

## APPLICATION TO LSB ON EDUCATION STANDARDS RULES

### SUMMARY OF APPLICATION

This application seeks approval:

- for amendments to the education standards and authorisation rules governing authorisation of Chartered Legal Executives and CILEx Practitioners,
- to introduce new requirements in relation to legal technology and emotional competence; and
- to amalgamate the process to apply for authorisation as a Chartered Legal Executive and independent practice rights where the applicant is able to demonstrate the required knowledge and competence.

In addition, a number of other changes are proposed as follows:

- Removal of reference to the Graduate grade of membership in the definition of authorisation as an Authorised Person and release the Membership Requirement Regulations from the authorisation process
- Creating a principles-based CILEx Regulation Exemptions Policy and releasing the CILEx Exemption Policy and Procedures from the regulatory arrangements
- Removing references to the Quality Assurance Scheme for Advocates (QASA) from CILEx Regulation's rules and reverting to the previous quality assurance requirements for CILEx criminal advocates upon which Level 1 of the QASA was based

We also consulted to amend the qualifying employment requirements. However, the consultation responses provided no clear future direction for this requirement and therefore more work is required before any proposed changes to this element will be made. Likewise, the consultation did not present any clear alternative for the current assessment methodology for admission (portfolio submission) and therefore, there is no proposal to make any changes to the assessment process at this time.

### Which rules are affected?

This application proposes replacing the following rules with a consolidated set of Practitioner Authorisation Rules which are set out in **Appendix 2 and Annexes 1-9**

- Fellowship (Work Based Learning) Rules (Appendix 9)
- Immigration Certification Rules (Appendix 10)
- Probate Certification Rules (Appendix 11)
- Reserved Instrument Certification Rules (Appendix 12)
- Right to Conduct Litigation and Rights of Audience Certification Rules (Appendix 13)

The amendments have been mapped from the old rules with the new rules in the following mapping documents:

- Fellowship (Work Based Learning) Rules (Appendix 3)
- Immigration Certification Rules (Appendix 5)

- Probate Certification Rules (Appendix 7)
- Reserved Instrument Certification Rules (Appendix 6)
- Right to Conduct Litigation and Rights of Audience Certification Rules (Appendix 4)

In addition, the following rules have been amended to remove reference to the Quality Assurance Scheme for Advocates and to update the rules to take account of changes in terminology from CILEx Council to 'the Institute Board', following governance changes at CILEx and to reflect the updated name for the Investigations, Disciplinary and Appeals Rules as the Enforcement Rules.

- Associate Prosecutor Rights of Audience and Litigation Rules (Appendix 14)
- Associate Prosecutor Rights of Audience and Litigation Rules – tracked changes (Appendix 15)
- Admissions and Licensing Rules (Appendix 16)
- Admissions and Licensing Rules – tracked changes (Appendix 17)
- Rights of Audience Certification Rules (Appendix 18)
- Rights of Audience Certification Rules – tracked changes (Appendix 19)

The new CILEx Regulation Exemptions Policy is attached at Appendix 20.

Permission is sought to remove the following regulations/policy from regulatory arrangements as they are superseded by the above rules in order that they can revert to the membership body to respect the difference between regulation and representative arrangements:

- Membership Requirement Regulations (Appendix 8)
- CILEx Exemptions Policy and Procedures (Appendix 21)

Other documents attached in support of this application are as follows:

- Research on the impact of legal technology on legal education and training (Appendix 1)
- Education Standards Consultation (Appendix 24)
- Analysis of relevant elements of Education Standards Consultation including removal of Graduate grade and QASA (Appendices 22 & 23)
- Rules consultation (Appendix 25)
- Analysis of rules consultation (Appendix 26)

### **The current arrangements for authorisation as a Chartered Legal Executive and/or CILEx Practitioner**

The current application process for becoming a Chartered Legal Executive is as follows:

- Successfully complete the CILEx Level 3 and Level 6 qualifications (or equivalent legal qualifications)
- Demonstrate 3 years of qualifying employment (including 2 years immediately preceding the application and 1 year in the Graduate grade of membership)
- Demonstrate competence through completion of the work-based learning portfolio

Those seeking independent practice rights\* must complete a separate application which demonstrates:

- Relevant technical knowledge through completion of the CILEx Level 6 units in the specialist area of law and practice
- 2 years of experience in the specialist area, with 5 years general experience working in law (not necessarily in their specialist area)
- Competence through completion of a second portfolio of evidence (much of which replicates the work-based learning requirements)

*\*Non-Fellows seeking authorisation in Probate or Conveyancing are not required to be Fellows/Chartered Legal Executives prior to being authorised as CILEx Practitioners. For litigation, advocacy or immigration rights, being a Chartered Legal Executive is a prerequisite for authorisation, although the applications can be made together.*

### **How is the new approach different?**

The proposed changes create an integrated set of education standards, rules and application process to enable competent individuals to become authorised in their specialist area of practice without duplicating requirements.

The new approach seeks to remove reference to CILEx membership requirements (Graduate member) within the definition of authorisation and thereby release the Membership Requirement Regulations from the regulatory arrangements and return them to the control of CILEx. It also seeks to remove reference to the Quality Assurance Scheme for Advocates from the authorisation rules, in accordance with the decision not to proceed with the scheme, and finally, the proposals seek to remove the CILEx Exemptions Policy and Procedures from the regulatory arrangements, release it back to CILEx and replace it with a principles-based CILEx Regulation Exemptions Policy.

### **Comparison of the old and new approaches**

Training to become a Chartered Legal Executive has always been an ‘earn as you learn’ route to become a qualified lawyer. Applicants must have been in work for at least 3 years at the point of application and many have worked in the legal sector throughout their studies. With this in mind, CILEx Regulation considers that the underpinning legal knowledge should be focused in the practical areas in which they are working. As a result, the underpinning legal knowledge required to become a Chartered Legal Executive under these proposals has changed in emphasis from legal theory to the practical application of legal knowledge in the workplace. Therefore, whilst the current mandatory units are not mentioned within the framework, there would be a requirement to understand the practical elements of these subject areas to be able to meet the requirements referenced in the technical knowledge requirements. Applicants seeking authorisation will be required to study the units which link with their area of practice in full at Level 6 prior to authorisation. The requirements are defined in the Annexes attached to the proposed new rules.

The technical knowledge requirements have been mapped from the existing requirements to the new requirements to illustrate the correlation between the old and new technical knowledge requirements and to give an indication of the comparable size between the old and new standards.

The new requirements limit the need for repetition of legal units which exist within the existing qualification (e.g. undertaking contract and tort at Level 3 and again at Level 6 where the applicant is studying civil litigation), whilst at the same time ensuring the necessary level of academic demand in those seeking authorisation. At the same time this approach avoids the ‘jump’ in level of difficulty between Level 3 and Level 6 by introducing Level 4 & Level 5 units within the higher qualification (this is the approach taken by a degree,

whereby the final qualification is a Level 6 qualification, but year 1 of the degree is assessed at Level 4 and year 2 of the degree is assessed at Level 5).

The issues of repetition and the jump in academic level have been raised on many occasions as creating unnecessary challenges to qualification which is not faced by applicants following the LL.B and LPC/BPTC route to qualification as a lawyer.

Level 3 underpinning requirements

<b>Current requirements</b>	<b>Proposed requirements</b>
Introduction to law and practice	Introduction to law and practice
Contract	Introduction to dispute resolution
Tort	
Land	Introduction to conveyancing
Crime	Introduction to criminal practice
Options paper	Introduction to wills and probate
Legal research	Moved to WBL

Level 4/5 requirements

Option paper (currently Level 3)	Introduction to Public Law
Option paper (currently Level 3)	Introduction to Human Rights Law
	Introduction to Legal Technology
Client care (currently at Level 3 and Level 6)	Professionalism, ethics and conduct
	Basic Accounts

Level 6 requirements

Law	Specialist area of law and practice as set out in Annexes to new rules, with broader coverage than now
Practice	
Law	
Law	
Client Care	See Level 4/5 above
Legal Research	Moved to WBL

The area of the Level 6 requirements set out in the Level 6 table highlights the academic requirements currently (and in the proposed approach) required for independent practice rights.

**Why we are proposing to make the changes**

The repetition of competence assessment within the authorisation arrangements have led to multiple hurdles within the assessment authorisation structure to first become a Chartered Legal Executive and then seek Practice Rights, without the requirement to demonstrate additional elements. This has caused frustration to those seeking authorisation and have dissuaded competent applicants from making an application to become authorised for independent practice rights.

The creation of an integrated application process enables authorisation to be completed in a single application, where the applicant can demonstrate the requisite knowledge, skills,

experience and competence through a single submission. For the avoidance of doubt, the proposal does not seek to reduce the requirements or the level of difficulty for admission, it simply integrates the existing elements into a single framework.

In relation to the review of the education standards frameworks, as part of the integration process, CILEx Regulation has considered changes to the way legal services are delivered, particularly in relation to the increasing use of legal technology, which it considers to be essential to the competence of future lawyers. Similarly, with changes to the profession and increased emphasis on wellbeing in the legal workplace, emotional competence is considered to be an essential element of the competent lawyer of the future.

Removal of the requirements for CILEx membership as a pre-requisite to authorisation enables the membership and authorisation requirements to stand alone and therefore enables CILEx to separate its membership structure and functions from regulatory authorisation.

Removing reference to QASA is in accordance with the ending of the scheme across the professions.

Creating a principles-based Exemptions Policy enables CILEx Regulation to set the parameters of the operation of exemptions which contribute to authorisation as a Chartered Legal Executive or CILEx Practitioner. This provides greater clarity of policy whilst providing CILEx with the flexibility to amend the operation of the policy in practice.

### **Effect of the proposed changes**

The proposed changes are designed to create a competent lawyer who is able to meet the future demands of working within the legal profession, whilst removing duplication of assessments to be authorised as a Chartered Legal Executive or CILEx Practitioner.

### **Costs**

In terms of the changes to the academic requirements, whilst there will be development costs, CRL does not consider that there would need to be significant increases in the cost of the qualification. However, this would be a matter for the qualification providers, notably CILEx who provide qualifications for a significant number of CILEx applicants. At present, the cost of the CILEx qualifications is in the region of £11,000 (including training and examinations).

The comparison of the cost of qualification is as follows:

	Chartered Legal Executive	Practice Rights	Advocacy
Current	£70 + £300	£450	£110 + Advocacy course
Proposed	£450		Advocacy course

The costs above include the costs of the external advisors (which are used for the current process, therefore it is not envisaged that the use of external assessors will increase the cost of the qualification).

### **Provision of the advocacy course**

Any qualification provider that meets the requirements in the Rights of Audience rules is able to make an application for authorisation. At present the only provider of this element of the

requirements in Kaplan Altior and this process has been in operation for more than 10 years. It is intended that this will continue under the new authorisation rules (these rules will continue to operate after the changes to the standards have been made).

The cost of the advocacy course, which is provided through Kaplan Altior is £1725 + VAT per delegate for the 6-day course option and £975 + VAT per delegate for the 2 day course option. This is not likely to change on the basis of the new arrangements.

### **Research and consultations**

CILEx Regulation commissioned research into the likely future education and training needs for legal practitioners considering the increasing influence of legal technology on the sector. This research is attached at **Appendix 1**.

CILEx Regulation has conducted 2 consultations in relation to the proposed changes. The first consultation took place between 6 December 2018 and 28 February 2019 and set out the proposals and new draft standards. The second consultation took place between 12 August 2019 and 9 September 2019 and consulted on the amendments made we had made and the draft rules and policy.

There were 17 responses to the first consultation and three responses to the rules consultation.

The consultations and analysis of responses is attached at **Appendices 22-26** and **Appendices 30-31 (confidential)**.

## **DETAIL IN RELATION TO EACH OF THE PROPOSED CHANGES**

### **Revised Education Standards Framework**

CILEx Regulation has undertaken a review of the current requirements for its education standards which are required to be demonstrated to seek authorisation status. This has resulted in 2 proposed changes to the structure of the current authorisation processes:

1. To consolidate the award of practice rights in the applicant's specialist area at the same time as awarding Chartered Legal Executive/Fellow status, where both authorisations are required (the existing option to obtain probate or conveyancing practice rights without Chartered Legal Executive status has been retained within the revised qualification structure).
2. To review the technical knowledge and competence requirements for a Chartered Legal Executive to take into account changes in the legal services market since these were last reviewed in 2012.

### Consolidation of Practice Rights frameworks with application for admission as a Chartered Legal Executive

Since the introduction of independent practice rights for Chartered Legal Executives, there has been considerable feedback from CILEx and applicants to CILEx Regulation that there are multiple hurdles built into the authorisation processes which required repeated submission of similar evidence to obtain additional rights.

CILEx Regulation agrees that there is significant duplication of assessment between those seeking Chartered Legal Executive status and the additional application for independent practice rights in the Chartered Legal Executive's specialist area. Therefore, CILEx Regulation has created specialist pathways which combine the technical knowledge and competence requirements in the existing schemes into a single framework, which will provide the applicant the opportunity to apply for both statuses within a single application, removing duplication of assessment.

These frameworks have been the subject of 2 consultations and have been reviewed by our external assessors who oversee and assess current practice rights applications. This was to ensure that the coverage of the consolidated frameworks maps to the current requirements.

The proposals retain the principle that only applicants who are competent in the specialist area in which they seek practice rights will be awarded rights in that area. Applicants who do not specialise in a reserved or regulated area of activity will be able to seek specialist recognition in either business law, employment law or receive a general certificate which replaces the current Chartered Legal Executive status.

Those seeking litigation and advocacy rights will still be required to follow the specialised advocacy training and assessment as is required under the current rules.

CILEx Regulation is also intending to retain the current rules for Probate and Conveyancing, which enables specialists in these areas of practice to obtain independent practice rights without seeking Chartered Legal Executive status.

CILEx Regulation is also seeking to amend the qualifying experience requirements. The practice rights requirements are to demonstrate 5 years of general experience in the law (not necessarily working with a caseload or even in the area of specialism) with 2 years of the 5

years of experience required in their specialist area. These requirements were to reflect in part the then qualifying employment requirements of 5 years with 2 years in the Graduate grade in operation at the time the application for practice rights was submitted.

The current qualifying experience requirements for Chartered Legal Executives is 3 years, with 2 years immediately preceding the application.

The proposal for the integrated rules is to require 3 years of experience with 2 years in the specialist area immediately preceding the application. This change to the rules was part of the second consultation and no issues have been raised. This is not unexpected as authorisation at CILEx Regulation is competence based and years served is not an accurate indicator of competence.

A review of the technical knowledge and competence requirements

As part of the proposals to integrate practice rights by specialism into the authorisation process, CILEx Regulation reviewed the current technical knowledge and competence requirements.

➤ Technical Knowledge

A summary of the technical knowledge requirements currently required and compared with the revised requirements is set out in the table below:

	<b>Current requirements</b>	<b>Proposed requirements</b>
<b>Stage 1/2</b>	10 Level 3 units: <ul style="list-style-type: none"> <li>➤ Contract</li> <li>➤ Land</li> <li>➤ Tort</li> <li>➤ Crime</li> <li>➤ Introduction to law and practice</li> <li>➤ Client care</li> <li>➤ Legal research</li> <li>➤ 3 x options</li> </ul>	<ul style="list-style-type: none"> <li>➤ Introduction to law and legal practice</li> <li>➤ Introduction to dispute resolution</li> <li>➤ Introduction to conveyancing</li> <li>➤ Introduction to criminal practice</li> <li>➤ Introduction to wills and probate</li> <li>➤ Introduction to public law</li> <li>➤ Introduction to equality and human rights</li> <li>➤ Introduction to and contextualised legal technology</li> <li>➤ Conduct and professional ethics (including client care)</li> <li>➤ Basic accounting for lawyers</li> </ul>
<b>Stage 3</b>	<ul style="list-style-type: none"> <li>➤ 3 x law units</li> <li>➤ 1 x practice unit</li> <li>➤ Client care</li> <li>➤ Legal research</li> </ul>	<ul style="list-style-type: none"> <li>➤ Law and practice in specialist area</li> </ul>

The revisions to the technical knowledge eliminate the duplicative requirements from the existing standards and instead create a framework where knowledge can be developed and specialised over the course of the academic phase of the process. The new requirements at stages 1 and 2 provide a broader base of legal and related technical knowledge upon which to build. The specialist knowledge as part of the final qualification process has been extended to cover related areas of law and legal practice related to the individual specialism, including improvements to underpinning legal knowledge and basic accounting competence.

These have been reviewed by our external assessors and have been subject to 2 consultations, both of which support this approach.

In addition to the specialist standards, there is a general standard which provides applicants with the opportunity to apply for Chartered Legal Executive status without the integrated practice rights element. In this situation, there are minimum qualification requirements set in terms of level (Level 6) and size (150 guided learning hours) which enables those individuals who do not specialise in a reserved, regulated or named specialist route to qualify as a Chartered Legal Executive (as now).

The requirements for the 150 GLH at Level 6 in the new standards is for each of the 2 subjects required for the general CLE authorisation where the specialisation cannot be specified (e.g. where the specialism is Intellectual Property, Medical Law etc) – this aspect is highlighted in bold below) – see also Annex 9.

It represents only 1 element of underpinning qualification requirements in the standards and replicates the minimum law/practice requirements within the existing practice rights frameworks. In the remaining specialist requirements, the minimum knowledge requirements are specified.

In general, the standards do not stipulate size of qualification or assessment methodology, nor are they restricted to CILEx qualifications. They set out the minimum syllabus requirements for the underpinning academic qualifications. It should be noted that as an input measure the reference to GLH has only been used where the specialist subject requirements cannot be specified. The standards are summarised below to demonstrate where the size of the qualification has been set out

Stage 1	Stage 2	Stage 3 (Level 6 qualification)	Competence requirements
Intro to law/practice Intro to dispute resolution Intro to conveyancing Intro to criminal practice Intro to wills and probate Intro to equality & human rights law Conduct and professional ethics	Legal Technology Conduct and professional ethics	Accounts Technology Conduct & professional ethics + <b>Law paper 150 GLH</b> + <b>Practice paper 150 GLH</b>	3 years Qualifying Employment  +  WBL portfolio demonstrating required competence as set out in the specialist standard  + Advocacy qualification where required

The requirements set out in bold mirror the existing qualification requirements stipulated in the practice rights frameworks which are currently in operation.

The full existing knowledge requirements are for 700 GLH at Level 3 and 900 GLH at Level 6 and the full requirements are set out in the Day One Outcomes attached at **Appendix 32**.

Competence requirements

	<b>Current requirements</b>	<b>Proposed requirements</b>
<b>Competence requirements</b>	<ul style="list-style-type: none"> <li>➤ Work based learning requirements, covering:               <ul style="list-style-type: none"> <li>○ Application of law and practice</li> <li>○ Communication</li> <li>○ Client relations</li> <li>○ File management</li> <li>○ Business awareness</li> <li>○ Code of conduct</li> <li>○ Self-development</li> <li>○ Working with others</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>➤ Set out in the contextualised competence framework:               <ul style="list-style-type: none"> <li>○ Application of law and practice</li> <li>○ Communication</li> <li>○ Client relations</li> <li>○ Effective working practices</li> <li>○ Business awareness</li> <li>○ Self-development</li> <li>○ Conduct, ethics and professionalism</li> <li>○ Legal Technology</li> </ul> </li> </ul>

Key element of the proposed revisions to the education standards is the introduction of:

- Legal Technology
- Emotional Competence

At the same time, CILEx Regulation has taken the opportunity to review the existing competence framework, which was created in 2012 and has made some proposed amendments to:

- Add in relevant requirements currently contained within the practice rights frameworks
- Develop competency of Chartered Legal Executives in relation to wider management skills

These changes have been the subject of discussion with CILEx as to the relevance of the additions to the frameworks following their response to the first consultation, which considered some of the requirements to be beyond the scope of the regulator. The new competence framework has been mapped to the existing framework and key differences are as follows:

- Legal Technology
- Emotional Competence

- Project Management
- Entrepreneurship
- Leadership and management

### Legal Technology

The CILEx response to the second consultation accepts the inclusion of legal technology, with the caveat that the outcomes in this area are principles-based. This is the design of the standards and therefore this is addressed.

The more detailed outcomes against which technology competence will be assessed have been included at **Appendix 33. These should be treated as confidential.**

### Emotional competence

This is not considered to be a threshold requirement by CILEx. However, the inclusion of this element within the threshold competence is considered to be essential to practising lawyers and is supported by the Legal Services Consumer Panel, Law Care and the Open University. Therefore, whilst CILEx's concerns have been considered, CILEx Regulation intends to proceed with its inclusion in the education standards framework. The relevant elements have been drafted by experts at the Open University (the detail can be found at **Appendix 29 - confidential**) and it is not intended that CILEx Regulation will be assessing this competence in-house.

### Project Management

The inclusion of this element within the standards was not intended to create a full project management qualification alongside the lawyer qualification, but to ensure that the project management approach to workload is adopted. To better reflect this approach, 'project management' has been amended in the competence framework to 'caseload management' in the final submission.

### Entrepreneurship

This terminology was not intended to reflect in a newly qualified lawyer to ability to set up in business, rather it was (as explained in the standard) intended to ensure that Chartered Legal Executives were able to 'understand and utilise innovation'. It is considered that the 'entrepreneurship' descriptor can be removed from the standards without altering the intention of its inclusion. Therefore, this has been removed.

### Leadership and Management

This element was included as the competence framework also acts as a prompt for CPD activities once authorised. Therefore, this element has been made optional within the standards to reflect that this is not a compulsory element but may be appropriate for CPD once qualified.

A further issue raised by CILEx in relation to the revised standards was the emphasis on requirements which focus on private practice, which they consider will exclude some applicants who work with consumers where there is less asymmetry of information (e.g. in-house or local authority applicants). However, as the resulting standards will provide a practising certificate for working in all areas of practice, rather than a restricted practising certificate limiting which consumers a practitioner is able to work with, CILEx Regulation considers it essential that the elements covering private practice remain within the practitioner authorisation rules.

The consultees, including CILEx were broadly supportive of the rationale for making the changes, although CILEx has provided feedback in relation to the detail within the standards. CILEx Regulation has made amendments where appropriate and these final drafts are attached to the application at **Appendix 2 and Annexes 1-9**.

The new standards do not make reference to CILEx qualifications, unlike the existing Day One Outcomes (see **Appendix 32**) and CILEx Regulation will accept any academic qualification that meets the underpinning knowledge requirements set out in the standard. Reference to CILEx Level 3/ Level 6 is the existing standard only.

### **Removal of reference to the Graduate Grade of membership from the Practitioner Authorisation Rules**

The existing authorisation rules governing the admission as a Chartered Legal Executive/Fellow of CILEx (an Authorised Person under the Legal Services Act 2007) make reference in the definition of qualifying employment to having served a period of 12 months in the Graduate grade of membership. This part of the definition forms a link between CILEx membership and authorisation which CILEx has found to be restrictive. It forms no part of the authorisation process beyond ensuring a membership-based time served element linked to qualifying employment.

In the consultation, the removal of reference to serving 12 months in the Graduate grade from the qualifying employment requirements was overwhelmingly supported with 92% of the responses supporting the change.

It is proposed to amend the definition of qualifying employment as part of the authorisation process to remove reference to time served in the Graduate grade. At present, all the other elements of the qualifying employment will be retained and subject to further consideration, as there was no consensus through the consultation process of an alternative approach to this element of authorisation.

### **The Practitioner Authorisation Rules**

The rules which will introduce these changes are included at **Appendix 2**. Mapping documents have been included to enable comparison with the new and old rules at **Appendices 3-7**.

The consultation responses were broadly supportive of the changes to be introduced through the revised education standards, subject to the following amendments:

- Removal of reference to 'CILEx Lawyer' from the rules. Although originally agreed with CILEx that this should be included in these rules (to present a single title to simplify authorisation status to the consumer and improve understanding of CILEx roles, CILEx is intending to create this as a member grade which sits above 'Chartered Legal Executive' and therefore this has been removed from the rules consulted upon
- A technical point has been raised that the rules do not allow for applicants to apply for additional rights. It is possible that applicants who can demonstrate competence in more than one practice right can hold additional rights, therefore this has been included within the rules.

## Exemptions Policy

Under the current regulatory arrangements, CILEx Regulation and CILEx share a common exemptions policy. The policy is very detailed and includes detail of the process to follow to submit an application, named qualifications and fees (which may be subject to change).

CILEx Regulation is proposing to introduce a principles-based Exemptions Policy, under which the detailed CILEx Exemptions Policy will sit. This will provide clarity as to the regulatory requirements for exemptions whilst enabling CILEx to make amendments to the detail of the policy to e.g. amend the fees charged and make changes to the listed qualifications without reference back to the Legal Services Board, provided that the CILEx policy aligns with the principles set out in the CILEx Regulation Exemptions Policy.

The principles within the revised policy are as follows:

- It sets out the situations in which CILEx or CILEx Regulation may consider an exemption, including:
  - Where the applicant is an authorised person, holding a practising certificate issued by an approved regulator under the Legal Services Act 2007
  - Where the applicant has completed a Chartered Legal Executive Apprenticeship
  - Where the applicant has completed an alternative professional legal qualification such as a qualifying law degree or the Legal Practice Course
  - Where the applicant has completed law units within a qualification, has passed that qualification and the content of the unit maps to a CILEx unit, then the unit will be recognised at the level of the qualification awarded to exempt the applicant from the relevant CILEx unit
- The exemptions policy for partial exemptions from CILEx qualifications will be administered by CILEx and quality assured by CILEx Regulation in accordance with the CILEx/CILEx Regulation protocols
- The exemptions for completed qualifications that provide full exemptions may be administered either by CILEx (for admission to membership) or CILEx Regulation for admission as an authorised person.

The existing exemptions policy is operated by CILEx and CILEx Regulation also uses this policy. It is however inputs based and restrictive. CILEx Regulation has created an outcomes-based exemptions policy to govern the exemptions requirements for any applicant. It broadens the options for those holding legal qualifications which meet the academic requirements specified in the standards without naming specific qualifications and will remove anomalies for applicants which currently exist. The impact is best explained by means of an example:

<b>Qualification level</b>	<b>Unit level</b>	<b>Outcome (existing)</b>	<b>Outcome (new)</b>
Level 6 (Qualifying law degree)	Contract – Level 4 (year 1 degree)	Exemption from Level 6 contract	Exemption from Level 6 contract
Level 6 (non QLD – e.g. Law & Politics)	Contract – Level 4 (year 1 degree)	Exemption from Level 3 contract	Exemption from Level 6 contract

As a result, situations where QLD/non-QLD applicants hold the same module at the same level will receive the same exemption, this will be fairer to applicants than the current approach.

These proposals have been subject to 2 consultations, the first in relation to the proposed changes to the policy and the second to consult on the proposed policy itself. In the original consultation it was intended to amend the CILEx Exemptions Policy and leave the introduction of a broader exemptions policy until the implementation of the revised standards. However, as the introduction of the changes was overwhelmingly supportive, during the second consultation, the proposal to introduce the principles-based policy was consulted upon as well as the draft policy itself.

The outcome of the first consultation was that the proposal was supported by 83% of respondents, with 9% against and 8% unsure. The outcome of the second consultation was that the revised policy was unanimously supported, with 2 minor changes to the policy required. Therefore, CILEx Regulation intends to proceed with the implementation of the revised policy with the proposed amendments from the consultation, which were:

- To clarify that units from non-qualifying law degrees must be awarded within qualifications recognised in England and Wales to be recognised under the CILEx Regulation Exemptions Policy
- Exemptions from competence elements of the framework may be recognised under the CILEx Regulation Exemptions Policy, but this will be on application from the qualifications provider.

The changes to the Exemptions Policy create a fairer assessment of law units undertaken within a non-qualifying law degree recognised in England & Wales and more broadly enable CILEx to make detailed changes to their qualifications exemptions policy within the principles-based framework proposed.

### **Removal of references to the Quality Assurance Scheme for Advocates from CILEx Regulation Rules**

CILEx Regulation is seeking to remove all references to the QASA from its rules relating to Criminal Advocates and Associate Prosecutors and revert to the pre-existing rules. It should be noted that Level 1 of the QASA was based on the approach that CILEx Regulation took to the accreditation and reaccreditation of its specialist advocates.

Unlike other advocates, the rights of audience at Level 1 are not title-based at CILEx Regulation. Advocates must demonstrate their competence in their specialist area prior to training and qualification to become an advocate and must periodically reaccredit, through CPD. This is set out in the table below:

	<b>QASA requirements</b>	<b>CILEx Regulation requirements</b>
<b>Authorisation</b>	Entry qualifications for relevant profession – valid for 5 years	Applicant for Chartered Legal Executive advocacy rights must demonstrate: <ul style="list-style-type: none"> <li>➤ knowledge, experience and skills in their specialist area (and in which advocacy rights are sought). This is assessed by a suitably qualified external assessor. Once approved they are provided with a certificate of eligibility</li> </ul>

		<ul style="list-style-type: none"> <li>➤ They are then eligible to attend the 6-day advocacy skills course.</li> <li>➤ Successful completion of this course enables the member to apply to become Chartered Legal Executive Advocates in their specialist area</li> </ul> <p>Associate Prosecutors are chosen and trained by the CPS using a similar process to the Chartered Legal Executive process outlined above.</p>
<b>Reaccreditation</b>	<p>Apply on or before the expiry of the <b>5-year</b> accreditation period by demonstrating that they have met each of the QASA standards, demonstrated as met through successful completion of <b>assessed CPD</b>.</p> <p>This decision would normally be made by the Officer responsible for making decisions but if the Officer is unable to make a decision or takes the view that the matter requires Committee consideration, they may refer the matter to the Admissions and Licensing Committee.</p>	<p>Chartered Legal Executive Advocates are subject to <b>renewal after the first year</b> and thereafter <b>every 3 years</b> and are required to undertake 2 CPD outcomes each year focused on advocacy skills as part of their <b>annual CPD requirements</b>. This is <b>monitored each year</b> before their practising certificate is issued.</p> <p>Associate Prosecutors must undertake at least 4 CPD outcomes in criminal advocacy as part of their annual CPD requirements and this is also checked for compliance before a new practising certificate can be issued.</p>

The reversion to the pre-existing reaccreditation scheme for Chartered Legal Executive Criminal Advocates means that they will be more regularly reaccredited than under the QASA scheme and using CPD which is monitored by CILEx Regulation to ensure a focus on advocacy skills. It should be noted that Chartered Legal Executive Advocates cannot currently obtain higher rights of audience and therefore were not subject to Levels 2 to 4 of the QASA.

The removal of reference to QASA within the CILEx Regulation rules was consulted upon between December 2018 and February 2019. 11% of responses were against the change, with remaining respondents either supporting the change or holding no view. However, the responses seeking to retain QASA in the existing rules stated that they did not support the change if other criminal advocates would continue within the scheme. As the scheme is no longer proceeding, CILEx Regulation is proposing to remove reference to QASA and revert to the pre-existing requirements upon which Level 1 of the QASA was based. We will continue to work with regulators across legal services to ensure that further changes are consistent to ensure a common approach to quality assurance of criminal advocates.

## **How the proposed revisions meet the regulatory objectives and better regulation principles**

- **Protecting and promoting the public interest and the interests of consumers**
  - The proposed amendments continue to protect and promote the interests of consumers and the public interest as they are designed to consolidate assessment to remove duplication rather than remove current requirements
  - The proposed competency framework will continue to ensure competence and quality by requiring the demonstration of competence against each of the elements within the framework and evidenced through the production of a portfolio of their work.
  - The revised scheme provides a mechanism to measure that applicants meet these competencies and thereby ensure that they are able to deliver legal services to consumers with the required skills.
  - The addition of competences relating to legal technology and emotional competence enhances the skills of Chartered Legal Executives and CILEx Practitioners.
  - By introducing technical knowledge and competence requirements, we ensure that CILEx Practitioners meet both a specialist standard and a general standard, maintaining an overall standard of quality amongst CILEx Practitioners.
  - By removing reference to the Graduate grade of membership, competence-based authorisation is emphasized, and quality is prioritised over years-served as a measure of competence. This promotes quality of service, and better serves the interests of consumers.
  
- **Promoting competition in the provision of services provided by Authorised Persons**
  - Protecting and promoting the interests of consumers necessitates the promotion of competition to provide market driven quality.
  - The changes to the application process creating and integrating assessment will continue to provide an objective and fair assessment of the competence of applicants, whilst at the same time eliminating unnecessary duplication of assessment.
  - Furthermore, by introducing new technological and emotional competencies, authorised practitioners will be better equipped to remain competitive in the future legal services market.
  - This should ensure that there are an increased number of authorised practitioners for consumers to access.

➤ **Encouraging an independent, strong, diverse and effective legal profession**

- CILEx remains an accessible route into the legal profession which is truly open to all, whatever their background.
- This flexibility allows for the widest possible access to qualification as a lawyer.
- The social and economic backgrounds of CILEx Practitioners increase the likelihood of consumers seeking legal advice and assistance from practitioners with similar backgrounds.
- The diversity of CILEx members increases the possibility and opportunity available to them to become independent practitioners delivering legal advice and services, while meeting appropriate standards of experience and skills.
- This will further increase the diversity of the legal workforce bringing it closer to the diversity of the population.
- By introducing new legal technology and emotional competences we are broadening the remit of CILEx members to independently adapt to the needs of consumers and increase the scope of the services provided with respect to future developments.
- This is supplemented by the changes to the technical knowledge and competence requirements, and in combination, will increase effectiveness and access to legal services via better qualified CILEx Practitioners.

➤ **Promoting and maintaining adherence to the professional principles**

- The professional principles govern the behaviour of individual Authorised persons.
- They firmly place a responsibility on Authorised Persons to act in a manner that is consistent with the status of belonging to a profession and are set out in the Code of Conduct.
- Under the revised application arrangements an increased emphasis has been placed on the competence relating to conduct, professionalism and ethics, which will be embedded throughout the other competencies in the revised framework, rather than simply operating as a standalone requirement.

➤ **Proportionate**

- The proposed amendments to the authorisation arrangements present a proportionate approach through the amalgamation of requirements where appropriate to eliminate unnecessary duplication of assessment, whilst ensuring that the standards are not diminished.
- Incorporating legal technology into our educational standards is proportionate given the increasing role of technology in the legal profession, and in anticipation of its continued use in the future.
- The principles-based exemptions policy will allow for adequate freedom for CILEx to make necessary amendments to the detail of the policy, while proportionately allowing for greater division of responsibilities between CILEx and CILEx Regulation in their respective administrative and quality assurance capacities.

➤ **Accountable**

- As now, applications may be assessed either by CILEx Regulation Officers or by the Admissions and Licensing Committee, the committee with oversight of individual authorisations at CILEx Regulation, in situations where the Office is unable to approve the application, in both instances reference to external assessors will be available to ensure that the assessment of competence is robust and appropriate. Standardisation of assessment decisions will continue under the proposed scheme.

➤ **Consistent**

- The approach to the qualification scheme is consistent across all areas of practice and this is evidenced through the common framework which has been used to contextualise the individual frameworks.
- These contextualised frameworks provide clear requirements and decision making will be subject to both scrutiny via standardisation as well as oversight from the Admissions and Licensing Committee.
- Removing reference to QASA improves consistency across legal services, in accordance with the ending of the scheme across the professions.
- By removing reference to the Graduate grade of membership, competence-based authorisation is emphasized. Measuring competence by quality markers rather than years-served will allow for greater consistency in the service standards of CILEx Practitioners.

➤ **Transparent**

- CILEx Regulation has taken a transparent approach to developing the qualification and regulatory arrangements.
- The public and consumers will be clear as to the standards against which applicants to become CILEx Fellows are assessed and 2 consultations have been conducted in relation to the proposed amendments. In addition, the changes have been outlined at 2 Westminster Legal Policy Forums (in 2017 and 2018).

➤ **Targeted**

- The proposed amendments to the authorisation scheme have created an approach which has been targeted at assessing and developing the knowledge, skills and experience required by practitioners to qualify as Chartered Legal Executives and CILEx Practitioners.
- The competency framework provides a clear statement of the competencies necessary for authorisation.

**Transitional Arrangements and implementation date**

Subject to Legal Services Board approval of the revised authorisation rules, CILEx Regulation is proposing to introduce the new rules with effect from 1 January 2020.

CILEx and CILEx Regulation have agreed the transitional arrangements that would be required for the introduction of the revised standards as follows:

1 January 2020	New Authorisation Rules come into force
1 September 2020	New CILEx qualification launched
31 December 2021	Level 3 legacy units end
31 December 2023	Level 6 legacy units end
31 December 2025	Work Based Learning rules end

The existing rules are intended to end on 31 December 2025.

**Equality Impact Assessment and Consumer Impact Assessment**

CILEx Regulation has undertaken both an Equality Impact Assessment and a Consumer Impact Assessment. These are attached at **Appendices 27 and 28**. The application of these assessments has shown no issues to address within the proposals.

**Impact on other regulators**

Chartered Legal Executives benefit from an exemption from the training contract required for authorisation as a solicitor. The amendments to the qualification requirements have not reduced the current requirements for qualification as a Chartered Legal Executive and therefore, these changes should not impact on this exemption. However, the Solicitors Regulation Authority is also making changes to its qualification requirements and the future

of the exemption is the subject of ongoing discussion between CILEx Regulation and the Solicitors Regulation Authority.

### **Reviewing the changes**

It is proposed that the outcomes of the changes proposed, if approved, will be subject to review in 2025, prior to the expiry of the transitional arrangements to assess whether the changes made have improved the application process for CILEx members and to determine the effectiveness of the introduction of legal technology and emotional competence into the standards.

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