

## SUMMARY OF APPLICATION TO AMEND THE EXEMPTIONS POLICY IN OPERATION AT CILEx REGULATION

This application seeks approval for the creation of a principles based CILEx Regulation (CRL) Exemptions Policy and supplementary assessment criteria, in order to release the CILEx Exemption Policy and Procedures from the regulatory arrangements. This is because the policy is undertaking two functions simultaneously:

- Setting out the exemptions required to become a Chartered Legal Executive as part of the CILEx Regulation requirements, and
- Setting out the process to seek a partial exemption from the CILEx units within the CILEx qualifications, which are regulated by Ofqual (and other qualifications regulators) as part of the arrangements required under Ofqual’s General Conditions of Recognition.

The new CRL Exemptions Policy & supplementary assessment criteria are attached at **Appendix 1**.

Permission is sought to remove the CILEx Exemptions Policy and Procedures (**Appendix 2**) from regulatory arrangements, as it will be superseded by the above policy at CILEx Regulation for the purposes of recognising complete legal qualifications that provide the requisite legal knowledge required to become a Chartered Legal Executive.

CILEx will then be able to amend its exemptions policy in accordance with the Ofqual regulations, however it must continue to reflect the regulatory requirements, guided by the new CRL policy, within their policy if the exemption relates to a regulated title. The operation of the new exemptions policy will be monitored by CILEx Regulation through the Annual Report generated from CILEx via the Awards Reporting Requirements (see **Appendix 3**).

This application has been submitted ahead of approval of the revised education standards for Chartered Legal Executives and once this has been approved a further application will be made to account for the changes introduced via the revised education standards.

The table below summarises the changes in the requirements:

	Current policy	New CILEx Regulation policy	New CILEx policy
<b>Description</b>	The policy covers exemptions to be admitted to a CILEx grade of membership (because all current Chartered Legal Executives must spend at least 12 months in the Graduate grade of membership). Therefore, the administration of all academic exemptions is dealt with through the membership body	This policy sets out the overarching principles to be applied to all exemptions from academic qualifications required to become an authorised person.	This policy sets out the exemptions for both full and partial exemptions from the CILEx qualifications, as required by Ofqual.
<b>Content</b>			
<b>Listed qualifications</b>	The policy outlines the qualifications that will provide full or partial exemption from the academic qualifications,	At present, recognised qualifications within the CRL exemptions policy would be:	CILEx would be able to create and recognise exemptions in accordance with the Ofqual General

	<p>which have been previously mapped against the CILEx qualifications (the current benchmark for the academic requirements for a Chartered Legal Executive). It also recognises a full exemption from all requirements for admission as a Chartered Legal Executive, where the applicant has completed a Chartered Legal Executive Apprenticeship.</p>	<ul style="list-style-type: none"> <li>➤ Those holding a practising certificate in a reserved area of practice which can be recognised by CRL</li> <li>➤ Those having completed a Chartered Legal Executive apprenticeship</li> <li>➤ Those having completed the LL.B + LPC or BPTC</li> </ul>	<p>Conditions of Recognition as enabling partial exemption from the CILEx qualifications.</p>
<b>Unlisted qualifications</b>	<p>Unlisted qualifications (i.e. those which do not follow a generic syllabus or have not been previously been mapped), must be mapped. This has caused anomalies in the recognition of non-qualifying law degree units when compared with the same units sat within a qualifying law degree</p>	<p>The new CRL policy provides regulatory guidance to CILEx to enable it (subject to the Ofqual General Conditions of Recognition) to recognise equivalent units within a qualifying or non-qualifying law degree at the level of the qualification rather than the unit level within the qualification, thereby ending the anomaly.</p>	<p>CILEx would be able to create a policy which recognised units within a degree at the level of the degree rather than at the unit level within the degree.</p>
<b>Institutional Exemptions</b>	<p>The current policy enables institutions to apply for a qualifications exemption from degrees (or other qualifications) created for the purpose, and to enable those seeking membership to utilise the qualification to exempt them from some or all of the CILEx qualifications.</p>	<p>The new CRL policy enables the recognition of institutional qualifications using the assessment criteria set out in the appendix to the new policy. However as all Chartered Legal Executives must serve 12 months in the Graduate grade of membership, these will be administered by CILEx.</p>	<p>CILEx would be able to replicate the current arrangements under their new policy, subject to the requirements of Ofqual.</p>
<b>Fees</b>			
	<p>Fees charged are set out within the policy</p>	<p>A right to charge a fee is contained within the rules. The guidance for fee setting and increases is set out in the appendix to the policy, but this is not intended to form part of the regulatory arrangements to prevent the need to resubmit the exemptions policy prior to any necessary fee increase.</p>	<p>CILEx would be able to charge exemption fees subject to Ofqual regulations.</p>

The timeline for change would be as follows:

- The LSB approves the new CRL Exemptions policy, releasing the CILEx Exemptions policy
- CILEx Regulation notifies CILEx that the new CRL policy is in force
- CILEx is free to amend its own exemptions policy subject to Ofqual regulation and any governance requirements.

The new CRL Exemptions Policy sets out the requirements for seeking an exemption where the applicant has completed a qualification that covers the entirety of the academic knowledge requirements to become a Chartered Legal Executive. How the exemption will be assessed is set out in the assessment criteria.

CILEx is an Ofqual regulated Awarding Organisation and as such complies with the General Conditions of Recognition which sets out the regulatory requirements of all qualifications which fall within their remit. This includes the CILEx Level 3 & Level 6 qualifications which are used, in some cases, to provide the academic requirements to become a Chartered Legal Executive. The CILEx Exemptions Policy will remain in force at CILEx to comply with

the Ofqual and other qualifications' regulators' requirements, in particular to ensure that the exemptions arrangements meet the qualifications regulators requirements. This change is supported by the statutory guidance issued by the Legal Services Board in 2014 which states at Outcome 2e:

'Regulators complement rather than duplicate existing quality assurance processes such as those undertaken by higher education institutions themselves and those carried out by the Quality Assurance Agency (QAA). We would expect all regulators to undertake a review of their existing quality assurance processes to identify where changes can be made'

CILEx Regulation is assured of the ongoing compliance of CILEx with the Ofqual regulations through the Annual Reporting Requirements (attached at **Appendix 3**).

Other documents in support of this application are:

- Education Standards Consultation (**Appendix 4 & 7 (pp4-6)**)
- Analysis of relevant elements of Education Standards Consultation (**Appendix 5 & 6**)

## Introduction

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).

However, there is a difference between seeking a full exemption from the academic requirements to become a Chartered Legal Executive and a partial exemption from one or more units from the Ofqual (and other qualifications regulators) regulated qualifications, which fall within CILEx's remit as an Ofqual regulated Awarding Organisation.

## The current exemptions policy

CILEx Regulation has created an outcomes-based exemptions policy to govern the exemptions requirements for any applicant seeking a full exemption from the academic requirements to become a Chartered Legal Executive.

In addition, the new CILEx Regulation Exemptions Policy provides guidance in relation to the recognition of law units within a non-qualifying law degree, which mirror the units within a qualifying law degree, but cannot currently be recognised under the existing CILEx Exemptions policy at the same level that they are for a qualifying law degree.

The CILEx policy was drafted when individual units were required to be at or above the level for which the exemption within the regulated qualification was sought.

That is, if an individual had completed Contract Law in the first year of a non-qualifying law degree, this could only be recognised at Level 3 in the CILEx qualifications as the unit had been studied at Level 4, even though the final degree qualification was a Level 6 qualification. This does not apply to qualifying law degrees, where the contract unit may have been studied in the first year of the degree and was therefore a Level 4 unit but would be recognised as Level 6 for the purposes of an exemption.

This is no longer the case, and qualifications regulators enable the recognition of units within a multi-level qualification (like a degree where there are Level 4, 5 and 6 modules within the final Level 6 qualification) – this anomaly is demonstrated in the table below:

<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, the new CILEx Regulation Exemptions Policy will enable holders of a qualifying law degree and a non-qualifying law degree to be treated in the same way resulting in a fairer outcome to applicants holding a non-qualifying law degree than the current approach.

## Proposals for change

CILEx Regulation is proposing to introduce a principles-based Exemptions Policy, under which the detailed CILEx Exemptions Policy will sit for the purposes of recognising complete exemptions and will enable CILEx to meet the requirements of the qualifications regulators such as Ofqual. 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.

Fees charged by CILEx Regulation in relation to the processing of exemptions applications made directly to it will be governed by the fees information provided as part of the supplementary information.

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 (QLD) or the Legal Practice Course (LPC)/Bar Professional Training Course (BPTC)
  - 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 and the Annual Awards reporting requirements as now
- The exemptions for completed qualifications (LPC/BPTC) that provide full exemptions will be administered either by CILEx (for admission to Graduate membership) until the revised education standards have been approved, at which point it would be open for CILEx Regulation to assess qualifications as suitable to meet the academic requirements for admission as an authorised person.

## Consultations

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.

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 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 5 - 7**

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 supportive, during the second consultation, the proposal to introduce the principles-based policy was consulted upon as well as the draft policy itself. The revised policy will be of benefit to prospective applicants who otherwise would have to duplicate assessment in units/modules for which they have already been assessed.

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 by the three respondents with a minor change to the policy required.

Therefore, CILEx Regulation intends to proceed with the implementation of the revised policy with the proposed amendment from the consultation, which was:

- 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

Where an exemption is sought from a training provider (for academic units), the exemption will be assessed under the Awards Reporting Requirements policy and the supplementary assessment criteria.

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.

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

- **Protecting and promoting the public interest and the interests of consumers**
  - By moving to an outcomes-focused exemptions policy and placing the existing CILEx policy under the new CILEx Regulation policy, we will have greater flexibility when granting exemptions, while providing sufficient regulatory quality assurance standards. This will ensure greater choice for consumers by increasing those individuals seeking authorisation through CILEx Regulation, without sacrificing the Chartered Legal Executive quality standard.
  - By shifting the focus from named qualifications (a qualifying law degree) to academic aptitude (a specified standard reached in a specific module), consumers will have access to a larger and more diverse pool of practitioners, without seeing a reduction in quality standards.
- **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.
  - By providing for units from non-qualifying law degrees, a greater variety of candidates will be able to take the CILEx route into legal practice; this diversity of knowledge will enable greater competition amongst Authorised Persons.

➤ **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.
- Furthermore, by amending the exemptions policy in the manner described, we are increasing the potential means of accessing the CILEx route into legal practice. Broadening the diversity of experience accepted into the profession without sacrificing regulatory quality assurance standards will itself facilitate strength and independence within the profession.

➤ **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 CILEx Code of Conduct.
- The amendments contained in this application will not have an effect on the ability of Chartered Legal Executives to maintain adherence to the professional principles, nor will the broadening of the exemptions policy impose additional obligations or detract from the standards enshrined therein.

➤ **Proportionate**

- 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.
- Given that the current exemptions policy gives rise to certain inconsistencies regarding modules taken from qualifying and non-qualifying law degrees,

amending the policy to allow for a like-for-like approach is proportionate given the circumstances.

➤ **Accountable**

- Under the new exemptions policy, CILEx Regulation will be able to accept alternative qualifications from a greater variety of providers, and a more diverse pool of candidates.
- As outlined above, this diversity will be beneficial to both consumers and in encouraging competition.
- However, this also requires robust accountability and quality assurance standards. As such, units should map directly to the CILEx units, subject to the requirements in the Awards Reporting Requirements.

➤ **Consistent**

- By focusing on academic aptitude over named qualifications, we are able to achieve a greater degree of consistency with regard to similar/same modules being undertaken in a qualifying or non-qualifying law degree. By fine-tuning our exemptions in this manner, we are adopting a more consistent approach that focuses on knowledge gained as opposed to the name of the qualification.
- Furthermore, by offering the quality assurance provided by CILEx Regulation and allowing CILEx to amend the detail of the policy, we will be able to administer a more consistent, principle-based approach to offering exemptions.

➤ **Transparent**

- CILEx Regulation has taken a transparent approach to developing the qualification and regulatory arrangements.
- The profession and consumers will be clear as to the new exemptions policy and 2 consultations have been conducted in relation to the proposed amendments.

➤ **Targeted**

- The new exemption policy is targeted to remove specific exceptions to the existing exemptions policy highlighted by CILEx Regulation and as a result of our consultation responses. The amendments thereto specifically address these issues.



- Consequently, applicants holding the same QLD/non-QLD module at the same level will receive the same exemption. This anomaly is specifically addressed by the new exemptions policy.

### **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 8 and 9**. 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.

### **Contact details**

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