



Summary of Decision

The following table is a high level summary of the decision of the Legal Services Board. It is not a formal part of the decision notice.

Purpose of notice
To grant an application from CILEx Regulation by approving alterations to its regulatory arrangements to amend its Continuous Professional Development (CPD) Regulations.
Alterations that are being approved by this decision
There are four key categories of alterations: <ul style="list-style-type: none">• Removal of redundant transitional arrangements and associated clarifications• Changes to terminology to reflect entity regulation, and associated clarifications• Amendments to clarify the compulsory elements of the CPD scheme• Removal of the requirement to undertake a return to work scheme following a period of absence

Decision notice

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

CILEx Regulation's application for approval of changes to its regulatory arrangements in respect of Continuous Professional Development (CPD) Regulations.

The Legal Services Board (**LSB**) has granted an application from CILEx Regulation to amend its regulatory arrangements by approving amendments to the CPD Regulations. The Chartered Institute of Legal Executives (CILEx) is an approved regulator and CILEx Regulation is the regulatory arm to which CILEx has delegated its regulatory functions.

This decision notice sets out the decision taken, including a brief description of the changes. The notes at the end of this notice explain the statutory basis for the decision. The chronology for the LSB's handling of this application is set out at the end of this decision notice.

Proposed changes

1. The alterations fall into four broad categories:
 - I. Removal of transitional arrangements from the regulations.
 - II. Clarification of the current regulations.
 - III. Including within the regulations, the actions which may be taken when an individual is non-compliant with the regulations.
 - IV. Clarification of the requirements for Return to Work obligations, dispensation, exemption and extension.
2. The first three sets of alterations are principally concerned with tidying of the existing rules rather than being substantive alterations to regulatory policy or approach. These are amendments to A (1) to (11), B (1) to (9), C (2) to (11), D (1) to (5) and Schedule 1 of the CPD Regulations. [Annex 2](#) to the application sets out a table outlining the changes to the existing regulation or handbook as a result of the applied for changes to CPD regulations.
3. The LSB welcomes the deletion of regulations that are no longer necessary. This will ensure that the regulatory arrangements remain relevant; and are easily understood. This is in keeping with the Better Regulation Principles and balances clear regulation with the need to ensure continuing competence.

Return to Work obligations

4. This proposal was the only part of the application which represented a change to regulatory policy or approach. Prior to the alteration, regulation C (1) (formally E1) required an individual who had received a dispensation from the CPD requirements

due to an absence of 6 months or more to complete a 'Return to Work' scheme prior to or within 2 months of returning to work. It is proposed to remove this requirement.

5. The proposal is for C1 to state that : *“An individual who is absent from employment during any CPD year, whether in legal practice or otherwise, for a total of 6 months or more, due to illness, unemployment or maternity or paternity leave, is not required to complete CPD for that year. They must notify CILEx Regulation prior to the end of the CPD year of the circumstance which leads to the dispensation.”*
6. The LSB sought further clarification from CILEx Regulation as to the purpose of the alteration and whether it had been consulted on. CILEx Regulation clarified that the amendment simply removes the obligation to undertake a return to work scheme prior to, or at the time of, a return to work. It is, nevertheless, still identified as best practice. CILEx Regulation took this decision after considering feedback regarding the enforceability of the obligation.

Decision

7. The LSB has considered CILEx Regulation's application against the criteria in paragraph 25(3) of Schedule 4 to the Act and has decided to grant the application.
8. The annex to this decision notice contains the revised CPD regulatory arrangements approved by the LSB.

Chronology

- The LSB confirmed receipt of an application from CILEx Regulation on 24 August 2017
- This decision notice is effective from 15 September 2017
- The decision notice will be published on our website within two business days.

Neil Buckley,
Acting under delegated authority granted by the Board of the Legal Services Board

15 September 2017

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 proposed regulatory arrangements are appropriate, comply with the requirement 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 rules¹ 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.
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.

¹ Rules for Rule Change Applications – Version 2 (November 2010)

Annex: A Continuous Professional Development (CPD) Regulations

A DEFINITIONS

- (1) “Continuing Professional Development” (“CPD”) is defined as: ‘To maintain, improve and extend the skills and qualities necessary for the proper performance of professional and legal duties and compliance required by CILEx Regulation, so as to ensure confidence in the professionalism and competence of CILEx members and CILEx Practitioners.’
- (2) “CPD cycle” means the process of reflection by an individual on their practice to identify training and development needs, followed by development of a plan to meet those needs, followed by participation in appropriate CPD, followed by evaluation of the CPD to assess the extent to which it has met the required outcome;
- (3) “CPD entries” means any planned or unplanned entries;
- (4) “CPD year” means the period of 12 months starting 1 October each year and finishing 30 September the following year over which individuals must plan and undertake CPD in accordance with these Regulations
- (5) ‘individual’ means a CILEx member or non-member in one of the following categories: CILEx Practitioners, Fellows, Legal Accounts Executives, Graduate members, Legal Accounts Members, Associate members, Chartered Legal Executive Advocates and Associate Prosecutor members of the Chartered Institute of Legal Executives (CILEx) (and for the purpose of compliance with these Regulations, it is irrelevant whether an individual works part-time or full-time or as self-employed and whether working in the UK or overseas);
- (6) “the Officer” means a CILEx Regulation officer with responsibility for monitoring CPD compliance;
- (7) “planned entry” means CPD planned or undertaken to meet an individual’s training and development needs in accordance with the CPD cycle;
- (8) “professionalism activity” means CPD which covers the development of professional skills. This may include but is not limited to; ethics, business awareness, social awareness, client care, communication, equality and diversity or time management;
- (9) “retired ” means any individual who has ceased to provide legal services in any capacity for payment or reward;
- (10) “unplanned entry” means any CPD which is not a planned entry; and
- (11) “work based learning scheme” means the competence based assessment and authorisation process which is a pre-requisite for admission as a Chartered Legal Executive.

B CPD REQUIREMENTS

- (1) Individuals resident either in the United Kingdom or overseas, with the exception of retired individuals, are required to undertake CPD in each CPD year according to the following scheme:

Category	Minimum Requirement	Special provisions
Fellows*, Associate Prosecutors*, Legal Accounts Executives, CILEx Practitioners* *Note additional requirements for those holding Rights of Audience rights	9 CPD entries	CPD must include: -At least 1 professionalism activity; -a minimum of 5 planned entries; and - at least 3 planned entries recorded at the start of the CPD year.
Graduates, Legal Accounts Members	9 CPD entries	CPD must include: -At least 1 professionalism activity; - a minimum of 5 planned entries; and - at least 3 planned entries recorded at the start of the CPD year.
Associate Members	8 hours CPD + 1 professionalism CPD entry	CPD must include: - At least 4 hours of CPD in topics related to the Associate Member's chosen specialist area; and - at least 1 professionalism activity
Chartered Legal Executive Advocates, including CILEx Practitioners with Rights of Audience Rights Associate Prosecutors	As per Fellows and Legal Accounts Executives	As per Fellows and Legal Accounts Executives save that 2 of the planned entries must be in topics related to advocacy skills As per Fellows and Legal Accounts Executives save at least 4 of the CPD entries must be related to their criminal practice

- (2) An individual working outside legal practice is required to undertake the full CPD requirement, but if the individual is an Associate Member, they need not designate a specialist area.
- (3) Excess CPD entries or hours over the minimum required may not be carried forward to the following CPD year.

- (4) The amount of hours that Associate Members may claim for CPD activities is set out at Schedule 1.

Recording and monitoring CPD

- (5) By 30 September of the CPD year an individual must complete and submit to CILEx using the online CPD recording system provided by CILEx Regulation, a record of the CPD they undertook during that year in the form of CPD hours or CPD entries, as applicable. Should individuals intend to rely on continuing professional development completed for the purpose of a scheme operated by another regulator approved under the Legal Services Act 2007 as part of their record, they must record that CPD using the online recording tool and retain appropriate evidence of the CPD. Evidence of completion of this CPD must be retained and submitted to CILEx Regulation on request.
- (6) An individual must maintain a record of the entries of planned CPD, the evaluation of the CPD activity undertaken and how it met or did not meet their training needs and the CPD log. Records must be retained for a period of at least 2 years from the end of the CPD year.
- (7) CILEx Regulation will sample CPD records. An individual whose records are called for sampling must supply to CILEx Regulation their planned CPD document, evaluation of CPD and CPD log within 28 days of the request.
- (8) CILEx Regulation may interview individuals whose records are called for sampling.
- (9) An individual whose records are called for sampling or who is selected for interview must respond to reasonable enquiries made by CILEx Regulation about their CPD activities and CPD records.

C DISPENSATION, EXTENSION AND EXEMPTIONS FROM CPD REQUIREMENTS

Dispensation

- (1) An individual who is absent from employment during any CPD year, whether in legal practice or otherwise, for a total of 6 months or more, due to illness, unemployment or maternity or paternity leave, is not required to complete CPD for that year. They must notify CILEx Regulation prior to the end of the CPD year of the circumstance which leads to the dispensation.
- (2) The reason for the absence and the dates must be entered on the individual's logbook. Evidence of the reasons for absence from employment due to illness, unemployment, maternity or paternity leave, may be requested by CILEx Regulation.
- (3) Dispensation will only be valid once confirmed in writing by CILEx Regulation.

Exemption

- (4) Retired individuals are exempt from the CPD requirements.

- (5) An individual who is not subject to CPD at the start of the CPD year and is subsequently registered during a CPD year into a category which is subject to CPD requirements will not need to undertake CPD until the following CPD year.
- (6) An individual who is entered into a new category which is subject to different CPD requirements from the category they were in at the commencement of the CPD year will undertake CPD in accordance with the category they were in at the commencement of the CPD year.
- (7) Associate Prosecutors are not required to undertake any CPD in respect of the period between the date a Level 1 Associate Prosecutor Certificate is first granted and September 30th of that year.
- (8) Chartered Legal Executive Advocates are not required to undertake any CPD in respect of the period between the date an Advocacy Certificate is first granted and September 30th of that year.
- (9) An individual who is completing the work based learning scheme may make an application to CILEx Regulation to reduce the number of CPD entries they complete each CPD year to five entries per year for a maximum period of two years. The reduction will be granted during their participation in the work based learning scheme. This exemption will only apply where it has been confirmed in writing by CILEx Regulation.

Extension

- (10) An individual who believes they will be unable to meet the CPD requirements by 30 September may apply for an extension in respect of Regulation D(2). A request for an extension must be made no later than 31 August of that year and must include an explanation of the circumstances which have prevented the individual from meeting the CPD requirements. The application for extension should include evidence where possible. It must also include an action plan to bring their CPD up to date by 31 December following the end of the CPD year for which the extension is sought.
- (11) An extension will only apply where it has been confirmed in writing by CILEx Regulation.

D FAILURE TO COMPLY WITH CPD REQUIREMENTS

- (1) Failure to comply with any CPD requirement within these regulations may be treated as misconduct.
- (2) Unless a reduction has been granted under regulation C(9), or an extension has been granted under regulation C(10), an individual who fails to comply with the CPD requirements by 30 September in the relevant CPD year will have the rights which attach to their category suspended from 1 January of the next calendar year. Use of grade, title or designatory letters or, in the case of Fellows, CILEx Practitioners and immigration practitioners, exercise any of their practice rights is suspended until they comply with the requirements. This may also be regarded as misconduct.

- (3) A false declaration regarding completion of CPD may be regarded as misconduct.
- (4) Failure by an individual to respond to reasonable enquiries made by CILEx Regulation about their CPD activities and CPD records may be regarded as misconduct.
- (5) Where a Chartered Legal Executive Advocate or Associate Prosecutor has failed to undertake CPD which meets the requirements of these Regulations or fails to provide a record of such CPD, the Officer will refer the matter to the Admissions and Licensing Committee. The Admissions and Licensing Committee will consider whether the Chartered Legal Executive Advocate or Associate Prosecutor should retain their Advocacy Certificate or Level 1 or Level 2 Certificate as the case may be. The Chartered Legal Executive Advocate or Associate Prosecutor will have the opportunity to make written representations to the Committee and has a right to be heard by the Committee. The Committee may decide to:
 - (a) Grant an extension of up to 6 months for the Chartered Legal Executive Advocate or Associate Prosecutor to meet their outstanding CPD requirements. The Chartered Legal Executive Advocate or Associate Prosecutor will still be required to meet their current CPD requirements in the normal way; or
 - (b) Withdraw the Certificate until the individual complies with the CPD requirements; and, in either case,
 - (c) Refer the failure to comply with the CPD requirements to CILEx Regulation for investigation.

SCHEDULE 1

CPD ACTIVITIES: HOURS CLAIMED AND EVIDENCE REQUIRED

ADMINISTRATION AND APPLICATION OF THE CPD SCHEME

Activity	Amount of CPD which can be claimed	Evidence Required
CILEx LAW SCHOOL updates, course manuals and self-assessment questions	<p>4 hours CPD per update. 2 updates available for each individual leading to a maximum of 8 hours CPD</p> <p>A maximum of 75% of the CPD requirement can be met by reading relevant articles and/or using CILEx LAW SCHOOL updates (see criteria above)</p>	<p>The details of the update/manual must be provided on the individual's CPD logbook.</p> <p>Answers to multiple-choice and/or short answer questions should be kept.</p>
Reading relevant articles in the CILEx Journal or other reputable sources including the internet	Actual time up to 75 % of CPD (subject to any CPD hours claimed for CILEx LAW SCHOOL updates – see criteria above)	The article title, publication details and/or website address must be provided on the individual's CPD logbook in the description column.
Attendance at an course/seminar – in a individual's SPECIALIST AREA	Actual time – up to 100% of CPD requirement	The details of the training provider and the course must be provided on the individual's CPD logbook.
Attendance at a course/seminar – in an individuals' NON-SPECIALIST AREA	Actual time – up to 50% of CPD requirement	The details of the training provider and the course must be provided on the individual's CPD logbook.
Distance Learning Courses to include e-learning - in an individual's' SPECIALIST AREA	Actual time – up to 100% of CPD requirement	The details of the training provider and the course must be provided on the individual's CPD logbook.

<p>Distance Learning Courses to include e-learning - in an individual's</p> <p>NON-SPECIALIST AREA</p>	<p>Actual time – up to 50% of CPD requirement</p>	<p>The details of the training provider and the course must be provided on the individual's CPD logbook.</p>
<p>In-house training by employer – in an individual's</p> <p>SPECIALIST AREA</p>	<p>Actual time – up to 100% of CPD requirement</p>	<p>The employer's details and information about the training must be provided on the individual's CPD logbook.</p>
<p>In-house training by employer – in an individual's</p> <p>NON-SPECIALIST AREA</p>	<p>Actual time – up to 50% of CPD requirement</p>	<p>The employer's details and the nature of the training must be provided on the individual's CPD logbook.</p>

Activity	Amount of CPD which can be claimed	Evidence Required
Training provided by local CILEx or Law Society Branches in an individual's SPECIALIST AREA	Actual time – up to 100% of CPD requirement	Details of the Branch and the nature of the nature of the training must be provided on the individual's CPD logbook.
Training provided by local CILEx or Law Society Branches in an individual's NON- SPECIALIST AREA	Actual time – up to 50% of CPD requirement	Details of the Branch and the nature of the training must be provided on the individual's CPD logbook.
Academic or Professional Study in an individual's SPECIALIST AREA	Actual time spent studying – up to 100% of CPD requirement Where study for qualification spans more than one year, this activity can be claimed for CPD purposes during each year of the qualification	Full details of the qualification (including subjects covered), the provider and the year of study must be provided on the individual's CPD logbook.
Academic or Professional Study in an individual's NON- SPECIALIST AREA	Actual time spent studying – up to 50% of CPD requirement Where study for qualification spans more than one year, this activity can be claimed for CPD purposes during each year of the qualification	Full details of the qualification (including subjects covered), the provider and the year of study must be provided on the individual's CPD logbook.
Production of a Dissertation in an individual's SPECIALIST AREA	Actual time spent researching and writing up the dissertation – up to 100% of CPD requirement Where research and writing of a dissertation spans more than one year, this activity can be claimed for CPD purposes each year	The title of the dissertation and the qualification details must be provided on the individual's CPD logbook.

<p>Production of a Dissertation in an individual's</p> <p>NON- SPECIALIST AREA</p>	<p>Actual time spent researching and writing up the dissertation – up to 50% of CPD requirement</p> <p>Where research and writing of a dissertation spans more than one year, this activity can be claimed for CPD purposes each year</p>	<p>The title of the dissertation and the qualification details must be provided on the individual's CPD logbook.</p>
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Activity	Amount of CPD which can be claimed	Evidence Required
<p>Research – must relate to legal topics/ be relevant to the individual’s place of work and be in their</p> <p>SPECIALIST AREA</p>	<p>Actual time – up to 100% of CPD requirement</p>	<p>Full details of the topic for the research and, where applicable, the organisation which has commissioned the research must be provided on the individual’s CPD logbook.</p>
<p>Research – must relate to legal topics/ be relevant to the individual’s place of work and be in their</p> <p>NON-SPECIALIST AREA</p>	<p>Actual time – up to 50% of CPD requirement</p>	<p>Full details of the topic for the research and, where applicable, the organisation which has commissioned the research must be provided on the individual’s CPD records.</p>
<p>Preparation and delivery of training courses in an individual’s</p> <p>SPECIALIST AREA</p>	<p>Actual time – up to 100% of CPD requirement</p> <p>CILEx tutors delivering the Level 3 Professional Diploma in Law or Level 6 Professional Higher Diploma in Law cannot claim the delivery of these courses as a CPD activity. However, preparation, including research to ensure that up to date material is delivered, is an appropriate activity</p>	<p>Full details of the course being delivered must be provided on the individual’s CPD logbook.</p>
<p>Preparation and delivery of training courses in an individual’s</p> <p>NON-SPECIALIST AREA</p>	<p>Actual time – up to 50% of CPD requirement</p> <p>CILEx tutors delivering the Level 3 Professional Diploma in Law or Level 6 Professional Higher Diploma in Law cannot claim the delivery of these courses as a CPD activity. However, preparation, including research to ensure that up to date material is delivered, is an appropriate activity</p>	<p>Full details of the course being delivered must be provided on the individual’s CPD logbook.</p>

Activity	Amount of CPD which can be claimed	Evidence Required
Work shadowing – with clear aims and objectives for professional development in an individual’s SPECIALIST AREA	Actual time – up to 100% of CPD requirement	Full details of the aims and outcomes of the work shadowing sessions must be provided on the individual’s CPD logbook.
Work shadowing – with clear aims and objectives for professional development in an individual’s NON-SPECIALIST AREA	Actual time – up to 50% of CPD requirement	Full details of the aims and outcomes of the work shadowing sessions must be provided on the individual’s CPD logbook.
Coaching or mentoring – delivered face to face or at a distance with clear aims and objectives for professional development in an individual’s SPECIALIST AREA	Actual time – up to 100% of CPD requirement CILEx Level 3 and Level 6 tutors cannot claim the coaching or mentoring of CILEx students towards the professional qualifications as a CPD activity	Full details of aims and outcomes of the sessions must be provided on the individual’s CPD logbook. It is likely that this will be a specialist CPD activity but could include other skills, for example, presentation skills.
Coaching or mentoring – delivered face to face or at a distance with clear aims and objectives for professional development in an individual’s NON-SPECIALIST AREA	Actual time – up to 50% of CPD requirement CILEx Level 3 and Level 6 tutors cannot claim the coaching or mentoring of CILEx students towards the professional qualifications as a CPD activity	Full details of aims and outcomes of the sessions must be provided on the individual’s CPD logbook. It is likely that this will be a specialist CPD activity but could include other skills, for example, presentation skills.
Participation in development of specialist areas of law by attending meetings of specialist committees/working parties of relevant organisations undertaking such work – MUST BE IN AN INDIVIDUAL’S	Actual time spent at meetings – up to 100% of CPD requirement	Details of the committee/working party and/or organisation, the area of law being considered must be provided on the individual’s CPD logbook.

SPECIALIST AREA		
Writing on Law or Practice – to include material written for journals, law books, publications, newspapers, magazines, internet – MUST BE IN AN INDIVIDUAL’S SPECIALIST AREA	Actual time – up to 100% of CPD requirement	Full details of the subject of the piece of writing and, where applicable, the publication/website/organisation for which the material is being produced must be provided on the individual’s CPD logbook.