date] the Legal Services Board (the Board) decided to make a recommendation to the Lord Chancellor that he makes an order under section 69 of the Legal Services Act 2007 (the Act) to:
 - I. establish compensation arrangements to provide for grants or other payments for relieving or mitigating losses or hardship as a consequence of negligence, fraud or other dishonesty by a CILEx authorised body (or its employees)??
 - II. grant CILEx intervention powers in respect of the entities it regulates, to be the same as those that apply under Schedule 14 of the Act (licensing authority powers of intervention).
2. A draft of the order is attached to this recommendation.
3. In accordance with the requirements of section 70(2) of the Act, the Board published a draft of the proposed recommendation and draft order on Monday 23 June 2014 and invited representations about the proposals to be made to the Board by Friday 18 July 2014. **[The Board has had regard to the representations duly made] or [no representations were received].**
4. **[DELETE if no changes to the recommendation or the order in light of the consultation representations].** In accordance with the requirements of section 70(5) of the Act, the draft order annexed to the recommendation differs from the draft published under subsection 2(b) in a way in which in the opinion of the Board, is material. The Board has therefore, before making the recommendation published on its website, published the draft order along with a statement detailing the changes made and the reasons for those changes.
5. In accordance with section 70(1) of the Act, the recommendation is made with the consent of CILEx.

Chair, Legal Services Board

[DATE]

DRAFT STATUTORY INSTRUMENTS

2014 No.

LEGAL SERVICES, ENGLAND AND WALES

**The Legal Services Act 2007 (Chartered Institute of Legal Executives)
(Modification of Functions) Order 2014**

Made ***

Coming into force - - - ***

The Lord Chancellor makes the following Order in exercise of the powers conferred by section 64(2), (3) and (4), section 69(1), (4) and (5), and section 204(3) of the Legal Services Act 2007^(a).

In accordance with section 69(2) of that Act, this Order is made following a recommendation made by the Legal Services Board to which was annexed a draft Order in a form not materially different from this Order.

The Legal Services Board has made the recommendation with the consent required by section 70(1) of that Act and after complying with the requirements in section 70(2) to (5) of that Act.

In accordance with section 206(5) of that Act, a draft of this instrument was laid before Parliament and approved by resolution of each House of Parliament.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Legal Services Act 2007 (Chartered Institute of Legal Executives) (Modification of Functions) Order 2014 and comes into force on [date].

(2) In this Order—

“the Act” means the Legal Services Act 2007;

“CILEx” means the Chartered Institute of Legal Executives^(b);

“CILEx authorised entity” means a partnership, company or sole principal authorised by CILEx under the Act to —

(a) carry on an activity which is a reserved legal activity; or

(b) provide immigration advice or immigration services;

“sole principal” includes a person consisting of one individual who is authorised or is required to be authorised by CILEx and one or more other individuals who are not so authorised and are not required to be so authorised.

Compensation arrangements

2.—(1) CILEx may make compensation arrangements^(c).

(2) Any such arrangements may include provision as to—

(a) the circumstances in which grants or other payments may and may not be made;

(b) the form and manner in which a compensation claim is to be made;

^(a) 2007 c. 29.

^(b) The body known as the Institute of Legal Executives and referred to in the Legal Services Act 2007 (c. 29) (“the Act”) became the Chartered Institute of Legal Executives on 30th January 2012 by virtue of a Royal Charter granted on 12th October 2011.

^(c) Section 21(2) of the Act defines compensation arrangements.

- (c) the procedure for determining compensation claims; and
 - (d) the minimum and maximum amounts payable in respect of a compensation claim.
- (3) Arrangements made by virtue of paragraph (2)(a) may include in particular provision as to—
- (a) the nature of the loss or hardship in relation to which a compensation claim may and may not be made; and
 - (b) the nature of any act or omission by a CILEx authorised entity or an employee of such an entity in relation to which a compensation claim may and may not be made.
- (4) If CILEx decides—
- (a) not to make a grant or other payment in respect of a compensation claim or any part of a compensation claim; or
 - (b) to make a grant or other payment of less than the amount claimed,
- it must give reasons for its decision.
- (5) CILEx may prepare and publish guidance as to the criteria it will apply in deciding whether to make a grant or other payment in respect of a compensation claim, or any part of a compensation claim.
- (6) In this article “compensation claim” means a claim for a grant or other payment under compensation arrangements made by CILEx.

Compensation fund

- 3.**—(1) For the purpose of giving effect to compensation arrangements made under article 2, CILEx may make rules authorising it to establish and maintain a compensation fund (“the Fund”).
- (2) Any such rules may in particular make provision—
- (a) requiring a CILEx authorised entity to contribute to the Fund by making periodical payments to CILEx; and
 - (b) providing for different payments to be made by different descriptions of CILEx authorised entity.
- (3) Any amount payable by virtue of such rules may be recovered as a debt due to CILEx.
- (4) For the purposes of establishing and maintaining the Fund, CILEx may make rules authorising it to—
- (a) invest any money which forms part of the Fund in any investments in which trustees may invest under the general power of investment in section 3 of the Trustee Act 2000^(a) (as restricted by sections 4 and 5 of that Act);
 - (b) borrow money; and
 - (c) charge investments which form part of the Fund as security for borrowing by CILEx.
- (5) In addition to the making of grants or other payments in accordance with any arrangements under article 2, CILEx may use the Fund to—
- (a) repay money borrowed by CILEx for the purposes of the Fund and pay interest on any money borrowed for that purpose;
 - (b) pay any other costs, charges or expenses incurred by CILEx in connection with the Fund;
 - (c) pay any costs or damages incurred by CILEx, its employees or agents as a result of proceedings against it or them for any act or omission of its or theirs in good faith and in the exercise or purported exercise of any power under this article or article 2.

Insurance

- 4.** For the purpose of giving effect to any compensation arrangements made under article 2, CILEx may make rules authorising it to take out and maintain insurance with authorised insurers (within the meaning of section 64 of the Act).

Intervention arrangements

5.—(1) Schedule 14 to the Act (licensing authority’s powers of intervention) applies in relation to CILEx in its capacity as an approved regulator and CILEx authorised entities as it applies in relation to a licensing authority and licensed bodies, subject to the modifications in paragraph (2).

- (2) Schedule 14 is to be read as if each reference to—
- (a) a “licensed body” was a reference to a “CILEx authorised entity”;
 - (b) the “licensing authority” was a reference to “CILEx”; and
 - (c) a “licence” was a reference to an “authorisation”.

^(a) 2000 c. 29.

Signed by authority of the Lord Chancellor

Date

Name
Parliamentary Under Secretary of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision about the functions of the Chartered Institute of Legal Executives (CILEx).

Article 2 enables CILEx to establish compensation arrangements, which are defined in section 21(2) of the Legal Services Act 2007 (“the Act”). Article 3 enables CILEx, by rules, to establish and maintain a compensation fund. Article 4 allows CILEx to make rules authorising it to take out and maintain a contract of insurance.

Article 5 applies Schedule 14 to the Act (licensing authority’s powers of intervention), with modifications, to CILEx as an approved regulator and CILEx authorised entities. Schedule 14 contains provisions about the circumstances in which a licensing authority may intervene in a licensed body, and the powers that are exercisable upon intervention.

An impact assessment has been prepared for this instrument and can be found at www.legislation.gov.uk or obtained from the Head of Legal Services Policy, Law and Access to Justice Group, Ministry of Justice, 102 Petty France, London SW1H 9AJ.

ANNEX B – Draft Impact Assessment

Section 69 Order: To modify the functions of Chartered Institute of Legal Executives	
Stage	Development/Options, Consultation, Consultation Response, Primary/Secondary Legislation, Final, Enactment, Post Implementation Review Consultation, secondary legislation
Date	17 June 2014
Policy Area	
Lead department or agency	MOJ
Other department or agency	Legal Services Board
Contact for enquiries	Name & email address
Summary of the measures in the policy area	
<p>What are the problems that the measures address? CILEx has been approved by the Legal Services Board to award practice rights in the reserved legal activity areas. CILEx will regulate, through IPS (ILEX Professional Standards Ltd), legal practices delivering these legal services. CILEx must be able to protect the interests of the public and consumers in accordance with the regulatory objectives under the Legal Services Act 2007. This includes being able to provide redress in the form of compensation to clients and to be able to intervene into legal practices. CILEx requires statutory orders to be able intervene and collect payments to maintain the fund.</p>	
<p>What are the measures? What is the objective/aim of the measure? What is the rationale for their introduction? How do they fit into the wider MoJ/Government Agenda? There are two measures in the proposed order. The first is for CILEx to be able to provide redress in the form of compensation to clients who suffer loss due to the negligence, fraud, dishonesty or failure to account of legal practices regulated by it through IPS. CILEx will establish and maintain a compensation fund (“the fund”) in order to pay consumers who have suffered a loss. Payments from legal practices will be required to maintain the fund.</p> <p>The second is to allow CILEX to intervene into legal practices where there is a risk that requires immediate action to protect the public and consumers. CILEx will be able to seek a court order to intervene and to enable money held by a legal practice to vest in CILEx, to obtain information relating to money, take possession of documents and redirect mail to protect client money, files and assets.</p> <p>The measures are required to fit in with requirements of an approved regulator</p>	

set out in the Legal Services Act 2007.

What are the main impacts of the measures and which groups of people do they affect?

Overview of impacts:

The establishment of the compensation fund will require an initial payment of £1m. This will be met from CILEX reserves. The fund will be insured in order to provide cover for consumers. The annual premium for insuring the fund is around £30,000 per annum. In order to maintain the fund regulated legal services providers will be required to make an annual contribution via fees based on annual turnover. The fees are estimated to raise around £300,000 plus an amount that builds up the fund per annum and are based on the proposed fee schedule outlined in the annex. There are an estimated 60 (low demand) to 400 (high demand) providers who will be required to pay the annual fee.

Consumers will benefit as their money and assets will be protected. The compensation fund aims to put consumers in the position had the loss not occurred.

In cases where CILEX intervenes to protect consumers the costs of the intervention will fall on CILEX as the approved regulator. An average cost of £50,000 per intervention has been budgeted on the basis that intervention will take place in approximately 2% of entities per annum. The number of interventions is estimated to be from 1-8 per annum, depending on overall number of regulated entities. The most likely cost of interventions is around £100,000 per annum.

It has not been possible to monetise the annual benefits of the proposals although consumers will benefit from increased protection.

Annual profile of monetised costs and benefits (£m constant prices)

	yr0	yr1	yr2	yr3	yr4	yr5	yr6	yr7	yr8	yr9
Total annual costs	1	0.4 3	0.4 3	0.4 3	0.4 3	0.43	0.43	0.43	0.43	0.43
Total annual benefits	NQ	NQ	NQ	NQ	NQ	NQ	NQ	NQ	NQ	NQ

Price base year	PV Base Year	PV time period	Overall NPV
2013	2013	10	-£4.5m

Key costs

Group Affected	Description of Costs	Can the impact be quantified?	Detail
CILEX/ IPS	compensation fund set up costs from which insurance premium paid; intervention per entity	£1million £30,000 £50,000	Page reference in annex

Regulated entities	Annual contribution to compensation fund Regulatory fees will include income to cover interventions	Tiered payments – see annex for example in year two if there are two interventions costs may be £100,000	
Total Costs	£440,000 per annum		

Key Benefits

Group Affected	Description of Benefits	Can the impact be quantified?	Detail
CILEx / IPS	Able to provide redress to consumers of regulated entities and thereby provide protection and protect client money and assets in cases of intervention.	Claims to compensation fund are dealt with on a case by case basis. The aim is to place clients in position before loss. Intervention benefits are also to protect client money and assets	
Regulated entities	Assure clients that their interests are protected where they instruct the entity	Not quantified	
Total Benefits	Not quantified		

What other measures were considered and why were they not pursued?

In the case of compensation the options that were considered were to do nothing, which does not protect consumers; require all money to be held in escrow, which still leaves a risk of diversion and therefore loss that needs to be addressed; or set up a fund to compensate clients who suffer loss.

In the case of intervention the options that were considered were to do nothing, which does not enable CILEx to protect consumers and the public; develop a practice management agreement which does not provide CILEx with the power to seek court orders to protect client property; or have a power to intervene, which provides consumer protection.

The measures proposed are considered to be the most proportionate way to ensure that consumers are protected from financial loss as a result

Are there any key assumptions or risks?

Key Assumptions

The key assumptions relate to the estimate on the cost of intervention (£50,000); estimate on the number of interventions per annum (2 per year); estimate on the number of regulated entities per annum (60 to 400 new applicants per annum) which affect the level of the compensation fund insurance premium (£30,000 per annum). The estimated regulated numbers

also determine the level of contribution to regulatory and compensation costs for each entity.

Risks & Uncertainties

There is a risk that a higher percentage of entities will be subject to an intervention. This will impose a higher cost on the regulator, CILEX.

There is a risk of the insurance premium going up in subsequent years as a result of any payouts claimed.

Both of these risks are mitigated by the fee schedule which will lead to a build up of the fund to ensure consumers receive compensation.

ANALYTICAL ANNEX

The following section should contain a fuller exposition of the analysis, impact and risks usually set out in an IA

Evidence Base (for summary sheets)

INTRODUCTION

Background

1. The Chartered Institute of Legal Executives (CILEx) is an approved regulator under the Legal Services Act 2007 (the Act). The Act prescribes legal activities which are reserved or regulated and may be conducted by authorised persons or entities only. CILEx has received approval from the Legal Services Board (LSB) for applications to authorise practitioners to carry out reserved legal activities. CILEx, through Ilex Professional Standards (IPS), its regulatory body, will regulate legal practices, called entities, delivering reserved and regulated legal services.
2. The reserved legal activities are the conduct of litigation; exercise of rights of audience, probate and reserved instrument activities. Statutory orders are being secured for CILEx to become an approved regulator to award probate activity and reserved instrument activity rights. CILEx is already an approved regulator for awarding rights to conduct litigation and the exercise rights of audience and a designated regulator for immigration services.
3. Rights to practise in each of the reserved and regulated areas will be awarded to applicants who can demonstrate they are competent. Competence will be assessed by reference to the knowledge, skills and experience of applicants. A person who meets the requirements will be awarded the right to practice in the reserved legal activity area in which they demonstrated competence. A person who meets the requirements will be authorised under the Act to practise in the reserved or regulated area in which they demonstrate competence. In addition, each authorised person will be required by IPS to demonstrate competence in practice management and accounts.
4. CILEx, through IPS, will also regulate legal practices, described as 'entities'. Each entity must have a person(s) responsible for managing the entity and handling its accounting function. This person(s) must demonstrate competence in practice management and accounts, as applicable, to a higher standard.
5. IPS has developed a risk based approach to the regulation of entities. Entities seeking regulation will need to supply supporting evidence relating to their business structure, legal activities, business planning, accounts and management procedures. IPS will assess this information to determine the level of risk an entity might pose to compliance with the Principles set out in the CILEx Code of Conduct. As part of the assessment process IPS may decide to carry out a site inspection of an entity to further investigate and analyse its processes and procedures.
6. Entities regulated by IPS will be required to supply annual accountants' reports and submit an annual return to IPS, which will trigger further assessment of risks. All entities must

MoJ Assessment of Impacts Template for measure not requiring RRC clearance

have in place professional indemnity insurance and comply with CILEx and IPS rules and regulations, including the CILEx Code of Conduct.

7. IPS will adapt its regulatory arrangements to respond to developments in legal services, and to issues arising from its supervisory and monitoring activities.
8. Most entities regulated by IPS will provide legal services in one practice area. They will be owned and managed by CILEx authorised practitioners or other lawyers. Research indicates that the number of entities that will be regulated in the first year of the operation of the scheme will range from 65 entities (low demand), 185 entities (medium demand) to 400 entities (high level demand). It is expected that the turnover of most entities will be under £500,000 per annum and that they will handle client money.
9. The IPS model of regulation will differ from the current legal services sector. The majority of legal practices currently comprise solicitors regulated by the Solicitors Regulation Authority (SRA). Once authorised by the SRA these firms are able to provide the full range of legal services. The IPS approach follows recent recommendations in research reports commissioned by the Legal Services Board and Legal Services Consumer Panel that a competence based approach be taken to authorisation. Authorised persons will be required to show they are qualified in the specific practice areas as opposed to being authorised to carry out all areas of legal practice.

Issues under consideration

10. There are two issues under consideration:
 - Compensation fund.
 - Intervention powers.

COMPENSATION FUND

Problem under consideration

11. The Act sets out requirements that an approved regulator must have in place to regulate legal practices. They include the ability to provide redress to clients of an entity regulated by an approved regulator.
12. Under section 21(1)(h) of the Act an approved regulator must have in place compensation arrangements to provide for grants or other payments to be made for the purpose of relieving or mitigating losses or hardship suffered by persons in consequence of negligence, fraud or other dishonesty and failure to account by an entity.
13. CILEx recognises that despite the risk based approach to regulation and supervision of entities there may be instances where dishonesty, fraud or other uninsured events arise leading to losses incurred by consumers of services delivered by entities. Specifically dishonesty or fraud can arise from failure to account to clients and to protect client money and assets or using client money other than for client matters. In those instances it is necessary to protect consumers by providing redress in the form of compensation to place

them back into the position they would have been in had the action not taken place leading to their loss.

14. As CILEx is not a statutory body it is currently unable to meet its obligations under section 21(1)(h), which is to have in place compensation arrangements.

Policy objective

15. CILEx is seeking an Order under section 69 of the Act to set up and maintain a Compensation Fund ('the Fund'). The purpose of the Fund will be to provide redress to clients/consumers who have no other route of redress available to them and as far as possible to put them back into the position that they were in before the loss occurred. In the absence of the Order CILEx will not be able to meet its obligation under the Act to have compensation arrangements or meet its regulatory objective of protecting and promoting the interests of consumers.
16. CILEx also needs the power to seek payments from entities regulated by it, through IPS. The payments will be used for the purposes of maintaining the Compensation Fund. The Order will enable this.
17. The Fund will be established from CILEx reserves. A scheme of insurance will be obtained for the fund and annual contributions from regulated entities will enable the maintenance of the fund, including payment of insurance premiums and building up of the fund. The fund will be managed by independent trustees.
18. The key benefit will be that consumers will be able to seek legal services from IPS regulated legal practices with the assurance that redress is available in case of dishonesty or failure to account by an entity. This will enable consumers to gain the same level of protection and redress from IPS regulated entities as from entities regulated by other legal services regulators. The approach therefore follows standard practice taken by legal services regulators.

Regulatory objectives and the principles of better regulation

19. The existence and effective operation of a Compensation Fund will protect and promote the interests of consumers, by enabling CILEx to have in place a mechanism to provide redress for losses incurred by the actions of an entity regulated by IPS, placing clients back in the position they would be in had the loss not occurred. It also promotes the regulatory objective of improving access to justice in giving consumers the confidence to entrust funds to IPS regulated entities and so facilitate many legal transactions.

Options explored

20. IPS explored the options available to protect consumers and concluded that a Compensation Fund backed with insurance is the most suitable option for IPS regulated entities.
21. **Option 1: do nothing.** This option fails to deliver the regulatory objectives to protect and promote the interests of consumers and the public. It also fails to meet the obligation under section 21(1)(h) of the Act which is that CILEx must have in place compensation arrangements.

22. **Option 2: require all entities to place client money in an escrow account.** As most dishonesty and fraud claims involve client money IPS explored alternative methods of protecting consumers and reducing the risk of losses arising in the first instance. In this context IPS has made provisions in its regulatory arrangements for entities to make use of escrow accounts.
23. An escrow is a legal arrangement where client money is delivered to a neutral third party (escrow agent) to be held in trust pending the fulfilment of a contract or, in the case of regulated entities, the fulfilment of activities which lead to the trigger of transactions involving client money. The escrow agent is bound by a fiduciary duty to maintain the escrow account until completion of the contract. On completion of the contract, the escrow agent delivers the money to the proper recipient, according to the terms of the contract.
24. Although it is envisaged that the escrow arrangement will reduce the opportunity for dishonesty and/or theft, it cannot be said with confidence that it will entirely eliminate the risk of dishonesty and/or theft. There remains a risk of client money being diverted from the escrow leading to the requirement for redress. IPS therefore concluded that an escrow does not provide the same level of protection to consumers as a Compensation Fund.
25. **Option 3: set up a compensation fund.** CILEx assessed that a compensation fund is the only mechanism that provides the protection and redress needed for clients and meets its obligations under the Act. Option 3 is CILEx's preferred option. This option is explained below.
26. CILEx seeks an Order under s69 of the Act to give it the authority to maintain, and seek payments for, a Compensation Fund for the purpose of making grants to persons who have suffered loss and hardship. To preserve the independence of the Fund, independent Trustees will be appointed. Grants will be made at the discretion of, or under delegated powers by, trustees.
27. CILEx has set aside £1million from its reserves to establish the Fund. It took the view that £1million will provide sufficient funds as the basis of a sum to insure. This amount was determined based on the fact that the maximum amount of discretionary grant is set at £500,000. The insurance will cover most of the payment but in the absence of payment CILEx will have sufficient funds to provide to redress up to the maximum.
28. In order to maintain and build the Fund entities will make payments to the Fund. Where payments are not made, CILEx must be able to recover amounts due from an entity as a debt. CILEx will take out a policy of insurance for the Fund. An initial annual premium in the region of £30,000 has been quoted. It will be paid from contributions made by regulated entities and the reserves set up to establish the Fund.
29. IPS has developed Compensation Fund Rules, which have been submitted to the LSB as part of the practice rights applications. These Rules set out the procedure that will be followed where a claim is made. They provide for a client to make a claim to IPS. IPS will investigate the claim and assess whether a loss has occurred, whether the client has other means of redress and, where they do not, to assess the amount of redress to be provided. The Trustees will adjudicate claims and share the outcome of their decision with the

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insurance provider. The insurance provider will make the payment to the client. The Fund will cover the excess payment.

30. Each year IPS will carry out budgeting exercises that determine the level of payment to be made by entities to the maintenance of the Fund. The level of contribution will be tiered by reference to the size of entity (determined by turnover), whether they use an escrow service and hold client money.

Stakeholder consultation

31. CILEx members and other stakeholders (other regulators, professional bodies and consumer organisations) were consulted on the options available. The consultation was issued in August 2012 and concluded in October 2012.
32. IPS, on behalf of CILEx, also invited stakeholders to attend a Reference Group session which was set up to discuss the proposals, explore the options and obtain views.
33. Consultation respondents and Reference Group attendees agreed a Compensation Fund is necessary.

Economic Rationale

34. The Act requires approved regulators to have in place adequate compensation arrangements. CILEx has not been able to identify any other legislation, which will allow for it to protect consumers in the way that a Compensation Fund can.
35. CILEx explored various options for providing redress and for protecting client money including escrows and insurance, which are outlined above. It concluded that it could not meet its obligations under s21 of the Act without a compensation fund.
36. The escrow option carries costs for each transaction, set at £4.75 per transaction. The total cost of using escrow services therefore can be significant, which will be passed onto consumers. A high volume transaction legal matter, for example, a conveyance will involve payments for each search, payments of other disbursements as well as the costs of the purchase, estate agent and legal fees. The escrow arrangement does not prevent the risk of money being diverted from escrow and therefore leads to additional costs of compensation that will also be passed onto the consumer, although in that instance the cost of compensation might be lower due to use of the escrow thus reducing risk of need for consumer redress.
37. Insurance is not possible without setting up a compensation fund, which is the option that CILEx has elected. A premium will have to be paid for insurance, which will be passed onto regulated entities, therefore ultimately to consumers. The premium will depend on numbers of entities regulated and level of risk.
38. CILEx is not a statutory body and there is no grant of Parliament in place either under the Act or otherwise entitling CILEx to establish and maintain a compensation fund.

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39. The aim of the Fund will be to recompense clients of IPS regulated entities for losses they have incurred due to the dishonesty or failure to account of an IPS regulated entity. The payment aims to place clients back into the position they would have been in had the loss not occurred. Therefore the compensation scheme takes an equitable approach.

Main affected groups

40. There are two affected groups:
- Group A – IPS regulated entities and;
 - Group B – IPS.

Costs and benefits

41. This section sets out the monetised and non-monetised costs and benefits of each option explored.
42. **Option 0: Base case.** Under this option entities would be able to seek regulation from CILEx without having to make payments to a central fund set up to compensate clients in cases of loss.
43. IPS regulated entities would make no payment towards a compensation fund.
44. IPS will not incur costs as it would not establish or maintain compensation arrangements.
45. There are no other monetised or non-monetised costs for the affected groups.
46. The benefits for each affected group are that there is no cost that has to be covered, possibly leading to an equitable outcome for entities which act in accordance with requirements and therefore do not create any claims against the fund.
47. **Option 1: compensation fund.** Under this option CILEx will establish and maintain a fund from which redress can be provided to clients of IPS regulated entities who suffer loss.
48. IPS regulated entities will make an annual payment to the fund. IPS will assess the payment to be made each year, consult its regulated community on the proposals and seek LSB approval for it in accordance with s51 of the Act. IPS intends to introduce different bandings for contributions to be made by entities to the fund each year. The bandings are likely to include level of turnover, whether the entity holds client money in escrow or does not hold client money at all. The table sets out contributions that may be made by each entity in the first year of regulation.

Costs to Group A – IPS regulated entities:

. Turnover	. Other Criteria	. Level of annual contribution £
. Up to £100,000	. Hold client money	. 700
	. Escrow account	. 550
	. No client money held	. 325
. £100,001 to £500,00	. Hold client money	. 1200
	. Escrow account	. 950
	. No client money held	. 600
. Over £500,001	. Hold client money	. 2400
	. Escrow account	. 1750
	. No client money held	. 1200

49. In setting the level of annual contribution IPS will make assumptions in its budget about likely number of regulated entities and the premium to be paid to insurers. Research indicates that the number of regulated entities will range from 60 entities (low demand), 185 entities (medium demand) to 400 entities (high demand). The aim will be that contributions made by entities must cover the insurance premium where possible and help to gradually build up the amount held in the fund. The amount generated from contributions will depend on actual number of regulated entities and the criteria they meet against which their contribution will be set.
50. There are no other monetised or non-monetised costs for entities.

Costs to Group B – IPS:

51. CILEx will set aside £1m from its reserves to establish the fund. The fund will pay the insurance premium, which has been assessed as being in the region of £30,000 for the first year of the scheme.
52. IPS will collect the annual contribution to the fund from each entity. The contribution will be paid into the fund. Each year the fund will be used to pay the insurance premium.
53. Where a claim is made for compensation the trustees will determine the level of payment to be made. The insurer will make the payment but excesses payable under the insurance scheme will be paid out of the fund.
54. CILEx concludes that while the option carries a financial cost to entities regulated by IPS it is the only option that provides redress to consumers. The benefits for each affected

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group are that IPS can provide redress and regulated entities will be able to assure clients that their interests are adequately protected.

Implementation

55. It is envisaged that the Order will be made by December 2014. CILEx /IPS will commence the operation of the fund and regulation of entities in January 2015.
56. IPS has developed Compensation Fund Rules for which approval can be sought as soon as the Order is made.
57. IPS will begin recruiting for trustees to manage the Compensation Fund around September 2014, with a view to making appointments and carrying out training of trustees by December 2014.
58. Internal implementation processes are in place or being implemented. This work will have concluded by December 2014.

Conclusion

59. Having carefully considered the options CILEx is of the view that other than through a Compensation Fund, there is no alternative or proportionate way to achieve the desired outcome of relieving or mitigating losses or hardship suffered by persons in consequence of negligence, fraud or other dishonesty and failure to account by an entity.
60. CILEx has submitted to the LSB a draft of the Order it is seeking under section 69 and has suggested drafting changes including consequential amendments.

INTERVENTION ORDER

61. The regulatory objectives under the Act require that CILEx must protect and promote the interests of consumers and the public. CILEx must also improve access to justice, promote competition in the provision of legal services and encourage the development of an independent, strong, diverse and effective legal profession in accordance with the regulatory objectives.
62. Despite IPS risk based approach to regulation (which has been outlined above under this documents introduction) there will be instances where regulated entities demonstrate risks which require immediate action, to protect clients consumers and the public. The action will be to intervene into entities to manage them towards closure.
63. CILEx, as the approved regulator under the Act, therefore seeks a statutory order under s69 of the Act to enable it to intervene into entities to meet its obligations under the Act.

Problem under consideration

64. Clients place significant trust in legal professionals to take care of their money/important documents and equally trust that regulation will protect them where necessary. In the absence of intervention powers IPS and CILEx unable to deliver that protection to clients or seek court orders to enable it to do so.
65. CILEx, through IPS, must be able to take immediate enforcement action to protect the interests of the public and consumers. There is a risk that a regulated entity could act in a manner which does not deliver legal services to clients placing their legal matter at risk and placing at risk the money entrusted by clients to regulated entities on account of work the entity will undertake.
66. In some instances the risks cannot be mitigated by other action such as disciplinary proceedings. The level of risk is immediate and requires urgent action to protect the interests of clients.
67. The problem identified by CILEx is that a regulator needs statutory powers to enable it to seek an order from the High Court to enable it to intervene into an entity. IPS is unable to intervene in the absence of these statutory powers. CILEx is not a statutory body and does not have statutory powers to intervene into entities, neither is there any other provision by which it can gain the intervention powers. Under the Act a Licensing Authority may acquire intervention powers in respect of Alternative Business Structures (ABS). However, the Act includes no specific provision for the acquisition of intervention powers in respect of non-ABS entities.
68. CILEx's own regulatory arrangements are insufficient for obtaining the powers to intervene and allowing money to vest in CILEx, as that may only be secured through statutory powers. IPS explored how its regulatory arrangements could provide the immediate protection required. They include the powers available under the disciplinary procedures. However, these approaches, while mitigating the risk, do not provide immediate protection of client money and assets or enable CILEx, through IPS, to take control of them, which may be necessary to deliver appropriate protection.

69. The IPS Investigation, Disciplinary and Appeals Rule (IDAR) allows for interim orders to be made to suspend a person's membership of CILEx, regulation by IPS, or an entity's authorisation by IPS, pending the conclusion of proceedings and for an excluded entity to enter into a practice management agreement. However, these powers do not protect client money and documents where circumstances demonstrate there is an immediate risk.

Policy objective

70. The policy objective is to seek a statutory power, though an order made under s69 of the Act, to enable CILEx to seek an order of the High Court to intervene into a regulated practice.
71. The power to intervene offers a high degree of protection in the interest of all stakeholders but particularly consumers of legal services, for whom the security afforded by the power is important. The power to intervene is aimed at providing consumers and the public with continued assurance that there are mechanisms in place to protect and safeguard their interests when things going wrong.
72. The legal profession's reputation for high-quality and competent service is built on the foundation of the professional rules and principles of conduct. CILEx believes that giving IPS the powers to intervene will help maintain that reputation.
73. The Order will provide IPS with authority to enter an entity and to seize assets and freeze bank accounts, thereby protecting client money and assets. They will be distributed in accordance with client wishes, leading to the closure of the entity.

Regulatory objectives and the principles of better regulation

74. Intervention powers will protect and promote the interests of consumers. They also promote the regulatory objectives of protecting the public interest and improving access to justice in giving the public the confidence to entrust funds to entities regulated by IPS and so facilitate many legal transactions. It thereby also delivers the objective of promoting competition in the provision of legal services by making available an increased range of legal services provider that the public can instruct. CILEx will also be able to assure the public that entities regulated by IPS meet the regulatory objective of being strong, diverse and effective by offering the same level of protection as other legal services regulators.

Options explored

75. Three options were explored as to how CILEx, through IPS, can deliver immediate protection to clients and the public, outlined below.
76. **Option 1: do nothing.** Under this approach CILEx would have no mechanism in place that enables it to deliver immediate protection to the public and consumers. Under this option CILEx and IPS fail to meet the regulatory objectives of protecting and promoting consumer and public interests.
77. **Option 2: practice management agreement.** IPS has included a practice management agreement in its IDAR. This enables it to enter into an agreement with a regulated entity that IPS may put its own practice manager into an entity to manage that practice. This power would be used where the entity is found to be unable to manage the practice itself

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or there are risks to client money, giving IPS civil powers to enable it to manage the closure of an entity. While such an agreement may be appropriate to use in certain circumstances, it does not in itself give IPS a clear and enforceable power to intervene and freeze the assets of an entity in the circumstances when action is needed.

78. The agreement can be implemented only where the Disciplinary Tribunal established under IDAR orders the entity to enter the agreement. This order can be made where the Disciplinary Tribunal decides to exclude an entity from regulation. It requires the co-operation of entities, which is difficult to secure in circumstances where risk is high and the need for protection is urgent. It also does not give IPS any powers to seek court orders for the protection of client money and papers.
79. In conclusion, as with option 1 this agreement fails to deliver the immediate consumer and public protection which may be required.
80. **Option 3: intervention powers.** IPS, on behalf of CILEx, will take a risk based approach to the regulation of entities. Post authorisation IPS will keep under review, through intelligence gathering and monitoring activity, new and emerging risks to the delivery of regulatory outcomes it has developed which are designed to protect the public and consumers. Where significant risks are identified IPS will need to have the power to take targeted and proportionate enforcement action, including intervention into an entity to protect the interests of consumers and the public and their assets in the control of a regulated entity. CILEx is therefore seeking the power to intervene into entities to enable it, through IPS, to deliver this objective.
81. The purpose of this order is to enable IPS to act quickly to protect clients from the activities of dishonest entities and to avoid possible or further financial defaults by regulated entities.
82. The powers available on intervention follow those available at schedule 14 of the Act. The desired outcome is to have intervention powers that will allow IPS, on behalf of CILEx, to act with speed and apply to the High Court to obtain an order which will have the effect of freezing an entity's bank accounts, and enable IPS to deal with client files in such a way that they are either returned to the clients or forwarded to another legal representative to be dealt with. It will prevent an entity from using client money or documents at points of high risk identified in the intervention conditions.
83. Once the decision to intervene has been made, the bank accounts of the entity will be frozen to safeguard against funds being misappropriated. The money that is frozen will be held in trust in a special account in the name of CILEx or a person nominated on its behalf. The powers to hold an entity's money on trust will be derived through the intervention powers. The funds will then be distributed to their rightful owner.
84. The step of intervening into an entity will not be taken lightly and will be used as a last resort where other regulatory action cannot be taken to protect the interests of consumers. Ultimately steps to intervene will be taken where it is necessary to protect the interests of clients and to ensure that client monies are not misapplied and to ensure that client documents are protected.

Stakeholder consultation

85. CILEx members and other stakeholders (other regulators, professional bodies and consumer organisations) were consulted on the options available. The consultation was issued in August 2012 and concluded in October 2012. Four responses were received to the consultation, which supported the application for intervention powers. IPS, on behalf of CILEx, also held a reference group meeting where attendees recognised that intervention was necessary.
86. IPS also invited stakeholders to attend a Reference Group session which was set up to discuss the proposals, explore the options and obtain views.
87. Consultation respondents and Reference Group attendees agreed the power to intervene is necessary.

Economic rationale

88. The intervention powers will enable IPS to act quickly to protect client money and assets. It avoids loss occurring and therefore reduces the financial and other costs that clients would otherwise incur in seeking redress after a loss has occurred.

Main affected groups

89. There are two affected groups:
 - Group A – IPS regulated entities and;
 - Group B – IPS

Costs and benefits

90. This section sets out the monetised and non-monetised costs and benefits of each option explored. There will be costs of intervention processes incurred internally by IPS and the cost of intervention agents who carry out the intervention work. These are explored below.
91. **Option 1: base case.** Under this option IPS will not have the power to intervene.
92. IPS will require no income to cover the costs of intervention costs. There are therefore no costs to IPS.
93. Entities will pay a regulated fee each year. The level of fee they pay will be lower as IPS does not need to build funds to cover interventions.
94. The benefits to IPS and entities are that no action or resource is required to deal with intervention.
95. **Option 2: intervention order.** Under this option IPS will be able to intervene into entities.

Costs to Group A – IPS regulated entities & Group B – IPS:

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96. IPS will be responsible for paying for intervention costs. In practice intervention agents will be used. IPS has budgeted £50,000 average costs for each intervention on the basis that it will intervene into around 2% regulated entities each year. This will include IPS staff time, intervention agents and trustees who manage the statutory trust into which money seized from an entity is placed. Therefore if there were two interventions in one year costs could amount to £100,000.
97. The direct costs of interventions are recoverable from the entity subject to intervention. However, in practice an entity subject to intervention is unlikely to pay.
98. All regulated entities will pay a regulatory fee. The regulatory fee will include a sum to enable IPS to build up general income to cover intervention costs. The table below sets out contributions based on likely numbers of regulated number of entities drawn from research.

Entity numbers	Number of interventions	Level of annual contribution per entity £
. Most likely (0-80 entities)	. 1 entities	. 1250
. Possible (81 – 200 entities)	. 4 entities	. 1000
. Unlikely (201 -400 entities)	. 8 entities	. 1000

99. CILEx concludes that while this option carries a financial cost this is the only option that provides the necessary level of consumer and public protection. The benefits are that IPS can act to provide protection to consumers and the public.

Implementation

100. It is envisaged that the Order will be made by December 2014. CILEx, through IPS, will commence regulation of legal practices in January 2015.
101. IPS is developing internal procedures and processes for intervention. This work will have concluded by December 2014.
102. IPS will begin recruiting for trustees to manage the Statutory Trust Fund around September 2014, with a view to making appointments and carrying out training of trustees by December 2014.

Conclusion

103. Having carefully considered the options CILEx is of the view that there is no other alternative or proportionate way to achieve the desired outcome.

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104. CILEx is not a statutory body and does not have statutory powers to intervene into entities having considered the current legislation and regulations; it believes that there is no existing legislation or other requirement that provide for the same or similar outcomes as an order under s.69 of the Act. CILEx has also demonstrated that there is no other provision within the Act that enables it to regulate without the proposed change.

105. CILEx has submitted to the LSB the order it is seeking under s.69 and the suggested drafting changes including consequential amendments.