



Summary of decision

The purpose of this summary sheet is to provide a high level and accessible synopsis of the Legal Services Board's ("the **LSB**") decision. Readers are recommended to read the formal decision notice below for further detail. **This summary is not and should not be taken as a formal part of the LSB's decision notice under the Legal Services Act 2007 ("the Act").**

The LSB's decision is to grant in full the application from CILEx Regulation to make changes to the CILEx Regulation Licensing Rules. The changes provide interim arrangements for hearing appeals against decisions made by CILEx Regulation in its capacity as a licensing authority, until a statutory instrument is made allowing appeals to the General Regulatory Chamber of the First-tier Tribunal ("**FTT**"). This will allow CILEx Regulation to commence accepting applications from those wishing to become licensed bodies. The amendments will permit CILEx Regulation to ring-fence three members of the Appeals Panel, which is established under rule 1(5) of the CILEx Regulation Enforcement Rules, to hear any appeals under the new rule 27(3) of the CILEx Regulation Licensing Rules.

The LSB has recommended to the Lord Chancellor that he make an order under section 80 of the Legal Services Act 2007 to establish the FTT as an appellate body to hear and determine appeals from decisions made by CILEx (which has delegated this to CILEx Regulation), when acting in its capacity as a licensing authority. The proposed interim regulatory arrangements in Annex A are intended to have effect only until that statutory instrument is made and comes into force.

Following assessment of the CILEx Regulation application, the LSB concluded that the changes do not meet the refusal criteria in the Act. Consequently, the LSB considers that there is no reason to refuse this application.

Decision notice

Issued by the Legal Services Board (“LSB”) under Part 3 of Schedule 4 to the Legal Services Act 2007 (“the Act”)

CILEx Regulation rule change application for approval of changes to the CILEx Regulation Licensing Rules (“Licensing Rules”) to accommodate interim arrangements for dealing with appeals under rule 27 of the Licensing Rules before it has access to the First-Tier Tribunal

1. This decision notice sets out the decision taken, including a brief description of the changes.
2. The Legal Services Board (“**the LSB**”) is required by Part 3 of Schedule 4 to the Legal Services Act 2007 (“**the Act**”) to review and grant or refuse applications by approved regulators to make alterations to their regulatory arrangements. The Chartered Institute of Legal Executives (“**CILEx**”) is an approved regulator that has delegated its regulatory functions to its regulatory body, CILEx Regulation. The notes at page 8 of this notice explain the statutory basis for the decision.
3. The chronology for the LSB’s handling of this application is set out below.

Chronology

- The LSB confirmed receipt of the application from CILEx Regulation on 15 May 2019.
- The 28 day initial decision period for considering the application will end on 11 June 2019.
- This decision notice will be effective from 10 June 2019.
- The decision notice will be published on the LSB’s website on 12 June 2019.

Background

4. On 29 August 2017 CILEx Regulation applied to the LSB to be designated as a licensing authority for the reserved legal activities for which it was already an approved regulator. Following its assessment of the application, on 8 June 2018 the LSB issued a decision notice granting the application and making a recommendation to the Lord Chancellor to designate CILEx as a licensing authority.
5. On 1 April 2019, CILEx was designated as a licensing authority under an Order made by the Lord Chancellor pursuant to section 208(2) of, and paragraph 15(1)(a) of Schedule 10 to, the Legal Services Act 2007.¹ CILEx has delegated its regulatory functions including as a licensing authority to its regulatory body, CILEx Regulation.

¹The Legal Services Act 2007 (Designation as a Licensing Authority) Order 2019, available here: <http://www.legislation.gov.uk/ukSI/2019/166/made>

6. The LSB has made a further recommendation to the Lord Chancellor that he make an Order, under section 80 of the Act, to establish the General Regulatory Chamber of the First-tier Tribunal (“FTT”) as the appellate body to hear and determine appeals from decisions made by CILEx when acting in its capacity as a licensing authority. The Lord Chancellor has accepted this recommendation².
7. Due to a constrained timetable in Parliament, the Lord Chancellor cannot give any assurances as to when the section 80 Order, which is made using the affirmative resolution process³, will be made. The Lord Chancellor is aware of CILEx Regulation’s intention to seek the LSB’s approval to put in place interim appeal arrangements until the section 80 Order comes into force.
8. The LSB’s decision notice dated 8 June 2018⁴, which granted CILEx Regulation’s application for designation as a licensing authority, stated that should CILEx Regulation wish to commence licensing once it was authorised to do so, and prior to a section 80 Order coming into force establishing the appeals process to the FTT, it could put in place interim appeals arrangements. The LSB decision notice made clear that the interim appeal arrangements must comply with the LSB’s requirements for licensing rules and the LSB would need to be assured of this.

Proposed changes

9. The existing Licensing Rules provide that an applicant can request a review of a range of licensing decisions and can appeal a review decision to a CILEx Regulation Appeals Panel, established under rule 1(5) of the existing CILEx Regulation Enforcement Rules. In addition to these internal mechanisms as a designated licensing authority, CILEx Regulation must have an appellate body in place to hear appeals on licensing decisions. Rule 27 of the Licensing Rules approved by the LSB in June 2018, allow such further appeals only to a body established under a section 80 order. Pending the section 80 Order CILEx Regulation proposes the temporary interim appeals arrangements by amending rule 27.
10. In summary, the proposed changes will permit CILEx Regulation to ring-fence three members of its existing Appeals Panel to act as the appellate body to hear further appeals under new rule 27(2)(b) and (3) of the Licensing Rules. This is on the basis that these three members will not be involved in any other appeal panel related to a licensing decision. This arrangement will only be in place until the section 80 order comes into force.

² The LSB consulted on the proposed order and recommendation to the Lord Chancellor to be made under Section 80 of the Act for licencing authority appeal arrangements for CILEx Regulation on behalf of the CILEx. The consultation document can be accessed here:

https://www.legalservicesboard.org.uk/what_we_do/consultations/open/pdf/2018/Final%20S80%20Order%20Consultation%20CILEX%20Reg.pdf

³ The affirmative resolution process means the Order must gain approval from Parliament before it passes into law.

⁴

https://www.legalservicesboard.org.uk/Projects/statutory_decision_making/pdf/2018/CILEx_Reg_LA_Decision_Notice.pdf

11. The amendments proposed to the Licensing Rules are shown as track changes in **Annex A** to this notice.
12. The CILEx Regulation application states that the impact of the proposed rule change will be on applicants and persons who are affected by any of the following decisions made under rule 25 of the Licensing Rules:
- to refuse to grant a licence
 - to impose special licence conditions upon a licence
 - to refuse an application for modification of the terms of a licence
 - to modify the terms of a licence
 - to suspend or revoke a licence
 - to refuse an application for approval as an owner, designated officer or manager of a relevant body
 - to revoke approval as an owner, designated officer or manager of a relevant body
 - to disqualify a person.

Compliance with the European Convention on Human Rights

13. In its application, CILEx Regulation has referenced legal advice that it has obtained in relation to its proposed interim arrangements and their compliance with Article 6 rights⁵. Article 6 provides that, in relation to civil rights and responsibilities, everyone is entitled to a fair and public hearing, within a reasonable time, by an independent and impartial tribunal established by law. CILEx Regulation is of the view that its arrangements are compliant with Article 6, but recognises an associated risk of judicial review and explains how this will be mitigated in its application.
14. To ensure independence and impartiality, CILEx Regulation intends to ring fence three experienced members of its appeals panel to hear appeals. It has set out in its application a number of additional measures it will take to mitigate the risk of judicial review of its interim appeals arrangement. These include:
- Ensuring panel members are selected on the basis of their experience of analysing cases, assimilating complex information and making reasoned, evidence-based decisions
 - Providing additional guidance and training before the members take on the role and responsibilities

⁵ Article 6 of the European Convention on Human Rights provides for a right to a fair and public hearing in the determination of a person's civil rights and obligations, within a reasonable time, by an independent and impartial tribunal established by law.

- Ensuring panel members understand professional regulation, including being able to assess fitness to practice and fitness to own, as well as understanding professional disciplinary and misconduct issues
- Making sure panel members understand the delivery of legal services and apply guidance appropriately to agree sanctions. Members must be committed to the 'Nolan' principles of public life⁶
- Providing that no member of the Appeals Panel may be a member of any other governing body, Board or committee of the Chartered Institute of Legal Executives or the Board of Directors of CILEx Regulation.

15. In addition, CILEx Regulation has stated in its application that the risks that have been identified can be further mitigated by existing administrative arrangements that are already in place for its Enforcement procedures. These include:

- Panels/tribunals deliberate in private and refer to guidance produced by the LSB e.g. sanctions guidance and publication policy when making decisions, which will be extended to include ABS
- Detailed decision notices are produced by the Clerks and sent to CILEx Regulation
- Decision notices and next steps letters will be sent to members / firms promptly (and in accordance with the rules where time periods are specified). CILEx Regulation staff follow an internal procedure and use a checklist which is held on file to show each step is taken in every case.

16. To further manage the risks of this interim arrangement, CILEx Regulation is proposing that this change only applies until a body has been established under section 80(1)(a) of the Legal Services Act 2007. CILEx Regulation's application considers that subject to gaining Parliamentary approval, the section 80 order will either be obtained on 1 October 2019 or 1 April 2020, depending on the parliamentary timetable. In the light of this, it believes that the possibility of an appeal reaching the interim appellate body is unlikely given the timescales for an appellant to pass through the licensing appeals process.

⁶ The 7 Nolan principles are the basis of the ethical standards expected of public office holders <https://www.gov.uk/government/publications/the-7-principles-of-public-life>

Key issues considered in the assessment of the application

17. Having considered the application and supporting documents, the LSB makes the following key points.

Managing risks

18. At this stage it is not possible for the LSB to know how long the interim arrangements will be in place, as there are no assurances as to when the section 80 Order will be made. The interim appellate body could therefore be in place for longer than the period specified in the application, meaning a potential increased chance of an appeal reaching the interim appellate body. However, the LSB acknowledges the measures CILEx Regulation will put in place to mitigate against the risk of infringing Article 6 rights set out in paragraphs 14 -16 of this decision notice. Further, the LSB notes that no appeals have been made to an appellate body in respect of other licensing authorities to date and therefore the LSB considers the risk of appeal to be low.
19. The LSB has also considered that if the rule change is not approved, CILEx Regulation would not be able to accept applications from those intending to become licensed bodies until the section 80 Order had been made which could be in late 2019, early 2020 or even later. To understand the impact of this on new entry in to the legal services sector, during its assessment of the application, the LSB sought further information from CILEx Regulation on the number of applications it expected to receive and process during the timeframe that CILEx Regulation anticipates the interim arrangements will be in place. CILEx Regulation estimates that it will receive a small number of Alternative Business Structure (“**ABS**”) applications to become licensing bodies through to 1 April 2020. This includes some applications from existing non-ABS entities, looking to convert to ABS by adding existing non-lawyer members of staff to the ownership of the firms. Therefore if the rule change is not approved, CILEx Regulation will not be able to commence licensing, which would delay new entry into the legal services sector.
20. In the circumstances, the LSB considers the interim appeal arrangements are a low risk approach to addressing the delay in the section 80 Order coming into force and would allow CILEx Regulation to commence licensing, which would permit new entry to occur in the short to medium term. The LSB also notes that as part of its assessment of CILEx Regulation’s application to be a designated licensing authority, it sought advice from the Competition and Markets Authority (“**CMA**”) pursuant to paragraphs 3(1) and 3(2) of Schedule 10 to the Act. The CMA commented that allowing CILEx Regulation to authorise ABS may strengthen competition and promote innovation in legal services.

Consultation on the rule change

21. The LSB notes that CILEx Regulation did not consult on this specific rule change. However, CILEx Regulation explains in its application that this is because the implementation of these proposed changes, with the original appeals arrangements, were consulted on prior to submitting their licensing designation application to the LSB, which was approved in June 2018. Further, CILEx Regulation has explained it has not

consulted on this rule change given that it anticipates that the interim appeal arrangements are intended to be in place for a short time.

Decision

22. The LSB has considered CILEx Regulation's application against the criteria in paragraph 25(3) of Schedule 4 to the Act. It accordingly grants the application in full.
23. **Annex A** to this decision notice contains the amended regulatory arrangements that are approved by the LSB.

Neil Buckley, Chief Executive
Acting under delegated authority granted by the Legal Services Board
10 June 2019

Notes:

1. The LSB is required by Part 3 of Schedule 4 to the Act to review and grant or refuse applications by approved regulators to make alterations to their regulatory arrangements.
2. Paragraph 25(3) of Schedule 4 to the Act explains that the LSB may refuse an application setting out a proposed change to the regulatory arrangements only if it is satisfied that
 - (a) Granting the application would be prejudicial to the regulatory objectives
 - (b) granting the application would be contrary to any provision made by or by virtue of this Act or any other enactment or would result in any of the designation requirements ceasing to be satisfied in relation to the approved regulator
 - (c) granting the application would be contrary to the public interest
 - (d) the alteration would enable the approved regulator to authorise persons to carry on activities which are reserved legal activities in relation to which it is not a relevant approved regulator
 - (e) the alteration would enable the approved regulator to license persons under Part 5 [of the Act] to carry on activities which are reserved legal activities in relation to which it is not a licensing authority, or
 - (f) the alteration has been or is likely to be made otherwise than in accordance with the procedures (whether statutory or otherwise) which apply in relation to the making of the alteration.
3. The designation requirements referred to in paragraph 2(b) above are set out in paragraph 25(4) of Schedule 4 to the Act and are
 - (a) a requirement that the approved regulator has appropriate internal governance arrangements in place
 - (b) 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 in respect of which it is designated, and
 - (c) the requirements set out in paragraphs 13(2)(c) to (e) of Schedule 4, namely that the regulatory arrangements are appropriate, comply with the requirements in respect of resolution of regulatory conflict (imposed by sections 52 and 54 of the Act) and comply with the requirements in relation to the handling of complaints (imposed by sections 112 and 145 of the Act).
4. In accordance with paragraphs 20(1) and 23(3) of Schedule 4 to the Act, the LSB has made rules⁷ about the manner and form in which applications to alter regulatory arrangements must be made. Amongst other things, the rules highlight the applicant's obligations under section 28 of the Act to have regard to the Better Regulation Principles. They also require applicants to provide information about each proposed change and details of the consultation undertaken.

⁷ Rules for Rule Change Applications – Version 2, April 2018
[https://www.legalservicesboard.org.uk/what_we_do/regulation/pdf/New%20folder%20\(2\)/FINAL_Rule_s_for_applications_to_alter_regulatory_arrangements.pdf](https://www.legalservicesboard.org.uk/what_we_do/regulation/pdf/New%20folder%20(2)/FINAL_Rule_s_for_applications_to_alter_regulatory_arrangements.pdf)

5. If the LSB is not satisfied that one or more of the criteria for refusal are met, then it must approve the application in whole, or the parts of it that can be approved.

Annex A

CILEx REGULATION LICENSING RULES

PART 1: INTERPRETATION

Interpretation

1. (1) In these Rules:

the **Act** means the Legal Services Act 2007;

applicant, in relation to an application made under these Rules, means:

- (a) a body seeking a licence as a Licensed Body; or
- (b) an individual seeking approval as an owner, designated officer or manager of such a body;

approval means approval granted under these Rules to be an owner, designated officer or manager of a Licensed Body;

authorised person has the same meaning as in section 18 of the Act;

CILEx means the Chartered Institute of Legal Executives and, where CILEx has delegated responsibility to it for the application and administration of any rule, includes CILEx Regulation Limited;

CILEx regulatory arrangements means the regulatory arrangements (within the meaning of section 21 of the Act) established by CILEx and includes these Rules and:

- (a) the CILEx Code of Conduct;
- (b) the CILEx Regulation Enforcement Rules;
- (c) the CILEx Accounts Rules;
- (d) the CILEx Regulation Compensation Arrangements Rules; and
- (e) the CILEx Professional Indemnity Insurance Rules;

designated officer, in relation to a Licensed Body, means its:

- (a) Head of Legal Practice (within the meaning of section 91 of the Act);
or
- (b) Head of Finance and Administration (within the meaning of section 92 of that Act);

Licensed Body means a body that is licensed by CILEx under these Rules to carry on one or more reserved legal activity;⁸

⁸ In the CILEx Code of Conduct and in other CILEx Rules (other than the CILEx Authorisation Rules) references to an "Authorised Entity" include a Licensed Body.

manager has the same meaning as in section 207 of the Act;

owner in relation to a Licensed Body, means:

- (a) a person who has a restricted interest in that body; or
- (b) in the case of a body which is a partnership, a partner (and whether or not the partner holds a restricted interest);

and for this purpose **restricted interest** has the same meaning as in Schedule 13 to the Act;

practising address has the same meaning as in paragraph 15(2) of Schedule 11 to the Act;

prescribed, in relation to any form or fee, means prescribed from time to time by CILEx;

regulatory objectives has the same meaning as in section 1(1) of the Act.

- (2) Subject to paragraph (1), the Interpretation Act 1978 applies to these Rules as if they were an Act of Parliament.

PART 2: LICENCES

Licence Applications

- 2. (1) A licence application must be made in the prescribed form and be accompanied by:
 - (a) such documents and information as CILEx may specify;
 - (b) any other documents or information that CILEx may reasonably require in order to discharge its functions under these Rules; and
 - (c) the prescribed fee.
- (2) An applicant must ensure that any information it provides to CILEx is complete and accurate.
- (3) If, after the date that an application is submitted to CILEx but before it is determined, there is any change in any information provided in that application of which the applicant is or ought reasonably to be aware, the applicant must promptly notify CILEx of that change.
- (4) Without limiting paragraph (1), the documents and information which may be specified under that paragraph include any documents and information which CILEx may reasonably require to assess, in accordance with rule 3(2), whether the applicant's owners, designated officers and managers are collectively are fit and proper to control or manage a Licensed Body.
- (5) Where any document or information provided under this rule discloses a matter which may constitute prior conduct within the meaning of Part II

of the CILEx Regulation Enforcement Rules, CILEx may:

- (a) refer that matter to the Professional Conduct Panel as if it was a declaration of prior conduct made under those Rules; and
- (b) ask the Panel to:
 - (i) consider the matter under those Rules; and
 - (ii) provide CILEx with an opinion on the fitness and propriety of the person to whom the matter relates.

Determination of licence applications

- 3. (1) CILEx may only grant a licence application if:
 - (a) the applicant is a licensable body (within the meaning of section 72 of the Act);
 - (b) at least one manager of the applicant is an individual who:
 - (i) is an authorised person (within the meaning of the Act); and
 - (ii) CILEx is satisfied has the necessary competence in respect of any reserved legal activity which that body proposes to conduct;
 - (c) the applicant has a practising address in England and Wales;
 - (d) CILEx is satisfied that the applicant will comply with these Rules including, in particular,
 - (i) rule 7 (designated officers); and
 - (ii) rule 8 (management and control); and
 - (e) CILEx is satisfied that the applicant will comply with the CILEx regulatory arrangements including, in particular:
 - (i) the CILEx Indemnity Insurance Rules; and
 - (ii) the CILEx Compensation Fund Rules.
- (2) In reaching a decision, CILEx:
 - (a) may take account of any information which it considers to be relevant and, for that purpose, may:
 - (i) require an applicant to submit further information; or
 - (ii) may visit an applicant to obtain further information;
 - (b) must take account of:
 - (i) any opinion provided by the Professional Conduct Panel;
 - (ii) its Risk Assessment Framework; and
 - (iii) the regulatory objectives, including in particular the objective of improving access to justice.
- (3) CILEx may refuse a licence application if:

- (a) it is not satisfied that the applicant's owners, designated officers and managers collectively are fit and proper to control or manage a Licensed Body;
 - (b) it is not satisfied that the applicant's management arrangements are adequate to safeguard the regulatory objectives;
 - (c) it is not satisfied that the applicant will comply with the CILEx regulatory arrangements;
 - (d) the applicant has:
 - (i) provided inaccurate or misleading information;
 - (ii) failed or refused to disclose, or attempted to conceal, relevant information;
 - (iii) failed to provide any further information or documents which CILEx has requested in accordance with rule 2(1)(b); or
 - (iv) failed to comply with rule 2(2) or (3).
 - (e) for any other reason, CILEx considers that granting a licence would be inconsistent with the regulatory objectives or contrary to the public interest.
- (4) In the course of determining a licence application CILEx may also approve designations as a Head of Legal Practice and Head of Finance and Administration.

Time limit on determinations

4. (1) Subject to paragraph (2), CILEx must:
- (a) decide whether to grant or refuse a licence application and
 - (b) notify the applicant of that decision and the reasons for it;
- within a period of six months from the day on which the application is made to CILEx in accordance with rule 2.
- (2) CILEx may extend the time period specified in paragraph (1) by not more than three months if it considers that it is necessary to do so.
- (3) Notice of any extension under paragraph (2) must be given to the applicant before the time period specified in paragraph (1) has expired and in any such notice CILEx must:
- (a) specify the date by which the application will be determined; and
 - (b) provide the reasons for the extension.
- (4) The power conferred by paragraph (2) may not be exercised more than once in respect of the same application.

PART 3: LICENCE DURATION, SCOPE AND CONDITIONS

Licence duration, scope and conditions

5. (1) A licence under these Rules takes effect from the date that it is granted and remains in effect until:
 - (a) it is suspended or revoked under rule 14;
 - (b) subject to paragraph (2), the Licensed Body ceases trading, is wound up or otherwise ceases to exist; or
 - (c) the body is licensed by another approved regulator.
- (2) For the purpose of paragraph (1)(b) a Licensed Body which is a partnership or unincorporated body is not to be regarded as ceasing to exist where:
 - (a) there has been a change in the membership of that partnership or body; and;
 - (b) before that change occurred CILEx:
 - (i) was informed by the Licensed Body of the proposed change; and
 - (ii) confirmed in writing that, for the purpose of that paragraph, the proposed change does not constitute a cessation of the existence of the Licensed Body.
- (3) A licence granted under these Rules authorises a Licensed Body to undertake any reserved legal activity specified in that licence.
- (4) A Licensed Body must not act outside of scope of any licence granted under these Rules and, in particular must not undertake a reserved legal activity:
 - (a) for which it is not licensed; or
 - (b) by means of any person who is not licensed or otherwise authorised to undertake that activity.
- (5) A licence under these Rules is granted subject to:
 - (a) the general licence conditions in Part 4; and
 - (b) any special licence conditions imposed upon that licence in accordance with Part 5.

PART 4: GENERAL LICENCE CONDITIONS

Compliance with CILEx regulatory arrangements

6. (1) A Licensed Body must at all times have suitable arrangements in place to ensure that:
 - (a) the Licensed Body, its owners, designated officers, managers and

employees comply with:

- (i) the CILEx regulatory arrangements; and
 - (ii) any statutory obligations which apply to any of them;
- (b) any person who is an authorised person in relation to any reserved legal activity which the Licensed Body is authorised to conduct:
- (i) has the necessary competence in respect of that reserved legal activity; and
 - (ii) maintains the professional principles in section 1(3) of the Act;
- (c) any manager or employee who is a non-authorised persons does not act in contravention of the Act.
- (2) A Licensed Body must at all times have a practising address in England and Wales and must promptly inform CILEx of any change in that address.
- (3) This section applies in relation to the Board in its capacity as a licensing authority and its licensing Rules, as it applies in relation to an approved regulator and its regulatory arrangements.

Designated officers

7. (1) A Licensed Body must at all times have an individual who is designated as the Head of Legal Practice (**HoLP**)
- (2) The HoLP of a Licensed Body must be:
- (a) a manager or an employee of the Licensed Body;
 - (b) in a position of sufficient seniority and responsibility to fulfil the role;
 - (c) an authorised person in relation to any reserved legal activity which that body is licensed to conduct;
 - (d) consent to the designation;
 - (e) not be disqualified as acting as HoLP of a licensed body; and
 - (f) approved by CILEx.
- (3) The HoLP of a Licensed Body must:
- (a) take all reasonable steps to ensure compliance by the Licensed Body, its managers or employees with:
 - (i) the CILEx regulatory arrangements;
 - (ii) the terms and conditions of its licence other than any obligations referred to in paragraph (6)(a); and
 - (iii) any statutory obligations in relation to the conduct of any reserved legal activity; and
 - (b) promptly report to CILEx any failure to so comply.

- (4) A Licensed Body must at all times have an individual who is designated as the Head of Finance and Administration (**HoFA**).
- (5) The HoFA of a Licensed Body must be:
 - (a) a manager or an employee of the Licensed Body;
 - (b) in a position of sufficient seniority and responsibility to fulfil the role;
 - (c) consent to the designation;
 - (d) not be disqualified as acting as HoFA of a licensed body; and
 - (e) approved by CILEx.
- (6) The HoFA of a Licensed Body must:
 - (a) take all reasonable steps to ensure compliance by the Licensed Body, its managers or employees with any obligations imposed upon them under the CILEx Accounts Rules; and
 - (b) promptly report to CILEx any failure to so comply.
- (7) A Licensed Body must have suitable arrangements in place to ensure that its HoLP and HoFA are able to discharge their duties in accordance with these Rules.

Management and control

8. (1) A Licensed Body must ensure that:
 - (a) any owner, designated officer or manager of the Licensed Body has been approved by CILEx:
 - (i) under Part 7; or
 - (ii) in the case of a temporary approval, under Part 8; and
 - (b) no manager of the Licensed Body is disqualified under the Act from acting as a manager of such a body.
- (2) In paragraph (1) references to an owner or manager of the Licensed Body include an owner or manager of a body corporate which is an owner or manager of that Licensed Body.

Disqualified employees

9. A Licensed Body must not employ a person, or enter into any arrangement for a person to provide services for or on behalf of the Licensed Body, if the person is disqualified under the Act from being employed by any licensed body.

Annual Return and other Information

10. (1) A Licensed Body must provide a return in the prescribed form to CILEx each year or at such other intervals as may be specified by CILEx.

- (2) A Licensed Body must promptly notify CILEx as soon as the Licensed Body becomes aware of any relevant information.
- (3) In this rule **relevant information** means any information about the Licensed Body, its owners, designated officers, managers, or employees which is relevant to the performance by any of them of any obligation under these Rules (or any condition imposed under them) and includes information which:
 - (a) has not previously been provided to CILEx; or
 - (b) has previously been provided to CILEx but may have:
 - (i) been inaccurate, false or misleading; or
 - (ii) changed to a material or significant extent.

Fees

11. A Licensed Body must pay to CILEx the prescribed periodical fees which are applicable to that body.

PART 5: SPECIAL LICENCE CONDITIONS

Imposition of special conditions

12. (1) CILEx may impose one or more special licence conditions on a licence granted under these Rules if it considers that it is in the public interest to do so.
- (2) The special licence conditions which may be imposed under paragraph (1) include any condition to:
 - (a) prevent or restrict a Licensed Body from taking any step which is likely to put the interests of clients, third parties or the public at risk;
 - (b) prevent or restrict a manager or employee of a Licensed Body from undertaking activities which that person is considered to be unsuitable to undertake, whether at all or on an unrestricted basis;
 - (c) require a Licensed Body to take specified steps to secure the proper, effective or efficient conduct of a reserved legal activity for which it is licensed; or
 - (d) monitor and secure compliance by a Licensed Body, its owners, designated officers and managers with:
 - (i) the CILEx regulatory arrangements; or
 - (ii) the regulatory objectives;
- (3) A special condition may be imposed at any time and, unless CILEx specifies otherwise, takes effect from the date on which it is imposed.

- (4) In addition to the power to impose conditions on a licence granted under these Rules CILEx may also make an owner's holding of an interest subject to conditions in accordance with paragraphs 17, 28 and 33 of Schedule 13 to the Legal Services Act 2007.

PART 6: LICENCE MODIFICATION, SUSPENSION AND REVOCATION

Licence modification

13. (1) If it considers that it is appropriate to do so, CILEx may modify the terms of a licence granted under these Rules (other than a general licence condition imposed under Part 4).
- (2) A licence modification under paragraph (1) may be made by CILEx at any time and whether or not an application has been made under paragraph (3).
- (3) A Licensed Body may apply for its licence to be modified and any application must be made in the prescribed form and be accompanied by:
- (a) such documents and information as CILEx may specify;
 - (b) any other documents or information that CILEx may reasonably require for the purpose of considering the application; and
 - (c) the prescribed fee.
- (4) CILEx must:
- (a) decide whether to grant or refuse an application made under paragraph (3); and
 - (b) notify the applicant of that decision and the reasons for it.
- (5) A licence modification made under this rule takes effect from the date on which it is imposed or granted unless CILEx specifies otherwise.

Licence suspension and revocation

14. CILEx may suspend or revoke the licence of a Licensed Body if:
- (a) the licence was granted in error or as a result of fraud;
 - (b) it has failed under these Rules to:
 - (i) provide any information required by CILEx; or
 - (ii) pay any prescribed fee which is payable;
 - (c) it has ceased to meet any of the criteria set out in rule 3(1);
 - (d) it has failed to comply with these Rules or the conditions of its licence, in particular:
 - (i) rule 5(3); or

- (ii) rule 7(1) or (4);
- (e) a person subject to the duty in section 90 of the Act in relation to the Licensed Body has failed to comply with that duty;
- (f) it, or a manager or employee of the Licensed Body, has failed to comply with the duties imposed by section 176 of the Act;
- (g) it has failed to comply rule 8(1)(b) or 9 (prohibition on disqualified managers and employees) and the manager or employee concerned was disqualified as a result of breach of a duty within section 99(4)(c) or (d) of the Act ;
- (h) a person who is not an authorised person holds a restricted interest in the Licensed Body:
 - (i) as a result of the person taking a step in circumstances where doing so constitutes an offence under paragraph 24(1) of Schedule 13 to the Act (whether or not the person is charged with or convicted of such an offence);
 - (ii) in breach of a condition imposed by CILEx under paragraph 17, 28 or 33 of that Schedule; or
 - (iii) the person's holding of which is subject to an objection by CILEx under paragraph 31 or 36 of that Schedule;
- (i) it is subject to intervention under the Schedule 14 to the Act; or
- (j) it does not appear to intend to conduct the reserved legal activities for which it was licensed;
- (k) it has applied for its licence to be suspended or revoked; or
- (l) for any other reason CILEx considers that doing so is in the public interest.

Suspension and revocation procedure

15. (1) CILEx must not suspend or revoke a licence granted under these Rules unless it has given the Licensed Body:
 - (a) written notice of its intention to suspend or revoke the licence; and
 - (b) an opportunity to make representations to it on the issues giving rise to the proposed suspension or revocation.
- (2) Any notice given under paragraph (1) must specify the period in which any representations are to be made and that period must be not less than 28 days beginning with the day on which the notice is given or such longer period as CILEx may specify.

PART 7: APPROVALS

Approval applications

16. (1) An approval application must be made in the prescribed form and be accompanied by:
 - (a) such documents and information as CILEx may specify;
 - (b) any other documents or information that CILEx may reasonably require in order to discharge its functions under these Rules; and
 - (c) the prescribed fee.
- (2) An applicant must ensure that any information it provides to CILEx is complete and accurate.
- (3) If, after the date that an approval application is submitted to CILEx but before it is determined, there is any change in any information provided in that application of which the applicant or the relevant body is or ought reasonably to be aware, they must promptly notify CILEx of that change.
- (4) Without limiting paragraph (1), the documents and information which may be specified under that paragraph include any documents and information which CILEx may reasonably require to assess, in accordance with rule 17(1), whether the applicant is a fit and proper person to be an owner, designated officer or manager of the relevant body (as the case may be).
- (5) Where any document or information provided under this rule discloses a matter which may constitute prior conduct within the meaning of Part II of the CILEx Regulation Enforcement Rules, CILEx may:
 - (a) refer that matter to the Professional Conduct Panel as if it was a declaration of prior conduct made under those Rules; and
 - (b) ask the Panel to:
 - (i) consider the matter under those Rules; and
 - (ii) provide CILEx with an opinion on the fitness and propriety of the person to whom the matter relates.
- (6) In this Part, the **relevant body** means the Licensed Body (or body seeking such a licence) to which the approval application relates.

Determination of approval applications

17. (1) CILEx may grant an application for approval as an owner, designated officer or manager of the relevant body if it is satisfied that the applicant is a fit and proper person to be such an owner, designated officer or manager (as the case may be).
- (2) In determining whether a person is fit and proper person, CILEx:
 - (a) may take account of any information which it considers to be relevant and, for that purpose, may require an applicant to submit further

- information; and
- (b) must take account of:
 - (i) the CILEx Fit and Proper Person Guidance;
 - (ii) any opinion provided by the Professional Conduct Panel;
 - (iii) in the case of an application to be Head of Legal Practice:
 - (A) the applicant's competence under the CILEx Practice Management Standards;
 - (B) the duties imposed by section 91 of the Act;
 - (iv) in the case of an application to be Head of Finance and Administration:
 - (A) the applicant's competence under the CILEx Finance and Administration Standards; and
 - (B) the duties imposed by section 92 of the Act; and
 - (v) in the case of an owner, the approval requirements at paragraph 6 of Schedule 13 to the Act.
- (3) CILEx must:
- (a) decide whether to grant or refuse an approval application and
 - (b) notify the applicant and the relevant body in writing of that decision and the reasons for it.
- (4) If it grants an approval, CILEx may do so subject to the imposition of such special licence conditions on the relevant body as it considers appropriate (which may be imposed at the same time as the approval is granted or at any time thereafter).
- (5) If CILEx proposes to refuse an approval application it must give the applicant and the relevant body:
- (a) written notice of its intention to do so; and
 - (b) an opportunity to make representations to it on the issues giving rise to the proposed refusal.
- (6) Any notice given under paragraph (1) must specify the period in which any representations are to be made and that period must be not less than 14 days beginning with the day on which the notice is given or such longer period as CILEx may specify.

Duration and withdrawal of approval

18. (1) An approval under these Rules takes effect from the date on which it is granted or such other date as CILEx may provide and unless otherwise provided continues to have effect until:

- (a) the approved person ceases to be an owner, designated officer or manager of the Licensed Body (as the case may be); or
 - (b) it is withdrawn by CILEx.
- (2) CILEx may withdraw its approval of a person to be an owner, designated officer or manager of a Licensed Body if the person:
- (a) no longer meets the criteria for approval;
 - (b) has failed to comply with a condition of that Licensed Body's licence; or
 - (c) has breached a legal duty or regulatory obligation.

Disqualification

19. (1) Subject to paragraphs (2) and (3), CILEx may disqualify a person from:
- (a) acting as Head of Legal Practice of any Licensed Body;
 - (b) acting as Head of Finance and Administration of any Licensed Body;
 - (c) being a manager of any Licensed Body; or
 - (d) being employed by any Licensed Body.
- (2) A person may only be disqualified under paragraph (1) if where CILEx is satisfied that:
- (a) in relation to a Licensed Body, the person (whether intentionally or through neglect):
 - (i) has breached a duty specified in section 99(4) of the Act to which the person is subject, or
 - (ii) has caused, or substantially contributed to, a significant breach of the terms of the Licensed Body's licence; and
 - (b) it is undesirable for the person to engage in one or more of the activities specified in paragraph (1)
- (3) CILEx must not disqualify a person under paragraph (1) unless the person has:
- (a) been given not less than 28 days' written notice of its intention to consider doing so; and
 - (b) been afforded an opportunity of making written representation to CILEx or, at the person's choice, of appearing before and being heard on the question of disqualification.
- (4) Where a person asks to appear and be heard, the question of whether or not the person is to be disqualified must be:
- (a) referred to the Disciplinary Tribunal established under Part III of the CILEx Regulation Enforcement Rules, and

- (b) determined by the Tribunal as if it was a matter which had been referred to it under those Rules.
- (5) A person who is disqualified under this rule may apply under rule 25 for that disqualification to be reviewed.
- (6) CILEx must notify the Legal Services Board of:
 - (a) any decision to disqualify a person under this rule;
 - (b) any review of such a decision; and
 - (c) any decision by CILEx that the disqualification should cease to have effect.

PART 8: TEMPORARY LICENSING AND APPROVAL ARRANGEMENTS

Temporary licences

- 20. CILEx may grant a temporary licence if, as a consequence of unforeseen events, a Licensed Body ceases to be such a body because:
 - (a) it has been divided into two or more unlicensed bodies; or
 - (b) its is owned by a person who is not an approved person.

Temporary Licence application

- 21. (1) A temporary licence application must be made in the prescribed form and be accompanied by:
 - (a) such documents and information as CILEx may specify;
 - (b) any other documents or information that CILEx may reasonably require in order to discharge its functions under these Rules; and
 - (c) the prescribed fee.
- (2) CILEx may grant a temporary licence under paragraph (1) if:
 - (a) it is satisfied that the persons concerned could not reasonably have foreseen the need to seek a new or amended licence;
 - (b) based upon the information provided in the prescribed form, it appears to CILEx that there is no reason to believe that granting a temporary licence would be contrary to the public interest; and
 - (c) subject to the persons concerned submitting a licence application or agreeing to do so by such date as CILEx may specify.
- (3) A temporary licence under this rule may be granted:
 - (a) from such date and for such period (not exceeding 12 weeks) as CILEx may determine;
 - (b) subject to such general licence conditions and special licence

conditions as CILEx thinks fit.

- (4) A temporary licence under this rule may, upon reasonable cause, be revoked by CILEx at any time.

Temporary approvals: designated officers

22. (1) A Licensed Body which ceases to have a designated officer who has been approved by CILEx, must promptly (and in any event within 7 days):
 - (a) appoint another person to be the HoLP or HoFA (as the case may be);
 - (b) notify CILEx of that appointment in the prescribed form.
- (2) CILEx may grant temporary approval to a person appointed under paragraph (1) if:
 - (a) it is satisfied that the Licensed Body could not reasonably have foreseen the need to seek approval of another designated officer;
 - (b) based upon the information provided in the prescribed form, it appears to CILEx that there is no reason to believe that the replacement designated officer is not a fit and proper person to perform that role; and
 - (c) subject to the Licensed Body submitting an application for approval of a replacement designated officer or agreeing to do so by such date as CILEx may specify.
- (3) Temporary approval under this rule may be granted:
 - (a) from such date and for such period as CILEx may determine;
 - (b) subject to such conditions as CILEx thinks fit (including special licence conditions imposed under Part 8);
- (4) Temporary approval under this rule ceases to have effect if:
 - (a) the period determined under paragraph (3)(a) expires and is not extended by CILEx;
 - (b) it is withdrawn by CILEx at any time; or
 - (c) a replacement designated officer for the Licensed Body is approved by CILEx under Part 7.

Temporary approvals: owners' representatives

23. (1) Subject to paragraph (2) the following persons are be regarded as an approved owner of a Licensed Body without the need to make application under Part 7:
 - (a) the personal representatives of such an owner who has died;
 - (b) the trustee in bankruptcy or liquidator of an such owner who becomes bankrupt, insolvent or ceases to exist as a body corporate;

and

- (c) the Court of Protection deputy of such an owner who lacks capacity (within the meaning of section 19 of the Mental Capacity Act 2005).
- (2) A person to whom paragraph (1) applies is, by virtue of that paragraph:
- (a) only be treated as an approved person for the purpose of holding the interest of the owner for a period of not more than six months from the date of their appointment; and
 - (b) not be entitled to exercise any vote in respect of that interest or treated as an approved person for any other purpose.

PART 9 DEFAULTS, MISCONDUCT AND PENALTIES

24. (1) In this rule **default** means a failure by any person to comply with any obligation under these Rules.
- (2) A default may be referred for investigation and determination under the CILEx Regulation Enforcement Rules as if misconduct was defined in those Rules to include a default under these Rules.
- (3) The sanctions which may be imposed under the CILEx Regulation Enforcement Rules in respect of any misconduct (including but not limited to a default) by a Licensed Body or any designated officer, manager or employee include a financial penalty within the meaning of section 95 of the Act.
- (4) Any decision under paragraph (3) to impose a financial penalty must have regard to any guidance issued by CILEx on sanctions and finance penalties.

PART 10: REVIEW AND APPEALS

Review of decisions

25. (1) At the request of the person concerned, CILEx must review and reconsider a decision made under these Rules:
- (a) to refuse to grant a licence;
 - (b) to impose special licence conditions upon a licence;
 - (c) to refuse an application for modification of the terms of a licence;
 - (d) to modify the terms of a licence;
 - (e) to suspend or revoke a licence;
 - (f) to refuse an application for approval as an owner, designated officer or manager of a relevant body;
 - (g) to revoke approval as an owner, designated officer or manager of a relevant body;

- (h) to disqualify a person.
- (2) A review request under paragraphs (1)(a) to (g) must be made within 28 days of the decision to which it relates.
- (3) In reviewing any decision under paragraphs (1)(a) to (g), CILEx:
 - (a) may take account of any representations or information provided with the review request by the person concerned; and
 - (b) may seek and take account of further information provided by any person, including from the person concerned.
- (4) A request for a review under paragraph (1)(h) (a **disqualification review**) may not be made before the end of the period of one year beginning with the date on which the person's disqualification under Rule 19 took effect.
- (5) A request for a disqualification review must be made in the prescribed form and be accompanied by such documents and information as CILEx may specify;
- (6) A disqualification review must be:
 - (a) referred to the Disciplinary Tribunal established under Part III of the CILEx Regulation Enforcement Rules, and
 - (b) determined by the Tribunal as if it was a matter which had been referred to it under those Rules.
- (7) Before making any decision in respect of a disqualification review, the Tribunal must give the person concerned an opportunity to appearing before it and being heard.
- (8) The Tribunal may only revoke a disqualification if it is satisfied, on such evidence as it may require and having regard, in particular, to the circumstances which led to it being imposed, that the person concerned is a fit and proper person to perform the role from which that person was disqualified.
- (9) CILEx or the tribunal (as the case may be) must give reasons for any review decision and inform the person concerned of any right of appeal.

Appeals

- 26. (1) A person may appeal to the Appeals Panel against an unfavourable review decision under rule 25.
- (2) An appeal under this rule must be made:
 - (a) within 28 days of the decision appealed against; and
 - (b) in accordance with Part IV of the CILEx Regulation Enforcement Rules

- (3) In this rule **Appeals Panel** means the Appeals Panel established under rule 1(5) of the CILEx Regulation Enforcement Rules.

Further appeal

27. (1) A person who is the subject of an unfavourable appeal decision under rule 26 may appeal to the appellate body.
- (2) In this rule **appellate body** means either
- (a) a body established under section 80(1)(a) of the Act to hear and determine appeals or
 - (b) pending the establishment of this body under section 80(1)(a) of the Act, a Licensing Appeals Panel as determined by CILEx.
- (3) In this rule **Licensing Appeals Panel** means the three members of the Appeals Panel, which is established under rule 1(5) of the CILEx Regulation Enforcement Rules, who are designated by CILEx (Regulation) to act as an appellate body, and who will not be involved in any other Appeal Panel related to a licensing decision.

PART 11: THE REGISTER

The CILEx Licence Register

28. (1) CILEx must keep a register of all CILEx licensed bodies.
- (2) The register maintained under paragraph (1):
- (a) may be kept in electronic form; and
 - (b) must be available for inspection by the public at the offices of CILEx at all reasonable times.
- (3) In respect of each Licensed Body, the register must contain:
- (a) the name of the Licensed Body (including any trading or previous names) and its licence number;
 - (b) whether the Licensed Body is a partnership, an LLP or a company;
 - (c) if the Licensed Body is:
 - (i) a company or LLP, its registered office address and registered number;

- (ii) a charity, its registered office address and registered number;
- (d) the main practising address of the Licensed Body in England and Wales and any other address from which it conducts any reserved legal activity;
- (e) the names of the designated officers and managers of the Licensed Body and in the case of the Head of Legal Practice the authorised body by which that person is authorised;
- (f) the date the licence was issued;
- (g) the reserved legal activities which the Licensed Body is authorised to undertake;
- (h) any enforcement action or sanction which has been imposed on the Licensed Body, its owner or any employee;
- (i) whether the licence is subject to any special licence conditions, suspended or revoked and, where appropriate, the date of any suspension or revocation; and
- (j) such other information as CILEx may specify.

PART 12: PROHIBITION

Special bodies

29. CILEx cannot receive or consider licence applications from any body which is a special body within the meaning of section 106(1) of the Act.

Regulatory conflict

30. If a conflict arises between a requirement imposed on a Licensed Body or on an owner, designated officer, manager or employee of the Licensed Body by CILEx Regulation as the regulator of that Licensed Body, and an owner, designated officer, manager or employee of that licensed body by another approved regulator, then the requirement imposed by CILEx Regulation prevails over the requirement imposed by the other approved regulator.
31. If a conflict arises between a requirement imposed on a non-CILEx Regulation Licensed Body or on an owner, designated officer, manager or employee of the Licensed Body by another approved regulator as the regulator of that Licensed Body and on an owner, designated officer, manager or employee of that Licensed Body by CILEx Regulation, then the requirement imposed by the other approved regulator prevails over the requirement imposed by CILEx Regulation.