

By Email under s.203 of the Legal Services Act 2007

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BOARD**

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18 April 2013

Dear Ian

**Warning notice issued under Part 3 of Schedule 4 to the Legal Services Act 2007**

This letter constitutes a warning notice pursuant to paragraph 21(1)(b), Part 3 of Schedule 4 to the Legal Services Act 2007 (the “Act”). The words used in this warning notice have the meanings given to them in the Act.

On 25 March 2013, the Board received the Chartered Institute of Legal Executives (CILEx) application to alter its regulatory arrangements for authorising those who provide immigration advice and services.

The Board, in accordance with paragraph 21(1)(b), Part 3 of Schedule 4 to the Act, is issuing a warning notice because it is considering whether to refuse the application. The Board also want to seek external advice to assist its assessment.

While CILEx already regulates individual immigration practitioners, its application seeks to extend those rights to entities, as well as to introduce regulatory arrangements in relation to qualifications, indemnity and compensation. If granted therefore, the proposed arrangements would result in a widening of the regulatory scope of CILEx. With this in mind, the Board needs to be assured that the regulatory arrangements as proposed will not be prejudicial to the regulatory objectives. Having regard to the statutory criteria set out in paragraph 25, Part 3 of Schedule 4 to the Act, the Board has to consider whether it should grant or refuse the application. Specifically under paragraph 25(3)(a), Part 3 of Schedule 4, the Board may refuse an application if it is satisfied that granting it “would be prejudicial to the regulatory objectives”.

In addition, having given consideration to 25(3)(b) of the Act and related paragraph 25(4)(b): “granting the application [...] would result in any of the designation requirements ceasing to be satisfied in relation to the approved regulator”, and “a requirement that the

applicant is competent, and has sufficient resources to perform the role of approved regulator in relation to the reserved legal activities of which it is designated”, the Board needs to be satisfied that CILEx has sufficient capacity and resources to undertake regulation in relation to the additional litigation rights sought. This is particularly pertinent in the context of CILEx’s other current applications to be designated as an approved regulator to grant Reserved Instrument Activity Rights (Conveyancing) and Probate Activity Rights and to alter its regulatory arrangements for awarding rights to conduct litigation to be extended to include all suitably qualified Chartered Legal Executives.

Now that this warning notice has been given to CILEx, paragraph 22(1) of Part 3 of Schedule 4 to the Act and paragraph 19 of our Rules for rule change applications<sup>1</sup> allow the Board to obtain advice about whether the application should be granted. We will let you know who we ask to provide us with advice.

Paragraph 26(3) of Part 3 of Schedule 4 to the Act provides that the Board has a period of 12 months from the date of your receipt of this warning notice to continue considering the CLSB’s proposed rule change. The Board may, in accordance with paragraphs 26(4), (5) and (6) of Part 3 of Schedule 4 to the Act, issue an Extension Notice or Notices before the end of the 12 month period to extend the decision period by up to six months.

This warning notice has been transmitted by email and so has been given on 18 April 2013. The decision period will therefore expire (unless extended on the basis explained above) on 17 April 2014. A copy of the warning notice will be placed on the Board’s website within two days following receipt of it in order for the Board to comply with the requirements of Paragraph 21(2) of Part 3 of Schedule 4 to the Act.

I am sending a copy of this letter to Diane Burleigh, Chief Executive of CILEx in accordance with the protocol previously agreed by CILEx (ILEX at the time of the signing of the protocol) for sending and receiving electronic documents.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Chris Kenny', with a horizontal line extending to the right and a short horizontal stroke below it.

**Chris Kenny**

Chief Executive

E [chris.kenny@legalservicesboard.org.uk](mailto:chris.kenny@legalservicesboard.org.uk)

Cc: Diane Burleigh, Chief Executive, CILEx, [dburleigh@cilex.org.uk](mailto:dburleigh@cilex.org.uk)

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<sup>1</sup>[http://www.legalservicesboard.org.uk/what\\_we\\_do/regulation/pdf/rules\\_for\\_rule\\_change\\_applications\\_v2\\_November2010.pdf](http://www.legalservicesboard.org.uk/what_we_do/regulation/pdf/rules_for_rule_change_applications_v2_November2010.pdf)