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**APPENDIX 1**

**RIGHTS TO CONDUCT LITIGATION  
AND  
RIGHTS OF AUDIENCE  
CERTIFICATION RULES**

## **RIGHTS TO CONDUCT LITIGATION AND RIGHTS OF AUDIENCE CERTIFICATION RULES**

### **DEFINITIONS**

**1. In these Rules, except where otherwise indicated:**

- “Advocacy Certificate” means a Rights of Audience Certificate identified in these Rules;
- “Advocacy Skills Course” means an advocacy skills course approved in accordance with the Rights of Audience Certification Rules;
- “Authorised Litigator” means a person who has been granted a right to conduct litigation by an authorised body, under the terms of the Act;
- “Certificate of Eligibility” means a Certificate permitting an applicant to undertake a Advocacy Skills Course;
- “Certification Rules” means these Rights to Conduct Litigation and Rights of Audience Certification Rules;
- “Chambers advocacy” means rights of audience exercised in Judge’s room hearings;
- “External adviser” means a person appointed by IPS to carry out the roles and functions identified for them by IPS;
- “Fellow of CILEx or applicant in good standing” means a Fellow of CILEx whose subscriptions to CILEx are fully paid, or an applicant seeking registration with IPS, and in both cases in respect of whose conduct there is no complaint or misconduct matter outstanding, and against whom there is no disciplinary record which in the view of IPS affects their suitability to be a Chartered Legal Executive Litigator and Advocate.
- “CILEx” means the Chartered Institute of Legal Executives;
- “Investigation, Disciplinary and Appeals Rules” means the rules of IPS which are in place from time to time and which govern the complaints handling and disciplinary procedures of IPS;
- “IPS” means ILEX Professional Standards Ltd;
- “Chartered Legal Executive Advocate” means a Fellow who has been granted a Rights of Audience Certificate by IPS;

- “Chartered Legal Executive Litigator” means a Fellow who has been granted a Litigation Certificate by IPS;
- “The Act” means the Legal Services Act 2007;
- “Litigation Certificate” means a litigation certificate identified in these Rules.
- “The Officer” means a person with responsibility for the rights to conduct litigation qualification scheme and the rights of audience qualification scheme;

Words importing the male gender include the female gender and vice versa; and words importing the singular include the plural and vice versa.

2. Responsibility for this qualification scheme is delegated to IPS by CILEx.

### **THE RIGHTS TO CONDUCT LITIGATION AND RIGHTS OF AUDIENCE CERTIFICATES**

3. A Fellow of CILEx or an applicant eligible to qualify as a Fellow of CILEx who is in good standing may apply to IPS to be granted one or more of the following Certificates:
  - (a) A Right to Conduct Litigation (Civil Proceedings) Certificate;
  - (b) A Right to Conduct Litigation (Family Proceedings) Certificate;
  - (c) A Right to Conduct Litigation (Criminal Proceedings) Certificate.
4. A Fellow of CILEx in good standing must at the same time as their application for a litigation certificate, apply to IPS to be granted one or more of the following Rights of Audience Certificates which relates to the same proceedings as the Litigation Certificate:
  - (a) A Rights of Audience (Civil Proceedings) Certificate in Judge’s Room;
  - (b) A Rights of Audience (Family Proceedings) Certificate in Judge’s Room;
  - (c) A Rights of Audience (Civil Proceedings) Certificate;
  - (d) A Rights of Audience (Family Proceedings) Certificate;
  - (e) A Rights of Audience (Criminal Proceedings) Certificate.
5. The Rights to Conduct Litigation exercisable by Chartered Legal Executive Litigators holding Litigation Certificates are set out below:

***Rights to Conduct Litigation (Civil Proceedings) Certificate:***

To conduct litigation in all civil proceedings excluding family proceedings;

***Rights to Conduct Litigation (Family Proceedings) Certificate:***

To conduct litigation in all family proceedings;

***Rights to Conduct Litigation (Criminal Proceedings) Certificate:***

To conduct litigation in all criminal proceedings.

6. The rights of audience exercisable by Litigators holding Rights of Audience Certificates are set out below:

***Rights of Audience (Civil Proceedings) Certificate in Judge's Room***

- to exercise rights of audience in Judge's room hearings in the County Court and High Court in all civil proceedings excluding family proceedings.

***Rights of Audience (Civil Proceedings) Certificate***

- to exercise rights of audience in Judge's room hearings in the County Court and High Court in all civil proceedings excluding family proceedings;
- to appear in open Court in the County Court in all actions, except family proceedings;
- to appear before Magistrates, District Judges (Magistrates' Court) or Justices' Legal Advisers in the Magistrates' Courts in relation to all civil and enforcement matters;
- to appear before any tribunal having jurisdiction in England and Wales, which is listed in Schedule 6 of the Tribunals, Courts and Enforcement Act 2007 (as amended or substituted from time to time) where the tribunal rules provide for a non-discretionary right of audience being available to barristers, solicitors and CILEx advocates;
- to appear before Coroners' Courts in respect of all matters determined by those Courts and to exercise rights of audience similar to those exercised by solicitors and barristers.

A Civil Proceedings Certificate does not confer a right of audience in any proceedings for which a Family Proceedings Certificate is required.

***Rights of Audience (Family Proceedings) Certificate in Judge's Room***

- to exercise rights of audience in Judge's room hearings in the County Court and High Court in all family proceedings.

***Rights of Audience (Family Proceedings) Certificate***

- to exercise rights of audience in Judge's room hearings in the County Court and High Court in all family proceedings;
- to appear in Court (including in open court) in all County Court family proceedings;
- to appear before Justices or a District Judge (Magistrates' Court) in the Family Proceedings Courts;
- to appear before Coroners' Courts in respect of all matters determined by those Courts and to exercise rights of audience similar to those exercised by solicitors and barristers.

A Family Proceedings Certificate does not confer a right of audience in any proceedings for which a Civil Proceedings Certificate is required.

***A Rights of Audience (Criminal Proceedings) Certificate.***

- to appear before Justices Clerks, Justices or a District Judge (Magistrates' Court) in all adult Magistrates' Courts in relation to all matters within that Court's criminal jurisdiction;
  - to appear before Justices Clerks, Justices or a District Judge (Magistrates' Court) in all Youth Courts in relation to all matters within that Court's criminal jurisdiction;
  - to appear in the Crown Court or High Court before a judge in chambers to conduct bail applications;
  - to appear in the Crown Court on appeal from the Magistrates' Court, the Youth Court or on committal of an adult for sentence or to be dealt with, if he, or any approved person in the same employment as him, appeared on behalf of the defendant in the Magistrates' Court or Youth Court;
  - to appear before Coroners' Courts in respect of all matters determined by those Courts and to exercise rights of audience similar to those exercised by solicitors and barristers.
7. A person who has qualified as a Chartered Legal Executive Advocate before qualification as a Chartered Legal Executive Litigator may continue to exercise all the rights of audience appropriate to the Advocacy Certificate or Certificates he holds, as described in Rule 5 above immediately upon qualification as a Chartered Legal Executive Litigator.

**QUALIFICATION ARRANGEMENTS – RIGHTS TO CONDUCT LITIGATION**

8. Applicants who seek rights to conduct litigation must demonstrate that they meet the knowledge, skills and experience for the certificate they seek in accordance with the knowledge, skills and experience guidelines and portfolio guidelines which appear at **Annexes 1 and 2** and the competence framework at **Annex 3**.

**QUALIFICATION ARRANGEMENTS – RIGHTS OF AUDIENCE**

9. Applicants who seek rights to conduct litigation must also make an application for rights of audience. In the case of rights to conduct litigation in civil or family proceedings, an applicant must make an application in civil proceedings either for a Rights of Audience (Civil Proceedings) Certificate in Judge's room or Rights of Audience (Civil Proceedings) Certificate. In the case of family proceedings, an applicant must make an application for either a Rights of Audience (Family Proceedings) Certificate in Judge's room, or Rights of Audience (Family Proceedings) Certificate. In the case of criminal proceedings, an applicant must make an application for a Rights of Audience (Criminal Proceedings) Certificate.
10. Applicants must make an application for a Certificate of Eligibility to undertake the rights of audience skills course relevant to the Certificate they seek. In their application they must demonstrate that they meet the entry criteria for the

certificate they seek in accordance with the knowledge, skills and experience guidelines which appear at **Annex 1**.

11. An application for a Certificate of Eligibility must be supported by:
  - Evidence of the applicant’s knowledge of the law, the rules of evidence and legal practice relevant to the practice area in which they seek rights of audience in accordance with the competence criteria set out at **Annex 3**;
  - A portfolio of cases in which the Applicant has been involved during the two years preceding their application, in accordance with the portfolio guidelines at **Annex 2**
  - Details of two referees, who are members of the legal profession, who can attest to the applicant’s knowledge of civil, criminal or family law and practice, (whichever is relevant), and who are able to offer an informed opinion on whether the applicant meets the competence criteria set out in the knowledge and experience guidelines at **Annex 1**;
  - A statement from the applicant confirming that the details provided in their application are true to the best of their knowledge and belief.
12. IPS will assess an application for a Certificate of Eligibility in accordance with the criteria set out in the knowledge and experience guidelines and the portfolio guidelines at **Annexes 1 and 2** and the criteria at **Annex 3**. An applicant who meets the criteria will be granted a Certificate of Eligibility.
13. Upon receiving a Certificate of Eligibility an applicant will complete a Judge’s room or full advocacy skills course in accordance with the Rights of Audience they seek. Courses must meet the qualification criteria which appear at **Annex 3**. Courses will be assessed in accordance with the assessment criteria which appear at **Annex 4**.
14. Where an applicant who has met the criteria set out in the knowledge, skills and experience guidelines and the portfolio guidelines, has completed an advocacy skills course and qualification which is of a similar standard they may seek an exemption from the requirement to undertake the advocacy skills course and assessment. In making such an application for exemption, the applicant will be required to provide an outline of the advocacy skills course and assessment they completed, along with the results they obtained. IPS will assess whether the course and assessment meet the advocacy skills course and assessment criteria set out at **Annexes 3 and 4**. An exemption will be granted where an applicant is able to demonstrate that the course and assessment covered at least 50% of the course outcomes and assessment criteria set out at **Annexes 3 and 4**. Where an applicant is unable to demonstrate that they meet the course outcomes and assessment criteria, they will be required to complete the advocacy skills course and assessment.

#### **ALL APPLICATIONS**

15. An application for a Rights to Conduct Litigation Certificate and a Certificate of Eligibility for Rights of Audience shall be made on such a form as may be prescribed



for the purpose by IPS and shall be accompanied by such fee as may be fixed by IPS from time to time.

16. IPS will check the application to ensure it meets the criteria set out in the knowledge, skills and experience guidelines at **Annex 1**. The portfolios which form part of the application will be sent to an external advisor. The external advisor will assess whether the portfolios meet the criteria set out at **Annexes 1 to 3**.
17. Where the external advisor decides that the portfolios are satisfactory and meet the criteria set out at **Annexes 1 to 3**, an IPS Officer will consider whether the application for a Rights to Conduct Litigation Certificate and a Certificate of Eligibility for Rights of Audience may be approved. In reaching their decision the Officer will consider all the information provided by the applicant and may call for further information from any person or source it considers appropriate. Where the Officer has any doubt as to the suitability of the applicant they may request additional information from the applicant and/or refer the application to the Admissions and Licensing Committee for decision.
18. Where the external advisor decides that the portfolios are not satisfactory and do not meet the criteria set out at **Annexes 1 to 3** they will give reasons for their decision. The Officer will inform the applicant of the decision. The applicant may withdraw their application, amend and resubmit their application or make further representations and ask that the full application be referred to the Admissions and Licensing Committee to consider.
19. The Admissions and Licensing Committee will decide whether or not an application should be approved. In reaching its decision the Committee will consider all the information provided by the applicant, and may call the applicant for interview or call for information from any person or source it considers appropriate. The Committee may:
  - approve the application
  - decide that the applicant does not meet the criteria and indicate which of the criteria the applicant does not meet.
20. In making any assessment or decision required by these Rules the Admissions and Licensing Committee shall have regard to the criteria at **Annexes 1 to 3** to these Rules.
21. The Officer will notify an applicant in writing of their decision or the decision of the Admissions and Licensing Committee.
22. Where the application has been approved the notification shall include the Certificate(s) of Eligibility for Rights of Audience and an indication that the Rights to Conduct Litigation Application has been approved. The Litigation Certification may only be granted on the successful completion of the associated Rights of Audience skills course and assessment.

23. Where the application for a Certificate of Eligibility in Rights of Audience has been approved but the application for the Rights to Conduct Litigation Certificate identifies gaps in an applicant's knowledge, skills or experience, the notification shall set out details of the gaps and the reasons why the assessment has identified the full knowledge and experience guidelines and portfolio guidelines have not been met. An applicant may defer their application while they develop their knowledge, skills or experience or attend a course. A course must meet the outcomes set out at **Annex 3** in respect of the aspects where the applicant had not met the outcomes. Upon completion of course or development of experience, IPS will reassess the application to determine whether the applicant meets the knowledge, skills and experience guidelines. Where an application meets the guidelines, they may then undertake the Rights of Audience Skills Course and Assessment.
24. Where the application is unsuccessful, the notification shall set out the Committee's reasons and any preconditions to the consideration of any subsequent application. Where an application has been unsuccessful the applicant may apply for reconsideration in accordance with the Admissions and Licensing Committee Rules.
25. The Certificate of Eligibility for Rights of Audience will specify which of the advocacy skills course options the applicant may take.

#### **ADMISSIONS AND LICENSING COMMITTEE**

26. The Admissions and Licensing Committee established under the Admissions and Licensing Committee Rules shall be responsible for the Rights to Conduct Litigation and Rights of Audience scheme.

#### **EXTERNAL ADVISORS**

27. IPS shall appoint external advisors to advise the Admissions and Licensing Committee and IPS on issues relating to litigation and advocacy.

#### **ADVOCACY SKILLS COURSES**

28. An applicant who has been granted a Certificate of Eligibility in Rights of Audience may take advocacy skills courses relating to the Certificate for which they have been granted a Certificate of Eligibility.
29. Where an applicant fails to start an advocacy skills course within 12 months of being granted a Certificate of Eligibility, they must make a fresh application for such a Certificate before they may start an advocacy skills course. In exceptional cases the Admissions and Licensing Committee or the IPS Officer may exercise discretion to extend the duration of a Certificate of Eligibility.

30. Applicants will be required to:
  - successfully complete the training sessions; and
  - pass the formal assessments in accordance with the Assessment Criteria set out in **Annexes 3 and 4**.
31. An approved advocacy skills course must:
  - Meet the course delivery criteria set out at **Annex 3**.
  - Include arrangements for assessment of advocacy skills in accordance with the assessment criteria set out in **Annex 4**.

### **COURSE PROVIDERS**

32. Independent teaching or testing organisations will provide advocacy skills courses and assessments.
33. Advocacy skills courses will be provided by course providers who are accredited in accordance with the Rights of Audience Certification Rules.

### **CERTIFICATION**

34. Upon successfully demonstrating that they meet the criteria for a Rights to Conduct Litigation Certificate and successful completion of the Judge's room or full advocacy course an applicant may apply for a Litigation and Advocacy Certificate. An applicant who is not a Fellow and has completed an advocacy course may not make an application for a certificate until they become a Fellow of CILEX.
35. A Fellow may only apply for a Litigation and Advocacy Certificate relating to the type of proceedings covered by the litigation application and advocacy skills course they completed.
36. An application shall be made on a form prescribed by IPS from time to time for this purpose and shall be accompanied by such fee as may be fixed by IPS from time to time.
37. The Officer will process the application for a Litigation and Advocacy Certificate. The applicant shall be granted a Litigation and Advocacy Certificate provided the Officer is satisfied that the applicant:
  - is a Fellow in good standing;
  - has met the litigation skills criteria.
  - Has completed and passed an advocacy skills course and assessment.
38. Where the Officer has any doubt as to the suitability of the applicant to be awarded a Litigation and Advocacy Certificate they may request additional information from the applicant and or refer the application to the Admissions and Licensing Committee for decision.

39. When considering an application to award a Litigation and Advocacy Certificate the Admissions and Licensing Committee will consider all the information before it and may request additional information from any person or source it considers appropriate. It may require or permit the applicant to attend for interview before reaching its decision.
40. If the Admissions and Licensing Committee is satisfied that the applicant is a fit and proper person to be issued with a Certificate it shall grant the Certificate. If it is not satisfied, it must give its reasons and indicate any preconditions to the consideration of any subsequent application by the applicant.
41. The Officer will notify an applicant in writing of the decision as to whether their application for a Litigation and or Advocacy Certificate is successful. Where the application has been approved the notification shall include the Litigation and Advocacy Certificate. Where the application is unsuccessful, the notification shall set out the reasons and any preconditions to the consideration of any subsequent application by the applicant for a Litigation and Advocacy Certificate. The applicant may apply for reconsideration of their application in accordance with the Admissions and Licensing Committee Rules.
42. A Fellow holding a Litigation and Advocacy Certificate will be described as a Chartered Legal Executive Litigator and Advocate.

#### **APPLICATION FOR ADDITIONAL CERTIFICATES**

43. A Chartered Legal Executive Litigator and Advocate may apply to be granted Litigation and Advocacy Certificates additional to any Certificates already granted to them under these Rules. Prior to seeking an additional Advocacy Certificate the Litigator must obtain a Litigation Certificate in that practice area or make an application for a Litigation Certificate at the same time.
44. Applications shall be processed in accordance with these Rules.

#### **RENEWAL OF CERTIFICATES**

45. The first Advocacy Certificate issued to a Fellow, and the first Advocacy Certificate issued in respect of any additional proceedings, will be valid until either 1 June or 1 December, whichever is the earlier, after 12 months have elapsed from the date on which that Certificate was issued. Thereafter, any Advocacy Certificate will be valid indefinitely.
46. Applications for the first renewal of a certificate will be made on a form prescribed by IPS from time to time for the purpose and shall be accompanied by such fee as may be fixed by IPS from time to time.
47. An application for the first renewal of a Advocacy Certificate must be supported by:

- Confirmation that the applicant is working as a Chartered Legal Executive Litigator and Advocate;
  - a record of the applicant's litigation and advocacy experience gained during the period since their Certificate was granted;
  - a portfolio of cases in which the applicant has been involved during the period since their Certificate was granted, in accordance with the Portfolio Guidelines set out in **Annex 2**;
  - a statement from the applicant confirming the details provided of their litigation and advocacy experience and whether any rights to conduct litigation and rights of audience granted will be exercised in the future.
48. The portfolio which forms part of the application for the first renewal of the Certificate will be sent to an external advisor. The external advisor will assess the portfolio against the criteria set out in **Annexes 1 and 2**.
49. Where the external advisor decides that the portfolio is satisfactory and shows that the applicant has applied the litigation and advocacy skills in the cases described in accordance with the Portfolio Guidelines in **Annex 2** and the course outcomes and assessment criteria set out in competence framework at **Annexes 3 and 4** the Officer will consider the application and decide whether it should be approved. In reaching a decision the Officer will consider all the information provided by the applicant and may call for further information from any person or source it considers appropriate.
50. Where the Officer has any doubt as to the suitability of the applicant they may request additional information from the applicant and/or refer the application to the Admissions and Licensing Committee for decision.
51. Where the external advisor decides that the portfolio is not satisfactory and does not show that the applicant has applied the litigation and/or advocacy skills in the cases described in accordance with the Portfolio Guidelines set out in **Annex 2** and the Course Outcomes and assessment criteria set out in **Annexes 3 and 4** the external advisor shall give reasons for their decision. They shall indicate what action the applicant needs to take to provide a satisfactory portfolio. The Officer will inform the applicant of the decision. The applicant may withdraw their application or make further representations and ask that the full application be referred to the Admissions and Licensing Committee to consider.
52. The Admissions and Licensing Committee will decide whether or not an application should be approved. In reaching its decision the Committee will consider all the information provided by the applicant and may call the applicant for interview or call for further information from any person or source it considers appropriate. The Committee may approve the application or reject it.
53. In making any assessment or decision required by these Rules the Officer and the Admissions and Licensing Committee shall have regard to the portfolio guidelines in **Annex 2** and the course outcomes in **Annexes 3 and 4**.

54. The Officer will notify an applicant in writing of the decision. Where the application has been approved the notification shall include the Advocacy Certificate. Where the application is unsuccessful the notification shall set out the reasons for the decision and any preconditions to the consideration of any subsequent application for a Advocacy Certificate.
55. Where the application is unsuccessful an applicant may apply for reconsideration in accordance with the Admissions and Licensing Committee Rules. The Admissions and Licensing Committee will have the same powers available upon an application for reconsideration.

### **LAPSED CERTIFICATES**

56. A Fellow who has held a Litigation Certificate and an Advocacy Certificate which has lapsed may apply for that certificate to be renewed. Renewal of a lapsed certificate will be governed by Rules 45 to 55 which deal with first renewal of a advocacy certificate save that in Rule 47:
- the reference to an application for the first renewal of a Advocacy Certificate should be a reference to an application for renewal of a lapsed Litigation and Advocacy Certificate;
  - the applicant will not be required to provide confirmation that they are working as a Chartered Legal Executive Litigator and Advocate;
  - the applicant will be required to provide a record of their litigation and advocacy experience since their Litigation and Advocacy Certificate lapsed; and
  - the information required to be provided by the applicant shall include, additionally, reasons why the Litigation and Advocacy Certificate lapsed and details of CPD undertaken during the 12 months prior to the application.
57. A lapsed Litigation and Advocacy Certificate is one which has expired and has not been renewed, whether by decision of the holder of the certificate, or as a result of a decision of the Admissions and Licensing Committee or because the holder has ceased to be eligible to hold a certificate for any reason.
58. Where a Litigation Certificate and an Advocacy Certificate which has lapsed is renewed by the Admissions and Licensing Committee it will be valid indefinitely.

### **PRACTICE MANAGEMENT AND ACCOUNTS**

59. A Chartered Legal Executive Litigator and Advocate who seeks to practise in an entity seeking regulation by IPS must demonstrate that they meet the knowledge, skills and

experience in accounts and practice management in accordance with the knowledge, skills and experience guidelines and portfolio guidelines and the competency frameworks which appear at **Annexes 5 and 6**. They will not be authorised to be an approved manager in an entity until these requirements are met.

60. Where an applicant relies upon existing experience they must complete a log in accordance the portfolio guidelines. An applicant who relies upon a qualification as evidence of meeting the competency framework must provide details of that qualification and assessment. IPS will consider whether the experience or qualification relied upon demonstrates that the applicant meets the requirements of the competency framework.
61. An applicant who does not meet the knowledge, skills and experience requirements for practice management and or accounts must complete qualification courses and assessment in those areas which meet the competency frameworks at **Annexes 5 and 6**.

#### **CONTINUING PROFESSIONAL DEVELOPMENT (CPD)**

62. Chartered Legal Executive Litigators and Advocates are required to undertake the same CPD as Chartered Legal Executives, in accordance with the CPD regulations issued by IPS from time to time.
63. Where a Legal Executive Litigator or Advocate has failed to undertake CPD which meets the requirements of the CPD 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 Litigator and Advocate should retain their Litigation and Advocacy Certificate. The Chartered Legal Executive Litigator and Advocate will have the opportunity to make written representations to the Committee and a right to be heard by the Committee. The Committee may decide to:
  - Grant an extension of up to 3 months for the Chartered Legal Executive Litigator and Advocate to meet their outstanding CPD requirements. The Litigator or Advocate will still be required to meet their current CPD requirements in the normal way; or
  - Withdraw the Litigation and Advocacy Certificate until they comply with the CPD requirements.

#### **DISCIPLINARY PROCEDURES AND CODE OF CONDUCT**

64. Chartered Legal Executive Litigators and Advocates will be required to abide by the Code of Conduct of CILEx for the time being in force.

65. Where a complaint is made or an issue is brought to the attention of IPS regarding the conduct of a Chartered Legal Executive Litigator and Advocate that matter will be dealt with in accordance with IPS' Investigation, Disciplinary and Appeals Rules.
66. Where a Finding, Order or Decision is made against a Chartered Legal Executive Litigator and Advocate by a Disciplinary Tribunal or Panel that Finding, Order or Decision will be referred to the Admissions and Licensing Committee. The Admissions and Licensing Committee will decide whether the Chartered Legal Executive Litigator and Advocate remains a fit and proper person to hold a Litigation and Advocacy Certificate. The Admissions and Licensing Committee must give reasons for its decision.
67. Rule 66 shall not apply where an Order is made excluding a Chartered Legal Executive Litigator and Advocate from membership of CILEx. Rule 68 shall apply in such a case.
68. Where the Admissions and Licensing Committee decides that the Chartered Legal Executive Litigator and Advocate is no longer a fit and proper person to hold a Litigation and Advocacy Certificate, they must return their Certificate(s) to IPS within 28 days of them being notified of the decision. Failure to do so will constitute a disciplinary offence. The Fellow may not exercise any litigation or advocacy rights granted to them under their Litigation and Advocacy Certificate(s) after they have been notified of the decision.
69. Notwithstanding the Admissions and Licensing Committee Rules an appeal against a decision of the Admissions and Licensing Committee that a Chartered Legal Executive Litigator and Advocate is no longer a fit and proper person to hold a Litigation or Advocacy Certificate will be considered by a professional member and two lay members drawn from the panel of lay and professional members appointed to serve on IPS' Appeals Panel.

Rules 2012



### **Annex 1 - KNOWLEDGE, SKILLS AND EXPERIENCE GUIDELINES**

1. The knowledge, skills and experience guidelines have been split into applications for rights to conduct litigation and applications for certificates of eligibility for the rights of audience qualification.
2. An applicant who seeks rights to conduct litigation and rights of audience (Judge's room or open court), must satisfy the guidelines set below.

#### **RIGHTS TO CONDUCT LITIGATION – GUIDELINES**

3. An applicant seeking rights to conduct litigation must provide the following information:
  - The total litigation experience they have gained;
  - The type of litigation work they have undertaken, including their main areas of specialism.
4. In relation to the two year's preceding the date of their application, applicants must provide the following information:
  - A general description of the litigation work they have carried out;
  - Details of their typical case load;
  - The number of chargeable hours they spent on litigation work in each year;
  - The proportion of time they spent on litigation work each year;
  - The proportion, or number of cases, which have included preparation for trial;
  - Details of any distinctive features of their work;
  - Details of any supervisory arrangements under which they work and their own supervisory responsibilities.
5. Applicants must demonstrate that they have knowledge of law and legal practice; experience; and skills in the subject area relevant to the litigation rights that they seek in accordance with the criteria at **Annex 3**.

#### **Competence Criteria**

6. In deciding whether an applicant has adequate knowledge, skills and experience, IPS will have regard to the competency framework set out at **Annex 3**.
7. Applicants will be required to demonstrate their knowledge, skills and experience in accordance with the portfolio guidelines set out at **Annex 2**.
8. In their application, portfolios and logbook, an applicant will be expected to demonstrate that they can:
  - Recognise and rank items and issues in terms of relevance and importance;
  - Integrate information and materials from a variety of different sources;

- Undertake the analysis of factual information in a logical and coherent way;
- Make critical judgements on the merits of particular arguments;
- Present and make a reasoned choice between alternative solutions.
- Act independently in planning, preparing and undertaking tasks in the area in which they seek reserved legal activity rights;
- Undertake independent research in the areas where rights are sought using standard legal information sources; and
- Reflect on their learning and make constructive use of feedback.

### **Evaluating Experience**

9. An applicant will be expected to have a range of experience across the litigation practice area in which they seek rights. Applicants should have handled cases from the beginning to the end of the process, including preparing cases for trial and undertaking post trial work.
10. IPS will consider the quality of experience that an applicant has gained, as well as the quantity of their experience. In considering the quality of experience an applicant has gained, IPS will look at various factors such as the seriousness and complexity of cases handled, difficult cases handled, the nature of the matter and the types of hearings that have been undertaken.
11. IPS will recognise that applicants could have had a break in their experience due to factors such as career breaks, job changes, maternity or paternity leave, long term illness, or disability. IPS will not discriminate directly or indirectly against an applicant whose experience has been affected in this way. However, IPS will need to ensure that an applicant has an acceptable level of experience.
12. Where an applicant has had a break in their experience, they may provide details of experience gained during a different period when they were more actively engaged in practice in the area where rights are sought. However, the break must not have been longer than 5 years. In exceptional circumstances, applications may be accepted from applicants who have had a break longer than 5 years.
13. There may be other factors which affect an applicant's experience in the preceding 2 years. IPS will consider details of more active periods from applicants whose experience discloses a pattern that they regard as atypical.

### **RIGHTS OF AUDIENCE – GUIDELINES**

14. These guidelines apply to applicants who seek a Certificate of Eligibility for the rights of audience qualification. Applicants must satisfy these guidelines in addition to the knowledge and experience guidelines for the rights to conduct litigation certificate.

### **Certificate of Eligibility**

15. An applicant who seeks litigation rights in civil and family proceedings must, at the same time, make an application for rights of audience, either in Judge's room proceedings, or Judge's room and open court proceedings. An applicant who seeks litigation rights in criminal proceedings must, at the same time, make an application for rights of audience in open court proceedings.
16. The applicant must provide the following information about their experience:
  - Total year's advocacy experience and the number of years' experience in advocacy gained as a fee earner.
  - The types of advocacy they have undertaken.
17. Applicants will complete a form which sets out the following information:
  - A general description of the advocacy they have carried out;
  - Details of their typical case load;
  - The proportion or number of cases which have included preparation for trial;
  - The range and nature of their advocacy experience, including experience of observed advocacy.
18. Applicants must submit a portfolio of cases demonstrating their advocacy experience in compliance with the criteria set out at **Annex 3** and portfolio criteria at **Annex 2**.
19. In their application, applicants will need to satisfy IPS that they have an appropriate level of knowledge of law and practice, experience and skills to enable them to undertake the rights of audience skills course and upon successful completion of that course, to exercise the right of audience they seek.

### **Evaluating Advocacy Experience**

20. IPS will need to be satisfied that an applicant is actively undertaking advocacy. In considering whether an applicant is an active advocate, IPS will take into account advocacy experience that an applicant has gained outside their normal area of work. It will also take into account that advocacy is part of the dispute resolution process and may be reflected in successful case preparation, negotiation, arbitration and mediation.
21. IPS will also need to be satisfied that applicants have extensive first hand experience of the style and standards of practice and advocacy expected in the course for which they are seeking extended rights of audience.
22. An applicant will be expected to have observed advocacy in those areas where currently no rights of audience exist, but where they will be granted rights upon completion of the course. Applicants will be required to state the number of cases they have observed and indicate the nature of the cases concerned.

23. IPS will take a balanced view about an applicant's experience in deciding whether it is sufficient to grant them a Certificate of Eligibility, particularly where they rely in part on observed advocacy.
24. IPS will recognise that applicants could have had a break in their experience due to factors such as career breaks, job changes, maternity or paternity leave, long term illness, or disability. IPS will not discriminate directly or indirectly against an applicant whose experience has been affected in this way. However, IPS will need to ensure that an applicant has an acceptable level of experience.
25. Where an applicant has had a break in their experience, they may provide details of experience gained during a different period when they were more actively engaged in practice in the area where rights are sought. However, the break must not have been longer than 5 years. In exceptional circumstances, applications may be accepted from applicants who have had a break longer than 5 years.
26. There may be other factors which affect an applicant's experience in the preceding 2 years. IPS will consider details of more active periods from applicants whose experience discloses a pattern that they regard as atypical.

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## **Annex 2 - PORTFOLIO GUIDELINES AND ASSESSMENT CRITERIA**

### **Introduction**

1. An applicant seeking reserved legal activity rights must provide evidence of their:
  - Knowledge and understanding of the area of law in which they seek rights, demonstrated to CILEx Level 6 standard.
  - Knowledge and understanding of the area of practice in which they seek rights, demonstrated to CILEx Level 6 standard.
  - Evidence of their experience in the area of law in which they seek rights.
  - Skills in the legal practice area in which they seek rights.
2. Applicants must demonstrate their knowledge, skills and experience, set out at Rule 1 in accordance with the competency framework which appears at **Annex 3**.

### **Knowledge of Law and Legal Practice**

3. An applicant who has successfully completed and passed an assessment in the CILEx Level 6 examinations in the law and associated legal practice subject relevant to the area in which they seek practice rights will have demonstrated their knowledge of the law and legal practice.
4. An applicant who has obtained a qualification which is not the CILEx Level 6 qualification, but of an equivalent standard, may rely upon that as evidence of their knowledge. In determining whether to accept an alternative qualification, IPS will assess the syllabus of that qualification, date upon which the qualification was obtained and details of the assessment the applicant undertook, to determine whether an exemption may be granted. In assessing the details of the qualification, IPS will determine whether the qualification relied upon is of an equivalent standard and covered at least 50% of the syllabus of the relevant CILEx Level 6 subject(s).
5. Where an applicant does not rely upon an alternative qualification, or the qualification is deemed as not providing sufficient coverage to the same standard as the CILEx Level 6 subject(s), they may rely upon experience which has developed their knowledge of the relevant law area and/or legal practice.
6. Applicants seeking to rely upon their experience must demonstrate how they have developed their knowledge of the relevant law and/or legal practice subject area(s) through their experience. Applicants will complete portfolios of 5 cases they have handled, within the 2 years preceding the date of their application, which demonstrate the knowledge they have gained through experience.
7. Applicants will be required to select a range of cases and provide an outline of the following in respect of each portfolio:
  - The facts of the case;
  - The law arising in the case and its application to the facts of the case;

- The appropriate procedural and process matters that arose in the case and how they were dealt with;
  - The evidential issues that arose in the case and how they were dealt with;
  - An outline of any ethical or conduct issues that arose in the case and how they were dealt with;
  - The funding issues that arose in the case and how they were dealt with;
  - The advice the applicant provided to the client and the outcome of the matter;
  - Decisions the applicant had to make in the case and whether they had to take advice on any strategic issues in the case; and
  - Any training or development needs the applicant identified from having dealt with the case.
8. IPS will assess the portfolios to establish whether they demonstrate that an applicant has acquired sufficient knowledge, through experience, to the same standard as the CILEx Level 6 in the subject. The knowledge gained must cover at least 50% of the syllabus of the CILEx Level 6 subject.
9. In making its assessment, IPS will take into account the competence criteria set out at **Annex 3** which outline the knowledge requirements for the relevant subject area.

### **Experience**

10. All applicants must provide an outline of their experience in the area of practice in which they seek to become an authorised person for the purposes of conducting reserved legal activities.
11. Applicants must provide an outline of their experience in an application along with 3 portfolios of cases they have handled which demonstrate their experience.
12. The experience outlined in an application must set out the following information for the 2 years preceding the date of the application:
- A description of cases that the applicant has handled;
  - A description of the applicant's typical case load, including details about the complexity of the case load and a summary of any difficult cases the applicant has handled;
  - The number of chargeable hours spent on the practice area in which rights are sought;
  - The proportion of time spent on that area of law;
  - A description of the range and nature of matters that the applicant has handled in the area of practice in which rights are sought;
  - Details of any distinctive features of the applicant's work; and
  - Details of any supervisory arrangements under which the applicant works and any supervisory responsibilities they have.
13. An applicant will be required to produce a portfolio of 3 cases which demonstrate their experience in the area in which rights are sought.

14. In the portfolios, applicants must provide the following information:
  - The facts of the case;
  - The law arising in the case and its application to the facts of the case;
  - The procedural and process matters that arose in the case and how they were dealt with;
  - The evidential issues that arose in the case and how they were dealt with;
  - Any ethical or conduct issues that arose in the case and how they were dealt with;
  - The funding issues that arose in the case and how they were dealt with;
  - The advice the applicant provided to the client and the outcome of the case;
  - Decisions that the applicant had to make in the case, including whether they had to take advice on any strategic issues; and
  - Any training or development needs that the applicant identified from having dealt with the case.
15. IPS will assess the outline of experience provided in the application, along with the 3 portfolios. The assessment will consider whether the applicant meets the experience requirements set out in the competency framework at **Annex 3**.

### **Skills**

16. An applicant must provide evidence of their skills in the area in which they seek reserved legal activity rights in accordance with the skills criteria for each practice and law area which appear at **Annex 3**.
17. An applicant may demonstrate their skills through either undertaking a skills course which meets the outcomes set out at **Annex 3**, or producing a log of their experience which demonstrates their skills.
18. Where an applicant seeks to rely upon a course, they must demonstrate that the course meets the outcomes set out at **Annex 3**.
19. An applicant who seeks to rely upon their experience as evidence of their skills must demonstrate that they meet each of the outcomes set out at **Annex 3** through the production of a log book and supporting evidence. Applicants will be required to evidence in the log book the outcome that has been met and reflect upon how the outcome was met. Each outcome must be met at least once.
20. IPS will assess the log and supporting evidence provided by applicants to determine whether an applicant has demonstrated that they meet the skills criteria set out at **Annex 3**

### **Advocacy Experience Post Qualification**

21. At the first renewal of the rights of audience certificate Advocates must produce portfolios of 3 cases which demonstrate their advocacy experience since they qualified as a Chartered Legal Executive Advocate.

22. In selecting cases for their portfolio, Advocates should identify cases which demonstrate that they have conducted advocacy in accordance with the skills course outcomes set out at **Annex 3**.
23. When considering applications for renewal IPS will expect the skills course outcomes to be reflected in the portfolios and, where they are not, may refuse the application for renewal of the certificate.
24. Where no such advocacy has been carried out, the applicant must explain the reasons. Applicants who have not had an opportunity to exercise their new rights of audience may include details of no more than one case in which they have observed advocacy in open court.
25. Where an applicant has not been able to demonstrate through 3 portfolios that they have conducted advocacy which meets the course outcomes set out at **Annex 3**, they may be granted a certificate for a further year and be required to produce 3 additional portfolios in exercise of their rights the following year.
26. For each portfolio, the record of advocacy must set out the following:
  - Description of the case, its progression and outcome;
  - The nature of the advocacy the applicant has undertaken, including details of any negotiation and arbitration undertaken;
  - The court in which the advocacy took place, and whether it was a contested hearing; the preparation work the applicant carried out before the hearing;
  - The client's objectives for the case;
  - The legal, procedural, evidential and ethical issues that arose during the course of the hearing or advocacy and an outline of how the applicant dealt with them;
  - A statement as to the effectiveness of the advocacy undertaken by the applicant; and
  - Any training or development needs the applicant identified from having dealt with the case.

#### **Practice management and accounts**

27. An applicant who relies upon their existing practical experience of practice management and accounts must provide evidence of their knowledge, skills and experience of accounts and practice management in accordance with the competency criteria which appear at **Annexes 5 and 6**.
28. An applicant must demonstrate their knowledge, skills and experience through producing a log which demonstrates that they meet each of the outcomes set out at **Annexes 5 and 6**. The log must be supported by evidence. Applicants will be required to evidence in the log book the outcome that has been met and reflect upon how the outcome was met. Each outcome must be met at least once.



29. IPS will assess the log and supporting evidence provided by applicants to determine whether an applicant has demonstrated that they meet the competency requirements set out at **Annexes 5 and 6**.

Lit portfolio

### INTRODUCTION – CIVIL LITIGATION PRACTICE RIGHTS

The entry criteria, learning outcomes and evidence of competency stated in this schedule set out:

- the level of competency, knowledge and understanding required to practise in the area of civil litigation
- the elements required to evidence that level of competency, knowledge and understanding
- the level of competency required in the relevant skills for this area of practice – client care, research and interviewing
- a statement of the study and work-based experience that demonstrates that an applicant has attained the required level of competence, knowledge and understanding in all the required elements

**Note:** In order to obtain civil litigation practice rights, applicants must combine the application with an application for rights of audience in chambers. An application for rights of audience in open court remains optional and that applicants seeking rights of audience accreditation in hearings in chambers and/or in open court should refer to the criteria set out in the Advocacy Rights accreditation document

- the elements required to evidence the required level of competence for these relevant skills.

Certification of Civil Litigation Practice Rights will ensure that the applicant has:

- met the application requirements
- an appropriate level of experience in the field of civil litigation in practice, which must include not less than 2 years relevant experience immediately preceding the application
- an appropriate level of knowledge and appreciation of the key legal features of civil litigation, including the ability to advise, manage and undertake different methods of dispute resolution in all aspects of case management commonly associated with civil practice. Emphasis will be given to the practical aspects of conducting cases in a civil litigation context through the court system but a level of knowledge and understanding of other forms of dispute resolution will also be expected
- the ability and experience to research aspects of case law, legal procedure and documentation that is current

- the ability and experience to interview clients appropriately, identify the client's objectives and different means of achieving those objectives and advise and be aware of the financial, commercial and personal priorities and constraints to be taken account of together with the costs, benefits and risks involved in a transaction or procedure or course of action
- the ability and experience to perform the tasks required to advance transactions or matters, to include (but not restricted by), drafting letters of advice to clients, communicating with co-professionals and with the court
- the ability and experience to draft statements of case, applications and witness statements
- the ability and experience to undertake advocacy in the required fields within this practice area
- demonstrated a level of experience, knowledge and understanding of all aspects of professional conduct and regulation which includes an understanding of the key ethical requirements contained in the relevant conduct rules and other law and regulations and where these may impact and be able to apply them in context.

<b>Entry Level Competencies</b>	<b>Learning Outcome</b>	<b>Supporting Experience</b>
<p><b>STAGE 1</b>  <b>ENTRY CRITERIA</b>                      KNOWLEDGE UNDERSTANDING                      SKILLS                      EXPERIENCE  <b>ENTRY KNOWLEDGE AND UNDERSTANDING</b></p>	<p>The entry requirement to achieve civil litigation practice rights seeks to ensure that an applicant:</p> <ul style="list-style-type: none"> <li>Has practical knowledge, understanding, experience and skills</li> </ul>	<p>The applicant will need to provide evidence of:</p> <ul style="list-style-type: none"> <li><b>Knowledge and understanding qualifications</b></li> <li><b>Legal Skills qualifications</b></li> <li><b>Fellowship</b></li> </ul> <p><b>Knowledge and understanding qualifications</b></p> <ul style="list-style-type: none"> <li>Successful completion of CILEx Level 6 Professional Higher Diplomas in civil litigation practice and Level 6 contract or tort</li> </ul> <p><b>Or</b></p> <ul style="list-style-type: none"> <li>Supplied evidence of qualification of an equivalent standard</li> </ul> <p><b>Or</b></p> <ul style="list-style-type: none"> <li>Supplied evidence of experience of an equivalent standard</li> </ul> <p><b>Legal Skills qualifications</b></p> <ul style="list-style-type: none"> <li>Successful completion of CILEx Level 6 Professional Higher Diplomas in Legal Research and Client Care</li> </ul> <p><b>Or</b></p> <ul style="list-style-type: none"> <li>Supplied evidence of qualification of an equivalent standard</li> </ul> <p><b>Or</b></p> <ul style="list-style-type: none"> <li>Supplied evidence of experience of an equivalent standard</li> </ul> <p><b>Fellowship</b></p> <ul style="list-style-type: none"> <li>Is a Fellow of CILEx</li> </ul> <p><b>Note 1:</b> Where the applicant holds appropriate qualifications which enable an application for Fellowship</p>

Entry Level Competencies	Learning Outcome	Supporting Experience
<p><b>KNOWLEDGE AND UNDERSTANDING</b></p>	<p><b>Demonstrate knowledge and understanding of civil law, notably in contract and tort</b></p> <ul style="list-style-type: none"> <li>• <b>Contract</b></li> </ul> <ul style="list-style-type: none"> <li>• <b>Tort</b></li> </ul>	<p>to be made, this can be made concurrently with the application for Civil Litigation Practice Rights</p> <p><b>Note 2:</b> Where the applicant does not hold the relevant Level 6 examinations (or equivalent), they are required to demonstrate their knowledge and understanding through the submission of 5 portfolios, in accordance with <b>the Portfolio Guidelines</b>. Examples will be drawn from a range of cases from the applicant's case load.</p>
		<ul style="list-style-type: none"> <li>• Examples from the applicant's work to demonstrate their knowledge and understanding of contract formation and an ability to apply the law to relevant facts. This may include, but is not limited to, evidence of agreement, communication, revocation, termination and acceptance of an offer</li> <li>• Examples from the applicant's work to demonstrate the specific application of matters relating to the law of contract. This may include, but is not limited to, matters of privity, contractual terms, the incorporation of contractual terms, exemption clauses, misrepresentation, duress and undue influence, illegal contracts, discharge, revocation and remedies.</li> </ul> <p><b>and/or</b></p> <ul style="list-style-type: none"> <li>• Examples from the applicant's work to demonstrate their knowledge and understanding of the tort of negligence and an ability to apply the law to relevant facts. This may include, but is not limited to, evidence of identifying the duty of care, breach of duty (of care), causation, remoteness of damage, quantum, defences and remedies.</li> </ul>

Entry Level Competencies	Learning Outcome	Supporting Experience
	<p><b>Demonstrate knowledge and understanding of civil litigation</b></p>	<ul style="list-style-type: none"> <li>Examples from the applicant's work to demonstrate the specific application of matters relating to the law of the tort of negligence. This may include, but is not limited to, matters of trespass, employer liability cases, liability for premises, nuisance and defamation.</li> </ul> <p><b>and</b></p> <ul style="list-style-type: none"> <li>Examples from the applicant's work to demonstrate experience in the application of facts to the law and of the practical advice to be given arising from that application</li> <li>Examples from the applicant's work to demonstrate knowledge, understanding and experience of the practice and procedure of civil litigation to include, but not limited to, pre-action matters, ADR, the application of the CPR and of the steps required to progress an action through the courts. This may include, but is not limited to, matters of funding, the appropriate court, the tracks, causes of action, defences, counterclaims, additional claims, requests for further information, allocation, case management and directions, disclosure, evidence (both of fact and expert evidence), interim applications, costs, judgments, enforcement, appeals and professional conduct issues.</li> </ul>
<p><b>ENTRY SKILLS</b></p>		<ul style="list-style-type: none"> <li>Where the applicant does not hold the relevant CILEX Level 6 Legal Research or Client Care (or equivalent) qualification, they should provide a portfolio of evidence and logbook which demonstrates how they met each of the outcomes set out below in</li> </ul>



Entry Level Competencies	Learning Outcome	Supporting Experience
	<p><b>Demonstrate knowledge and understanding of professional conduct issues arising in practice</b></p>	<ul style="list-style-type: none"> <li>• Judicious use of structure to clearly and logically set out information</li> <li>• The synthesis of a variety of sources to provide advice to the client.</li> <li>• Use of appropriate communication, including use of appropriate tone and style, to sensitively manage client expectations.</li> <li>• Explain where they will find the rules of professional conduct which affect their practice of the law</li> <li>• Identify situations in which an ethical issue may have arisen in their practice and how they dealt with those situations</li> <li>• Identify any professional organisations that exist within their area of practice and explain the benefits of membership.</li> </ul>
<p><b>Legal research</b></p>	<p><b>Demonstrate knowledge and understanding of legal research and be able to analyse the scope and complexity of situations which need legal research</b></p>	<ul style="list-style-type: none"> <li>• Explain the rules relating to client care and evidence their use of the rules on practice</li> <li>• Evidence their use of client care letters and complaint management, 'Your Clients, Your Business' and the benefits of LEXCEL membership etc.</li> <li>• Demonstrates an understanding of the need for good client care to benefit the business.</li> </ul>
		<ul style="list-style-type: none"> <li>• Identify situations in which the need for legal research has arisen in their work</li> <li>• Explain the steps they undertook to identify relevant sources of information and how they determined the reliability, accuracy and currency of the information discovered.</li> </ul>



Entry Level Competencies	Learning Outcome	Supporting Experience
	<p><b>Demonstrate knowledge and understanding of and be able to evaluate legal research sources</b></p> <p><b>Demonstrate knowledge and understanding of and be able to perform appropriate legal research</b></p> <p><b>Demonstrate knowledge and understanding of and be able to analyse the law in relation to practical problems</b></p> <p><b>Ability to record and evaluate information</b></p> <p><b>Ability to synthesise research to present advice</b></p>	<ul style="list-style-type: none"> <li>• Explain their understanding of primary and secondary sources and how these sources can be used to ensure they have sufficiently researched the problem.</li> <li>• Identify relevant statutes, case law and other sources from their research.</li> <li>• Evidence how they prioritised and analysed the research and used this to better understand the issues raised in the legal matter</li> <li>• Evidence their synthesis of the research materials to provide a structured and accurate report</li> <li>• Evidence how they evaluated the research ensuring that it is comprehensive and sensitive to the needs of the recipient.</li> </ul>
<p><b>ENTRY EXPERIENCE:</b></p> <p><b>ALL APPLICANTS</b></p>	<ul style="list-style-type: none"> <li>• Civil proceedings litigation experience in the 2 years preceding the application</li> </ul>	<ul style="list-style-type: none"> <li>• General description of civil work carried out</li> <li>• Description of typical case load</li> <li>• An indication of chargeable hours spent on civil proceedings work in each of the last 2 years</li> <li>• The proportion of time spent on civil proceedings work</li> <li>• The number of cases which have included preparation for trial</li> <li>• Details of the supervisory arrangements under which the applicant works and/or their supervisory responsibilities.</li> </ul> <p>The applicant is required to demonstrate experience of Contract/Tort Law and Civil Litigation through the submission of 3 portfolios in accordance with <b>the Portfolio Guidelines</b>.</p> <p>Examples will be drawn from a range of cases from</p>

Entry Level Competencies	Learning Outcome	Supporting Experience
<p><b>STAGE 2</b></p> <p><b>QUALIFICATION CRITERIA:</b></p> <p><b>SKILLS</b></p>	<p>The qualification requirement to obtain civil litigation practice rights will require the applicant to demonstrate that they meet the following skills:</p>	<p>the applicant's case load.</p> <p>In order to achieve accreditation the applicant needs to demonstrate the outcomes by either</p> <ul style="list-style-type: none"> <li>• Attendance on a course, or</li> <li>• Through work experience and by satisfying the qualification criteria.</li> </ul> <p>This can be evidenced by the civil litigator demonstrating the ability to:</p>
<p><b>Element 1.</b></p> <p><b>INTERVIEWING, ADVISING &amp; COMMUNICATING</b></p>	<p><b>INTERVIEWING</b></p> <ul style="list-style-type: none"> <li>• An ability to conduct effective interviews with the client and potential witnesses across a range of civil disputes</li> </ul> <p><b>ADVISING AND COMMUNICATING</b></p> <ul style="list-style-type: none"> <li>• An ability to give and communicate clear accurate and practical advice both orally and in writing on matters relating to law, procedure, strategy and prospects of success (either orally, in writing or other media)</li> </ul>	<ul style="list-style-type: none"> <li>• Prepare for an initial interview and apply a structured approach to it</li> <li>• Greet the interviewee appropriately</li> <li>• Use appropriate listening, questioning and feedback techniques</li> <li>• Maintain rapport with the interviewee</li> <li>• Be sensitive to diversity issues</li> <li>• Keep a full and accurate record of the interview</li> <li>• Close the interview appropriately</li> <li>• Obtain all relevant information and identified the clients objectives</li> <li>• Is able to disseminate, appropriately and accurately, the information received from the client and seek appropriate instructions.</li> <li>• Give clear advice on all relevant matters arising</li> <li>• Identify the options available and explain the pros and cons of each of those options</li> <li>• Enable the client to make decisions in the case based on appropriate advice</li> <li>• Give clear, appropriate and accurate advice regarding costs and funding</li> <li>• Seek appropriate instructions and give clear advice regarding the next steps to be taken</li> </ul>

Entry Level Competencies	Learning Outcome	Supporting Experience
<p><b>Element 2.</b> COSTS AND FUNDING</p>	<p><b>COSTS</b></p> <ul style="list-style-type: none"> <li>An awareness of the requirements of the relevant practice rules that relate to contentious and non-contentious costs and be able to give clear, accurate and regular advice or information on costs issues arising in the case</li> </ul> <p><b>FUNDING</b></p> <ul style="list-style-type: none"> <li>An ability to provide clear and accurate advice on funding options to include private funding, public funding, insurance, conditional fees and other forms or third party funding</li> </ul>	<ul style="list-style-type: none"> <li>Deal appropriately with any diversity issues that arise</li> <li>Produce an accurate record of the interview</li> <li>Can identify and effectively communicate the complex legal, tactical and commercial factors involved in litigation and has appreciated the options available for seeking resolution of a dispute.</li> </ul> <ul style="list-style-type: none"> <li>Provide realistic costs estimates of all costs and disbursements at the start of the case and update throughout the progress of the action to include the cost implications of case strategies</li> <li>Ensure full compliance with the CPR costs rules</li> <li>Explain the differences between the indemnity and standard basis of costs</li> <li>Explain the cost implications of CPR 36 and other Offers to Settle</li> <li>Provide appropriate advice regarding the fees that will be charged</li> <li>Prepare estimates and schedules of costs</li> <li>Understand all matters relating to a summary assessment of costs and detailed costs assessments.</li> <li>Identify the funding options available in a particular case</li> <li>Communicate the risks and benefits of each method of funding available</li> <li>Be aware of the funding regulations and restrictions (for example non-regulated activities)</li> <li>Advise the client or service user of significant developments in the case</li> <li>Identify and have regard to potential conflicts of interest on funding issues</li> <li>Identify the appropriate documents to put in place the agreed funding method.</li> </ul>

Entry Level Competencies	Learning Outcome	Supporting Experience
	<p><b>DOCUMENTATION</b></p> <ul style="list-style-type: none"> <li>• Draft or complete the necessary documents relating to funding</li> </ul>	<ul style="list-style-type: none"> <li>• Draft client care letters</li> <li>• Draft or complete for the client or inform the client of the appropriate documentation and explain the requirements of the agreed funding method</li> <li>• Draft funding agreements</li> <li>• Prepare estimates and schedules of costs</li> <li>• Understand all matters relating to a summary assessment of costs and detailed costs assessment.</li> </ul>
<p><b>Element 3.</b> <b>CONDUCT AND ETHICS</b></p>	<p><b>CONDUCT AND ETHICS</b></p> <p><b>PROFESSIONAL OBLIGATIONS</b></p> <ul style="list-style-type: none"> <li>• An awareness of their professional obligations in a diverse range of situations in respect of matters relating to substantive law and the rules of professional conduct</li> <li>• An awareness of their obligations to: the court, their client, other lawyers, the public and money laundering legislation and regulation</li> </ul> <p><b>CONFLICTS</b></p> <ul style="list-style-type: none"> <li>• An ability to identify and deal appropriately with conflicts of interest throughout the handling of the matter</li> </ul> <p><b>WITHDRAWAL FROM A CASE</b></p> <ul style="list-style-type: none"> <li>• an awareness of when they can and/or must withdraw from a case; the proper steps to be taken when doing so whilst observing the interest of the client</li> </ul>	<ul style="list-style-type: none"> <li>• Draft client care letters</li> <li>• Identify situations where their obligations to: the court, their client, other lawyers, the public, and money laundering legislation arise</li> <li>• Demonstrate an understanding of the application of their professional obligations in their dealing with these persons or bodies.</li> </ul> <ul style="list-style-type: none"> <li>• Identify and deal appropriately with conflicts: arising between the applicant and the client or service user, arising between the applicant and their duty to the court, or arising between him and any relevant third party.</li> <li>• Show an awareness of the need to withdraw; show an awareness of the proper action when the client refuses to make proper disclosure, show an awareness when the client's or service user's interests conflict with the applicant's duties to the court or any other circumstances where withdrawal is</li> </ul>

Entry Level Competencies	Learning Outcome	Supporting Experience
	<p><b>UNDERTAKINGS</b></p> <ul style="list-style-type: none"> <li>an understanding of the bases for the giving of professional undertakings to clients, the court and others; the implications of giving such undertakings; the consequences of breaching such undertakings and demonstrate awareness of the appropriate use of undertakings in legal proceedings</li> </ul> <p><b>CONFIDENTIALITY AND PRIVILEGE</b></p> <ul style="list-style-type: none"> <li>In respect of confidentiality and privilege the applicant must demonstrate an understanding of and the ability to apply the law and practice of confidentiality and privilege in a variety of practical contexts</li> </ul> <p><b>COMPLAINTS AND NEGLIGENCE</b></p> <ul style="list-style-type: none"> <li>In respect of complaints and negligence the applicant must demonstrate an understanding of the professional conduct rules as they are applied in practice and the steps that must be taken in the event that a mistake (or an act of negligence) as occurred</li> </ul>	<p>required.</p> <ul style="list-style-type: none"> <li>Identify when an undertaking may be required and shown an awareness of the implications of giving the undertaking and putting in place, or obtaining the appropriate safeguards in respect of the undertaking given.</li> <li>Distinguish between legal advice privilege and litigation privilege</li> <li>Distinguish between confidential information and privileged information.</li> <li>Identify the circumstances when a complaint could be made or negligence may arise</li> <li>Describe/explain the complaints procedure operated by his professional body</li> <li>Be aware of procedures or processes which can be adopted to reduce the risk of complaints or allegations of negligence being made</li> <li>Explain what steps would need to be taken in respect of the identified, or potential, mistake or act of negligence</li> <li>Identify the appropriate professional conduct rules applying and the indicative behaviours that would need to be shown to evidence that no mistake or negligence had occurred.</li> </ul>
<b>Element 4.</b> MANAGING LITIGATION WORK	FILE HANDLING	

Entry Level Competencies	Learning Outcome	Supporting Experience
	<p>• An ability to plan and manage litigation, to progress matters expeditiously and maintain files and records in accordance with procedures</p> <p><b>CASE ANALYSIS AND CASE PREPARATION</b></p> <p>An ability to formulate a case strategy which is:</p>	<ul style="list-style-type: none"> <li>• Plan and prioritise a workload and manage files and tasks concurrently, efficiently, making the best use of available resources, exercise good judgment, been realistic (as to the client's or service user's expectations, proportionality, time or available funds) and seek support when necessary</li> <li>• Show that he is able to deal with a diverse range of client issues presenting a range of civil disputes</li> <li>• Deal with matters without causing delay</li> <li>• Maintain files and systems (which may include electronic systems) appropriately and correctly</li> <li>• Ensure that files are up to date and 'in budget'</li> <li>• Manage financial transactions on the file correctly and appropriately</li> <li>• Has exercised and applied appropriate case analysis, critical judgment and evaluation through a thorough risk assessment and has identified the issues arising and applied the correct law and procedures to a matter</li> <li>• Is able to adopt and maintain an appropriate, and effective, case strategy that is compatible with the client's aims or requirements and that is legally, procedurally and ethically sustainable</li> <li>• Has shown an ability to think independently and highlight strategies available to the client that meet the client's objectives</li> <li>• Is able to act within a team and independently and demonstrates self-direction and an assumption of responsibility for the actions undertaken.</li> <li>• Identify the 'strengths' and the 'weaknesses' in a case</li> <li>• Identify gaps in available evidence</li> <li>• Draw up a realistic case plan</li> <li>• Relate the case theory to the client's or service user's objectives and expectations</li> </ul>

Entry Level Competencies	Learning Outcome	Supporting Experience
	<ul style="list-style-type: none"> <li>• Compatible with the client's objectives and</li> <li>• Is legally and procedurally sustainable</li> </ul> <p>An ability to draft legal documents and letters that can be used effectively in the presentation and procedures for an action to proceed either by way of settlement or litigation</p> <p><b>DEALING WITH OTHER PROFESSIONALS</b></p> <ul style="list-style-type: none"> <li>• An appropriate level of professionalism in establishing an effective working relationship with others involved in a legal matter</li> <li>• Identified and provided appropriate information to others involved in a matter which may include;</li> <li>• An ability to instruct an advocate when necessary                             <ul style="list-style-type: none"> <li>○ An ability to select, appoint and instruct an expert and shown an awareness of the range of expertise that may be needed for a case</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Provide the client with a balanced view of the likely risks, costs and benefits of the case strategies</li> <li>• Adopt a cost effective, analytical and pragmatic approach to the wider issues (which may include the client's or service users commercial objectives).</li> <li>• Deal with other professionals involved in a matter appropriately, professionally and ethically</li> <li>• Provide other professionals involved in a matter with appropriate information, instructions and guidance.</li> </ul>
<p><b>Element 5.</b></p> <p><b>SETTLEMENT V LITIGATION</b></p>	<p><b>SETTLEMENT</b></p> <ul style="list-style-type: none"> <li>• Be able to identify when settlement of a case is in the client's interest and give clear and accurate advice on settling his case and take the necessary steps to secure settlement</li> </ul>	<ul style="list-style-type: none"> <li>• Explain the merits of settlement in achieving the client's or service user's objectives</li> <li>• Give consideration to offers to settle</li> <li>• Understand the significance of 'open' offers, Part 36 Offers and Global Offers</li> <li>• Explain the advantages of a form of offer</li> <li>• Advise the client when responding to an offer to settle</li> <li>• Understand the appropriate way to settle an action (for example by discontinuing or consent orders – these examples are not an exhaustive list of examples that the applicant can use to demonstrate awareness and experience in matters relating to settlement)</li> <li>• Understand and has applied an appropriate use of the different types of consent orders.</li> </ul>

Entry Level Competencies	Learning Outcome	Supporting Experience
	<p>NEGOTIATION</p> <ul style="list-style-type: none"> <li>Be able to negotiate in a clients case</li> </ul>	<ul style="list-style-type: none"> <li>Negotiate a settlement, this may include, but is not limited to, effective and appropriate negotiation immediately before, and during, a trial or hearing</li> <li>Prepare effectively prior to negotiating with the other party</li> <li>Identify the client's interests and expectations (and manage those expectations appropriately)</li> <li>Identify the other party(ies) interests and expectations</li> <li>Identify the strengths and weaknesses of the client's and other party(ies) cases</li> <li>Prepare an agenda to deal with the relevant issues</li> <li>Explain the appropriateness of the form of negotiation entered into (this may be by, but not limited to, an exchange of letters, or by a meeting).</li> <li>Explain the nature and procedures of alternative dispute resolution methods</li> <li>Explain the advantages and disadvantages of those methods</li> <li>Recommend any appropriate ADR process which would be in the client's, or service user's, best interests</li> <li>Advise the client or service user how to pursue a particular ADR process.</li> </ul>
<p><b>Element 6.</b> LEGAL WRITING AND DRAFTING</p>	<p>LEGAL WRITING AND DRAFTING</p> <ul style="list-style-type: none"> <li>Understand and apply the principles of good writing</li> <li>Use accurate, straightforward and modern language</li> <li>Use correct spelling, grammar, syntax and punctuation</li> <li>Draft a document that is clear, logical, consistent and with appropriate structure and format</li> <li>Draft a document that forms a coherent whole and, where</li> </ul>	<ul style="list-style-type: none"> <li>Understand and apply the principles of good writing</li> <li>Use accurate, straightforward and modern language</li> <li>Use correct spelling, grammar, syntax and punctuation</li> <li>Draft a document that is clear, logical, consistent and with appropriate structure and format</li> <li>Draft a document that forms a coherent whole and,</li> </ul>



Entry Level Competencies	Learning Outcome	Supporting Experience
	<p>appropriate, advances the matter, where appropriate identifies the client's objectives and priorities, where appropriate provides a clear risk analysis</p> <ul style="list-style-type: none"> <li>• Address the document appropriately and accurately</li> <li>• Understand the appropriate uses of e-mails, letters, memoranda and other forms of written communication</li> <li>• Choose the appropriate medium, form and style of written communication</li> <li>• Tailor the written communication to suit the purposes of the communication and the needs of different clients or recipients</li> </ul>	<p>where appropriate, has advanced the matter, and where appropriate has identified the client's objectives and priorities, and where appropriate provided a clear risk analysis</p> <ul style="list-style-type: none"> <li>• Address the document appropriately and accurately</li> <li>• Understand the appropriate use of e-mails, letters, memoranda and other forms of written communication</li> <li>• Choose the appropriate medium, form and style of written communication</li> <li>• Tailor the written communication to suit the purposes of the communication and the needs of different clients or recipients.</li> </ul>

## INTRODUCTION – CIVIL LITIGATION ADVOCACY RIGHTS

In chambers in the High Court and County Courts and in open court in the County Courts and the Coroners' Courts

The entry criteria and evidence of competency stated in this schedule set out and envisages:

- that the applicant will already have obtained practice rights in civil litigation practice or is making a combined application for litigation advocacy rights at the same time as an application for civil litigation practice rights

NOTE: (an application for Civil Litigation Advocacy Rights may also be combined with one for Family Litigation Practice Rights or Criminal Litigation Practice Rights (or a combination of these)

Certification of Civil Litigation Advocacy rights will ensure that:

- that the applicant has provided the required evidence to demonstrate the required level of competency, knowledge and understanding set out in this document
- that the applicant has the required level of competency in the relevant skills: advocacy, client care, research and interviewing
- that the applicant has entered onto and passed the CILEX Rights of Audience advocacy skills course

NOTE: that the applicant may make an application for rights of audience in chambers only or for rights of audience in open court in the County Courts and Coroners Courts.

ENTRY LEVEL Competencies	Learning Outcomes	Supporting Experience
<p><b>Stage 1</b></p> <p><b>ENTRY LEVEL</b></p> <p><b>COMPETENCY CRITERIA:</b></p> <p>In order to apply for the rights of audience qualification the applicant must meet the criteria for civil litigation practice rights and will have relevant advocacy experience (on the determination of the Admissions and Licensing Committee) in the 2 years immediately preceding their application</p>	<p>The applicant will be able to demonstrate :</p> <ul style="list-style-type: none"> <li>• 2 years advocacy experience of an appropriate standard expected in the courts for which they are seeking rights of audience</li> <li>• Ability to carry out analysis, evaluation and critical judgment</li> <li>• Autonomy and an ability to learn</li> </ul>	<p>In relation to the 2 years preceding the application, applicants must give by way of a statement the following information:</p> <ul style="list-style-type: none"> <li>• A general description of the advocacy, trial preparation and trial involvement carried out</li> <li>• A breakdown of the proportion or number of cases which have concluded at trial or been prepared for trial and the stage when the cases were concluded, if before trial</li> <li>• A description of the applicant's typical caseload</li> <li>• A description of the range and nature of advocacy experience including observed advocacy the applicant has undertaken.</li> </ul> <p>The applicant must also submit a portfolio of cases based on the case load in which they have been involved (stating the level of their involvement) which demonstrates their advocacy experience in compliance with the competence criteria set out below. The portfolio requirements are set out in the <b>Portfolio Guidelines</b>.</p> <p>The applicant will be expected to be able to demonstrate through their portfolios that they can:</p> <ul style="list-style-type: none"> <li>• Recognise and rank items and issues in terms of relevance and importance</li> <li>• Integrate information and materials from a variety of different sources</li> <li>• Undertake the analysis of factual information in a</li> </ul>

ENTRY LEVEL Competencies	Learning Outcomes	Supporting Experience
		<p>logical and coherent way</p> <ul style="list-style-type: none"> <li>• Make critical judgments of the merits of particular arguments</li> <li>• Present and make a reasoned choice between alternative solutions</li> <li>• Act independently in planning, preparing and undertaking tasks in the above areas</li> <li>• Undertake independent research in the above areas using standard legal information sources</li> <li>• Reflect on their learning and make constructive use of feedback.</li> </ul>
<p><b>QUALIFICATION CRITERIA</b></p> <p><b>Stage 2</b></p>	<p><b>Stage 2</b> The applicant must be able to demonstrate:</p>	<p>This can be evidenced by the applicant demonstrating the ability to:</p>
<p><b>FOR ALL APPLICANTS</b></p> <p><b>Case Analysis and Theory</b></p> <p><b>Judge’s Room Advocacy</b></p>	<ul style="list-style-type: none"> <li>• An appropriate level of experience of case analysis, critical judgment and evaluation</li> <li>• An appropriate level of experience of judge’s room advocacy</li> </ul>	<ul style="list-style-type: none"> <li>▪ Identify the relevant factual, legal and evidential issues in a given case logically, clearly and coherently</li> <li>• Identify the evidence available to both parties to prove these issues</li> <li>• Understand the strengths and weaknesses of a case</li> <li>• Understand the relevant law in context</li> <li>• Prepare a case theory that is both succinct and persuasive</li> <li>• Prepare a case theory that observes the rules of professional conduct</li> <li>• Understand the importance of preparation and effective ways to undertake this</li> <li>• Identify the client’s goals</li> <li>• Analyse the relevant factual issues</li> </ul>

ENTRY LEVEL Competencies	Learning Outcomes	Supporting Experience
<p><b>Skeleton Argument</b></p>	<ul style="list-style-type: none"> <li>The ability to draft a skeleton argument</li> </ul>	<ul style="list-style-type: none"> <li>Understand the legal and evidential context in which these factual issues arise and how they relate to each other</li> <li>Summarise the strengths and weaknesses of each party's case</li> <li>Develop an effective case presentation strategy</li> <li>Outline the relevant facts in a clear, effective format</li> <li>Understand and use the English language proficiently in relation to legal issues</li> <li>Present a sustained argument in a way which is comprehensible to others</li> <li>Prepare and present a coherent submission to the court based upon relevant facts, general principles and legal authorities in a structured, concise and persuasive manner in a practical setting in relation to an interim application</li> <li>Understand and appreciate the relevant communication skills and techniques used by an advocate.</li> </ul>
<p><b>Professional Conduct</b></p>	<ul style="list-style-type: none"> <li>Knowledge and understanding of the rights of audience conduct rules as they apply in civil practice</li> </ul>	<ul style="list-style-type: none"> <li>Draft a skeleton argument and, where appropriate, a consent order</li> <li>Identify appropriately the relevant chronology and issues</li> <li>Make effective submissions on these issues by use of numbered paragraphs citing relevant authorities, arguments for the case and use of appropriate factual and legal arguments.</li> <li>Deal appropriately with client care and ethical issues</li> <li>Understand the fundamental duties to the court and the administration of justice</li> <li>Make an appropriate decision to appear and</li> </ul>

ENTRY LEVEL Competencies	Learning Outcomes	Supporting Experience
<p><b>FOR CANDIDATES SEEKING OPEN COURT RIGHTS OF AUDIENCE</b></p> <p><b>Trial Advocacy</b></p>	<ul style="list-style-type: none"> <li>An appropriate level of trial advocacy</li> </ul>	<ul style="list-style-type: none"> <li>represent the client at court</li> <li>Understand when it would be inappropriate to act or appropriate to cease to act as an advocate.</li> </ul>
<p><b>Evidence</b></p>	<ul style="list-style-type: none"> <li>Knowledge and understanding of the rules of evidence as they apply in civil proceedings</li> </ul>	<ul style="list-style-type: none"> <li>Understand in particular the purpose, technique and tactics of opening speeches; examination-in-chief; cross-examination; re-examination and closing speeches to adduce, rebut and clarify evidence</li> <li>Undertake competently an opening speech, examination-in-chief, cross-examination, re-examination and a closing speech</li> <li>Deal appropriately with client care and ethical issues</li> <li>Demonstrate an understanding of the ethics, etiquette and convention of advocacy.</li> </ul>
	<ul style="list-style-type: none"> <li>Knowledge and understanding of the rules of evidence as they apply in civil proceedings</li> </ul>	<ul style="list-style-type: none"> <li>Understand the incidence of the burden and standard of proof</li> <li>Apply the rules relating to competence and compellability of witnesses</li> <li>Understand the significance and admissibility of circumstantial evidence</li> <li>Understand and has applied the ways in which evidence may be adduced</li> <li>Understand the rules relating to admissibility and weight that will be applied to the evidence to be adduced for example relating to hearsay evidence or to prior consistent statements and to impugning the</li> </ul>

ENTRY LEVEL Competencies	Learning Outcomes	Supporting Experience
		<p>testimony of witnesses by their prior inconsistent statements (these examples are not a complete list of examples the applicant can use to demonstrate his ability to understand the rules relating to admissibility and weight)</p> <ul style="list-style-type: none"> <li>• Understand and has applied the rules relating to expert evidence</li> <li>• Understand the relevance of human rights issues.</li> </ul>

### INTRODUCTION – CRIMINAL LITIGATION PRACTICE RIGHTS

The entry criteria, learning outcomes and evidence of competency stated in this schedule set out:

- the level of competency, knowledge and understanding required to practise in the area of Criminal Litigation
- the elements required to evidence that level of competency, knowledge and understanding
- the level of competency required in the relevant skills for this area of practice – client care, research and interviewing
- the elements required to evidence the required level of competence for these relevant skills
- a statement of the study and work-based experience that demonstrates that an applicant has attained the required level of competence, knowledge and understanding in all the required elements.

**Note** that applicants seeking rights of audience accreditation in hearings in open court and chambers should refer to the criteria set out in the Advocacy Rights accreditation document.

Certification of Criminal Litigation Practice Rights will ensure that the applicant has:

- met the application requirements
- an appropriate level of experience in the field of criminal litigation in practice which must include not less than two years relevant experience immediately preceding the application
- an appropriate level of knowledge and appreciation of the key legal features of criminal litigation, including the ability to advise, manage and undertake all aspects of case management commonly associated within this field of practice
- the ability and experience to research aspects of case law, legal procedure and documentation that is current
- the ability and experience to interview clients appropriately, identify the client’s objectives and different means of achieving those objectives and advise and be aware of the financial and personal priorities and constraints to be taken account of together with the costs, benefits and risks involved in a procedure or course of action



- the ability and experience to perform the tasks required to advance matters, to include (but not restricted to) drafting letters of advice to clients, communicating with co-professionals, the police, the Crown Prosecution Service and with the court
- the ability and experience to draft all relevant documentation including (but not restricted to) drafting applications and notices to the court, case management forms, witness statements and documentation required to obtain public funding
- the ability and experience to undertake advocacy in the required fields within this practice area
- demonstrate a level of experience, knowledge and understanding of all aspects of professional conduct and regulation which includes an understanding of the key ethical requirements contained in the relevant conduct rules and other law and regulations and where these may impact and be able to apply them in context.

	<b>Learning Outcomes</b>	<b>Supporting Experience</b>
	<p>The entry requirement to obtain Criminal litigation practice rights seeks to ensure that an applicant will be able to demonstrate that they:</p>	<p>The applicant will need to provide evidence of:</p>
<p><b>STAGE 1</b></p> <p><b>ENTRY CRITERIA</b></p> <ul style="list-style-type: none"> <li>• KNOWLEDGE UNDERSTANDING</li> <li>• SKILLS</li> <li>• EXPERIENCE</li> </ul>		
<p><b>ENTRY KNOWLEDGE AND UNDERSTANDING</b></p>	<ul style="list-style-type: none"> <li>• Have practical knowledge, understanding, experience and skills</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Knowledge and understanding qualifications</b></li> <li>• <b>Legal Skills qualifications</b></li> <li>• <b>Fellowship</b></li> </ul> <p><b>Knowledge and understanding qualifications</b></p> <ul style="list-style-type: none"> <li>• Successful completion of CILEx Level 6 Professional Higher Diplomas in criminal litigation practice and Level 6 criminal law</li> </ul> <p><b>Or</b></p> <ul style="list-style-type: none"> <li>• Supplied evidence of qualification of an equivalent standard</li> </ul> <p><b>Or</b></p> <ul style="list-style-type: none"> <li>• Supplied evidence of experience of an equivalent standard</li> </ul> <p><b>Legal Skills qualifications</b></p> <ul style="list-style-type: none"> <li>• Successful completion of CILEx Level 6 Professional Higher Diplomas in Legal Research and Client Care</li> </ul> <p><b>Or</b></p> <ul style="list-style-type: none"> <li>• Supplied evidence of qualification of an equivalent standard</li> </ul>

	Learning Outcomes	Supporting Experience
		<p><b>Or</b></p> <ul style="list-style-type: none"> <li>• Supplied evidence of experience of an equivalent standard</li> </ul> <p><b>Fellowship</b></p> <ul style="list-style-type: none"> <li>• Is a Fellow of CLEEx</li> </ul> <p><b>Note 1:</b> Where the applicant holds appropriate qualifications which enable an application for Fellowship to be made, this can be made concurrently with the application for Criminal Litigation Practice Rights</p> <p><b>Note 2:</b> Where the applicant does not hold the relevant Level 6 examinations (or equivalent), they are required to demonstrate their knowledge and understanding through the submission of 5 portfolios, in accordance with <b>the Portfolio Guidelines</b>. Examples will be drawn from a range of cases from the applicant's case load.</p>
<b>KNOWLEDGE AND UNDERSTANDING</b>		<p><b>Note: elements in italics are optional</b></p> <ul style="list-style-type: none"> <li>• The criminal law relating to analysis of actus reus, mens rea, offences of strict liability, negligence giving rise to criminal liability and defences. This may be in the context of non-fatal offences, sexual offences, homicide offences, offences against property, road traffic offences and inchoate offences</li> <li>• Application and critical evaluation of criminal liability in given factual situations</li> <li>• Police investigative powers; public funding of criminal cases; bail; summary proceedings; how and why cases go to the Crown Court; trial on indictment; sentencing; appeals and the rules of evidence in criminal proceedings</li> </ul>
<b>ENTRY SKILLS</b>	<p><b>Demonstrate knowledge and understanding of criminal law as it operates in practice.</b></p> <p><b>Demonstrate knowledge and understanding of criminal procedure and the law of evidence as they operate in practice.</b></p>	

	<b>Learning Outcomes</b>	<b>Supporting Experience</b>
<b>Client care</b>	<b>Demonstrate knowledge and understanding of the role of client interviewing and negotiation in legal practice</b>                    <b>Demonstrate good practice in legal writing</b>	<ul style="list-style-type: none"><li>• Cases dealt with in the Youth Court that demonstrate any of the above subject matter.</li><li>• Understand successful client interviewing</li><li>• Interviews which the applicant considers to be successful and identify what made them successful</li><li>• Understand negotiation and its importance in legal practice, including identification of a number of types of negotiation and the importance of preparation in successful negotiation. Identify a number of media through which negotiation can take place</li><li>• Examples of the following which have been overcome in a negotiation situation:<ul style="list-style-type: none"><li>○ The use of different types of negotiation using different media</li><li>○ A situation in which preparation for negotiation was central to success</li><li>○ A situation in which communication barriers were overcome for a successful outcome</li><li>○ Use of persuasion to achieve a successful outcome.</li></ul></li></ul> <p>Legal writing which demonstrates understanding of the following key areas of good practice:</p> <ul style="list-style-type: none"><li>• Accurate, succinct, complete and precise writing</li><li>• Awareness of the need to use ‘plain English’ and writing using correct grammar and spelling</li><li>• legal English is used only when necessary and is appropriately explained</li><li>• Judicious use of structure to clearly and logically set out information</li><li>• The synthesis of a variety of sources to provide advice to the client.</li><li>• Use of appropriate communication, including use of appropriate tone and style, to sensitively manage</li></ul>

	Learning Outcomes	Supporting Experience
	<p><b>Demonstrate knowledge and understanding of professional conduct issues arising in practice</b></p> <p><b>Demonstrate knowledge and understanding the importance of client care in legal practice</b></p>	<p>client expectations.</p> <ul style="list-style-type: none"> <li>• Explain where the applicant will find the rules of professional conduct which affect their practice of the law</li> <li>• Identify situations in which an ethical issue may have arisen in their practice and how the applicant dealt with those situations</li> <li>• Identify any professional organisations that exist within the applicant’s area of practice and explain benefits of membership.</li> <li>• Explain the conduct rules relating to client care and evidence use of the rules in practice</li> <li>• Evidence use of client care letters and complaint management, ‘Your Clients, Your Business’ and the benefits of LEXCEL membership etc.</li> <li>• Demonstrate understanding of the need for good client care to benefit the business.</li> </ul>
<p><b>Legal Research</b></p>	<p><b>Demonstrate knowledge and understanding of legal research and be able to analyse the scope and complexity of situations which need legal research</b></p> <p><b>Demonstrate knowledge and understanding of and be able to evaluate legal research sources</b></p> <p><b>Demonstrate knowledge and understanding of and be able to perform appropriate legal research</b></p> <p><b>Demonstrate knowledge and understanding of and be able to analyse the law in relation to practical problems</b></p> <p><b>Ability to record and evaluate information</b></p>	<ul style="list-style-type: none"> <li>• Identify situations in which the need for legal research has arisen in their work</li> <li>• Explain the steps the applicant undertook to identify relevant sources of information and how they determined the reliability, accuracy and currency of the information discovered</li> <li>• Explain their understanding of primary and secondary sources and how these sources can be used to ensure the applicant sufficiently researched the problem</li> <li>• Identify relevant statutes, case law and other sources from research</li> <li>• how research was prioritised and analysed and used to better understand the issues raised in the legal matter</li> <li>• synthesis of the research materials to provide a</li> </ul>

	<b>Learning Outcomes</b>	<b>Supporting Experience</b>
	<b>Ability to synthesise research to present advice</b>	<ul style="list-style-type: none"> <li>• structured and accurate report</li> <li>• how the applicant evaluated the research ensuring that it is comprehensive and sensitive to the needs of the recipient.</li> </ul>
<p><b>ENTRY EXPERIENCE:</b> <b>ALL APPLICANTS</b></p>	<p>Criminal proceedings litigation experience in the 2 years preceding the application</p>	<ul style="list-style-type: none"> <li>• General description of criminal work carried out</li> <li>• Description of typical case load</li> <li>• An indication of chargeable hours spent on criminal proceedings work in each of the last 2 years</li> <li>• The proportion of time spent on criminal proceedings work</li> <li>• The number of cases which have included preparation for trial</li> <li>• Details of the supervisory arrangements under which the applicant works and/or their supervisory responsibilities</li> </ul> <p>The applicant is required to demonstrate their experience of Criminal Law, Practice and litigation through the submission of 3 portfolios in accordance with <b>the Portfolio Guidelines</b>. Examples will be drawn from a range of cases from the applicant's case load.</p>
<p><b>STAGE 2</b> <b>QUALIFICATION CRITERIA:</b> <b>SKILLS</b></p>	<p>The qualification requirement to obtain criminal litigation practice rights will require the applicant to demonstrate that they meet the following skills:</p>	<p>In order to obtain accreditation the applicant needs to demonstrate the outcomes by either:</p> <ul style="list-style-type: none"> <li>• Attendance on a course, or</li> <li>• Through work experience</li> </ul> <p>and</p> <ul style="list-style-type: none"> <li>• By satisfying the assessment criteria.</li> </ul> <p>Applicants must show the required level of skills in 4 elements, across a range of Criminal matters which may include representing a client in proceedings before:</p>

	Learning Outcomes	Supporting Experience
<p><b>Element 1.</b> INTERVIEWING, ADVISING AND COMMUNICATING</p>	<p>INTERVIEWING</p> <ul style="list-style-type: none"> <li>• conduct effective interviews with the client and potential witnesses across a range of criminal matters</li> </ul> <p>ADVISING &amp; COMMUNICATING</p> <ul style="list-style-type: none"> <li>• An ability to give and communicate clear accurate and practical advice both orally and in writing on matters relating to law, procedure, strategy and prospects of success (either orally, in writing or other media). Where necessary, the applicant will be able to refer the client on to outside agencies or professionals better able to deal with the wider aspect of their problem</li> </ul>	<p>(1) a Magistrates' Court; (2) a Youth Court (3) a Crown Court.</p> <ul style="list-style-type: none"> <li>• Prepare for an initial interview and apply a structured approach to it</li> <li>• Greet the interviewee appropriately</li> <li>• Use appropriate listening questioning and feedback techniques</li> <li>• Maintain rapport with the interviewee</li> <li>• Be sensitive to diversity issues</li> <li>• Keep a full and accurate record of the interview</li> <li>• Close the interview appropriately.</li> <li>• Obtain all relevant information and identify the clients objectives</li> <li>• Give clear advice on all relevant matters arising</li> <li>• Identify the options available and explain the pros and cons of each of those options</li> <li>• Enable the client to make decisions in the case based on appropriate advice</li> <li>• Give clear, appropriate and accurate advice regarding costs and funding</li> <li>• Seek appropriate instructions and give clear advice regarding the next steps to be taken</li> <li>• Deal appropriately with any diversity issues that arise</li> <li>• Handle an emotionally distressed client in a sensitive and professional manner</li> <li>• Produce an accurate record of the interview.</li> </ul>
<p><b>Element 2.</b> COSTS AND FUNDING</p>	<p>COSTS</p> <ul style="list-style-type: none"> <li>• An ability to provide clear and accurate advice on the power of the court to make orders in relation to costs</li> </ul>	<ul style="list-style-type: none"> <li>• Provide appropriate advice and information about the court's powers to make an order in relation to a client paying a contribution towards prosecution</li> </ul>

	Learning Outcomes	Supporting Experience
	<p><b>FUNDING</b></p> <ul style="list-style-type: none"> <li>An ability to provide clear, accurate and regular advice on funding options to include private funding and public funding</li> </ul> <p><b>DOCUMENTATION</b></p> <ul style="list-style-type: none"> <li>Draft or complete the necessary documents relating to funding</li> </ul>	<p>costs and when defence costs may be paid from central funds or by the prosecution.</p> <ul style="list-style-type: none"> <li>Advise a client about their eligibility for publicly funded legal advice and representation</li> <li>Explain what supporting documentation will be required to obtain publicly funded representation</li> <li>Advising the client on the financial and other implications of obtaining publicly funded representation</li> <li>Provide appropriate information to privately funded clients regarding the fees which will be charged.</li> <li>Draft client care letters</li> <li>Complete all relevant Criminal Defence Solicitor Forms required in order to obtain public funding</li> <li>Complete all relevant Criminal Defence Solicitor Forms required in order to obtain authority to instruct experts when this is necessary</li> <li>prepare estimates and schedules of costs for privately funded clients.</li> </ul>
<p><b>Element 3.</b> PROFESSIONAL CONDUCT AND ETHICS</p>	<p><b>CONDUCT AND ETHICS</b></p> <ul style="list-style-type: none"> <li>An awareness of their professional obligations in a diverse range of situations in respect of matters relating to substantive law and the rules of professional conduct</li> <li>An awareness of their obligations to: the court, their client, other lawyers, the public and the Community Legal Service in respect of money laundering legislation and regulation</li> </ul> <p><b>CONFLICTS</b></p> <ul style="list-style-type: none"> <li>An ability to identify and deal appropriately with conflicts of interest throughout his handling of the matter</li> </ul>	<ul style="list-style-type: none"> <li>Identify situations and their obligations to: the court, their client, other lawyers, the public and money laundering legislation and regulation in practice.</li> <li>Identify and deal appropriately with conflicts; arising between the applicant and the client, arising between the applicant and their duty to the court, or arising between the applicant and any relevant third</li> </ul>



	Learning Outcomes	Supporting Experience
	<p><b>WITHDRAWAL FROM THE CASE</b></p> <ul style="list-style-type: none"> <li>An awareness of when they can and/or must withdraw from a case; the proper steps to be taken when doing so whilst observing the interest of the client</li> </ul> <p><b>CONFIDENTIALITY AND PRIVILEGE</b></p> <ul style="list-style-type: none"> <li>An understanding of and the ability to apply the law and practice of confidentiality and privilege in a variety of practical contexts</li> </ul> <p><b>COMPLAINTS AND NEGLIGENCE</b></p> <ul style="list-style-type: none"> <li>An awareness of how complaints and allegations of negligence might arise and appropriate measures/procedures for preventing and dealing with them</li> </ul>	<p>party.</p> <ul style="list-style-type: none"> <li>Show an awareness of the need to withdraw; when the client's interests conflict with their duties to the court or any other circumstances where withdrawal is required</li> <li>The appropriate steps to take when withdrawing from a case.</li> <li>Distinguish between legal advice privilege and litigation privilege</li> <li>Distinguish between confidential information and privileged information</li> <li>Identify when confidential and privileged information may or must be disclosed and to whom.</li> <li>Describe/explain the complaints procedure operated by his professional body</li> <li>Be aware of procedures or processes which can be adopted to reduce the risk of complaints or allegations of negligence being made</li> <li>Describe the consequences of a successful complaint or allegation of negligence being made.</li> </ul>
<p><b>Element 4.</b> <b>MANAGING LITIGATION WORK</b></p>	<p><b>FILE HANDLING</b></p> <ul style="list-style-type: none"> <li>An ability to plan and manage litigation effectively</li> </ul> <p><b>CASE ANALYSIS AND CASE PREPARATION</b></p> <ul style="list-style-type: none"> <li>An ability to effectively analyse a case</li> <li>An ability to formulate a case strategy which is:</li> </ul>	<ul style="list-style-type: none"> <li>Allocate time and resources appropriately</li> <li>Adopt and maintain an appropriate case strategy</li> <li>Be aware of procedural requirements including relevant practice directions and procedural rules</li> <li>Actively manage cases.</li> <li>Identify the key points the prosecution must prove in order to secure a conviction</li> </ul>

	<b>Learning Outcomes</b>	<b>Supporting Experience</b>
	<ul style="list-style-type: none"> <li>- compatible with the client's objectives</li> <li>- legally and procedurally sustainable</li> </ul> <p><b>ASSEMBLY SKILLS</b></p> <ul style="list-style-type: none"> <li>• An ability to assemble all materials relevant to the case, in accordance with the case analysis</li> </ul> <p><b>INSTRUCTING ADVOCATES</b></p> <ul style="list-style-type: none"> <li>• An ability to instruct an advocate when necessary</li> </ul>	<ul style="list-style-type: none"> <li>• Identify the available evidence the prosecution has to prove these points</li> <li>• Identify what defence, if any, the client is raising and what evidence is available in relation to this defence</li> <li>• Identify the strengths and weaknesses in the case</li> <li>• Identify gaps in the available evidence</li> <li>• Draw up a realistic case theory</li> <li>• Relate the case theory to the client's objectives and expectations</li> <li>• Draw up a strategy for the case.</li> <li>• Identify relevant law and procedural rules</li> <li>• Efficiently collate all relevant evidence</li> <li>• Summarise relevant law, procedure and evidence</li> <li>• Locate and interview witnesses</li> <li>• Locate and instruct expert witnesses in accordance with relevant Criminal procedure rules.</li> <li>• Identify when a specialist legal opinion is required/when it is necessary to instruct an advocate</li> <li>• Identify a suitably qualified/experienced advocate</li> <li>• Agree an appropriate fee for work to be carried out by the advocate</li> <li>• Draft a brief to the advocate where necessary</li> <li>• Liaise between the client and the advocate</li> <li>• Demonstrate an awareness of the obligations of the advocate to the court and under his professional obligations.</li> <li>• Appreciate the nature and function of different types of experts relevant to criminal practice</li> </ul>

	<b>Learning Outcomes</b>	<b>Supporting Experience</b>
	<p><b>EXPERTS</b></p> <ul style="list-style-type: none"> <li>An ability to instruct an expert when necessary</li> </ul> <p><b>INSTRUCTING OTHER PROFESSIONALS</b></p> <ul style="list-style-type: none"> <li>An ability to correspond or otherwise communicate with the court and these other parties when it is necessary to do so</li> </ul>	<ul style="list-style-type: none"> <li>Identify when it is appropriate to instruct an expert</li> <li>Be familiar with the available registers and databases through which an appropriate expert may be identified and located</li> <li>Understand the relevant procedural rules to ensure that an expert is instructed properly</li> <li>Understand the substantive law relating to expert evidence and the ways in which such evidence can be challenged.</li> <li>Relevant prosecuting agency as the case progresses in relation to the variety of legal, procedural and evidential issues which may arise during the case</li> <li>Legal advisers of a co-defendant in relation to any issues arising between the defendants, court as the case progresses in relation to the variety of legal, procedural and evidential issues which may arise during the case.</li> </ul>
<p><b>Element 5.</b> LEGAL WRITING AND DRAFTING</p>	<ul style="list-style-type: none"> <li>An ability to understand and apply the principles of good writing and drafting</li> </ul>	<ul style="list-style-type: none"> <li>Understand and apply the principles of good writing</li> <li>Use accurate, straightforward and modern language</li> <li>Use correct spelling, grammar, syntax and punctuation</li> <li>Draft a document that is clear, logical, consistent and with appropriate structure and format</li> <li>Draft a document that forms a coherent whole and, where appropriate, advances the matter</li> <li>Understand the appropriate uses of e-mails, letters, memoranda and other forms of written communication</li> <li>Choose the appropriate medium, form and style of written communication</li> <li>Tailor the written communication to suit the purposes of the communication and the needs of</li> </ul>

	Learning Outcomes	Supporting Experience
		different clients or recipients.

**INTRODUCTION – CRIMINAL PRACTICE ADVOCACY RIGHTS**

In open court in the Magistrates’ Courts (including Youth Courts), bail before judge in chambers in the Crown Court, in open court in the Crown Court for appeals against conviction and sentence where the applicant or his firm represented the defendant in the Magistrates’/Youth Court and on committal for sentence where the applicant or his firm represented the defendant in the Magistrates’ Court

The entry criteria and evidence of competency stated in this schedule set out and envisages:

- that an application for Criminal Practice Advocacy rights will already have obtained or is making a combined application for Criminal Litigation Practice Rights provided they have met the Stage 1 entry requirement for Criminal Litigation Practice Rights

NOTE: an application may also be combined with one for Family Litigation Practice Rights or Civil Litigation Practice Rights (or a combination of these)

- that the applicant has provided the required evidence to demonstrate the level of competency, knowledge and understanding set out in this document
- that the applicant has the required level of competency in the relevant skills of: advocacy, client care, research and interviewing
- that the applicant has entered onto and passed the CILEx Rights of Audience advocacy skills course

NOTE: that the applicant may make an application for rights or audience to appear in open court in the Magistrates’ Courts (including Youth Courts), bail before judge in chambers in the Crown Court, in open court in the Crown Court for appeals against conviction and sentence where the applicant or his firm represented the defendant in the Magistrates’/Youth Court and on committal for sentence where the applicant or his firm represented the defendant in the Magistrates’ Court.

QUALIFICATION Competencies	Learning Outcomes	Supporting Experience
<p><b>Stage 1 ENTRY LEVEL COMPETENCY CRITERIA:</b> In order to apply for the rights of audience qualification the applicant must meet the criteria for criminal litigation rights, And will have, relevant experience on the determination of the Admissions and Licensing Committee in the 2 years immediately preceding their application.</p>	<p>The criminal practice advocate will be able to demonstrate:</p> <ul style="list-style-type: none"> <li>• 2 years advocacy experience</li> <li>• Either appropriate experience of the style and standards of practice of advocacy expected in the courts for which they are seeking rights of audience, or have observed advocacy in those areas where currently no rights of audience exist but where they will be granted rights upon achieving the qualification</li> <li>• Analysis, critical judgment and evaluation</li> <li>• Autonomy and ability to learn.</li> </ul>	<p>In relation to the 2 years preceding the application, applicants must give by way of a statement the following information:</p> <ul style="list-style-type: none"> <li>• A general description of the advocacy, trial preparation and trial involvement carried out</li> <li>• A breakdown of the proportion or number of cases which have included preparation for trial or prepared for trial and the stage when the cases were concluded if before trial</li> <li>• A description of the applicant's typical caseload</li> <li>• A description of the range and nature of advocacy experience including observed advocacy (this may include advocacy experience gained through representing clients at police stations).</li> </ul> <p>The applicant must also submit a portfolio of cases which demonstrates their advocacy experience based on the caseload in which they have been involved (stating their level of involvement) in compliance with the competence criteria set out below. The portfolio requirements are set</p>

QUALIFICATION Competencies	Learning Outcomes	Supporting Experience out in the <b>Portfolio Guidelines</b> .
		<p>The applicant will be expected to be able to demonstrate through their portfolios that they can:</p> <ul style="list-style-type: none"> <li>• Recognise and rank items and issues in terms of relevance and importance</li> <li>• Integrate information and materials from a variety of different sources</li> <li>• Undertake the analysis of factual information in a logical and coherent way</li> <li>• Make critical judgments of the merits of particular arguments</li> <li>• Present and make a reasoned choice between alternative solutions</li> <li>• Act independently in planning, preparing and undertaking tasks in the above areas of law                             <ul style="list-style-type: none"> <li>• Undertake independent research in the above areas of law using standard legal information sources</li> <li>• Reflect on their learning and make constructive use of feedback</li> </ul> </li> </ul>

QUALIFICATION CRITERIA	LEARNING OUTCOMES	SUPPORTING EVIDENCE
<p><b>Stage 2</b></p>	<p><b>Stage 2</b></p> <p>The applicant must be able to demonstrate:</p>	<p>This can be evidenced by the applicant demonstrating the ability to:</p>
<p><b>Case Analysis and Theory</b></p>	<ul style="list-style-type: none"> <li>• An appropriate level of case analysis, critical judgement and evaluation</li> </ul>	<ul style="list-style-type: none"> <li>• Identify the relevant factual, legal and evidential issues in a given case</li> <li>• Identify the evidence available to the prosecution to prove these issues and the evidence available to the defence to challenge these issues and where appropriate to prove or support a defence</li> <li>• Identify the strengths and weaknesses of a case</li> <li>• Understand the relevant law in context</li> <li>• Prepare a case theory that is both succinct and persuasive</li> <li>• Prepare a case theory that observes the rules of professional conduct.</li> </ul>
<p><b>Trial Advocacy</b></p>	<ul style="list-style-type: none"> <li>• An appropriate level of trial advocacy</li> </ul>	<ul style="list-style-type: none"> <li>• Understand the importance of preparation and effective ways to undertake this</li> <li>• Identify the client's goals</li> <li>• Analyse the relevant factual issues</li> <li>• Understand the legal and evidential context in which these factual issues arise and how they relate to each other</li> <li>• Summarise the strengths and weaknesses of the prosecution's case and the defence case</li> <li>• Develop an effective case presentation strategy</li> <li>• Prepare a coherent submission to the court based upon relevant facts, general principles and legal authority in a structured, concise and persuasive manner in a practical setting which may include a</li> </ul>



QUALIFICATION CRITERIA	LEARNING OUTCOMES	SUPPORTING EVIDENCE
		<p>contested bail application or bail appeal; making a submission of no case to answer; a trial, a voire dire hearing and a plea in mitigation</p> <ul style="list-style-type: none"> <li>• Understand and appreciate the relevant communication skills and techniques used by an advocate</li> <li>• Understand in particular the purpose, technique and tactics of examination-in-chief; cross-examination; re-examination and closing speeches to adduce, rebut and clarify evidence</li> <li>• Deal appropriately with client care and ethical issues</li> <li>• Demonstrate an understanding of the ethics, etiquette and conventions of advocacy.</li> </ul>
<p><b>Evidence</b></p>	<ul style="list-style-type: none"> <li>• Knowledge and understanding of the rules of evidence as they apply in criminal proceedings</li> </ul>	<ul style="list-style-type: none"> <li>• The incidence of the burden and standard of proof</li> <li>• The rules relating to competence and compellability of the accused and all other witnesses</li> <li>• The ways in which evidence may be adduced</li> <li>• The rules relating to memory refreshing</li> <li>• The rules relating to hostile and unfavourable witnesses</li> <li>• The rules relating to admissibility and weight to be attached to prior consistent statements and to impugning the testimony of witnesses by their prior inconsistent statements</li> <li>• The rules relating to finality to collateral issues</li> <li>• The rules relating to the admissibility of hearsay evidence</li> <li>• The admissibility of confessions in criminal trials</li> <li>• The rules relating to inferences</li> <li>• The rules relating to the admissibility of and weight to be attached to disputed visual identification evidence</li> <li>• The rules relating to the admissibility of improperly</li> </ul>

QUALIFICATION CRITERIA	LEARNING OUTCOMES	SUPPORTING EVIDENCE
		<p>obtained evidence</p> <ul style="list-style-type: none"> <li>• The statutory rules relating to the admissibility of character evidence of the accused and non-defendants</li> <li>• The relevance of human rights issues</li> <li>• The rules relating to expert evidence.</li> </ul>
<p><b>Professional Conduct and Ethics</b></p>	<p>Knowledge and understanding of the conduct rules as they apply in criminal practice</p>	<ul style="list-style-type: none"> <li>• The fundamental duties to the court and the administration of justice</li> <li>• The decision to appear</li> <li>• Ceasing to act as an advocate</li> <li>• Conduct of work.</li> </ul>

### INTRODUCTION – FAMILY LITIGATION PRACTICE RIGHTS

The entry criteria, learning outcomes and evidence of competency stated in this schedule set out:

- the level of competency, knowledge and understanding required to practise in the area of Family Litigation
- the elements required to evidence that level of competency, knowledge and understanding
- the level of competency required in the relevant skills for this area of practice – client care, research and interviewing
- the elements required to evidence the required level of competence for these relevant skills
- a statement of the study and work-based experience that demonstrates that an applicant has attained the required level of competence, knowledge and understanding in all the required elements
- In order to obtain Family Litigation Practice Rights, applicants must combine the application with an application for rights of audience in chambers in the County Courts. An application for advocacy rights of audience in open court remains optional (although it will be necessary in the case of applicants seeking rights of audience in the Family Proceedings Court).

**Note:** that applicants seeking rights of audience accreditation in hearings in open court and/or in chambers should refer to the criteria set out in the Advocacy Rights accreditation document.

Certification of Family Litigation Practice Rights will ensure that the applicant has:

- met the application requirements
- an appropriate level of experience in the field of family litigation in practice, which must include not less than 2 years relevant experience immediately preceding the application
- an appropriate level of knowledge and appreciation of the key legal features of family litigation, including the ability to advise, manage and undertake different methods of dispute resolution in all aspects of family practice. Emphasis will be given to the practical aspects of conducting cases in a family litigation context through the court system but a level of knowledge and understanding of other forms of dispute resolution will also be expected
- the ability and experience to research aspects of case law, legal procedure and documentation that is current

- the ability and experience to interview clients appropriately, identify the client's objectives and different means of achieving those objectives and advise and be aware of the financial, commercial and personal priorities and constraints to be taken account of together with the costs, benefits and risks involved in a transaction or procedure or course of action
- the ability and experience to perform the tasks required to advance transactions or matters, to include (but not restricted by), drafting letters of advice to clients, communicating with co-professionals and with the court
- the ability and experience to draft statements of case, applications and witness statements
- the ability and experience to undertake advocacy in the required fields within this practice area
- demonstrate a level of experience, knowledge and understanding of all aspects of professional conduct and regulation which includes an understanding of the key ethical requirements contained in the relevant conduct rules and other law and regulations and where these may impact and be able to apply them in context.

<b>SUPPORTING EXPERIENCE:</b>	<b>LEARNING OUTCOME:</b>	
<p>The applicant will need to provide evidence of:</p>	<p>To obtain Family Litigation Practice Rights an applicant must:</p>	<p>• Knowledge and understanding qualifications</p> <p>• Legal Skills qualifications</p> <p>• Fellowship</p> <p><b>Knowledge and understanding qualifications</b></p> <ul style="list-style-type: none"> <li>• Successful completion of CILEX Level 6 Professional Higher Diplomas in family practice and Level 6 family law</li> </ul> <p><b>Or</b></p> <ul style="list-style-type: none"> <li>• Supplied evidence of qualification of an equivalent standard</li> </ul> <p><b>Or</b></p> <ul style="list-style-type: none"> <li>• Supplied evidence of experience of an equivalent standard</li> </ul> <p><b>Legal Skills qualifications</b></p> <ul style="list-style-type: none"> <li>• Successful completion of CILEX Level 6 Professional Higher Diplomas in Legal Research and Client Care</li> </ul> <p><b>Or</b></p> <ul style="list-style-type: none"> <li>• Supplied evidence of qualification of an equivalent standard</li> </ul> <p><b>Or</b></p> <ul style="list-style-type: none"> <li>• Supplied evidence of experience of an equivalent standard</li> </ul> <p><b>Fellowship</b></p> <ul style="list-style-type: none"> <li>• Is a Fellow of CILEX</li> </ul>
<p><b>STAGE 1</b></p> <p><b>ENTRY CRITERIA</b></p> <ul style="list-style-type: none"> <li>• KNOWLEDGE</li> <li>• UNDERSTANDING</li> <li>• SKILLS</li> <li>• EXPERIENCE</li> </ul> <p><b>ENTRY KNOWLEDGE AND UNDERSTANDING</b></p>	<ul style="list-style-type: none"> <li>• Have practical knowledge, understanding, experience and skills</li> </ul>	

	LEARNING OUTCOME:	SUPPORTING EXPERIENCE:
		<p><b>Note 1:</b> Where the applicant holds appropriate qualifications which enable an application for Fellowship to be made, this can be made concurrently with the application for Family Litigation Practice Rights</p> <p><b>Note 2:</b> Where the applicant does not hold the relevant Level 6 examinations (or equivalent), they are required to demonstrate their knowledge and understanding through the submission of 5 portfolios, in accordance with <b>the Portfolio Guidelines</b>. Examples will be drawn from a range of cases from the applicant’s case load.</p>
<p><b>KNOWLEDGE UNDERSTANDING</b></p> <p><b>AND</b></p>	<p><b>Demonstrate knowledge and understanding of the underlying legal principles of marriage, adult partnerships and nullity in marriage</b></p> <p><b>Demonstrate knowledge and understanding of the underlying legal principles of dissolution of marriage, civil partnership and judicial separation</b></p>	<ul style="list-style-type: none"> <li>• Examples from their work which evidence their knowledge, understanding and application of at least one of these areas, for example analysis of the legal differences between marriage and cohabitation, the concept of domicile and foreign marriages, the legal consequences of a void marriage etc.</li> <li>• Examples from their work which evidence their knowledge and understanding of the requirements for each and the application of these. This should include the discussion of undefended divorce and dissolution of civil partnership, the process and effect of each, costs which may be incurred, funding implications and identify best practice (including with reference to the Family Law Protocol)</li> <li>• Using examples from their caseload, identify the most common forms of dispute resolution including mediation and the costs involved in this process.</li> </ul>

	LEARNING OUTCOME:	SUPPORTING EXPERIENCE:
	<p><b>Demonstrate knowledge and understanding of the provisions for family property and ownership,</b></p> <p><b>Demonstrate knowledge and understanding of the law concerning provisions for financial relief during and after marriage/civil partnership</b></p>	<ul style="list-style-type: none"> <li>• Examples from their work which evidence their knowledge and understanding of the effects on property rights of the breakdown of relationships, the impact of express and implied trusts, the acquisition, protection and enforcement of home rights and the application of these in practical situations</li> <li>• Explain, providing examples, the differences in consequences of breakdown of a relationship for an unmarried family in relation to ownership and occupation of the family home.</li> <li>• Provide examples from their work which evidence their knowledge and understanding of financial relief (both during and after marriage/civil partnership and including financial relief available for children), including the various orders available and their use, the factors taken into account by the court when making financial orders, the power of the court to vary or discharge orders for financial relief and the legal requirements for maintenance agreements. The applicant should evidence the application of their knowledge to their work and should identify best practice (including with reference to the Family Law Protocol)</li> <li>• <i>Applicants may also include examples which evidence knowledge and understanding of the financial relief process, action which may be taken to prevent disposal of assets, enforcement provisions and the need for full and frank disclosure</i></li> <li>• Explain the costs incurred in these proceedings including consideration of whether costs will be met by private means or by public funding (including the</li> </ul>

	LEARNING OUTCOME:	SUPPORTING EXPERIENCE:
	<p><b>Demonstrate knowledge and understanding of the legal basis for parental responsibility, or</b></p> <p><b>Demonstrate knowledge and understanding of the law relating to children: private law</b></p>	<p>effects of the statutory charge)</p> <ul style="list-style-type: none"> <li>• Explain the overriding objective in relation to proportionality of costs including tactics for making offers to settle and the pre application protocol</li> <li>• Using examples from their caseload, applicants should identify the most common forms of dispute resolution including mediation, collaborative law, the benefits and limitation as well as the costs involved in those processes.</li> <li>• Provide examples from their work which evidence their knowledge and understanding of how parental responsibility arises automatically and how it can be acquired under the Children Act 1989, including the factors the court considers in parentage identification cases.</li> <li>• Provide examples from their work which evidence their knowledge, understanding and application of the welfare principle, no delay principle and no order principle, the orders available for private matters under the Children Act 1989, section 8 orders and entitlement to apply (including requirement for leave), the key legal principles under the Children Act that the court will consider in making any order and their application and the procedure for obtaining these orders. Applicants should where possible identify best practice (with reference to relevant sections of the protocol)</li> <li>• <i>Applicants may also include examples which evidence their knowledge and understanding of relevant legislation and current practice directions relating to removal from the jurisdiction, child abduction or change of name, financial relief</i></li> </ul>



	<b>LEARNING OUTCOME:</b>	<b>SUPPORTING EXPERIENCE:</b>
	<p><b>Demonstrate knowledge and understanding of the law relating to children: public law</b></p>	<p><i>available for children under Children Act 1989 and the powers of the court to make family assistance orders. This evidence should demonstrate an understanding of the relevant procedure and the impact of relevant protocols and practice directions.</i></p> <ul style="list-style-type: none"> <li><i>Provide examples from their work which evidences their knowledge and understanding of Local Authority obligations to support families and children in need; the requirements for the making of and the impact of interim orders, to include emergency protection orders; the statutory criteria for the making of care and supervision orders and the legal effect of such orders and the discharge of those orders; contact relating to children within public law proceedings and the making of special guardianship orders and their effect.</i></li> </ul>
	<p><b>Demonstrate knowledge and understanding of the law relating to adoption</b></p>	<ul style="list-style-type: none"> <li><i>Examples from their work which evidence knowledge and understanding of relevant legislation and current practice direction relating to the making of adoption orders and their effect.</i></li> </ul>
	<p><b>Demonstrate knowledge and understanding of the legislation, provisions and remedies available in cases of domestic violence and molestation</b></p>	<ul style="list-style-type: none"> <li><i>Knowledge and understanding of the alternatives to court proceedings in domestic violence cases, the impact of legislation in this area (FLA 1996 and Protection from Harassment Act 1997), the procedure and criteria to apply for appropriate orders, including non molestation and exclusion orders (with or without notice) and methods of enforcement of both orders.</i></li> </ul>
<p><b>ENTRY SKILLS:</b></p>		<ul style="list-style-type: none"> <li>Where the applicant does not hold the relevant CILEx Level 6 Legal Research or Client Care (or</li> </ul>

	<b>LEARNING OUTCOME:</b>	<b>SUPPORTING EXPERIENCE:</b>
		<p>equivalent) qualification, they should provide a portfolio of evidence and logbook which demonstrates meeting each of the outcomes set out below in accordance with <b>the Portfolio Guidelines</b>. Examples will be drawn from a range of cases from the applicant’s case load.</p>
<p><b>Client care</b></p>	<p><b>Demonstrate knowledge and understanding of the role of client interviewing and negotiation in legal practice</b></p>     <p><b>Demonstrate good practice in legal writing</b></p>	<ul style="list-style-type: none"> <li>● Explain what they understand by successful client interviewing</li> <li>● Demonstrate interviews which they consider to be successful and identify what made them successful</li> <li>● Explain what they understand by negotiation and its importance in legal practice, including identification of a number of types of negotiation and the importance of preparation in successful negotiation. Identify a number of media through which negotiation can take place</li> <li>● Provide examples of the following which have been overcome in a negotiation situation: <ul style="list-style-type: none"> <li>○ The use of different types of negotiation using different media</li> <li>○ A situation in which preparation for negotiation was central to success</li> <li>○ A situation in which communication barriers were overcome for a successful outcome</li> <li>○ Use of persuasion to achieve a successful outcome.</li> </ul> </li> </ul> <p>Provide evidence of legal writing which demonstrates their understanding of the following key areas of good practice:</p> <ul style="list-style-type: none"> <li>● Accurate, succinct, complete and precise writing</li> </ul>

	<b>LEARNING OUTCOME:</b>	<b>SUPPORTING EXPERIENCE:</b>
	<p><b>Demonstrate knowledge and understanding of professional conduct issues arising in practice</b></p> <p><b>Demonstrate knowledge and understanding the importance of client care in legal practice</b></p>	<ul style="list-style-type: none"> <li>• Awareness of the need to use 'plain English' and writing using correct grammar and spelling</li> <li>• Legal English is used only when necessary and is appropriately explained</li> <li>• Judicious use of structure to clearly and logically set out information</li> <li>• The synthesis of a variety of sources to provide advice to the client.</li> <li>• Use of appropriate communication, including use of appropriate tone and style, to sensitively manage client expectations.</li> <li>• Explain where they will find the rules of professional conduct which affect their practice of the law</li> <li>• Identify situations in which an ethical issue may have arisen in their practice and how they dealt with those situations</li> <li>• Identify any professional organisations that exist within their area of practice and explain benefits of membership.</li> <li>• Explain the rules relating to client care and evidence their use of the rules in practice</li> <li>• Evidence use of the use of client care letters and complaint management, 'Your Clients, Your Business' and the benefits of LEXCEL membership etc.</li> <li>• Demonstrate understanding of the need for good client care to benefit the business.</li> </ul>
<b>Legal Research</b>	<b>Demonstrate knowledge and understanding of legal research and be able to analyse the scope and complexity of situations which need legal research</b>	<ul style="list-style-type: none"> <li>• Identify situations in which the need for legal research has arisen in their work</li> <li>• Explain the steps they undertook to identify relevant</li> </ul>

	<b>LEARNING OUTCOME:</b>	<b>SUPPORTING EXPERIENCE:</b>
	<p><b>Demonstrate knowledge and understanding of and be able to evaluate legal research sources</b></p> <p><b>Demonstrate knowledge and understanding of and be able to perform appropriate legal research</b></p> <p><b>Demonstrate knowledge and understanding of and be able to analyse the law in relation to practical problems</b></p> <p><b>Ability to record and evaluate information</b></p> <p><b>Ability to synthesise research to present advice</b></p>	<p>sources of information and how they determined the reliability, accuracy and currency of the information discovered</p> <ul style="list-style-type: none"> <li>• Explain their understanding of primary and secondary sources and how these sources can be used to ensure they have sufficiently researched the problem</li> <li>• Identify relevant statutes, case law and other sources from their research</li> <li>• Evidence how they prioritised and analysed the research and used this to better understand the issues raised in the legal matter</li> <li>• Evidence their synthesis of the research materials to provide a structured and accurate report</li> <li>• Evidence how they evaluated the research ensuring that it is comprehensive and sensitive to the needs of the recipient.</li> </ul>
<p><b>ENTRY EXPERIENCE:</b></p> <p><b>ALL APPLICANTS</b></p>	<ul style="list-style-type: none"> <li>• Family proceedings litigation experience in the 2 years preceding the application</li> </ul>	<ul style="list-style-type: none"> <li>• General description of family work carried out</li> <li>• Description of typical case load</li> <li>• An indication of chargeable hours spent on family proceedings work in each of the last 2 years</li> <li>• The proportion of time spent on family proceedings work</li> <li>• The number of cases which have included preparation for trial</li> <li>• Details of the supervisory arrangements under which the applicant works and/or their supervisory responsibilities</li> </ul> <p>The applicant is required to demonstrate their</p>

	<b>LEARNING OUTCOME:</b>	<b>SUPPORTING EXPERIENCE:</b>
<p><b>STAGE 2</b></p> <p><b>QUALIFICATION CRITERIA:</b></p> <p><b>SKILLS</b></p>	<p>To obtain Family Litigation Practice Rights the applicant must demonstrate:</p>	<p>experience of Family Law and Practice through the submission of 3 portfolios in accordance with <b>the Portfolio Guidelines</b>. Examples will be drawn from a range of cases from the applicant's case load.</p> <p>The applicant must demonstrate the outcomes by either:</p> <ul style="list-style-type: none"> <li>• attendance on a course, or</li> <li>• through work experience</li> </ul> <p>and</p> <ul style="list-style-type: none"> <li>• by satisfying the assessment criteria.</li> </ul> <p>Applicants must show the required level of skills in 6 elements, across a range of family matters to include:</p> <ul style="list-style-type: none"> <li>• Matrimonial/divorce and Civil Partnership Proceedings</li> <li>• Relationship breakdown between cohabitants</li> <li>• Financial matters/proceedings</li> <li>• Domestic violence</li> <li>• Private law children proceedings; issues relating to children involving both parents and the wider family</li> <li>• Public law children proceedings</li> <li>• Adoption</li> <li>• Bankruptcy and insolvency in so far as it may affect family problems</li> <li>• Welfare benefits and housing.</li> </ul> <p>This can be evidenced by the applicant demonstrating the ability to:</p>

	<b>LEARNING OUTCOME:</b>	<b>SUPPORTING EXPERIENCE:</b>
<p><b>Element 1.</b> INTERVIEWING, ADVISING AND COMMUNICATING</p>	<p>INTERVIEWING</p> <ul style="list-style-type: none"> <li>An ability to conduct effective interviews with the client and potential witnesses across a range of family disputes</li> </ul> <p>ADVISING &amp; COMMUNICATING</p> <ul style="list-style-type: none"> <li>An ability to give and communicate clear accurate and practical advice both orally and in writing on matters relating to law, procedure, strategy and prospects of success (either orally, in writing or other media). Where necessary, the applicant will be able to refer the client on to outside agencies or professionals better able to deal with the wider aspect of their problem</li> </ul>	<ul style="list-style-type: none"> <li>Prepare for an initial interview and apply a structured approach to it</li> <li>Greet the interviewee appropriately</li> <li>Use appropriate listening, questioning and feedback techniques</li> <li>Maintain rapport with the interviewee</li> <li>Be sensitive to diversity issues</li> <li>Keep a full and accurate record of the interview</li> <li>Close the interview appropriately.</li> <li>Obtain all relevant information and identifying the clients objectives</li> <li>Give clear advice on all relevant matters arising</li> <li>Identify the options available and explain the pros and cons of each of those options</li> <li>Enable the client to make decisions in the case based on appropriate advice</li> <li>Give clear, appropriate and accurate advice regarding costs and funding</li> <li>Seek appropriate instructions and give clear advice regarding the next steps to be taken</li> <li>Deal appropriately with any diversity issues that arise</li> <li>Handle an emotionally distressed client in a sensitive and professional manner</li> <li>Producing an accurate record of the interview.</li> </ul>
<p><b>Element 2.</b> COSTS &amp; FUNDING</p>	<p>COSTS</p> <ul style="list-style-type: none"> <li>An awareness of the requirements of the relevant practice rules that relate to contentious and non-contentious costs and be able to give clear, accurate and regular advice or information on costs issues arising in the case</li> </ul>	<ul style="list-style-type: none"> <li>Provide realistic costs estimates of all costs and disbursements at the start of the case and update throughout the progress of the action to include the cost implications of case strategies</li> <li>Ensure full compliance with the FPR, FP(FPC)R and CPR costs rules</li> </ul>

	<b>LEARNING OUTCOME:</b>	<b>SUPPORTING EXPERIENCE:</b>
	<p><b>FUNDING</b></p> <ul style="list-style-type: none"> <li>An ability to provide clear and accurate advice on funding options to include private funding, public funding and third party funding</li> </ul> <p><b>DOCUMENTATION</b></p> <ul style="list-style-type: none"> <li>Draft or complete the necessary documents relating to funding</li> </ul>	<ul style="list-style-type: none"> <li>Explain the differences between the indemnity and standard basis of costs</li> <li>Explain the steps that can be taken under CPR and FPR to transfer costs risks to the other side</li> <li>Provide appropriate advice regarding the fees that will be charged.</li> <li>Identify the funding available in a particular case and advise on the suitability of alternative funding sources</li> <li>Communicate the risks and benefits of each method of funding available</li> <li>Be aware of the funding regulations and restrictions (for example non-regulated activities)</li> <li>Advise the client of significant developments in the case</li> <li>Identify and have regard to potential conflicts of interest on funding issues</li> <li>If the client is in receipt of public funding, provide appropriate advice including relevant financial implications and in particular explain the significance of the statutory charge in publicly funded cases where this might have an impact and take all necessary steps to protect the interests of both the client and the CLS fund</li> <li>Prepare estimates and schedules of costs</li> <li>Understand all matters relating to a summary assessment of costs and detailed costs assessment.</li> <li>Draft client care letters</li> <li>Complete all appropriate applications, notices and records in publicly funded cases</li> <li>Prepare detailed cost assessments or instruct a specialist to do so.</li> </ul>

	<b>LEARNING OUTCOME:</b>	<b>SUPPORTING EXPERIENCE:</b>
<p><b>Element 3.</b></p> <p><b>PROFESSIONAL CONDUCT AND ETHICS</b></p>	<p><b>CONDUCT AND ETHICS</b></p> <p><b>PROFESSIONAL OBLIGATIONS</b></p> <ul style="list-style-type: none"> <li>• An awareness of their professional obligations in a diverse range of situations in respect of matters relating to substantive law and the rules of professional conduct</li> <li>• An awareness of their obligations to: the court, their client, other lawyers, the public, the Community Legal Service in respect of money laundering legislation and regulation</li> </ul> <p><b>CONFLICTS</b></p> <ul style="list-style-type: none"> <li>• An ability to identify and deal appropriately with conflicts of interest throughout his handling of the matter</li> </ul> <p><b>WITHDRAWAL FROM THE CASE</b></p> <ul style="list-style-type: none"> <li>• an awareness of when they can and/or must withdraw from a case; the proper steps to be taken when doing so whilst observing the interest of the client</li> </ul> <p><b>UNDERTAKINGS</b></p> <ul style="list-style-type: none"> <li>• An understanding of the bases for the giving of professional undertakings to clients, the court and others; the implications of giving such undertakings; the consequences of breaching such undertakings and demonstrate awareness of the appropriate use of undertakings in legal proceedings</li> </ul> <p><b>CONFIDENTIALITY AND PRIVILEGE</b></p> <ul style="list-style-type: none"> <li>• An understanding of and the ability to apply the law and practice of confidentiality and privilege in a variety of practical contexts</li> </ul>	<ul style="list-style-type: none"> <li>• Identify situations and their obligations to: the court, their client, other lawyers, the public, and money laundering legislation.</li> <li>• Identify and deal appropriately with conflicts: arising between the applicant and the client, arising between the applicant and their duty to the court, or arising between the applicant and any relevant third party.</li> <li>• Show an awareness of the need to withdraw; of the proper action when the client refuses to make proper disclosure; of the proper action where the interests conflict with the applicant’s duties to the court or any other circumstances where withdrawal is required.</li> <li>• Identify when an undertaking may be required and show an awareness of the implications of giving the undertaking and putting in place, or obtaining the appropriate safeguards in respect of the undertaking given.</li> <li>• Distinguish between legal advice privilege and litigation privilege</li> <li>• Distinguish between confidential information and privileged information.</li> </ul>



	<b>LEARNING OUTCOME:</b>	<b>SUPPORTING EXPERIENCE:</b>
	<p><b>COMPLAINTS AND NEGLIGENCE</b></p> <ul style="list-style-type: none"> <li>• An awareness of how complaints and allegations of negligence might arise and appropriate measures/procedures for preventing and dealing with them and the ability to apply the relevant conduct rules and other law and regulations in respect of complaints and negligence</li> </ul>	<ul style="list-style-type: none"> <li>• Identify the circumstances when a complaint could be made or negligence may arise</li> <li>• Describe/explain the complaints procedure operated by their professional body</li> <li>• Be aware of procedures or processes which can be adopted to reduce the risk of complaints or allegations of negligence being made</li> <li>• Explain what steps would need to be taken in respect of the identified, or potential, mistake or act of negligence</li> <li>• Identify the appropriate professional conduct rules applying and the indicative behaviours that would need to be shown to evidence that no mistake or negligence had occurred.</li> </ul>
<p><b>Element 4.</b></p> <p><b>MANAGING LITIGATION WORK</b></p>	<p><b>FILE HANDLING</b></p> <ul style="list-style-type: none"> <li>• An ability to plan and manage litigation; to progress matters expeditiously and maintain files and records in accordance with procedures</li> </ul> <p><b>CASE ANALYSIS AND CASE PREPARATION</b></p> <ul style="list-style-type: none"> <li>• An ability to formulate a case strategy which is: <ul style="list-style-type: none"> <li>○ Compatible with the client's objectives</li> <li>○ Is legally and procedurally sustainable</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Allocate time and resources appropriately and prioritise workloads effectively</li> <li>• Deal with matters without causing delay</li> <li>• Apply project planning principles to casework</li> <li>• Adopt and maintain an appropriate case strategy</li> <li>• Be aware of procedural requirements including relevant protocols</li> <li>• Actively and efficiently manage cases, making best use of resources</li> <li>• Maintain files and systems (including electronic systems) appropriately and correctly.</li> <li>• Identify strengths and weaknesses in a case</li> <li>• Identify gaps in available evidence</li> <li>• Draw up a realistic case plan</li> <li>• Relate the case theory to the client's objectives and expectations</li> </ul>

	<b>LEARNING OUTCOME:</b>	<b>SUPPORTING EXPERIENCE:</b>
<p><b>DEALING WITH OTHER PROFESSIONALS</b></p>	<ul style="list-style-type: none"> <li>An ability to draft legal documents and letters that can be used effectively in the presentation and procedures for an action to proceed either by way of settlement or litigation</li> </ul> <p><b>ASSEMBLY SKILLS</b></p> <ul style="list-style-type: none"> <li>An ability to assemble all materials relevant to the case, in accordance with the case analysis</li> </ul> <p><b>INSTRUCTING ADVOCATES</b></p> <ul style="list-style-type: none"> <li>An ability to instruct an advocate when necessary</li> </ul> <p><b>EXPERTS</b></p> <ul style="list-style-type: none"> <li>An ability to select, instruct and appoint an expert and show an awareness of the range of expertise that may be needed</li> </ul>	<ul style="list-style-type: none"> <li>Provide the client with a balanced view of the likely risks, costs and benefits of case strategies</li> <li>Adopt a cost effective, analytical and pragmatic approach to the wider factual issues</li> <li>Draft or write documents, letters, memoranda or agreements that have been used effectively in the presentation and procedures for an action to proceed by way of settlement or litigation.</li> <li>Identify relevant law</li> <li>Efficiently collate all relevant evidence</li> <li>Summarise relevant law and evidence</li> <li>Locate and interview witnesses</li> <li>Locate and instruct expert witnesses in accordance with relevant family procedure rules.</li> <li>Identify when a specialist legal opinion is required/when it is necessary to instruct an advocate</li> <li>Identify a suitably qualified/experienced advocate</li> <li>Agree an appropriate fee for work to be carried out by the advocate</li> <li>Draft a brief to the advocate providing appropriate information and instructions</li> <li>Liaise between the client and advocate</li> <li>Demonstrate an awareness of the obligations of the advocate to the court and under his professional obligations</li> <li>Deal with the advocate in an appropriate and professional manner.</li> <li>Appreciate the nature and function of different type of expert relevant to family practice, such as child psychiatrist, educational psychologist and forensic</li> </ul>

	<b>LEARNING OUTCOME:</b>	<b>SUPPORTING EXPERIENCE:</b>
	for a case	accountant <ul style="list-style-type: none"> <li>• Identify when it is appropriate to instruct an expert</li> <li>• Agree an appropriate fee for work to be carried out by the expert</li> <li>• Be familiar with the available registers and databases through which an appropriate expert may be identified and located</li> <li>• Instruct an expert appropriately applying relevant rules and protocol; for example the Children Act Protocol</li> <li>• Provide the expert with appropriate information, instructions and guidance</li> <li>• Understand the substantive law relating to expert evidence and the ways in which such evidence can be challenged</li> <li>• Deal with the expert in an appropriate and professional manner.</li> </ul>
<b>Element 5.</b>  SETTLEMENT V LITIGATION	<b>CONCLUDING CASES</b> <ul style="list-style-type: none"> <li>• Identify and carry out steps to be taken to conclude cases</li> </ul> <b>SETTLEMENT</b> <ul style="list-style-type: none"> <li>• Be able to identify when settlement of a case is in the client's interest, give clear and accurate advice on settling a case and take the necessary steps to secure settlement</li> </ul>	<ul style="list-style-type: none"> <li>• Draft and check orders of the court and/or agreements of the parties</li> <li>• Check judgements</li> <li>• Advise clients on the outcome of the proceedings or disputes and any further steps necessary</li> <li>• Implement and/or enforce agreements/orders</li> <li>• Understand the rules/procedure relating to appeals against a judgment</li> <li>• Deal with any costs issues arising.</li> <li>• Explain the merits of settlement in achieving the client's objectives</li> <li>• Give consideration to offers to settle</li> <li>• Understand the significance of 'open' offers under</li> </ul>

	<b>LEARNING OUTCOME:</b>	<b>SUPPORTING EXPERIENCE:</b>
	<p><b>NEGOTIATION</b></p> <ul style="list-style-type: none"> <li>• Knowledge and understanding of effective and appropriate negotiation (to include immediately before, and during, the trial or hearing)</li> </ul> <p><b>ADR</b></p> <p>Be aware of the ADR processes available, including mediation, early neutral evaluation, conciliation and Financial Dispute Resolution appointments in financial proceedings and be able to identify those which are relevant to the case in hand and when they should be applied</p>	<p>the financial relief costs rules</p> <ul style="list-style-type: none"> <li>• Explain the advantages of conciliation, negotiation, counselling, mediation and resolving matters using a collaborative lawyer.</li> <li>• Apply the principles of proportionality</li> <li>• Prepare effectively prior to negotiation</li> <li>• Prepare an agenda to deal with relevant issues</li> <li>• Determine the client's and opponent's underlying interests and expectations</li> <li>• Identify the strengths and weaknesses of the client's and opponent's position</li> <li>• Identify the most and least favourable outcomes for the client</li> <li>• Identify the likely outcome if the case goes to trial</li> <li>• Draft negotiated agreements and secure relevant orders.</li> <li>• Explain the nature and procedures of alternative dispute resolution methods</li> <li>• Explain the advantages and disadvantages of those methods</li> <li>• Recommend any appropriate ADR process which would be in the client's best interests</li> <li>• Advise a client how to pursue a particular ADR process.</li> </ul>
<p><b>Element 6</b></p> <p><b>LEGAL WRITING AND DRAFTING</b></p>	<p>An ability to understand and apply the principles of good writing and drafting</p>	<ul style="list-style-type: none"> <li>• Understand and apply the principles of good writing</li> <li>• Use accurate, straightforward and modern language</li> <li>• Use correct spelling, grammar, syntax and punctuation</li> <li>• Draft a document that is clear, logical,</li> </ul>

LEARNING OUTCOME:		SUPPORTING EXPERIENCE:
		<p>consistent and with appropriate structure and format</p> <ul style="list-style-type: none"> <li>• Draft a document that forms a coherent whole and, where appropriate, has advanced the matter, and where appropriate has identified the client’s objectives and priorities, and where appropriate provided a clear risk analysis</li> <li>• Address the document appropriately and accurately</li> <li>• Understand the appropriate use of e-mails, letters, memoranda and other forms of written communication</li> <li>• Choose the appropriate medium, form and style of written communication</li> <li>• Tailor the written communication to suit the purposes of the communication and the needs of different clients or recipients.</li> </ul>

### INTRODUCTION – FAMILY LITIGATION ADVOCACY RIGHTS

In chambers and in open court in the Family Proceedings Court, County Courts and Coroners' Courts

The entry criteria and evidence of competency stated in this schedule set out and envisages:

- that the applicant will already have obtained practice rights in Family Litigation Practice or is making a combined application for Family Litigation Advocacy Rights at the same as an application for Family Litigation Practice Rights

NOTE: (an application may also be combined with one for Civil Litigation Practice Rights or Criminal Litigation Practice Rights (or a combination of these)

Certification of Family Proceedings Advocacy Rights will ensure:

- that the applicant has provided the required evidence to demonstrate the required level of competency, knowledge and understanding set out in this document
- that the applicant has the required level of competency in the relevant skills: in advocacy, client care, research and interviewing
- that the applicant has entered on to and passed the relevant CILEX advocacy skills course

NOTE: that the applicant may make an application for rights of audience in chambers only in the County Courts or for rights of audience in open court in the County Courts and the Family Proceedings Court (FPC) and that applicants seeking rights of audience in the FPC must complete the open court rights of audience qualification.

QUALIFICATION Competencies	Learning Outcomes	Supporting Experience
<p><b>Stage 1</b></p> <p><b>ENTRY LEVEL</b></p> <p><b>COMPETENCY CRITERIA:</b></p> <p>In order to apply for the rights of audience qualification the applicant must meet the criteria for Family Litigation Rights and will have relevant advocacy experience (on the determination of the Admissions and Licensing Committee) in the 2 years immediately preceding their application</p>	<p>The applicant will be able to demonstrate</p> <ul style="list-style-type: none"> <li>• 2 years advocacy experience of an appropriate standard of advocacy expected in the courts for which they are seeking rights of audience</li> <li>• Analysis, evaluation and critical judgement</li> <li>• Autonomy and ability to learn</li> </ul>	<p>In relation to the 2 years preceding the application, the applicant must give, by way of statement, the following information:</p> <ul style="list-style-type: none"> <li>• A general description of the advocacy, trial preparation and trial involvement carried out</li> <li>• A breakdown of the proportion or number of cases which have concluded at trial or been prepared for trial and the stage when the cases were concluded if before trial.</li> <li>• A description of the applicant's typical caseload</li> <li>• A description of the range and nature of advocacy experience including observed advocacy.</li> </ul> <p>The applicant must also submit a portfolio of cases based on the caseload in which they have been involved (stating their level of involvement) which demonstrates their advocacy experience in compliance with the competence criteria set out below. The portfolio requirements are set out in the <b>Portfolio Guidelines</b>. The applicant will be expected to be able to demonstrate through their portfolios that they can:</p> <ul style="list-style-type: none"> <li>• Recognise and rank items and issues in terms of relevance and importance</li> <li>• Integrate information and materials from a variety of different sources</li> <li>• Undertake the analysis of factual information in a logical and coherent way</li> </ul>

QUALIFICATION Competencies	Learning Outcomes	Supporting Experience
<p><b>QUALIFICATION CRITERIA</b></p> <p><b>Stage 2</b></p> <p><b>FOR ALL APPLICANTS</b></p> <p><b>Case analysis and theory</b></p>	<p><b>Stage 2</b></p> <p>The applicant must be able to demonstrate:</p> <ul style="list-style-type: none"> <li>• An appropriate level of experience of case analysis, critical judgment and evaluation</li> </ul>	<ul style="list-style-type: none"> <li>• Make critical judgments of the merits of particular arguments</li> <li>• Present and make a reasoned choice between alternative solutions.</li> </ul> <p>An applicant will be expected to be able to demonstrate through their portfolio that they can:</p> <ul style="list-style-type: none"> <li>• Act independently in planning, preparing and undertaking tasks in the above areas of law</li> <li>• Undertake independent research in the above areas of law using standard legal information sources</li> <li>• Reflect on their learning and make constructive use of feedback.</li> </ul> <p>This can be evidenced by the applicant demonstrating the ability to:</p> <ul style="list-style-type: none"> <li>• Identify the relevant factual, legal and evidential issues in a given case</li> <li>• Identify the evidence available to both parties to prove these issues</li> <li>• Identify the strengths and weaknesses of a case</li> <li>• Understand the relevant law in context</li> <li>• Prepare a case theory that is both succinct and persuasive</li> <li>• Prepare a case theory that observes the rules of professional conduct.</li> <li>• Understand the importance of preparation and effective ways to undertake this</li> <li>• Identify the client's goals</li> <li>• Analyse the relevant factual issues</li> <li>• Understand the legal and evidential context in which</li> </ul>



<b>QUALIFICATION Competencies</b>	<b>Learning Outcomes</b>	<b>Supporting Experience</b>
<p><b>Judges Room Advocacy</b></p>	<ul style="list-style-type: none"> <li>An appropriate level of experience of judge's room advocacy</li> </ul>	<p>these factual issues arise and how they relate to each other</p> <ul style="list-style-type: none"> <li>Summarise the strengths and weaknesses of each party's case</li> <li>Develop an effective case presentation strategy.</li> <li>Outline the relevant facts in a clear, effective format</li> <li>Understand and use the English language proficiently in relation to legal issues.</li> <li>Present a sustained argument in a way which is comprehensible to others</li> <li>Prepare and present a coherent submission to the court based upon relevant facts, general principles and legal authority in a structured, concise and persuasive manner in a practical setting in relation to a without notice application</li> <li>Understand and appreciate the relevant communication skills and techniques used by an advocate.</li> </ul>
<p><b>Skeleton Arguments</b></p>	<ul style="list-style-type: none"> <li>The ability to draft a skeleton argument</li> </ul>	<ul style="list-style-type: none"> <li>Draft a skeleton argument and consent order</li> <li>Identify appropriately the relevant chronology and issues</li> <li>Make effective submissions on these issues by use of numbered paragraphs; citing relevant authorities; arguments for the case and use of appropriate factual and legal arguments.</li> </ul>
<p><b>Professional Conduct</b></p>	<ul style="list-style-type: none"> <li>knowledge and understanding of the conduct rules as they apply in family proceedings</li> </ul>	<ul style="list-style-type: none"> <li>How to deal appropriately with client care and ethical issues</li> <li>The fundamental duties to the court and the administration of justice</li> <li>Making an appropriate decision to appear and represent the client at court</li> <li>When it would be appropriate to cease to act as an advocate.</li> </ul>

<b>QUALIFICATION Competencies</b>	<b>Learning Outcomes</b>	<b>Supporting Experience</b>
<p><b>FOR APPLICANTS SEEKING OPEN COURT RIGHTS OF AUDIENCE</b></p> <p><b>Trial Advocacy</b></p>	<ul style="list-style-type: none"> <li>An appropriate level of trial advocacy</li> </ul>	<ul style="list-style-type: none"> <li>Understand in particular the purpose, technique and tactics of opening speeches; examination-in-chief; cross-examination; re-examination and closing speeches to adduce, rebut and clarify evidence</li> <li>Undertake competently an opening speech, examination-in-chief, cross-examination, re-examination and a closing speech</li> <li>Deal appropriately with client care and ethical issues</li> <li>Demonstrate an understanding of the ethics, etiquette and convention of advocacy.</li> </ul>
<p><b>Evidence</b></p>	<ul style="list-style-type: none"> <li>knowledge and understanding of the rules of evidence as they apply in family proceedings</li> </ul>	<ul style="list-style-type: none"> <li>The incidence of the burden and standard of proof</li> <li>The rules relating to competence and compellability of witnesses</li> <li>The significance and admissibility of circumstantial evidence</li> <li>The ways in which evidence may be adduced.</li> <li>The rules relating to admissibility and weight to be attached to prior consistent statements and to impugning the testimony of witnesses by their prior inconsistent statements</li> <li>The rules relating to finality to collateral issues</li> <li>The rules relating to the admissibility of hearsay evidence</li> <li>The rules relating to expert evidence</li> <li>The relevance of human rights issues.</li> </ul>

**ASSESSMENT CRITERIA AND FRAMEWORK DOCUMENT  
FOR ADVOCACY SKILLS COURSES**

**GENERAL**

**Assessment Criteria**

The competence of candidates will be assessed in accordance with the criteria set out in this appendix by means of case studies relating to a trial or an application.

**Assessment Standard**

The standard of competence for each assessment will be 50% and candidates will be required to meet this standard of attainment for each formal assessment to attain an overall level of competence. This requirement only applies to formal assessments and candidates will not be required to reach this standard on the formative assessments which will take place at various stages during the Advocacy Skills Course. Course providers will decide which assessments will be formally assessed.

The Assessment Organisation(s) will be required to develop their own mark and weighting bands for each element of the formal assessment criteria to be approved by ILEX. Assessors should have the flexibility to mark in between the weighting bands devised by the Assessment Organisation(s).

Assessors will retain a general discretion to determine overall competence even if a candidate reaches the appropriate mark of 50% in each formal assessment. The following is a non-exhaustive list of examples that may affect the assessor's overall assessment of competence:

- errors relating to gross professional misconduct;
- fundamental errors of law / evidence / procedure;
- making a majority of submissions from a prepared script;
- engaging in inappropriate court room behaviour.

**Written Test**

The standard that candidates seeking open court rights of audience will be required to achieve in evidence will be comparable to the standard required generally. However, the marks required to achieve a comparable standard may be higher than 50% where a multiple choice question format is adopted. The nature of the written test and the proposed standard of competence will be considered by the Admissions and Licensing Committee.

**Resubmissions**

A candidate who is assessed as being not yet competent in one or more of the formal assessments will be allowed one further opportunity to achieve the required standard of competence in relation to that assessment(s). If he or she is successful they may be awarded a pass mark. If they are still assessed as being not yet competent on this

resubmission then they will be required to undertake all the assessments again before they can achieve the appropriate level of competence.

A candidate who is unable to complete one or more of the formal assessments owing to ill health or other such cause, beyond their control, will be allowed a further opportunity to achieve the required standard of competence.

### **Professional Conduct**

Case studies will enable candidates to be assessed on their ability to recognise and deal with issues of professional and ethical conduct in the course of advocacy in accordance with the Rights of Audience Conduct Rules. The conduct issues to be assessed may include:

- ◆ The overriding duty to the court.
- ◆ The duty not to engage in conduct which is dishonest/discreditable, prejudicial to the administration of justice or likely to diminish public confidence in the administration of justice or the legal profession.
- ◆ The duty to the client to promote and protect their interests, to act in good faith towards them and to avoid or deal with any conflict.
- ◆ The interests of the client and the advocate, his employer and any other party to the proceedings.
- ◆ The duty not to discriminate against, nor treat less favourably any person, including the client, on the grounds of their age, race, colour, ethnic or national origin, sex, sexual orientation, religion or political persuasion of the client.
- ◆ The duty of confidentiality in relation to a client's affairs and misuse of confidential information.
- ◆ The duties owed to other advocates in court.

### **ASSESSMENT CRITERIA FOR THE CIVIL PROCEEDINGS CERTIFICATE**

In order to pass the advocacy assessments for the Civil Proceedings Certificate a candidate seeking chambers rights of audience must demonstrate competence in the following assessment categories:

- (1) Case Analysis & Theory or Skeleton Arguments
- (2) Interim Applications.

In order to pass the advocacy assessments for the Civil Proceedings Certificate a candidate seeking open court rights of audience must demonstrate competence in one assessment from each of the following assessment categories:

- (1) Opening speech or closing speech
- (2) Examination in Chief, Cross Examination or Exchanged witness statement/ sworn statement and re-examination
- (3) Legal submission

A candidate who completes the chambers and open court rights of audience course at the same time must demonstrate competence in one assessment from each of the following assessment categories:

- (1) Case analysis and theory or skeleton arguments
- (2) Opening speech or closing speech
- (3) Examination in Chief, Cross Examination or Exchanged witness statement/ sworn statement and re-examination
- (4) Interim application / legal submission

**ANALYSIS & THEORY**

It will normally be expected that this element will be assessed by a written assessment where candidates are required to produce a case theory based on a case study and / or to make use of such a case theory during an interim application, a piece of cross-examination or a closing speech.

<b>ACTIVITY</b>	<b>CRITERIA</b>
CASE ANALYSIS	Factual issues <ul style="list-style-type: none"> <li>▪ 3 best facts</li> <li>▪ 3 worst facts</li> </ul> Available evidence to prove factual issues Legal issues Relevant law
CASE THEORY	<ul style="list-style-type: none"> <li>▪ Succinct</li> <li>▪ Provable</li> </ul>

**SKELETON ARGUMENTS**

It will normally be expected that this element will be assessed by a written assessment where candidates are required to produce a skeleton argument based on a case study.

<b>ACTIVITY</b>	<b>CRITERIA</b>
STRUCTURE	Identifies appropriately: <ul style="list-style-type: none"> <li>▪ Parties</li> <li>▪ Chronology</li> <li>▪ List of issues</li> <li>▪ Relevant facts</li> <li>▪ Relevant law</li> </ul>
SUBMISSIONS	States and develops a sound argument in an effective and persuasive manner on the above issues
GENERAL	<ul style="list-style-type: none"> <li>▪ Divided into numbered paragraphs</li> <li>▪ Paged consecutively</li> <li>▪ Cites main authorities relied on</li> <li>▪ Avoids formality</li> <li>▪ Appropriate use of abbreviations</li> <li>▪ Use of clear, grammatical English</li> </ul>

**INTERIM APPLICATION / LEGAL SUBMISSIONS**

It will normally be expected that this element will be assessed by an oral assessment where candidates are required to represent a party in an interim application or to make legal submissions to a court in the context of a case study scenario.

<b>ACTIVITY</b>	<b>CRITERIA</b>
PREPARATION	<ul style="list-style-type: none"> <li>▪ Undertake case analysis</li> <li>▪ Perform appropriate legal research</li> </ul>
CONTENT	<p>The application / submission must:</p> <ul style="list-style-type: none"> <li>▪ Be appropriate and relevant to context</li> <li>▪ Be legally, evidentially and factually accurate</li> <li>▪ Have appropriate reference to legal sources</li> <li>▪ Use documents where necessary</li> <li>▪ Observe the rules of professional conduct</li> </ul>
STRUCTURE	<ul style="list-style-type: none"> <li>▪ Clear and logical</li> <li>▪ Respond to the judge’s questions</li> <li>▪ Respond to points raised by the other side</li> </ul>
DELIVERY	<ul style="list-style-type: none"> <li>▪ Clear and fluent</li> <li>▪ Appropriate language, pace, volume and mannerisms</li> <li>▪ Refer to documents when required</li> </ul>
EFFECTIVE AND PERSUASIVE	The extent to which the application / response influences the tribunal to find for the applicant / respondent

**OPENING SPEECH**

It will normally be expected that this element will be assessed by an oral assessment where candidates are required to represent a party in a contested trial in the context of one or more case study scenarios.

<b>ACTIVITY</b>	<b>CRITERIA</b>
INTRODUCTION	Appropriate “in” line introducing self, opponent and nature of case
DOCUMENTS	Check court has relevant documents and the opportunity to read them
SUMMARISES DISPUTE	<ul style="list-style-type: none"> <li>▪ Background</li> <li>▪ Identifies legal and factual issues in dispute</li> </ul>
EVIDENCE	Introduces evidence by reference to the witnesses intend to call and matters contained in agreed documents
LAW	<ul style="list-style-type: none"> <li>▪ Summarises legal principles involved</li> <li>▪ Indicates areas where a ruling will be necessary</li> </ul>
CONCLUSION	Appropriate “out” line
GENERAL	<ul style="list-style-type: none"> <li>▪ Speaks effectively (including not reading from a prepared text)</li> <li>▪ Maintains suitable court room demeanour</li> <li>▪ Avoids overstating case</li> <li>▪ Deals appropriately with any conduct issues</li> </ul>

**EXCHANGED WITNESS STATEMENT / SWORN STATEMENT & RE-EXAMINATION**

It will normally be expected that this element will be assessed by an oral assessment where candidates are required to represent a party in a contested trial in the context of one or more case study scenarios.

<b>ACTIVITY</b>	<b>CRITERIA</b>
EXAMINATION-IN-CHIEF	<ul style="list-style-type: none"> <li>▪ Name, address, occupation</li> <li>▪ Directions</li> <li>▪ Identifies witness statement/ sworn statement</li> <li>▪ Identifies signature</li> <li>▪ Confirms date signed</li> <li>▪ Elicits further evidence with an appropriate range of non-leading questions</li> <li>▪ Confirms truth to the best of knowledge and belief</li> <li>▪ “Out” line (with appropriate directions to remain for xx)</li> </ul>
RE-EXAMINATION	<ul style="list-style-type: none"> <li>▪ Was it necessary to re-examine?</li> <li>▪ No inappropriate leading questions</li> <li>▪ Only deals with issues already raised</li> <li>▪ “Out” line</li> </ul>
GENERAL	<ul style="list-style-type: none"> <li>▪ Speaks effectively (including not reading from a prepared text)</li> <li>▪ Maintains suitable court room demeanour</li> <li>▪ Deals appropriately with any conduct issues</li> </ul>

**CROSS-EXAMINATION**

It will normally be expected that this element will be assessed by an oral assessment where candidates are required to represent a party in a contested trial in the context of one or more case study scenarios.

<b>ACTIVITY</b>	<b>CRITERIA</b>
TECHNIQUES	<ul style="list-style-type: none"> <li>▪ Leading questions to control witness</li> <li>▪ Short questions that witness understands</li> <li>▪ Asks one question at a time</li> <li>▪ Listens to witnesses answers and makes appropriate notes</li> <li>▪ Avoids: Making statements; asking too many questions; misquoting witness; echoing witness’ reply inappropriately</li> </ul>



OBJECTIVES	Does the advocate achieve the following objectives where appropriate: <ul style="list-style-type: none"> <li>▪ Obtains favourable information from the witness</li> <li>▪ Demonstrates that the witness is wrong (mistaken/lying)</li> <li>▪ Undermines the witnesses' credibility</li> <li>▪ Puts the client's case to the witness</li> </ul>
GENERAL	<ul style="list-style-type: none"> <li>▪ Appropriate range of leading questions</li> <li>▪ Speaks effectively (including not reading from a prepared text)</li> <li>▪ Maintains suitable court room demeanour</li> <li>▪ Deals appropriately with any conduct issues</li> </ul>

**CLOSING SPEECH**

It will normally be expected that this element will be assessed by an oral assessment where candidates are required to represent a party in a contested trial in the context of one or more case study scenarios.

<b>ACTIVITY</b>	<b>CRITERIA</b>
ISSUES	Identifies the outstanding issues
EVIDENCE	Summarises the evidence appropriately by highlighting the points which <ul style="list-style-type: none"> <li>▪ Strengthen own case</li> <li>▪ Weaken opponent's case</li> </ul> Deals appropriately with unfavourable evidence Deals appropriately with burden of proof
LAW	Makes appropriate submissions on points of law (with copies of authorities if necessary)
CONCLUSION	Appropriate "out" line
GENERAL	<ul style="list-style-type: none"> <li>▪ Speaks effectively (including not reading from a prepared text)</li> <li>▪ Maintains suitable court room demeanour</li> <li>▪ Avoids giving evidence/introducing new matters</li> <li>▪ Deals with any conduct issues</li> </ul>

## **EVIDENCE**

Candidates seeking open court rights of audience will be required to sit an examination on the rules and principles of evidence as they operate in civil proceedings. The examination will be in the format of a written test or multiple choice questions.

Candidates must achieve a mark 50% or above to be assessed as competent in this examination.

The examination will assess candidates' knowledge and understanding on a number of the following rules and principles of the law of evidence as they apply to civil proceedings:

- The operation of the burden and standard of proof.
- Competence and compellability of witnesses.
- The admissibility and significance of circumstantial evidence.
- The court's power to control evidence.
- Expert opinion evidence.
- Examination-in-chief and re-examination of witnesses called by that party.
- Admissibility and relevance of previous consistent and inconsistent statements made by witnesses.
- Cross-examination of witnesses called for the other party.
- Finality to collateral issues.
- Admissibility and weight to be given to hearsay evidence.
- Improperly obtained evidence.
- Character and disposition in relation to a party or a witness to the proceedings.
- Privilege and public interest immunity.
- The relevance of human rights issues in civil proceedings.

### **ASSESSMENT CRITERIA FOR THE FAMILY PROCEEDINGS CERTIFICATE**

In order to pass the advocacy assessments for the Family Proceedings Certificate a candidate seeking chambers rights of audience must demonstrate competence in the following assessment categories:

- (1) Case Analysis & Theory or Skeleton Arguments
- (2) Interim Application

In order to pass the advocacy assessments for the Family Proceedings Certificate a candidate seeking open court rights of audience must demonstrate competence in one assessment from each of the following assessment categories:

- (1) Opening speech or closing speech
- (2) Examination in Chief, Cross Examination or Exchanged witness statement/ sworn statement and re-examination
- (3) Legal submission

A candidate who completes the chambers and open court rights of audience course at the same time must demonstrate competence in one assessment from each of the following assessment categories:

- (1) Case analysis and theory or skeleton arguments
- (2) Opening speech or closing speech
- (3) Examination in Chief, Cross Examination or Exchanged witness statement/ sworn statement and re-examination
- (4) Interim application / legal submission

**CASE ANALYSIS & THEORY**

It will normally be expected that this element will be assessed by a written assessment where candidates are required to produce a case theory based on a case study and / or to make use of such a case theory during an interim application, a piece of cross-examination or a closing speech.

<b>ACTIVITY</b>	<b>CRITERIA</b>
CASE ANALYSIS	Factual issues <ul style="list-style-type: none"> <li>▪ 3 best facts</li> <li>▪ 3 worst facts</li> </ul> Available evidence to prove factual issues Legal issues Relevant law
CASE THEORY	<ul style="list-style-type: none"> <li>▪ Succinct</li> <li>▪ Provable</li> </ul>

**SKELETON ARGUMENTS**

It will normally be expected that this element will be assessed by a written assessment where candidates are required to produce a skeleton argument based on a case study.

<b>ACTIVITY</b>	<b>CRITERIA</b>
STRUCTURE	Identifies appropriately: <ul style="list-style-type: none"> <li>▪ Parties</li> <li>▪ Chronology</li> <li>▪ List of issues</li> <li>▪ Relevant facts</li> <li>▪ Relevant law</li> </ul>
SUBMISSIONS	States and develops a sound argument in an effective and persuasive manner on the above issues
GENERAL	<ul style="list-style-type: none"> <li>▪ Divided into numbered paragraphs</li> <li>▪ Paged consecutively</li> <li>▪ Cites main authorities relied on</li> <li>▪ Avoids formality</li> <li>▪ Appropriate use of abbreviations</li> <li>▪ Use of clear, grammatical English</li> </ul>

**WITHOUT NOTICE APPLICATION / LEGAL SUBMISSIONS**

It will normally be expected that this element will be assessed by an oral assessment where candidates are required to represent a party in an interim application or to make legal submissions to a court in the context of a case study scenario.

<b>ACTIVITY</b>	<b>CRITERIA</b>
PREPARATION	<ul style="list-style-type: none"> <li>▪ Undertake case analysis</li> <li>▪ Perform appropriate legal research</li> </ul>
CONTENT	<p>The application / submission must:</p> <ul style="list-style-type: none"> <li>▪ Be appropriate and relevant to context</li> <li>▪ Be legally, evidentially and factually accurate</li> <li>▪ Have appropriate reference to legal sources</li> <li>▪ Use documents where necessary</li> <li>▪ Observe the rules of professional conduct</li> </ul>
STRUCTURE	<ul style="list-style-type: none"> <li>▪ Clear and logical</li> <li>▪ Respond to the judge’s questions</li> <li>▪ Respond to points raised by the other side</li> </ul>
DELIVERY	<ul style="list-style-type: none"> <li>▪ Clear and fluent</li> <li>▪ Appropriate language, pace, volume and mannerisms</li> <li>▪ Refer to documents when required</li> </ul>
EFFECTIVE AND PERSUASIVE	The extent to which the application / response influences the tribunal to find for the applicant / respondent

**OPENING SPEECH**

It will normally be expected that this element will be assessed by an oral assessment where candidates are required to represent a party in a contested trial in the context of one or more case study scenarios.

<b>ACTIVITY</b>	<b>CRITERIA</b>
INTRODUCTION	Appropriate “in” line introducing self, opponent and nature of case
DOCUMENTS	Check court has relevant documents and the opportunity to read them
SUMMARISES DISPUTE	<ul style="list-style-type: none"> <li>▪ Background</li> <li>▪ Identifies legal and factual issues in dispute</li> </ul>
EVIDENCE	Introduces evidence by reference to the witnesses intend to call and matters contained in agreed documents
LAW	<ul style="list-style-type: none"> <li>▪ Summarises legal principles involved</li> <li>▪ Indicates areas where a ruling will be necessary</li> </ul>
CONCLUSION	Appropriate “out” line
GENERAL	<ul style="list-style-type: none"> <li>▪ Speaks effectively (including not reading from a prepared text)</li> <li>▪ Maintains suitable court room demeanour</li> <li>▪ Avoids overstating case</li> <li>▪ Deals appropriately with any conduct issues</li> </ul>

**EXCHANGED WITNESS STATEMENT / SWORN STATEMENT & RE-EXAMINATION**

It will normally be expected that this element will be assessed by an oral assessment where candidates are required to represent a party in a contested trial in the context of one or more case study scenarios.

<b>ACTIVITY</b>	<b>CRITERIA</b>
EXAMINATION-IN-CHIEF	<ul style="list-style-type: none"> <li>▪ Name, address, occupation</li> <li>▪ Directions</li> <li>▪ Identifies witness statement, Form E or sworn statement</li> <li>▪ Identifies signature</li> <li>▪ Confirms date signed</li> <li>▪ Elicits further evidence with an appropriate range of non-leading questions</li> <li>▪ Confirms truth to the best of knowledge and belief</li> <li>▪ “Out” line (with appropriate directions to remain for xx)</li> </ul>
RE-EXAMINATION	<ul style="list-style-type: none"> <li>▪ Was it necessary to re-examine?</li> <li>▪ No inappropriate leading questions</li> <li>▪ Only deals with issues already raised</li> <li>▪ “Out” line</li> </ul>
GENERAL	<ul style="list-style-type: none"> <li>▪ Speaks effectively (including not reading from a prepared text)</li> <li>▪ Maintains suitable court room demeanour</li> <li>▪ Deals appropriately with any conduct issues</li> </ul>

**CROSS-EXAMINATION**

It will normally be expected that this element will be assessed by an oral assessment where candidates are required to represent a party in a contested trial in the context of one or more case study scenarios.

<b>ACTIVITY</b>	<b>CRITERIA</b>
TECHNIQUES	<ul style="list-style-type: none"> <li>▪ Leading questions to control witness</li> <li>▪ Short questions that witness understands</li> <li>▪ Asks one question at a time</li> <li>▪ Listens to witnesses answers and makes appropriate notes</li> <li>▪ Avoids: Making statements; asking too many questions; misquoting witness; echoing witness’ reply inappropriately</li> </ul>
OBJECTIVES	<p>Does the advocate achieve the following objectives where appropriate:</p> <ul style="list-style-type: none"> <li>▪ Obtains favourable information from the witness</li> </ul>

GENERAL	<ul style="list-style-type: none"> <li>▪ Appropriate range of leading questions</li> <li>▪ Speaks effectively (including not reading from a prepared text)</li> <li>▪ Maintains suitable court room demeanour</li> <li>▪ Deals appropriately with any conduct issues</li> </ul>
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**CLOSING SPEECH**

It will normally be expected that this element will be assessed by an oral assessment where candidates are required to represent a party in a contested trial in the context of one or more case study scenarios.

<b>ACTIVITY</b>	<b>CRITERIA</b>
ISSUES	Identifies the outstanding issues
EVIDENCE	Summarises the evidence appropriately by highlighting the points which <ul style="list-style-type: none"> <li>▪ Strengthen own case</li> <li>▪ Weaken opponent’s case</li> </ul> Deals appropriately with unfavourable evidence Deals appropriately with burden of proof
LAW	Makes appropriate submissions on points of law (with copies of authorities if necessary)
CONCLUSION	Appropriate “out” line
GENERAL	<ul style="list-style-type: none"> <li>▪ Speaks effectively (including not reading from a prepared text)</li> <li>▪ Maintains suitable court room demeanour</li> <li>▪ Avoids giving evidence/introducing new matters</li> <li>▪ Deals with any conduct issues</li> </ul>

## **EVIDENCE**

Candidates seeking open court rights of audience will be required to sit an examination on the rules and principles of evidence as they operate in family proceedings. The examination will be in the format of a written test or multiple choice questions.

Candidates must achieve a mark 50% or above to be assessed as competent in this examination.

The examination will assess candidates' knowledge and understanding on a number of the following rules and principles of the law of evidence as they apply to family proceedings:

- The operation of the burden and standard of proof.
- The court's power to control evidence.
- Competence and compellability of witnesses.
- Expert opinion evidence.
- Examination-in-chief and re-examination of witnesses called by that party.
- Previous consistent and inconsistent statements made by witnesses.
- Cross-examination of witnesses called for the other party.
- Finality to collateral issues.
- Admissibility and weight to be given to hearsay evidence.
- Improperly obtained evidence.
- Character and disposition in relation to a party or a witness to the proceedings.
- Privilege and public interest immunity.
- The relevance of human rights issues in family proceedings.



**ASSESSMENT CRITERIA AND FRAMEWORK FOR THE CRIMINAL LITIGATION SKILLS COURSE**

In order to pass the formal assessments for the Criminal Litigation Skills Course a candidate must demonstrate competence in the following criteria for those activities in which he is assessed:

**ELEMENT 1: CLIENT CARE**

It will normally be expected that Element 1 will be assessed by an oral assessment of an interview with a client and a witness followed by the drafting of a letter to the client and an attendance note of the interview with the client.

**INTERVIEWING, ADVISING & COMMUNICATING**

<b>ACTIVITY</b>	<b>CRITERIA</b>
INTERVIEWING THE CLIENT	<ul style="list-style-type: none"> <li>▪ Appropriate preparation.</li> <li>▪ Meet &amp; greet client appropriately.</li> <li>▪ Obtain client’s instructions by appropriate use of listening, questioning &amp; feedback techniques.</li> <li>▪ Identify any “hidden agendas”.</li> <li>▪ Maintain rapport with client.</li> <li>▪ Deal appropriately with any diversity issues.</li> <li>▪ Close interview appropriately.</li> <li>▪ Keep an accurate record of the interview.</li> <li>▪ Work within the time constraints that operate in practice.</li> </ul>
ADVISING	<ul style="list-style-type: none"> <li>▪ Accurately identify the relevant issues arising in the case.</li> <li>▪ Accurately identify what it is the client seeks to achieve.</li> <li>▪ Provide clear advice on all relevant matters arising.</li> <li>▪ Accurately summarise the available options open to the client to ensure the client is able to make an informed decision.</li> <li>▪ Accurately explain the relevant procedure to be followed including any steps the criminal litigator will take and any the client will need to take.</li> <li>▪ Provide clear advice on available funding options and if applicable, the firm’s charging rates.</li> <li>▪ Provide clear advice on the next steps to be taken by the criminal litigator and the client.</li> <li>▪ Deal appropriately with any diversity issues.</li> </ul>
COMMUNICATING	<ul style="list-style-type: none"> <li>▪ Obtain all relevant information from the client.</li> <li>▪ Advise the client of any significant developments in the case.</li> <li>▪ Provide appropriate advice on options, procedures and strategies as the case develops.</li> <li>▪ Explain the advantages and disadvantages of each available option.</li> </ul>

INTERVIEWING WITNESSES	<ul style="list-style-type: none"> <li>▪ Understand the ethical rules relating to interviewing witnesses.</li> <li>▪ Prepare a statement of proof so that it may be admitted in evidence if the witness is unable to testify.</li> <li>▪ Understand how a witness’s evidence may be admitted in their absence.</li> <li>▪ Understand the special measure provisions available for vulnerable and / or intimidated witnesses and how to apply for such measures.</li> <li>▪ Exercise judgement in selecting the appropriate location in which to conduct the interview and whether this task can be appropriately delegated.</li> </ul>
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**ELEMENT 2: FUNDING**

It will normally be expected that Element 2 will be assessed by the drafting of a letter to a client and the completion of the necessary documentation relating to funding.

**FUNDING, COSTS & DOCUMENTATION**

<b>ACTIVITY</b>	<b>CRITERIA</b>
FUNDING	<ul style="list-style-type: none"> <li>▪ Advise the client clearly about their potential eligibility for public funding;</li> <li>▪ Explain what supporting documentation will be needed to obtain publicly funded representation;</li> <li>▪ Advise the client on the financial and other implications of obtaining publicly funded representation;</li> <li>▪ Provide appropriate information to privately funding clients regarding the fees which will be charged.</li> </ul>
DOCUMENTATION	<p>Draft the following:</p> <ul style="list-style-type: none"> <li>▪ client care letters;</li> <li>▪ complete the relevant Criminal Defence Solicitor Forms (CDS) required by the Legal Services Commission (LSC) in order to obtain public funding;</li> <li>▪ complete the relevant CDS forms required by the LSC in order to obtain authority to instruct experts when this is necessary.</li> </ul> <p>Prepare the following:</p> <ul style="list-style-type: none"> <li>▪ estimates and schedules of costs for privately funded clients.</li> </ul>

**ELEMENT 3: CONDUCT & ETHICS**

It will normally be expected that Element 3 will be assessed by the use of multiple choice questions or a case study. This element is also a pervasive topic and so may appear in any of the assessments.

<i><b>ACTIVITY</b></i>	<i><b>CRITERIA</b></i>
PROFESSIONAL OBLIGATIONS	Demonstrate an understanding of the professional obligations in relation to: <ul style="list-style-type: none"> <li>▪ the court;</li> <li>▪ the client;</li> <li>▪ witnesses;</li> <li>▪ other lawyers;</li> <li>▪ the public;</li> <li>▪ money laundering legislation.</li> </ul>
CONFLICT	Identify and deal appropriately with conflicts arising between: <ul style="list-style-type: none"> <li>▪ the criminal litigator and the client;</li> <li>▪ clients;</li> <li>▪ the criminal litigator and the duty owed to the court or to the administration of justice generally.</li> </ul>
WITHDRAWAL	Demonstrate an understanding of: <ul style="list-style-type: none"> <li>▪ when to withdraw from a case;</li> <li>▪ the appropriate steps to take when withdrawing from a case.</li> </ul>
CONFIDENTIALITY & PRIVILEGE	<ul style="list-style-type: none"> <li>▪ Identify and distinguish between legal advice privilege, Criminal Litigation privilege and confidential information.</li> <li>▪ Apply the relevant law and practice rules relating to privilege and confidence.</li> <li>▪ Identify when confidential and privileged information may or must be disclosed and to whom.</li> </ul>
COMPLAINTS & NEGLIGENCE	Describe: <ul style="list-style-type: none"> <li>▪ the complaints procedure operated by the criminal litigator’s professional body;</li> <li>▪ what actions should be taken when a complaint or allegation of negligence is made;</li> <li>▪ the procedures and processes that can be adopted to reduce the risk of complaints or allegations of negligence being made;</li> <li>▪ the consequences of a complaint or allegation of negligence being upheld.</li> </ul>

**ELEMENT 4: MANAGING CRIMINAL LITIGATION WORK**

It will normally be expected that Element 4 will be assessed by way of a written assessment which could consist of one or more of the following methods of assessment: drafting a brief to counsel; drafting a letter to the client; drafting instructions to an expert; drafting correspondence to the relevant prosecuting body, the court or to the legal adviser of a co-defendant; drafting relevant documentation; questions based on a case study; multiple choice questions.

**CRIMINAL LITIGATION MANAGEMENT SKILLS**

<b>ACTIVITY</b>	<b>CRITERIA</b>
CASE ANALYSIS	<p>Identify:</p> <ul style="list-style-type: none"> <li>▪ the key points the prosecution must be able to prove in order to secure a conviction;</li> <li>▪ what available evidence the prosecution has to prove these points;</li> <li>▪ what defence, if any, the client is raising;</li> <li>▪ what evidence is available in relation to this defence;</li> <li>▪ strengths and weaknesses in the case;</li> <li>▪ gaps in the available evidence;</li> <li>▪ a realistic case theory;</li> <li>▪ a case theory that will meet the client’s objectives and expectations;</li> <li>▪ a strategy for the case.</li> </ul>
RESEARCH SKILLS	<p>Undertake appropriate research to ensure that a case is thoroughly prepared by:</p> <ul style="list-style-type: none"> <li>▪ accessing the relevant substantive law;</li> <li>▪ accessing the relevant practice and procedural rules;</li> <li>▪ accurately applying the relevant substantive law and procedural rules to a given case.</li> </ul>
ASSEMBLY SKILLS	<p>In accordance with the case analysis:</p> <ul style="list-style-type: none"> <li>▪ identify the relevant law and procedural rules;</li> <li>▪ collect all the relevant evidence;</li> <li>▪ summarise the relevant law, procedure and evidence succinctly and coherently;</li> <li>▪ locate and interview potential witnesses;</li> <li>▪ locate, make proper use of and instruct expert witnesses in accordance with the relevant procedural rules.</li> </ul>
INSTRUCTING ADVOCATES	<ul style="list-style-type: none"> <li>▪ Identify when specialist legal opinion is needed.</li> <li>▪ Identify when it is necessary to instruct an advocate.</li> <li>▪ Locate an appropriate advocate.</li> <li>▪ Agree an appropriate fee basis for work to be carried out by the advocate where the client is funding the case privately.</li> <li>▪ Draft an appropriate brief to the advocate.</li> <li>▪ Liaise appropriately between the advocate and the client.</li> <li>▪ Understand the legal and professional obligations of the advocate.</li> </ul>
INSTRUCTING EXPERTS	<p>Demonstrate:</p> <ul style="list-style-type: none"> <li>▪ an understanding of the nature and functions of different types of expert witnesses;</li> <li>▪ when it may be appropriate to instruct an expert;</li> <li>▪ how to locate an appropriately qualified expert through available registers and databases;</li> <li>▪ sufficient knowledge of the relevant procedural rules so that the expert can be instructed properly;</li> <li>▪ sufficient knowledge of the substantive law relating to expert</li> </ul>

	evidence and how such evidence may be admitted in evidence and also appropriately challenged.
COMMUNICATING WITH THE PROSECUTION, DEFENDANTS AND THE COURT	<p>Demonstrate an ability to correspond or otherwise communicate with the:</p> <ul style="list-style-type: none"> <li>▪ relevant prosecuting agency as the case progresses in relation to the wide variety of legal, procedural and evidential issues that may arise during the case;</li> <li>▪ legal advisers of a co-defendant in relation to any issues that arise between the defendants;</li> <li>▪ court as the case progresses in relation to the wide variety of legal, procedural and evidential issues that may arise during the case.</li> </ul>

#### Annex 4 - INTRODUCTION – PRACTICE MANAGEMENT

The qualification criteria, learning outcomes and evidence of competency stated in this schedule set out:

- the level of competency, knowledge and understanding required to run a business which provides a legal service, having consideration for rules and regulations, both professional and legislative
- the elements required to evidence that level of competency, knowledge and understanding.
- the level of competency required in the relevant skills for this area of practice –what it means to be part of a profession, CILEx regulations, management of a legal entity and business acumen
- the elements required to evidence the required level of competence for these relevant skills
- a statement of the study and work-based experience that demonstrates that an applicant has attained the required level of competence, knowledge and understanding in all the required elements.

Certification of practice management will ensure that the applicant has:

- met the application requirements
- an appropriate level of suitability to manage a practice
- an appropriate level of knowledge and appreciation of the key features both financial and non-financial of practice management to include the ability to deal with risk, have a strategy, make informed business decisions, manage and motivate others, the benefits of IT and the external and internal forces which will ultimately will affect an organisation’s ability to succeed
- the ability and skill to advance the organisation through the creation of a strategy appropriate to the market sector the organisation wishes to target, to include the use of a business plan, marketing plan, corporate social responsibility policy and other appropriate associated documents which may be needed to support the organisation’s strategy
- the ability and skill to manage a client’s expectations appropriately, not just at the outset of a case, but throughout the life of the retainer relationship
- the ability and skill to read and interpret the firm’s accounts, in addition to any supporting budgets, cash flows, management accounts and ad hoc reports pertaining to the firm’s profitability and financial position
- the ability and skill to perform the tasks required to evaluate the benefits of IT and the need for good project management
- to demonstrate a level of experience, knowledge and understanding of professional conduct and regulation contained in the relevant conduct rules and other law and regulations, including government legislation, and where these may impact and to be able to apply them in context.

<b>Supporting Evidence</b>	<b>Learning Outcome</b>	<b>Supporting Evidence</b>
<p>The applicant will need to provide evidence to:</p> <p>Demonstrate they meet the outcomes set out below by:</p> <ul style="list-style-type: none"> <li>• attendance on a course, <b>or</b></li> <li>• practical experience</li> </ul> <p>The outcomes are split into the following levels:</p> <ul style="list-style-type: none"> <li>• Level 1 - mandatory for all applicants</li> <li>• Level 2a - mandatory for compliance managers</li> <li>• Level 2b - mandatory for compliance manager undertaking practice management</li> <li>• Level 2c - mandatory for compliance manager undertaking accounts management</li> </ul>	<p>An applicant seeking practice rights must demonstrate:</p> <ul style="list-style-type: none"> <li>• Sufficient practical knowledge, understanding, experience and skills – note these are different depending of the role of the applicant</li> </ul>	<p>The applicant will need to provide evidence to:</p> <p>Demonstrate they meet the outcomes set out below by:</p> <ul style="list-style-type: none"> <li>• attendance on a course, <b>or</b></li> <li>• practical experience</li> </ul> <p>The outcomes are split into the following levels:</p> <ul style="list-style-type: none"> <li>• Level 1 - mandatory for all applicants</li> <li>• Level 2a - mandatory for compliance managers</li> <li>• Level 2b - mandatory for compliance manager undertaking practice management</li> <li>• Level 2c - mandatory for compliance manager undertaking accounts management</li> </ul>
<p><b>Element 1</b></p> <p>BEING PART OF A PROFESSION</p>	<p>EXTERNAL INFLUENCES</p> <p><b>Demonstrate knowledge, understanding and application of the current legal market and legal entities which may be created to provide a legal service</b></p>	<p>LEVEL 1:</p> <ul style="list-style-type: none"> <li>• Knowledge and understanding of the types of structure through which a legal entity may be formed</li> <li>• Knowledge and understanding of those able to regulate reserved legal activities</li> <li>• Understanding that the structure and regulation of legal entities and activities may change and be able to identify these changes</li> <li>• Knowledge and understanding of a business plan, taking into account recent and current changes to the legal services market</li> <li>• Knowledge, understanding and ability to comply with a complaints procedure in line with LeO guidelines.</li> </ul> <p>LEVEL 2a:</p> <ul style="list-style-type: none"> <li>• Ability to prepare a business plan, taking into account recent and current changes to the legal services market</li> </ul>

	<p><b>Learning Outcome</b></p> <p>An applicant seeking practice rights must demonstrate:</p> <th data-bbox="199 185 335 1043"> <p><b>Supporting Evidence</b></p> <p>The applicant will need to provide evidence to:</p> <ul style="list-style-type: none"> <li>• Ability to create a complaints procedure in line with LeO guidelines.</li> </ul> </th>	<p><b>Supporting Evidence</b></p> <p>The applicant will need to provide evidence to:</p> <ul style="list-style-type: none"> <li>• Ability to create a complaints procedure in line with LeO guidelines.</li> </ul>
	<p>REGULATION</p> <p><b>Demonstrate knowledge, understanding and application of the relevant conduct rules and other laws and regulation affecting the professional and legal practice</b></p>	<p>LEVEL 1:</p> <ul style="list-style-type: none"> <li>• Knowledge, understanding and application of obligations to the court, the client, other lawyers and barristers, stakeholders, third parties and the general public</li> <li>• Knowledge, understanding and application of the regulations for which an individual is personally responsible</li> <li>• Knowledge, understanding and application of obligations to the client</li> <li>• Knowledge and understanding of how and when a retainer relationship should be terminated</li> <li>• Knowledge and understanding of professional indemnity insurance.</li> </ul> <p>LEVEL 2a:</p> <ul style="list-style-type: none"> <li>• Ability to complete a professional indemnity proposal form, gathering and identifying relevant information for proposal.</li> </ul> <p>LEVEL 1:</p> <ul style="list-style-type: none"> <li>• Knowledge and understanding of the nomination procedure and suitability for the Money Laundering Reporting Officer (MLRO)</li> <li>• Knowledge and understanding of the Money Laundering regulations.</li> </ul> <p>LEVEL 2b:</p> <ul style="list-style-type: none"> <li>• Ability to identify and appoint a MLRO</li> <li>• Knowledge, understanding and application of procedures which a</li> </ul>
<p><b>Demonstrate knowledge, understanding and appropriate application of effective procedures for compliance</b></p>		



	<b>Learning Outcome</b> An applicant seeking practice rights must demonstrate:	<b>Supporting Evidence</b> The applicant will need to provide evidence to:
<p><b>Element 2</b></p> <p>CILEX REGULATIONS</p>	<p>CILEX PRACTICE RULES (GENERAL)</p> <p><b>Demonstrate knowledge, understanding and appropriate application of the scope of the CILEX practice rules</b></p>	<p>legal entity must follow in order to produce an office policy on money laundering</p> <ul style="list-style-type: none"> <li>• Knowledge, understanding and application of appropriate file testing which ensures files are only opened after necessary money laundering checks</li> <li>• Knowledge, understanding and application of the requirements of the Information Commissioner’s Office (ICO) and why legal entities must register with them</li> <li>• Knowledge, understanding and application of equality and diversity monitoring both in the workplace and through contracting of third parties.</li> </ul>
	<p>CILEX PRACTICE RULES (ADMINISTRATION)</p>	<p>LEVEL 1:</p> <ul style="list-style-type: none"> <li>• Knowledge and understanding of situations which would give rise to a breach of the practice rules</li> <li>• Knowledge, understanding and application of the duty of confidentiality, including identification of when this starts and ends</li> </ul> <p>LEVEL 2b:</p> <ul style="list-style-type: none"> <li>• Knowledge, understanding and application of the requirements to fulfil the role of practice manager.</li> </ul> <p>LEVEL 2c:</p> <ul style="list-style-type: none"> <li>• Knowledge, understanding and application of the requirements to fulfil the role of the financial manager.</li> </ul> <p>LEVEL 1:</p> <ul style="list-style-type: none"> <li>• Knowledge, understanding and ability to provide appropriate advice regarding fees to be charged and the merits of the case</li> </ul>

	<p><b>Learning Outcome</b></p> <p>An applicant seeking practice rights must demonstrate:</p> <p><b>Demonstrate knowledge, understanding and appropriate application of the administration requirements of a CILEx regulated entity in addition to any requirements to remain individually compliant</b></p>	<p><b>Supporting Evidence</b></p> <p>The applicant will need to provide evidence to:</p>
		<p>following a cost benefit analysis</p> <ul style="list-style-type: none"> <li>• Knowledge, understanding and ability to provide realistic cost estimates in the form of a 'costing' of all costs and disbursements at the start of the case and to provide regular updates throughout the life of the file</li> <li>• Knowledge and understanding of identification, documentation and dealing appropriately with potential conflicts of interests both at the outset and throughout a retainer relationship</li> <li>• Knowledge and understanding of situations which may give rise to an undertaking and the implications of giving an undertaking</li> <li>• Knowledge and understanding of situations which would result in a breach of the equality and diversity code.</li> </ul> <p>LEVEL 2a:</p> <ul style="list-style-type: none"> <li>• Knowledge, understanding and demonstration of good internal governance</li> <li>• Knowledge, understanding and application of systems, procedures and reporting to monitor compliance</li> <li>• Application of monitoring equality and diversity, both in the workplace and in the selection of external resources.</li> </ul> <p>LEVEL 2b:</p> <ul style="list-style-type: none"> <li>• Knowledge, understanding and implementation of procedures to review and test systems put in place to meet the outcomes of the CILEx practice rules (including management of undertakings, cost information, file reviews, client care, referral arrangements and conflicts of interest</li> <li>• Ability to identify when a fee earner has undertaken work in the absence of sufficient resources and outside their competence</li> <li>• Ability to draft policies which promote equality and diversity</li> <li>• Ability to draft appropriate safeguards for the issuing of</li> </ul>

	<p><b>Learning Outcome</b></p> <p>An applicant seeking practice rights must demonstrate:</p> <th data-bbox="199 181 335 1043"> <p><b>Supporting Evidence</b></p> <p>The applicant will need to provide evidence to:</p> </th>	<p><b>Supporting Evidence</b></p> <p>The applicant will need to provide evidence to:</p>
	<p>CILEX PRACTICE RULES (COMMUNICATION)</p> <p><b>Demonstrate the ability to communicate the requirements of the CILEX practice rules appropriately</b></p>	<p>undertakings and the consequences of not fulfilling the created obligation</p> <ul style="list-style-type: none"> <li>• Knowledge and understanding of the difference between an introduction and a referral</li> <li>• Knowledge, understanding and ability to draft an outsourcing policy.</li> </ul> <p>LEVEL 1:</p> <ul style="list-style-type: none"> <li>• Ability to establish good relationships with client and third parties, including the ability to adapt the style, medium or method of communication for a diverse range of clients to identify the client's objective(s)</li> <li>• Ability to communicate to the client how legal services will be provided including expected time frame, what the client must do and duties and obligations applicant will carry out</li> <li>• Ability to draft a letter which identifies the client's objectives and advises them of the right to complain</li> <li>• Ability to communicate to ensure the client is kept up to date with progress of a matter and advise who is dealing with the matter, including the status of that person.</li> </ul> <p>LEVEL 2b:</p> <ul style="list-style-type: none"> <li>• Ability to communicate values to all staff which promote client outcomes, transparency of costs</li> <li>• Ability to manage client expectations and evaluate overall client satisfaction.</li> </ul> <p>LEVEL 1:</p> <ul style="list-style-type: none"> <li>• Knowledge and understanding of examples of key dates and the</li> </ul>
	<p>FILE MANAGEMENT</p> <p><b>Demonstrate knowledge, understanding and</b></p>	

	<p><b>Learning Outcome</b></p> <p>An applicant seeking practice rights must demonstrate:</p> <p><b>appropriate application of good file management</b></p>	<p><b>Supporting Evidence</b></p> <p>The applicant will need to provide evidence to:</p>
		<p>methods which could be used in recording such dates in a diarised system and on the client's file</p> <ul style="list-style-type: none"> <li>• Ability to identify and record key dates.</li> </ul> <p>LEVEL 2a:</p> <ul style="list-style-type: none"> <li>• Knowledge and understanding of the elements of a good case management system, including the potential benefits</li> <li>• Ability to implement and operate a case management system, including for use as a supervision and compliance monitoring tool</li> <li>• Ability to design and implement a file closure procedure.</li> </ul> <p>LEVEL 2b:</p> <ul style="list-style-type: none"> <li>• Ability to create and perform a file review process covering both legal and administrative obligations</li> <li>• Ability to participate significantly in the successful application of an accreditation standard.</li> </ul>
<p><b>Element 3</b></p> <p>MANAGEMENT OF A LEGAL ENTITY</p>	<p>EXTERNAL INFLUENCES</p> <p><b>Demonstrate knowledge, understanding and impact of external influences on a business</b></p>	<p>LEVEL 1:</p> <ul style="list-style-type: none"> <li>• Knowledge and understanding of recent and/or current external issues facing business/legal entities</li> <li>• Knowledge and understanding of the impact of inflation, how this impacts on business and actions which can be taken to counterbalance this.</li> </ul> <p>LEVEL 2a:</p> <ul style="list-style-type: none"> <li>• Ability to assess the impact of the current economic environment.</li> </ul> <p>LEVEL 2b:</p> <ul style="list-style-type: none"> <li>• Knowledge, understanding and ability to identify pending</li> </ul>

	<p><b>Learning Outcome</b> An applicant seeking practice rights must demonstrate:</p>	<p><b>Supporting Evidence</b> The applicant will need to provide evidence to:</p>
	<p>INTERNAL INFLUENCES</p> <p><b>Demonstrate knowledge, understanding and appropriate application of internal influences which can affect a business</b></p>	<p>legislation or professional changes which could affect the business.</p> <p>LEVEL 1:</p> <ul style="list-style-type: none"> <li>• Knowledge and understanding of the internal influences which a business is likely to face and effective ways of controlling them.</li> </ul> <p>LEVEL 2a:</p> <ul style="list-style-type: none"> <li>• Ability to develop a culture of accountability, compliance and openness for the business</li> <li>• Ability to manage a team.</li> </ul> <p>LEVEL 1:</p> <ul style="list-style-type: none"> <li>• Knowledge and understanding of the different types of risk affecting a business</li> <li>• Ability to identify examples of risks and to identify how these risks can be managed.</li> </ul> <p>LEVEL 2a:</p> <ul style="list-style-type: none"> <li>• Ability to respond to risks</li> <li>• Knowledge and understanding of collection, review, evaluation and management of risk</li> <li>• Ability to produce a risk management policy</li> <li>• Knowledge, understanding and implementation of appropriate supervision</li> <li>• Knowledge and understanding of the principles supporting delegation.</li> </ul> <p>LEVEL 2b:</p> <ul style="list-style-type: none"> <li>• Knowledge and understanding of the key contents of an effective</li> </ul>
	<p>RISK MANAGEMENT</p> <p><b>Demonstrate knowledge, understanding and appropriate application of risk management</b></p>	
	<p>CONTINGENCY PLANNING</p> <p><b>Demonstrate knowledge, understanding and</b></p>	

<b>Learning Outcome</b>	<b>Supporting Evidence</b>
<p>An applicant seeking practice rights must demonstrate:</p> <p><b>application of basic contingency planning</b></p> <p>PEOPLE MANAGEMENT</p> <p><b>Demonstrate knowledge, understanding and application of good supervision; including appropriate management, motivation and delegation</b></p> <p>PROJECT MANAGEMENT</p> <p><b>Demonstrate knowledge, understanding and application of planning, control, managing and evaluating a project successfully</b></p> <p>INFORMATION TECHNOLOGY (IT)</p> <p><b>Demonstrate knowledge, understanding and application of IT in a legal environment</b></p>	<p>The applicant will need to provide evidence to:</p> <ul style="list-style-type: none"> <li>contingency plan, and the need for regular review</li> <li>• Ability to draft a contingency plan</li> <li>• Ability to test a contingency plan.</li> </ul> <p>LEVEL 1:</p> <ul style="list-style-type: none"> <li>• Knowledge and understanding of the negative effects of poor management</li> <li>• Ability to manage and motivate others.</li> </ul> <p>LEVEL 2a:</p> <ul style="list-style-type: none"> <li>• Ability to identify the link between low motivation and low production</li> <li>• Knowledge, understanding and application of procedures to manage and motivate</li> <li>• Ability to use specific, measurable, achievable, relative, time bound objectives to delegate</li> <li>• Ability to encourage a culture of continuous improvement.</li> </ul> <p>LEVEL 2a:</p> <ul style="list-style-type: none"> <li>• Knowledge and understanding of the need for a project plan and the elements which should be included in the plan</li> <li>• Ability to apply these elements to allow for successful project management</li> <li>• Ability to evaluate the success of the project.</li> </ul> <p>LEVEL 1:</p>

	<p><b>Learning Outcome</b></p> <p>An applicant seeking practice rights must demonstrate:</p> <th data-bbox="197 188 336 1045"> <p><b>Supporting Evidence</b></p> <p>The applicant will need to provide evidence to:</p> </th>	<p><b>Supporting Evidence</b></p> <p>The applicant will need to provide evidence to:</p>
<p><b>Element 4</b></p> <p>BUSINESS ACUMEN</p>		<ul style="list-style-type: none"> <li>• Knowledge, understanding and application of bespoke third party software to complete prescribed electronic applications/submissions.</li> </ul> <p>LEVEL 2a:</p> <ul style="list-style-type: none"> <li>• Knowledge and understanding of the use of IT in monitoring compliance and understand its advantages, including as a time saving device.</li> </ul>
<p>STRATEGY</p> <p><b>Demonstrate knowledge, understanding and appropriate application of strategy and the use of a business plan to underpin that strategy</b></p> <p>MARKETING</p>		<p>LEVEL 1:</p> <ul style="list-style-type: none"> <li>• Knowledge and understanding of a strategy</li> <li>• Ability to perform an analysis which identifies the strengths, weaknesses, opportunities and threats (SWOT analysis) of/to the business</li> <li>• Knowledge and understanding of how a competitive advantage arises and how a firm can differentiate themselves from competitors.</li> </ul> <p>LEVEL 2b:</p> <ul style="list-style-type: none"> <li>• Implementation and creation of strategy</li> <li>• Knowledge, understanding and application of likely trends evident following changes to internal and external influences and use these to identify a firm's current market position</li> <li>• Knowledge, understanding and application of the critical success factors (CSF) of a business and use these to identify the factors which are likely to be critical to the success of the business.</li> </ul> <p>LEVEL 1:</p>

<b>Learning Outcome</b>	<b>Supporting Evidence</b>
<p>An applicant seeking practice rights must demonstrate:</p> <p><b>Demonstrate knowledge, understanding and application of a marketing strategy which supports the business plan</b></p> <p><b>PROFITABILITY</b></p> <p><b>Demonstrate knowledge, understanding and application of appropriate tools to determine profitability</b></p>	<p>The applicant will need to provide evidence to:</p> <ul style="list-style-type: none"> <li>• Knowledge and understanding of what is meant by a marketing mix</li> <li>• Ability to implement and evaluate a marketing plan which supports the business plan</li> <li>• Knowledge and understanding of the importance of a website (or where appropriate provide a rationale as to why a website would not meet client needs).</li> </ul> <p><b>LEVEL 2b:</b></p> <ul style="list-style-type: none"> <li>• Ability to create an effective marketing plan</li> <li>• Knowledge and understanding of various methods of social media</li> <li>• Ability to identify potential benefits of effective use of social media</li> <li>• Ability to identify the potential risks presented by social media both internally and externally.</li> </ul> <p><b>LEVEL 1:</b></p> <ul style="list-style-type: none"> <li>• Knowledge and understanding of working within budgets</li> <li>• Knowledge and understanding of a cash flow forecast .</li> </ul> <p><b>LEVEL 2a:</b></p> <ul style="list-style-type: none"> <li>• Ability to budget and analyse the variances which arise through a given period</li> <li>• Ability to create a cash flow forecast and update it for a given period</li> <li>• Knowledge, understanding and identification of key performance indicators (KPIs), including how these can be met and used to measure a firm’s success in comparison with the business strategy.</li> </ul> <p><b>LEVEL 2c:</b></p>



	<p><b>Learning Outcome</b></p> <p>An applicant seeking practice rights must demonstrate:</p>	<p><b>Supporting Evidence</b></p> <p>The applicant will need to provide evidence to:</p>
		<ul style="list-style-type: none"> <li>• Knowledge and understanding of /and ability to differentiate between fixed and variable costs and direct and indirect costs</li> <li>• Knowledge and understanding of the use of appropriate ratios and formulae to ascertain an organisation's overall profitability and department profitability</li> <li>• Ability to calculate 2 ratios to assist in ascertaining overall profitability</li> <li>• Ability to use appropriate formulae to ascertain a department's profitability</li> <li>• Knowledge and understanding of what is meant by direct, indirect, fixed and variable costs</li> <li>• Knowledge and understanding of what is meant by inefficiencies and how processes can be measured for value</li> <li>• Ability to identify inefficiencies which would lead to a loss of profit:</li> </ul>

### Annex 5 - INTRODUCTION – ACCOUNTS

The entry criteria, learning outcomes and evidence of competency stated in this schedule set out:

- the level of competency, knowledge and understanding required to keep the books of accounts specific to a legal entity and to apply a minimum standard of accountancy for a business
- the elements required to evidence that level of competency, knowledge and understanding
- the level of competency required in the relevant skills for this area of practice – to accurately account for clients' money, run the firm's own accounts, apply CILEx accounts rules, bring the accounts from trial balance to profit and loss /balance sheet account position
- the elements required to evidence the required level of competence for these relevant skills
- a statement of the study and work-based experience that demonstrates that an applicant has attained the required level of competence, knowledge and understanding in all the required elements.

Certification of accounts will ensure that the applicant has:

- met the application requirements
- an appropriate level of expertise to manage the firms accounts and finances to an acceptable standard
- an appropriate level of knowledge and appreciation of the key features of protecting client's money, effective billing and efficient financial management
- the appropriate level of knowledge and skill to perform double entry booking, raise a valid invoice and a three way bank reconciliation.

	<b>Learning Outcome</b>	<b>Supporting Evidence</b>
<p><b>QUALIFICATION CRITERIA</b></p> <ul style="list-style-type: none"> <li>• KNOWLEDGE</li> <li>• UNDERSTANDING</li> <li>• EXPERIENCE</li> <li>• SKILLS</li> </ul>	<p>An applicant must meet the following outcomes:</p> <ul style="list-style-type: none"> <li>• Has sufficient practical knowledge, understanding, experience and skills – note these are different depending of the role of the applicant</li> </ul>	<p>The applicant will need to provide evidence to: Demonstrate they meet the outcomes set out below by:</p> <ul style="list-style-type: none"> <li>• attendance on a course, <b>or</b></li> <li>• practical experience</li> </ul> <p>The outcomes are split into the following levels:</p> <ul style="list-style-type: none"> <li>• Level 1 - mandatory for all applicants</li> <li>• Level 2a - mandatory for compliance managers</li> <li>• Level 2b - mandatory for compliance manager undertaking practice management</li> <li>• Level 2c - mandatory for compliance manager undertaking accounts management</li> </ul>
<p><b>QUALIFICATION CRITERIA</b></p> <p><b>Element 1</b></p> <p>CILEX ACCOUNTS RULES</p>	<p><b>Demonstrate knowledge, understanding and where appropriate apply the rules and regulations relating to the handling of client money</b></p>	<p><b>LEVEL 1:</b></p> <ul style="list-style-type: none"> <li>• Knowledge and understanding of the accounts rules</li> <li>• Ability to complete a three way bank reconciliation to accurately account for all client money</li> <li>• Ability to record and account for client money, ensuring it is banked promptly and not left unattended or unsecure</li> <li>• Understand the importance of the audit trail and ensure there is a clear audit trail</li> <li>• Understand the need to keep client money safe and separate from that of the business</li> <li>• Knowledge and understanding of the situations where it is fair and reasonable to account for interest to the client</li> <li>• Knowledge and understanding of money held as an agent/stakeholder</li> <li>• Knowledge, understanding and application of the internal policy on who can withdraw money</li> </ul>

	<b>Learning Outcome</b>	<b>Supporting Evidence</b>
	An applicant must meet the following outcomes:	<p>The applicant will need to provide evidence to:</p> <ul style="list-style-type: none"> <li>• Knowledge and understanding of what is meant by trust money and an individual’s legal responsibility as a trustee.</li> </ul> <p>LEVEL 2a:</p> <ul style="list-style-type: none"> <li>• Ability to apply controls to safeguard client money</li> <li>• Communicate knowledge and understanding of the accounts rules to staff to ensure compliance</li> <li>• Understand the difference between client money and client account.</li> </ul> <p>LEVEL 2c:</p> <ul style="list-style-type: none"> <li>• Ability to draft, implement and test robust internal controls, including who can withdraw client money and be able to distinguish between a material and non-material breach</li> <li>• Ability to perform an internal audit</li> <li>• Ability to draft, implement and communicate a fair and reasonable interest policy</li> <li>• Ability to make a calculation of interest</li> <li>• Ensure files are closed in a timely manner and surplus funds are returned promptly</li> <li>• Ability to draft, implement and periodically review a compliance register and maintain complete records of all breaches</li> <li>• Control the release of client bank details outside of the legal entity</li> <li>• Knowledge, understanding and application of time costing and understanding the benefits of this information for reporting purposes.</li> </ul>
<b>Element 2</b> GENERAL BOOKKEEPING	DOUBLE ENTRY BOOKKEEPING <b>Demonstrate knowledge, understanding and application of double entry bookkeeping</b>	<p>LEVEL 1:</p> <ul style="list-style-type: none"> <li>• Knowledge and understanding of posting entries to the client ledger account and appropriate cashbooks of a legal entity</li> <li>• Knowledge and understanding of a bill of costs</li> </ul>

	<b>Learning Outcome</b>	<b>Supporting Evidence</b>
	<p>An applicant must meet the following outcomes:</p> <p><b>FINANCIAL STATEMENTS</b></p> <p><b>Demonstrate knowledge and understanding of the use of financial statements</b></p>	<p>The applicant will need to provide evidence to:</p> <ul style="list-style-type: none"> <li>• Knowledge and understanding of a trial balance.</li> </ul> <p><b>LEVEL 2c:</b></p> <ul style="list-style-type: none"> <li>• Ability to post entries to client ledger account and cashbooks</li> <li>• Ability to produce bill of costs</li> <li>• Ability to produce trial balance.</li> </ul> <p><b>LEVEL 1:</b></p> <ul style="list-style-type: none"> <li>• Knowledge and understanding of when it is appropriate to provide the client with a financial statement.</li> </ul> <p><b>LEVEL 2c:</b></p> <ul style="list-style-type: none"> <li>• Ability to produce clear and informative financial statements which reflect the client’s position and which include balances due to the client or to the legal entity</li> <li>• Ability to draft a financial statement</li> <li>• Knowledge, understanding and application of time costing and understanding the benefits of this information for reporting purposes.</li> </ul>
<p><b>Element 3</b></p> <p><b>FINANCES</b></p>	<p><b>VALUE ADDED TAX (VAT)</b></p> <p><b>Demonstrate knowledge, understanding and appropriate application of VAT</b></p>	<p><b>LEVEL 1:</b></p> <ul style="list-style-type: none"> <li>• Knowledge and understanding as to how to calculate VAT payable</li> <li>• Knowledge and understanding of a vatable disbursement and a re-charge and understand the difference between the two.</li> </ul> <p><b>LEVEL 2c:</b></p> <ul style="list-style-type: none"> <li>• Ability to post a vatable disbursement and a re-charge to a client ledger</li> <li>• Ability to perform a partial exemption calculation</li> </ul>

	<b>Learning Outcome</b>	<b>Supporting Evidence</b>
	<p>An applicant must meet the following outcomes:</p> <p>CREDIT CONTROL AND DEBT COLLECTION</p> <p><b>Demonstrate knowledge, understanding and appropriate application of the creation of a credit control policy</b></p> <p>NOMINAL LEDGERS</p> <p><b>Demonstrate knowledge, understanding and appropriate application of nominal ledgers for a legal entity</b></p>	<p>The applicant will need to provide evidence to:</p> <ul style="list-style-type: none"> <li>• Ability to complete a UK VAT return.</li> </ul> <p>LEVEL 1:</p> <ul style="list-style-type: none"> <li>• Knowledge and understanding of how credit control including business payment terms and debt collection policies and procedures are created.</li> </ul> <p>LEVEL 2:</p> <ul style="list-style-type: none"> <li>• Ability to implement and communicate a credit control policy including business payment terms and debt collection policies and procedures.</li> </ul> <p>LEVEL 2c:</p> <ul style="list-style-type: none"> <li>• Ability to create a credit control policy</li> <li>• Ability to create and communicate a set of business terms and conditions relevant to a legal entity</li> <li>• Ability to draft debt collection procedures.</li> </ul> <p>LEVEL 1:</p> <ul style="list-style-type: none"> <li>• Knowledge and understanding of maintaining a nominal ledger</li> <li>• Ability to post a small selection of non-vatable entries to a nominal ledger</li> <li>• Ability to explain what is meant by ‘drawings’ and the use of the capital and current accounts.</li> </ul> <p>LEVEL 2c:</p> <ul style="list-style-type: none"> <li>• Knowledge, understanding and ability to distinguish between profit and loss ledgers and a balance sheet nominal ledger</li> </ul>

	<b>Learning Outcome</b>	<b>Supporting Evidence</b>
	<p>An applicant must meet the following outcomes:</p> <p>ACCOUNTS</p> <p><b>Demonstrate knowledge, understanding and application of information relating to the financial position of a legal entity</b></p> <p><b>Demonstrate outline knowledge and understanding of taxation</b></p> <p>SET OF ACCOUNTS</p>	<p>The applicant will need to provide evidence to:</p> <ul style="list-style-type: none"> <li>• Ability to post entries to a nominal ledger.</li> </ul> <p>LEVEL 1:</p> <ul style="list-style-type: none"> <li>• Ability to read and interpret management reports which include Profit and Loss Accounts and Balance Sheet</li> <li>• Ability to identify significant variations to the accounts from previous years.</li> </ul> <p>LEVEL 2a:</p> <ul style="list-style-type: none"> <li>• Ability to determine the general financial position of a legal entity.</li> </ul> <p>LEVEL 2c:</p> <ul style="list-style-type: none"> <li>• Ability to produce Profit and Loss Accounts and Balance Sheet</li> <li>• Ability to calculate a liquidity ratio, provide commentary on the findings and provide guidance on what is viewed as a poor liquidity ratio</li> <li>• Ability to understand and explain working capital and how it can be effectively and efficiently managed</li> <li>• Ability to explain different finance options available to each type of legal structure.</li> </ul> <p>LEVEL 1:</p> <ul style="list-style-type: none"> <li>• Knowledge and understanding of the taxation system as it applies to individuals and corporations.</li> </ul> <p>LEVEL 2c:</p> <ul style="list-style-type: none"> <li>• Ability to apply rules of taxation to individuals and corporations.</li> </ul> <p>LEVEL 1:</p>

	<b>Learning Outcome</b>	<b>Supporting Evidence</b>
	<p>An applicant must meet the following outcomes:</p> <p><b>Demonstrate knowledge, understanding and appropriate application of the creation and interpretation of accounts</b></p>	<p>The applicant will need to provide evidence to:</p> <ul style="list-style-type: none"> <li>• Ability to understand a profit and loss account and balance sheet and relationship with a trial balance</li> <li>• Ability to interpret a profit and loss account and balance sheet.</li> </ul> <p>LEVEL 2a:</p> <ul style="list-style-type: none"> <li>• Ability to identify that the business is unlikely to meet its forthcoming liabilities and when it is appropriate to notify ILEX Professional Standards of this.</li> </ul> <p>LEVEL 2c:</p> <ul style="list-style-type: none"> <li>• Ability to produce profit and loss account and balance sheet from a trial balance</li> <li>• Ability to make the necessary annual adjustments to produce an accurate set of accounts</li> <li>• Ability to calculate a liquidity ratio</li> <li>• Ability to identify and explain the early indicators of a failing business</li> <li>• Ability to identify the point when a business is no longer a going concern.</li> </ul>



## **APPENDIX 2**

# **ADMISSIONS AND LICENSING COMMITTEE RULES**

**ADMISSIONS AND LICENSING COMMITTEE RULES**

1. IPS shall establish an Admissions and Licensing Committee.
2. The Admissions and Licensing Committee shall:
  - ◆ apply and monitor the Certification Rules for the reserved legal activity and regulated legal activity schemes;
  - ◆ consider and determine applications by applicants for reserved or regulated legal activity rights referred to it;
  - ◆ consider and determine applications for the renewal of advocacy certificates referred to it;
  - ◆ consider and determine applications by prospective or current course providers for accreditation or renewal of accreditation to provide courses referred to it by the Officer;
  - ◆ consider whether or not an authorised person may continue to hold a Certificate which authorises them to undertake a reserved or regulated legal activity;
  - ◆ determine whether accreditation of a course provider to provide a course should be withdrawn;
  - ◆ receive reports of inspections of courses from the external advisors and the Officer;
  - ◆ receive reports of the moderation of course assessments from the external advisors;
  - ◆ receive annual reports from course providers;
  - ◆ submit an annual report to the IPS Board.
3. The Officers will report all decisions made by them to the Admissions and Licensing Committee.
4. Wherever 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.
5. A person or organisation affected by any decision which the Admissions and Licensing Committee makes pursuant to its powers under these Rules may apply for reconsideration of that decision. Any such person or organisation must lodge an application for reconsideration at the IPS offices within 20 working days of receiving

written notification of the decision. The application must include written reasons why it should be reconsidered. The applicant shall have a right to be heard by the Committee when it reconsiders their application.

6. Where an application is reconsidered by the Admissions and Licensing Committee it shall have all the powers that were available to it at the original consideration of the application.
7. An appeal may be made against the decision reached by the Admissions and Licensing Committee in accordance with Rule 5. Appeals will be considered by an Appeal Panel comprising a professional member and two lay members drawn from the panel of lay and professional members appointed to serve on IPS' appeal bodies under the Investigation, Disciplinary and Appeal Rules (IDAR). The Appeal Panel will have available to it all the powers available to the Admissions and Licensing Committee at the original consideration of the application.
8. The Admissions and Licensing Committee shall report annually to the IPS Board on its work during the preceding calendar year, and make such recommendations as it thinks fit concerning the operation of the scheme Rules falling within its remit.
9. The Admissions and Licensing Committee will comprise:
  - Fellows of CILEx; and
  - Independent members, at least 1 of whom shall have knowledge or experience of consumer issues

Who are not be members of CILEx Council or the IPS Board and provided that the independent members are in the majority.
10. A Fellow who is a member of IPS' Professional Conduct, Disciplinary or Appeals Panel shall not be eligible to serve as a member of the Admissions and Licensing Committee.
11. Appointments of independent members and Fellows shall be made by the IPS Board.
12. Each independent member and Fellow will be appointed to the Admissions and Licensing Committee by IPS for a period of five years. Upon the termination of the five year period of their appointment the Board may reappoint them or make a new appointment.
13. No Fellow or independent member may serve more than two consecutive terms as a member of the Admissions and Licensing Committee. Where they fail without good reason to fulfil their duties set out in these Rules IPS may terminate their appointment whether or not they have completed their current term of office.
14. The external advisors shall be invited to attend meetings of the Admissions and Licensing Committee. Where necessary the Committee may seek advice on matters under its consideration from other persons or sources.
15. At least three members of the Admissions and Licensing Committee must be present at a meeting to constitute a quorum. The external advisors will not form part of the quorum.

16. The Admissions and Licensing Committee will appoint one of its members as Chair. The Chair will be appointed for a period of one year. The Chair will be eligible for reappointment, but may not serve as Chair for more than three consecutive years.
17. Decisions of the Admissions and Licensing Committee will be reached by a majority vote. In the case of an equality of votes the Chair shall have a casting vote. External advisors may not vote on any matter at a meeting.
18. The Admissions and Licensing Committee shall meet at least once each year. Subject to this, where the Committee deems it appropriate it may consider applications and any other matter by way of a postal agenda or telephone conference.
19. IPS shall have the power to pay fees to members of the Admissions and Licensing Committee and shall from time to time, determine the amount and basis of payments of such fees.

**APPENDIX 3**  
**AUTHORISATION RULES**

## IPS AUTHORISATION RULES

### Interpretation

1. In these rules, unless otherwise provided:

<b>the Act:</b>	means the Legal Services Act 2007;
<b>Applicant Body:</b>	means a partnership, company or sole principal which applies to be authorised by IPS to provide one or more regulated legal activities;
<b>Approved Manager:</b>	means a person who is approved by IPS to be a Manager in an Authorised Body;
<b>Authorised Body:</b>	means a partnership, company or sole principal authorised by IPS to provide one or more regulated legal activities;
<b>Authorised Person:</b>	has the same meaning as in s.18 of the Act;
<b>CILEx:</b>	means the Chartered Institute of Legal Executives;
<b>Compliance Manager:</b>	means an Approved Manager who has lead responsibility for ensuring that an Authorised Body, its Authorised Persons, Managers, employees and sub-contractors comply with the CILEx Code of Conduct and IPS Rules;
<b>IDAR:</b>	means the IPS Investigation, Disciplinary and Appeals Rules;
<b>IPS:</b>	means ILEX Professional Standards Ltd;
<b>regulated legal activity:</b>	means: <ul style="list-style-type: none"> <li>(a) a reserved legal activity; or</li> <li>(b) immigration advice or immigration services;</li> </ul>
<b>reserved legal activity:</b>	has the same meaning as in the Act.

### Applications

2. (1) An Applicant Body must make an application for authorisation in the form prescribed by IPS.
- (2) An Applicant Body must ensure that any information it provides to IPS is complete and accurate. It must inform IPS of any change which occurs to the information it has provided in support of its application.
- (3) An Applicant Body must have a practising address in England or Wales.
- (4) An Applicant Body must undertake to comply with the requirements of the CILEx Code of Conduct and IPS Rules including the Indemnity Insurance Rules and Compensation Fund Rules.
- (5) An Applicant Body has a duty to declare prior conduct relating to the body, any of its Managers and any other person connected to or associated with that body. For this purpose **prior conduct** has the same meaning as in IDAR.

- (6) IPS will consider an application and notify the Applicant Body of its decision within a timescale specified by IPS.
- (7) In carrying out an assessment of the application for authorisation IPS may visit an Applicant Body to obtain further information. IPS will consider a visit as part of the application of its Risk Assessment Framework.

### Application decisions and determination criteria

3. (1) Once IPS has considered an application it will either:
  - (a) grant Authorisation; or
  - (b) refuse Authorisation.
- (2) In determining any application IPS will be guided by its Risk Assessment Framework and the Regulatory Objectives under the Act. Before it reaches a decision it may require an Applicant Body to provide additional information.
- (3) If IPS decides that an Applicant Body has failed to meet, or may be unlikely to meet any of the requirements set out in the CILEx Code of Conduct or IPS Rules, IPS may require the Applicant Body to meet specified compliance requirements or agree to meet specified conditions. IPS will make such assessments using its Risk Assessment Framework.
- (4) IPS may grant Provisional Authorisation to an Applicant Body until it obtains Professional Indemnity Insurance which satisfies the requirements of the IPS Indemnity Insurance Rules. In that event, the Applicant Body must obtain insurance under those rules before it will be authorised to practise as an Authorised Body. The Applicant Body will not become an Authorised Body until that condition is met.
- (5) Where an Applicant Body is authorised, IPS will specify any limitations on authorisation which will include whether authorisation is restricted to one or more specific regulated legal activities.
- (6) IPS may only grant an application for authorisation if:
  - (a) the Applicant Body includes at least one person who is an Approved Manager and, where the Applicant Body seeks to carry out one or more regulated legal activities, who is an Authorised Person authorised to carry out one or more of those regulated legal activities;
  - (b) the Applicant Body has a practising address in England or Wales;
  - (c) IPS is satisfied that upon authorisation the Applicant Body will be able to comply with IPS Rules and the CILEx Code of Conduct;
  - (d) IPS is satisfied that the Applicant Body's management and governance arrangements are adequate to effectively manage risk and safeguard the Regulatory Objectives;
  - (e) IPS is satisfied that the Applicant Body will be able to meet any specified compliance requirements or conditions placed on it including the condition

specified at Rule 3(4).

### Terms of authorisation

4. (1) Authorisation is granted for an indefinite period.
- (2) An Authorised Body must comply with the IPS Indemnity Insurance Rules and IPS Compensation Fund Rules.
- (3) An Authorised Body must have an Approved Manager and, where the body is authorised to carry out any regulated legal activities, that Approved Manager must be an Authorised Person who is authorised to carry out those regulated legal activities.
- (4) An Authorised Body that wishes to conduct any regulated legal activity other than one forming part of its original authorisation must, before doing so, apply to IPS for a modification to its authorisation. Any application for such a modification must be made in the form prescribed by IPS. IPS will assess any such application:
  - (a) as if it was an application for authorisation under these Rules; and
  - (b) by reference to its Risk Assessment Framework;and will notify the Authorised Body of its decision within a timescale specified by IPS.
- (5) An Authorised Body must notify IPS of any material change that may affect its ability to comply with these Rules, any other IPS Rules or the CILEx Code of Conduct. Notification must be made before any change takes place or, where this is not possible, as soon as reasonably practicable. Failure to do so will constitute a material breach of these rules and IPS reserves the right to revoke authorisation in such circumstances.
- (6) An Authorised Body, its Approved Managers and Authorised Persons are subject to the CILEx Code of Conduct and all applicable IPS Rules.
- (7) IPS may require an Authorised Body to meet specified compliance requirements or agree to specified conditions if it decides that the Authorised Body has failed or may be unlikely to meet any of the requirements of the CILEx Code of Conduct or IPS Rules. IPS will make such assessments using its Risk Assessment Framework.
- (8) IPS may revoke Authorisation if:
  - (a) an Authorised Body no longer has an Approved Manager;
  - (b) the Approved Manager of an Authorised Body is no longer authorised to carry out the regulated legal activity or regulated legal activities IPS has authorised it to carry out;
  - (c) an Authorised Body no longer has a practising address in England or Wales;



- (d) IPS is no longer satisfied that an Authorised Body is able to comply with the CILEx Code of Conduct or applicable IPS Rules;
  - (e) an Authorised Body's management or governance arrangements are deemed by IPS to be no longer adequate to manage risk effectively or safeguard the Regulatory Objectives.
- (9) IPS may also revoke Authorisation if it determines that the Authorised Body is in breach of the CILEx Code of Conduct or any IPS Rules. Any such breach will be determined by IPS and will include, but not be limited to, the following:
- (a) an Authorised Body has failed to meet compliance requirements or conditions specified by IPS;
  - (b) an Authorised Body has provided inaccurate or misleading information or there has been a material omission, delay, or failure to provide information to IPS;
  - (c) for any other reason IPS considers that it would be contrary to the public interest or otherwise inconsistent with the Regulatory Objectives to allow authorisation to continue.
- (10) The requirements relating to the revocation of authorisation including the timing of any decision to revoke authorisation will be determined by the relevant Panel or Tribunal under IDAR.
- (11) An Authorised Body must inform IPS as soon as reasonably practicable if that body or any Authorised Person or Approved Manager is subject to any matter identified in Rule 11 of IDAR (prior conduct).
- (12) Where any individual designated as an Approved Manager is no longer employed by an Authorised Body or can no longer carry out their role as an Approved Manager, the Authorised Body must inform IPS as soon as reasonably practicable prior to this change taking place, or where this has not been possible within 28 days of the change taking place.
- (13) If a change specified in Paragraph (12) applies to a Compliance Manager the Authorised Body must provide IPS with details of the replacement Compliance Manager as soon as reasonably practicable. If the replacement Compliance Manager is not an Approved Manager, the individual must apply to IPS to be designated as an Approved Manager and specify their designation as Compliance Manager.
- (14) An Authorised Body must at all times have suitable arrangements in place to ensure that:
- (a) its Authorised Persons, Managers, and employees comply with the duties imposed by the CILEx Code of Conduct and all other IPS Rules which apply to them;
  - (b) Arrangements for ensuring that they do not employ any person disqualified from being employed in an Authorised Body providing legal services;

- (15) The Authorised Body must supply any information required by IPS which IPS deems necessary in order to carry out periodic risk assessment and review in support of its regulatory duties.
- (16) Authorised Bodies will be required to provide Annual Returns. IPS will determine the format and information requirements for such returns.
- (17) A failure to supply a completed Annual Return within the timescale specified by IPS will constitute a breach of Paragraph (9)(b).
- (18) An Authorised Body must pay IPS the periodic fee(s) of such amounts and at such times as IPS may prescribe

### Managers and the Compliance Manager

5. (1) An Authorised Body must have at least one Manager. All Managers must apply to be designated as Approved Managers by IPS. One Manager must also be designated as Compliance Manager and must consent to being designated as such.
- (2) IPS will determine, in accordance with Rule 6, whether a Manager or Compliance Manager in an Authorised Body is fit and proper to hold that post.
- (3) When applying to be an Authorised Body, and after any authorisation has been granted, an Authorised Body must undertake not to employ any person who is disqualified from being employed in an Authorised Body providing legal services, or designate in the role of Manager or Compliance Manager any person who is disqualified from performing any of those roles or any similar role within an Authorised Body.
- (4) An Authorised Body must have suitable arrangements in place to ensure that the Compliance Manager is able to discharge their duties in accordance with the CILEx Code of Conduct and these and all other IPS Rules. A Compliance Manager may be assisted by others in undertaking compliance duties but cannot delegate overall responsibility for compliance to any other person.
- (5) IPS may withdraw Approved Manager designation from an individual if IPS deems that the individual is no longer fit and proper to carry out that role. IPS will provide the Authorised Body and the individual with written reasons for its decision.
- (6) The Compliance Manager must take all reasonable steps to:
  - (a) comply with the CILEx Code of Conduct, IPS Accounts Rules, and any other relevant rules set by IPS and CILEx;
  - (b) ensure compliance with any statutory obligations of the body, its Managers and employees in relation to the body's carrying on of authorised activities;
  - (c) record any material compliance failures and notify IPS as soon as

reasonably practicable. Material failures will include any breach or pattern of breaches of the CILEx Code of Conduct, the IPS Accounts Rules or any other Rules set by IPS and CILEx. A material failure will also include the failure to inform IPS if the Authorised Body is in financial difficulty;

- (d) record any compliance failures and make such records available to IPS on request and in any event at least annually as part of the annual return submitted to IPS.

### Fit and proper test

- 6. (1) In determining whether an Approved Manager is fit and proper for the purpose of these Rules, IPS will consider the person's character, suitability, fitness and propriety having regard to:
  - (a) the person's ability to comply with the professional principles in section 1(3) of the Act; and
  - (b) The factors set out in Paragraph (2)
- (2) The factors are whether the person:
  - (a) has been convicted of a criminal offence:
    - (i) for which a term of imprisonment was imposed;
    - (ii) involving dishonesty or fraud;
    - (iii) involving perjury or other offences relating to the administration of justice;
    - (iv) involving serious violence.
  - (b) has been the subject of an adverse regulatory finding involving:
    - (i) material breach of regulatory requirements;
    - (ii) failure to provide information or the provision of false information;
    - (iii) refusal, suspension or withdrawal of regulated status;
  - (c) has been declared bankrupt, entered into any individual voluntary arrangements, been the subject of a court judgement for debt;
  - (d) has been removed as or disqualified from being a company director or charity trustee;
  - (e) has been concerned in the management or ownership of any company which has been wound up or put into receivership or administration in circumstances of insolvency;
  - (f) has been the subject of a judgment of a civil court concerning any fraud, misrepresentation or conduct related to the administration of justice;
  - (g) has engaged in other conduct involving dishonesty, violence, discrimination, abuse of trust or financial impropriety or mismanagement.

### Waivers

- 7. IPS may in its discretion waive any provision of these Rules for a particular purpose or purposes.

### Regulatory Conflict

8. (1) If a conflict arises between a requirement imposed on an Authorised Body or on an employee or Manager of the body by IPS as the regulator of that body, and on an individual Manager or employee of that body by another approved regulator, then the requirement imposed by IPS prevails over the requirement imposed by the other approved regulator.
- (2) If a conflict arises between a requirement imposed on a non-IPS authorised body or on an employee or Manager of that body by another approved regulator as the regulator of that body and on an individual Manager or employee of that firm by IPS, then the requirement imposed by the other approved regulator prevails over the requirement imposed by IPS.

### Appeals

9. (1) An appeal may be made against any of the following decisions made by IPS under these rules:
  - (a) refusal of an application for Authorisation;
  - (b) revocation of authorisation;
  - (c) refusal of an application to be an Approved Manager;
  - (d) withdrawal of Approved Manager designation from an individual;
- (2) An appeal may be made by giving notice to the Appeals Panel established under IDAR.
- (3) A notice under Paragraph (2) shall be addressed to the Appeals Panel at the offices of IPS and shall:
  - (a) state that it is a notice of appeal under this Rule;
  - (b) include:
    - (i) the name and address of the appellant,
    - (ii) the date, nature and other relevant details of the decision which is the subject of the appeal
    - (iii) a concise statement of the grounds of the appeal, and
    - (iv) the name and address of the appellant's representative (if any) and state whether correspondence concerning the appeal should be sent to the representative instead of the appellant;
  - (c) be signed by or on behalf of the appellant;
  - (d) be accompanied by a copy of any documents on which the appellant proposes to rely for the purposes of the appeal.
- (4) Rules 35(1), (2), (4) to (6), (8) and (9), 36 and 37 of IDAR shall apply to an appeal made under these Rules.
- (5) Appeals shall normally be heard in private unless the appellant requests otherwise.

- (6) Having considered an appeal, the Appeals Panel may:
- (a) dismiss the appeal;
  - (b) allow the appeal and quash the decision appealed against; or
  - (c) substitute for the decision appealed against any other decision that the IPS could have made;

and may make such ancillary orders, including orders for costs, as it considers just and appropriate.



**APPENDIX 4**

**STRATEGIC RISK  
COMMITTEE RULES**

## STRATEGIC RISK COMMITTEE RULES

1. IPS shall establish a Strategic Risk Committee.
2. The Strategic Risk Committee shall:
  - oversee the application of IPS risk based and outcomes focused regulatory strategy and its adaptation to meet changing market conditions;
  - review operation of the risk framework and update/supplement risk rating criteria;
  - determine how the framework should be applied across impact and probability scoring ranges;
  - receive and review data from IPS risk operations and receive summaries on risk data assessments on the wider market for legal services;
  - consider and decide whether to endorse decisions made by Operational Risk Group Managers to reject authorisation;
  - consider and decide whether to endorse decisions made by Operational Risk Group Managers to revoke authorisation;
  - consider and decide whether to endorse decisions made by Operational Risk Group Managers to reject designation as an Approved Manager;
  - consider and decide whether to endorse decisions made by Operational Risk Group Managers to withdraw designation as an Approved Manager.
3. A person or organisation (the applicant) affected by any decision which the Strategic Risk Committee makes to reject an application for authorisation, revoke authorisation, reject an application for Approved Manager designation, or withdraw Approved Manager designation, may apply for reconsideration of that decision. Any such person or organisation must lodge an application for reconsideration at the IPS offices at Kempston Manor within 20 working days of receiving written notification of the decision. The application must include written reasons why it should be reconsidered. The applicant shall have a right to be heard by an Appeals Panel constituted under the Investigation Disciplinary and Appeals Rules (IDAR).
4. The Strategic Risk Committee shall report annually to the IPS Board on its work during the preceding calendar year, and make such recommendations as it thinks fit concerning the operation of the Risk Framework falling within its remit.
5. The Strategic Risk Committee will comprise:
  - Fellows of CILEx; and



- Independent members, at least 1 of whom shall have knowledge or experience of risk management who shall not be members of CILEx Council or the IPS Board and provided that the independent members are in the majority.
6. A Fellow who is a member of IPS' Professional Conduct, Disciplinary or Appeals Panel shall not be eligible to serve as a member of the Strategic Risk Committee.
  7. Appointments of independent members and Fellows shall be made by the IPS Board.
  8. Each independent member and Fellow will be appointed to the Strategic Risk Committee by IPS for a period of five years. Upon the termination of the five year period of their appointment the Board may reappoint them or make a new appointment.
  9. No Fellow or independent member may serve more than two consecutive terms as a member of the Strategic Risk Committee. Where they fail without good reason to fulfil their duties set out in these Rules IPS may terminate their appointment whether or not they have completed their current term of office.
  10. Where necessary the Strategic Risk Committee may seek advice on matters under its consideration from other persons or sources.
  11. At least three members of the Strategic Risk Committee must be present at a meeting to constitute a quorum.
  12. The Strategic Risk Committee will appoint one of its members as Chair. The Chair will be appointed for a period of one year. The Chair will be eligible for reappointment, but may not serve as Chair for more than three consecutive years.
  13. Decisions of the Strategic Risk Committee will be reached by a majority vote. In the case of an equality of votes the Chair shall have a casting vote.
  14. The Strategic Risk Committee shall meet at least once each year. Subject to this, where the Committee deems it appropriate it may perform its functions by way of a postal agenda or telephone conference.
  15. IPS shall have the power to pay fees to members of the Strategic Risk Committee and shall from time to time, determine the amount and basis of payments of such fees.



**APPENDIX 5**  
**CODE OF CONDUCT**

## The CILEx Code of Conduct

This is the Code of Conduct (the **Code**) of the Chartered Institute of Legal Executives (**CILEx**) and its regulatory body, ILEX Professional Standards Limited (**IPS**). It sets out the principles to which CILEx members, CILEx practitioners and Authorised Bodies must adhere in their conduct, practice and professional performance, and the outcomes they must meet.

Membership and regulated practice carry both privileges and responsibilities. They require that in your conduct, practice and professional performance you:

- develop and use your professional knowledge and skills for the benefit of those who use your services
- maintain good professional relationships with others
- act in a way that promotes confidence and trust in the legal professions and the provision of legal services.

### Core Principles

You must adhere to the following core principles in the work you do and the decisions you make. The principles also help the public to know the standards of behaviour that are expected of you.

You must:

1. Uphold the rule of law and the impartial administration of justice.
2. Maintain high standards of professional and personal conduct and justify public trust in you, your profession and the provision of legal services.
3. Behave with honesty and integrity.
4. Comply with your legal and regulatory obligations and deal with your regulators and ombudsmen openly, promptly and co-operatively.
5. Act competently in the best interests of your client and respect client confidentiality.
6. Treat everyone fairly and without prejudice.
7. Ensure your independence is not compromised.
8. Act effectively and in accordance with proper governance and sound financial and risk management principles.
9. Protect client money and assets.

## Application

You must comply with the Code whenever it applies to you. Your professional and personal conduct will be judged against it and a breach may lead to action being taken against you. Compliance with the Code will be taken into account in considering information which raises a question about your conduct, practice or professional performance.

## The Principles Explained

Each core principle is supported by a series of outcomes. You must adhere to the principles and meet the outcomes.

Where IPS provides guidance to the Code of Conduct, this is not exhaustive but is intended to help you to understand our expectations of you. Compliance with any guidance may not be an absolute requirement but you may be called upon to justify a departure from it if your behaviour is called into question

## Definitions

In the Code: **You** and **your** means a CILEx member, CILEx practitioner or Authorised Body.

### 1. Uphold the rule of law and the impartial administration of justice.

You must:

- 1.1 Understand and comply with your primary and overriding duty to the court, obey court orders and do nothing which would place you in contempt.
- 1.2 Not knowingly allow the court to be misled.

### 2. Maintain high standards of professional and personal conduct and justify public trust in you, your profession and the provision of legal services.

You must:

- 2.1 Advise your client of your professional status and that you are authorised to practise and/or regulated by IPS. Where your practice is regulated by IPS your business communications must confirm that.
- 2.2 Not engage in any conduct that could undermine or affect adversely the confidence and trust placed in you and your profession by your client, your employer, professional colleagues, the public and others.

### 3 Behave with honesty and integrity.

You must:

- 3.1 Be honest in all your dealings and in all financial matters.

- 3.2 Not intentionally mislead anyone you deal with.
- 3.3 Report to IPS without delay any suspicion that another has breached the Code unless bound by legal professional privilege or client confidentiality.
- 3.4 Report to the relevant authority any misconduct of another which falls to be regulated by that authority unless bound by legal professional privilege or client confidentiality.
- 3.5 Not hold yourself out as having a qualification or professional status that you do not possess.

#### **4 Comply with your legal and regulatory obligations and deal with regulators and ombudsmen openly, promptly and co-operatively.**

You must:

- 4.1 Understand and comply with the law and regulation applicable to you.
- 4.2 Take all practicable steps to ensure you can demonstrate that you have adhered to the Core Principles and met the associated Outcomes.
- 4.3 Not place others in breach of any regulatory requirement or rule of professional conduct.
- 4.4 Respond openly, promptly and co-operatively to communications from your regulators and ombudsmen.

#### **5 Act competently in the best interests of your client and respect client confidentiality.**

You must:

- 5.1 Maintain a high level of competence in your legal work and ensure that your legal knowledge is current and of sufficient depth for your role.
- 5.2 Identify and address any deficiencies in your knowledge or training, or that of your staff, so as to maintain a level of competence and knowledge appropriate to the work and level of responsibility in which you or your staff are engaged.
- 5.3 Act only on matters that are within your competence.
- 5.4 Not act for a client in an area of law where you have insufficient knowledge or experience.
- 5.5 Act on your client's instructions except when to do so would involve a breach of the law or this Code.
- 5.6 Not act in a matter where you do not have the right or are not authorised to act.
- 5.7 Adequately explain and agree with your client the terms upon which your services are to be provided, including the extent of the services, payment and the likely or anticipated cost, outcome and timescale for the advice and services to be provided.
- 5.8 Provide prompt, clear and accurate information and advice to your client, advise them openly and honestly and keep them up to date with information they need about the work you are performing for them within agreed timescales.
- 5.9 Inform your client fully as to your complaints procedures including their right to refer a complaint to the Legal Ombudsman or IPS where appropriate.
- 5.10 Not charge a client for the cost of handling a complaint.

- 5.11 Where your practice is regulated by IPS, include in the terms of business with your client, a statement that IPS is your regulator and may seek access to their papers and that, in these circumstances, you will grant IPS access unless the client objects.
- 5.12 Maintain confidentiality in respect of your client's affairs except where to do so would conflict with the law or the Code or where your client explicitly authorises you to disclose confidential information.

## **6 Treat everyone fairly and without prejudice**

You must:

- 6.1 Ensure your business or your role within it, your business model, processes and practices adequately:
  - assist consumers and clients to access justice and the full range of legal services; and
  - provide each client with equal opportunity to secure a favourable outcome in their matter, irrespective of their vulnerability or susceptibility to discrimination.

## **7 Ensure your independence is not compromised.**

You must:

- 7.1 Not act or continue to act where there is a conflict of interest or a significant risk that a conflict may arise.
- 7.2 Not act or continue to act for a client if you reasonably consider that they are providing instructions under duress or undue influence, except where to withdraw from acting would be detrimental to the client's interests.
- 7.3 Where instructions are provided by a third party, confirm them with your client to ensure they are your client's own instructions.
- 7.4 Ensure that none of your commercial interests or financial arrangements adversely affect the independence of your advice or your ability to act impartially.

## **8 Act effectively and in accordance with proper governance and sound financial and risk management principles.**

You must:

- 8.1 Maintain proper standards of work and keep accurate records. In matters such as communications with clients, professional colleagues and others, your records should be contemporaneous and in any event must be made as soon as practicable thereafter.
- 8.2 Ensure that you properly supervise tasks that you have asked others to perform on your behalf, recognising that you remain accountable for any such work.
- 8.3 Ensure that anyone you ask to perform work on your behalf is appropriately qualified and authorised to perform it.

- 8.4 Ensure that clients' matters are supervised and regularly checked by those with sufficient competence and experience to assess the quality of the work and to ensure issues identified are addressed.
- 8.5 Adhere to effective management, oversight and reporting structures.
- 8.6 Comply with effective procedures to ensure compliance with your legal and regulatory obligations.

## **9 Protect client money and assets.**

You must:

- 9.1 Identify, assess, manage and promptly address risks to money and assets entrusted to you by clients and others.
- 9.2 Effectively monitor the financial stability of your business or your role within it, so as to protect client money and assets from risks associated with the financial position of your business or the business of your employer.

### **Further Help & Guidance**

If you are unsure how this Code applies to you, contact IPS on 01234 845770 or [info@ilexstandards.org.uk](mailto:info@ilexstandards.org.uk)



**APPENDIX 6**  
**ACCOUNTS RULES**

## THE IPS ACCOUNTS RULES

### 1. Authority and Interpretation

- 1.1 CILEx has delegated to IPS responsibility for these rules.
- 1.2 A breach of these Rules may result in proceedings being instigated.
- 1.3 Definitions:
  - *Account Period*: as defined in Rule 10 hereof;
  - *Accounts Records*: as defined in Rule 7 hereof;
  - *Accountant's Report*: a statement from the Authorised Body's Reporting Accountant to confirm compliance with IPS Accounts Rules;
  - *Authorised Body*: any entity which is authorised and regulated by IPS;
  - *Authorised Person*: an "Authorised Person" under Section 18 of the Legal Services Act 2007 in relation to a particular Reserved Legal Activity if that person is authorised to carry on that activity by a relevant approved Regulator;
  - *Client Account*: an account at a bank or building society in England and Wales in the name of the Authorised Body and which includes in its title the words "Client Account". A Client Account may be an account pooling funds from more than one client or an account designated for a particular purpose;
  - *Client Money*: money beneficially owned by anyone other than the Authorised Body;
  - *Designated Client Account*: a deposit or share account for money relating to a single client and which includes in its title "client account";
  - *Entity*: any person or body providing or offering to provide legal services which may include any Regulated Legal Activity;
  - *Guidance*: written guidance issued by IPS and describing itself as a Guidance on a given matter;
  - *CILEx*: the Chartered Institute of Legal Executives;
  - *CILEx Practitioner*: means a practitioner authorised by IPS to provide one or more regulated legal activity;
  - *IPS*: ILEX Professional Standards Ltd;
  - *Office Account*: an account at a bank or building society in England and Wales in the name of an Authorised Body and which includes in its title the words "Office Account";
  - *Office Money*: money beneficially owned by Authorised Body;
  - *Reporting Accountant*: as defined in Rule 13 hereof;
  - *Regulated Legal Activity*:
    - (a) a reserved legal activity within the meaning of the Legal Services 2007;  
or
    - (b) immigration advice or immigration services;
  - *Regulated Practice*: an entity regulated by an Approved Regulator under the Legal Services Act 2007; and
  - *You and Your*: a CILEx member, CILEx Practitioner or an Authorised Body.

## 2. Client Money

- 2.1 You must as soon as is practicable pay Client Money received into your Client Account and only into that account unless:
  - 2.1.1 the client gives written instructions for the cheque or cash to be held as such for the client's own convenience; or
  - 2.1.2 the money received represents unpaid professional disbursements included in a payment of costs which may be paid into Office Account provided they are then disbursed within two working days.
- 2.2 You must use each client's money for that client's matter only.
- 2.3 Subject to rule 3.9 you may withdraw money from Client Account only upon the instructions of the client to whom the money belongs.
- 2.4 You may withhold money from Client Account on the written authorisation of IPS. IPS may impose a condition that you pay the money to a charity which gives an indemnity against any subsequent legitimate claim for the sum received.
- 2.5 You may transfer a client's money from Client Account to Office Account to settle that client's liability for costs incurred or disbursements paid by you in accordance with your terms of business and following the rendering of the relative account and/or written intimation to that client that the funds are to be transferred.
- 2.6 Nothing in these Rules deprives you of any legal recourse or right, whether by way of lien set off, counter claim or otherwise, against money standing in client account to the credit of the client against whom legal recourse or right is sought.
- 2.7 Regular payments from any body administering public legal aid funding must be paid into your office account. You must within 28 days of submitting a report to such a body, notifying completion of the matter, either pay any unpaid professional disbursements or transfer into a Client Account that sum equivalent to the amount of unpaid professional disbursements relating to that matter. Where such a body permits you to submit regular reports at various stages during a matter the provisions relating to unpaid professional disbursements apply to any such disbursements included in each report. Regular payments can be either standard monthly payments paid by the body under legal aid contracting arrangements or any other payments received from the body under an arrangement for payments on a regular basis.
- 2.8 You must maintain accurate and up to date accounts in accordance with these rules and any guidance issued by IPS from time to time.
- 2.9 You must retain your ability to repay Client Money immediately unless the client agrees otherwise in writing.
- 2.10 Notwithstanding any provision herein to the contrary in relation to matters which are publicly funded:
  - 2.10.1 Payments received from any body administering public legal aid funding may be paid into Office Account with the written consent of that body provided that any payment in respect of unpaid disbursements must within 14 days of receipt either be applied to pay those disbursements or transferred to Client Account unless the payments are regular payments in which case Rule 2.7 applies.

- 2.10.2 Payments received from any other party must be paid into Client Account and recorded in a ledger which notes any interest the body administering public legal aid funding has in such receipt.
- 2.10.3 You may transfer any funds held on Client Account to which you are entitled after delivering to the body administering public legal aid funding a report comprising an up to date and comprehensive cash account in relation to the matter in question and an intimation of your intention to effect a transfer to Office Account indicating the amount of the proposed transfer.
- 2.10.4 You must comply with your obligations to the body administering public legal aid funding including but not limited to any obligation to preserve that body's statutory charge.

### 3. Client Account

- 3.1 You must not pay any of your own money into Client Account except either:
  - 3.1.1 when under a duty to do so imposed by these rules; or
  - 3.1.2 any nominal sum required to open or maintain the account; or
  - 3.1.3 where a payment is made under rule 3.2.
- 3.2 You may pay into Client Account an advance from you to fund a payment on behalf of a client or controlled trust. This money becomes Client Money or controlled trust money. Rule 6 (interest) will not apply to that money.
- 3.3 You must ensure that funds are not overdrawn against a specific client on Client Account
- 3.4 You must not effect any payments or receipts through Client Account unless those payments and receipts are incidental to the provision of substantive legal services by you to a client.
- 3.5 You may transfer Client Money between Client Accounts.
- 3.6 You may withdraw money from Client Account to reverse a payment into Client Account made in error.
- 3.7 You must make good any deficiency in Client Account, immediately that it becomes known, from your own funds through Office Account.
- 3.8 You must pay a receipt of mixed Client Money and other funds into Client Account and within 14 days transfer the amount of other funds to Office Account. In these circumstances you need not comply with the provisions of Rule 2.5.
- 3.9 You may transfer amounts from a ledger in the name of one client to a ledger in the name of another client:
  - 3.9.1 only with the prior written authority of both clients; and
  - 3.9.2 provided that it would have been permissible to withdraw that sum from the account in accordance with these rules; and
  - 3.9.3 it would have been permissible to pay that sum into the account under these rules.
- 3.10 You may hold funds jointly with:
  - 3.10.1 the Client,
  - 3.10.2 a CILEx Practitioner,
  - 3.10.3 an Authorised Body,

- 3.10.4 a Regulated Practice,
  - 3.10.5 an Authorised Person, or
  - 3.10.6 a third party
- when instructed in writing by your client to do so, provided that:
- 3.10.7 the funds are held on a joint account designated as to beneficiary and purpose; and
  - 3.10.8 you maintain, available for inspection by IPS, the client's written authority for every payment made from the joint account upon your signature and duplicate original bank statements for the joint account; and
  - 3.10.9 compliance with these requirements is confirmed in the Accountant's report required by Rule 10 herein.
- 3.11 IPS may by written consent relieve you of your duty to comply with these rules in whole or part in relation to a specific client's funds where IPS considers it appropriate in the circumstances to do so and IPS is satisfied that adequate other arrangements exist to safeguard that client's interests.

#### **4. Method and authority for withdrawals from client account**

- 4.1 A withdrawal from a Client Account may be made only after a specific authority in respect of that withdrawal has been signed by an appropriate person or persons in accordance with the Authorised Body's procedures for signing on Client Account. An authority for withdrawals from Client Account may be signed electronically, subject to appropriate safeguards and controls.
- 4.2 Authorised Bodies must put in place appropriate systems and procedures governing withdrawals from Client Account, including who should be permitted by the Authorised Body to sign on Client Account.
- 4.3 A signed authority shall not be required for the transfer of money from one Client Account to another Client Account at the same bank or building society except where either is a separate designated account.
- 4.4 A withdrawal from a Client Account in favour of you must be made either by way of a cheque to you or by way of a transfer to your office account. The withdrawal in favour of you must not be made in cash.

#### **5. Office Account**

- 5.1 You must effect all payments and receipts of your own money in connection with your practice through an Office Account.
- 5.2 You must maintain as part of your required Accounts Records accurate and up to date records of payments from and receipts into Office Account.

#### **6. Interest on Client Account**

- 6.1 You must place Client Money on deposit so as to earn interest unless it would be unreasonable or inappropriate to do so.

- 6.2 You must account to each client for the proper proportion of any interest earned (or which ought to have been earned) except to the extent that, on that client's money:
  - 6.2.1 the amount due does not exceed such amount as IPS may from time to time stipulate in Guidance; or
  - 6.2.2 the interest is in respect of client money held on account of costs or disbursements; or
  - 6.2.3 the interest is in respect of money held for any body administering public legal aid funds.
- 6.3 You may not exclude your obligations to pay interest in accordance with these rules by contract with your client.
- 6.4 If you hold money as a stakeholder you must pay interest to the recipient of the stake.
- 6.5 Your client may, without prejudice to any other remedy, apply to IPS for a Certificate as to whether or not interest, or a sum in lieu of interest, should have been paid, and, if so, the amount. If IPS certifies that interest, or a sum in lieu of interest, should have been paid, you must pay the certified sum.

## 7. Accounting Records

- 7.1 You must operate proper accounting systems and controls resulting in the maintenance of complete and accurate Accounting Records sufficient to demonstrate the entitlements to all Client Money held by you and document every payment or receipt effected in the course of your practice.
- 7.2 In particular (but without limit) you must have available together for inspection by IPS the following:
  - 7.2.1 a record for every payment from Client Account;
  - 7.2.2 written vouchers describing and authorising every Client Account and Office Account transaction;
  - 7.2.3 an up to date ledger for each matter for each client showing all Office Account and Client Account transactions for that matter and the balance of Client Money held in relation to that matter for that client;
  - 7.2.4 Client Account and Office Account cash books showing every transaction on those accounts;
  - 7.2.5 all Client Account and Office Account bank statements and passbooks;
  - 7.2.6 all Client Account and Office Account chequebooks and paying in books with all counterfoils properly completed;
  - 7.2.7 documentary reconciliations of Client Account;
  - 7.2.8 all written authorities obtained for inter-client ledger transfers required by rule 3.9;
  - 7.2.9 all bills and written intimations of costs sent by you;
  - 7.2.10 a list of all joint accounts with the records required by paragraph 3.10.
- 7.3 You may maintain Accounting Records in either or both written and electronic form but insofar as records are maintained in electronic form you must:
  - 7.3.1 electronically back up all information held at the end of business each day and store the most recent copy away from your premises whenever the office is closed;

- 7.3.2 use a system which is capable of providing printed copies of ledgers and other information held immediately upon it being required.
- 7.4 You must take every necessary step to ensure that all Accounting Records are kept safe and in good order.

## 8. Reconciliation of Client Account

- 8.1 You must, at least once every five weeks:
  - 8.1.1 compare the balance on the Client Account cashbook with the balance shown on the statements and passbooks (after allowing for all unrepresented items) of all Client Accounts; and
  - 8.1.2 as at the same date prepare a listing of balances shown by the client ledgers of the liabilities to clients, and compare the total of those balances with the Client Account cashbook; and
  - 8.1.3 prepare a reconciliation statement that explains the cause of any difference; and
  - 8.1.4 take appropriate action promptly to correct any differences in order to balance the reconciliation statement.

## 9. Retention of Records

- 9.1 You must retain for a period of at least six years from the date of the last entry those materials referred to in rule 7.2 and all other records (whether held electronically or otherwise) pertaining to transactions on each Client Account, whether held as a general Client Account or a separate Designated Client Account.
- 9.2 You must retain paid cheques and other authorities for withdrawals from Client Account for a period of at least two years but these may remain in the physical possession of a bank or building society held on your behalf.

## 10. Accountant's Report

- 10.1 You must deliver to IPS an Accountant's Report from a Reporting Accountant that must cover a period of no more than twelve months;
  - 10.1.1 contiguous with the period of the previous Accountant's Report delivered by you; or
  - 10.1.2 if there is no previous Accountant's Report, from the date upon which you first held Client Money.
- 10.2 If you have not held Client Money during the whole of a period for which an Accountant's Report would otherwise be required you may, in relation to that reporting period, provide to IPS in place of an Accountant's Report, a certificate (in such form as IPS may stipulate in any Guidance) to that effect and such certificate shall be deemed to be an Accountant's Report for the purpose of rule 10.1.
- 10.3 Your Accountant's Report must relate to your most recently concluded Account Period as defined in Rule 10.1 above and must be delivered to IPS as soon as

reasonably practicable and in any event within six months from the conclusion of that Account Period.

- 10.4 You must deliver an Accountant's Report to IPS for the period up to and including the date upon which for any reason you ceased to hold Client Money.

## 11. Test Procedures

- 11.1 The Reporting Accountant must examine the Accounts Records selected by them and make the following checks:-

11.1.1 confirm that your accounting system complies with the requirements for Accounts Records in these rules; and

11.1.1.1 that an appropriate client ledger is kept for each client; and

11.1.1.2 the client ledger shows details of all money received, held or paid on account.

11.1.2 for each client the transactions relating to Client Money are accurately recorded;

11.1.3 make checks of postings to the client ledger accounts from records of receipts and payments of Client Money;

11.1.4 compare a sample of payments into and from the Client Account as shown in the bank or building society statements or passbooks with your records of receipts and payments of Client Money;

11.1.5 check the system for recording costs and making transfers of costs from the Client Accounts;

11.1.6 examine a selection of documents to confirm that the documentary evidence of the financial transactions comply with these rules and that the entries relating to those transactions comply with these rules;

11.1.7 select details of the balances on client ledgers for at least two dates and compare the total shown by the client ledger accounts of liabilities to the clients with the cash account balance, and reconcile that cash account balance with the balances held as client monies;

11.1.8 confirm that reconciliation statements have been kept in accordance with these rules;

11.1.9 check the client ledger accounts to see whether any payments have been made from the Client Account in excess of money held on behalf of that client;

11.1.10 check the office ledgers, office cash accounts and the bank statements for any Office Account to see whether any Client Money has been improperly paid into an Office Account, or if it has been improperly paid into Office Account and has been kept there in breach of the rules;

11.1.11 check the records for any Client Money held outside a Client Account to ascertain what transactions have been effected in respect of their money and to confirm that the client has given the appropriate instructions in accordance with these rules;

11.1.12 check the client ledgers to ensure these rules have been complied with in respect of maintaining records;



- 11.1.13 check that statements and passbooks are being kept in accordance with these rules and cross check transactions with client files where appropriate;
  - 11.1.14 check that interest earned on Designated Client Accounts and accounts opened on clients instructions are credited in accordance with these rules; and
  - 11.1.15 ask for any information or explanations from you which is required as a result of these checks.
- 11.2 The Reporting Accountant may examine your accounting records, files and other documents at your office. If the Reporting Accountant requires access to these records, files and documents at your office you must permit access.
- 11.3 The Reporting Accountant must request, and you must provide, details of all accounts kept or operated by you in connection with your practice at any time during the Account Period to which the report relates.
- 11.4 The Reporting Accountant must note in the Accountant's Report any substantial departures from these rules discovered by them whilst carrying out work in preparation of the report.

## 12. Matters outside the Reporting Accountant's remit

- 12.1 The Reporting Accountant is not required to:-
- 12.1.1 extend their enquiries beyond the information contained in the documents produced, supplementary information and explanations given by you;
  - 12.1.2 enquire into stocks, shares, securities or documents of title held by you on behalf of your clients;
  - 12.1.3 consider whether accounting records have been properly written up at a time that does not fall within the period of time to which their report relates;
  - 12.1.4 check compliance with the provisions relating to payments of sums in lieu of interest.

## 13. Reporting Accountant

- 13.1 A person is eligible to be a Reporting Accountant for the purpose of these rules if they are an accountant who is:
- 13.1.1 a member of an accountancy body incorporated by Royal Charter or the Association of Authorised Public Accountants;
  - 13.1.2 a person who is a registered auditor within the terms of Section 35(1)(a) of the Companies Act 1989 or the employee, director or partner of a firm or company which is so registered unless they are disqualified by the provisions of 13.2; or
  - 13.1.3 is eligible within guidelines which may be published by IPS from time to time but not otherwise.
- 13.2 A person may not be a Reporting Accountant if:

- 13.2.1 they have at any time within the previous five years been a partner, owner, manager, shareholder, member, employee or officer in the Authorised Body to which the report relates; or
  - 13.2.2 they are the parent, spouse, civil partner, sibling or child of a manager or employee of the Authorised Body; or
  - 13.2.3 they have been disqualified from acting as such by IPS by written notice given after such person has had a fair opportunity to make representations that such notice should not be given.
- 13.3 You must include the following provisions in the terms upon which the Reporting Accountant is to act:
- 13.3.1 The Reporting Accountant undertakes to deliver the required Accountant's Report which will have been prepared for submission to IPS who may rely upon it; and
  - 13.3.2 The Reporting Accountant may immediately report in writing to IPS any suspicion of dishonesty or any serious breach of these rules coming to their attention or any other matter which might constitute circumstances representing a material risk to client funds;
  - 13.3.3 The Reporting Accountant warrants that they are eligible to act as such under these rules and under those of their own professional body;
  - 13.3.4 You consent to the disclosure of confidential information by the Reporting Accountant to IPS if required by IPS for any purpose under these rules;
  - 13.3.5 The Reporting Accountant is instructed to notify IPS in writing immediately of the termination of their retainer as Reporting Accountant indicating any matter which could have given rise to a notification under rule 13.3.2.
  - 13.3.6 If a Reporting Accountant is unable for any reason to provide an Accountant's Report to IPS at the time and in the form required by these rules they are instructed to immediately notify IPS in writing with a full and appropriate explanation.

#### 14. Content of Accountant's Report

- 14.1 The Accountant's Report shall be in such form as may be stipulated by IPS but must include statements that:
- 14.1.1 your accounting systems and records comply with rule 7 hereof;
  - 14.1.2 reconciliations have been carried out in accordance with rule 8 hereof;
  - 14.1.3 sufficient checks have been carried out to properly express the opinion that as at the end of the relevant financial period the amounts due to clients balance the funds in Client Account;
  - 14.1.4 on the basis of a reasonable number of checked balances, interest has been paid to clients in accordance with these rules;
  - 14.1.5 the test procedures set out in any current IPS Guidance to Reporting Accountants have been applied; and
  - 14.1.6 you either have or have not declined to produce any document or disclose any information requested by the Reporting Accountant whether on grounds of confidentiality, privilege or otherwise.

## 15. Statutory Rules or Regulations

15.1 If you, in the course of practice, act as a liquidator, a trustee in bankruptcy, a Court of Protection receiver or a trustee of an occupational pension scheme, you must comply with the appropriate statutory rules and regulations and will not be in breach of these rules to the extent that any action or omission is required by applicable statutory rules and regulations.

15.2 You must obtain the authorisation of IPS before accepting any appointment referred to in paragraph 15.1 and must comply with any conditions referable thereto which are attached to the your authorisation by IPS.

## 16. Accounts Rules Waivers

16.1 If you do not hold client funds, IPS may grant you a written waiver from compliance with these Accounts Rules whilst this remains the case.



## **APPENDIX 7**

# **FIRST TIER COMPLAINTS HANDLING REQUIREMENTS**

## ILEX PROFESSIONAL STANDARDS LTD

## GUIDANCE ON COMPLAINTS HANDLING

1. One of the requirements of Principle 5 of the Code of Conduct is that those regulated by IPS must inform clients fully and honestly about complaints procedures including their right to refer a complaint to the Legal Ombudsman or IPS where appropriate. This guidance sets out what you must do to comply with this requirement.
2. This guidance applies to all CILEx members, CILEx practitioners and Authorised Bodies. You must take all practicable steps to make sure that:
  - complaints handling procedures provide effective safeguards for clients;
  - complaints are dealt with fully and promptly; and
  - appropriate redress is provided where necessary.

Even if you do not have direct responsibility for complaints handling policy or procedures within your firm or workplace you are expected to do what you can in your particular circumstances to comply with this guidance.

3. Clients should be given information about your firm's complaints handling procedure when client care letters are sent or at the point where instructions are accepted. Clear information should be given to clients at this time about their right to complain, how to make a complaint and who to make a complaint to. Clear information should be given to clients about their right to complain to the Legal Ombudsman if any complaint regarding the service provided by the firm is not resolved to their satisfaction. The information provided must include the role of the Legal Ombudsman service, contact details and timescales for making a complaint to the Legal Ombudsman.
4. The process for clients to make a complaint to the firm must be clear and simple for all clients to use, must be free of charge and make provision for complaints to be made by any reasonable means. Complaints should be dealt with quickly and, as far as possible, within the time limit which applies to the making of a complaint to the Legal Ombudsman (currently 8 weeks). At the end of any complaints process clients must be informed of their right to complain to the Legal Ombudsman, contact details of the Legal Ombudsman, how to make such complaint and the timescale for doing so.
5. Firms must provide information about the Legal Ombudsman service to their existing clients at the next appropriate time, whether or not a complaint has been made to the firm or is in prospect. This is a requirement of the Legal Services Board made under Section 112(2) of the Legal Services Act 2007.
6. If you have personal responsibility for client matters and your employer has not made arrangements to comply with this guidance (or guidance or rules issued by another legal services regulator such as the SRA or the CLC) you should inform your clients of the

complaints handling procedures of the firm and make sure they receive the necessary information about the Legal Ombudsman service.

7. Where your firm is regulated by IPS, include in client care letters and concluding correspondence statements that as your regulator IPS:
  - may seek access to the clients papers and that, in these circumstances, you will grant IPS access unless the client objects; and
  - administers a consumer feedback programme and that the client's comments are welcomed. The statement shall advise the client of the online programme and the alternative arrangements for participation for those without online access.
8. If a complaint is made by one of your clients or your employer's clients, a full record of the way the complaint is handled should be kept separate from the main client file. A log of all complaints made by clients should also be kept.
9. If a complaint is made to the Legal Ombudsman or IPS by one of your clients or your employers' clients, you must cooperate with the Ombudsman and IPS and assist them to deal with the complaint. This is a requirement of Principle 4 of the Code of Conduct.
10. For the purpose of this guidance a complaint is an oral or written expression of dissatisfaction which alleges that the complainant has suffered or may suffer financial loss, distress, inconvenience or other detriment.

***ILEX Professional Standards  
8 November 2012***





**APPENDIX 8**

**INVESTIGATION, DISCIPLINARY  
AND APPEAL RULES**

## IPS INVESTIGATION, DISCIPLINARY AND APPEALS RULES

### PART I: GENERAL

#### Application of Rules, establishment of Panels and Tribunal

1. (1) These Rules shall apply to any:
  - (a) allegation of misconduct made against a Relevant Person; or
  - (b) declaration of prior conduct made by an Applicant or Relevant Person.
- (2) In these rules **misconduct** means any breach of the CILEx Code of Conduct.
- (3) The Professional Conduct Panel is established for the purposes set out in Part II.
- (4) The Disciplinary Tribunal is established for the purposes set out in Part III.
- (5) The Appeals Panel is established for the purposes set out in Part IV.

#### Panellists

2. (1) IPS shall appoint and maintain lists of lay and professional members to act as panellists on:
  - (a) the Professional Conduct Panel;
  - (b) the Disciplinary Tribunal; and
  - (c) the Appeals Panel.
- (2) A person shall not at any one time be included in more than one list maintained under paragraph (1).
- (3) IPS shall remove from the relevant list the name of any panellist:
  - (a) whose term of appointment has ended and not been renewed;
  - (b) who has resigned by giving notice in writing to that effect to IPS; or
  - (c) who in the opinion of IPS has ceased to be a suitable person to act as a panellist.
- (4) The term of appointment of a panellist shall be not more than five years and no panellist shall serve for more than ten years.

## Interpretation

3. In these Rules, unless otherwise provided:

<b>allegation:</b>	has the meaning given in Rule 15(1);
<b>Appeals Panel:</b>	means the Appeals Panel established under Rule 1(5) as constituted from time to time;
<b>Applicant:</b>	means a person applying for Membership or Authorisation;
<b>Approved Manager:</b>	means a person approved by IPS to be a Manager of an Authorised Body;
<b>Authorisation</b>	means authorisation by IPS as an Approved Manager, Authorised Body or CILEx Practitioner;
<b>Authorised Body:</b>	means a partnership, company or sole principal authorised by IPS to provide one or more regulated legal activities;
<b>CILEx:</b>	means the Chartered Institute of Legal Executives;
<b>CILEx Member:</b>	means a person who has been admitted to membership of CILEx in any grade;
<b>CILEx Practitioner:</b>	means a practitioner authorised by IPS to provide one or more regulated legal activity
<b>complainant:</b>	means a person who has made a complaint against a Relevant Person to IPS;
<b>Disciplinary Tribunal:</b>	means the Disciplinary Tribunal established by Rule 1(4) as constituted from time to time;
<b>IPS:</b>	means ILEX Professional Standards Limited;
<b>lay member:</b>	means a person who is not and who has never been an authorised person (within the meaning of s.18 of the Legal Services Act 2007) or registered by CILEx in any grade;
<b>Membership</b>	means enrolment or reinstatement as a CILEx Member;
<b>misconduct:</b>	has the meaning given in Rule 1(2);
<b>person</b>	includes an individual, body corporate or other entity;
<b>Practice Management Agreement:</b>	has the meaning given in Rule 30(6);

<b>Professional Conduct Panel:</b>	means the Professional Conduct Panel established under Rule 1(3) as constituted from time to time;
<b>professional member:</b>	means a Fellow of CILEx who is not a member of the CILEx Council or the IPS Board of Directors and who is otherwise eligible to be appointed to a list of panellists under Rule 2;
<b>regulated legal activity</b>	means: <ul style="list-style-type: none"> <li>(a) a reserved legal activity;</li> <li>(b) immigration advice or immigration services;</li> </ul>
<b>Relevant Person</b>	means an Approved Manager, Authorised Body, CILEx Member or CILEx Practitioner.
<b>reserved legal activity:</b>	has the same meaning as in the Legal Services Act 2007.

#### Extension of time

4. Where these Rules prescribe a time limit by which a person must act or after which they may not act, an Investigator, the Professional Conduct Panel, the Disciplinary Tribunal or the Appeals Panel (as the case may be) may, upon application, vary that time limit if satisfied that in all the circumstances it is reasonable to do so.

#### Service of documents

5. (1) Any notice required to be given under these Rules may be given to a person or that person's representative:
- (a) by sending it by first class post to a relevant address;
  - (b) by leaving it at a relevant address;
  - (c) by personal service, effected by leaving the document with an individual or, in the case of a body corporate or other entity, with a director, officer or manager of that body corporate or entity;
  - (d) by such other method as the Professional Conduct Panel, the Disciplinary Tribunal or the Appeals Panel (as the case may be) may direct.
- (2) For the purpose of paragraph (1), a **relevant address** means:
- (a) in the case of an individual, the last known address of that person, including their usual or last known residence or usual or last known place of business;

- (b) in the case of a body corporate or other entity, its principal or registered office, its last known address or any other office or place of business which is connected to the proceedings to which the notice relates;

and for this purpose, the last known address of a Relevant Person is the address of that person as it appears in records maintained by IPS.

- (3) A notice which is served in accordance with paragraph (1) shall be deemed to be served at the time of personal service or delivery or on the second working day after it was posted.
- (4) Where it is satisfied on reasonable grounds that it is in the public interest to do so, the Professional Conduct Panel, the Disciplinary Tribunal or the Appeals Panel (as the case may be) may:
  - (a) deem service to be effective even though the requirements of paragraph (1) have not been complied with; or
  - (b) dispense with the requirement of service altogether.

#### **Effect on Membership or Authorisation**

- 6. A Relevant Person shall not be permitted to terminate their Membership or Authorisation whilst the subject of any investigation or proceedings under these Rules.

## PART II: INVESTIGATION OF COMPLAINTS AND THE PROFESSIONAL CONDUCT PANEL

### Interpretation of Part II

7. In this Part, unless the context otherwise requires:

<b>Clerk:</b>	means the Clerk to the Professional Conduct Panel;
<b>Investigator:</b>	means a person appointed by IPS to conduct investigations under this Part;
<b>Panel:</b>	means the Professional Conduct Panel; and
<b>prior conduct:</b>	has the meaning given in Rule 11(4).

### Professional Conduct Panel

8. The Panel shall consider:

- (a) declarations of prior conduct made by or on behalf of Applicants and Relevant Persons and other information relating to their prior conduct; and
- (b) allegations made against Relevant Persons.

### Composition of the Panel

9. (1) The quorum for a meeting of the Professional Conduct Panel is three members from the list of panellists maintained under Rule 2(1)(a), of whom two shall be lay members and one shall be a professional member.
- (2) the Panel must
- (a) select one of their number to chair the meeting; or
  - (b) if different members are to chair different parts of the meeting, elect one of their number to chair the proceedings on any matter before considering that matter.

### Conduct of meetings

10. (1) Meetings of the Panel shall be held in private.
- (2) Meetings shall be held at the offices of IPS unless the Panel decides otherwise but nothing in these Rules shall require any meeting to be held outside the United Kingdom.

- (3) Minutes and a record of the decisions of the Panel shall be made by the Clerk.
- (4) The Panel may resolve to consider and determine a matter without a meeting and, in that event, a decision signed by the members of the Panel shall be as valid as if it was made at a meeting.
- (5) In considering a matter, the Panel:
  - (a) may take account of, but is not bound by, the findings, views or analysis of an Investigator;
  - (b) may seek further information from the Relevant Person;
  - (c) may take account of any further representations and material adduced by the Applicant or Relevant Person.
- (6) Where, in accordance with Rule 14(1)(d) or 17(5), the Panel has requested that:
  - (a) an Applicant or Relevant Person attend a meeting of the Panel; or
  - (b) where the Applicant or Relevant Person is an entity, that a representative of that entity attend a meeting of the Panel;

an Applicant or Relevant Person who so attends or which is so represented may be represented at the meeting by any person, whether or not legally qualified, but the Panel may refuse to permit a particular person to assist or represent a party if the Panel is satisfied that there are good and sufficient reasons for doing so.
- (7) Decisions at a meeting of the Panel shall be made by a majority vote of the panellists present.
- (8) The Panel shall give reasons for its decisions and inform the parties of any right of an appeal.
- (9) IPS shall within 21 days of any decision of the Panel notify the Applicant or Relevant Person of that decision and, in the case of an allegation, IPS shall notify any complainant of the decision once it takes effect.

#### **Duty to declare prior conduct**

11. (1) Every Applicant or Relevant Person who is an individual must declare in writing to IPS if that individual has at any time:
  - (a) been convicted or accepted a caution in the United Kingdom for a criminal offence, or been convicted elsewhere for an offence which, if committed in England and Wales, would constitute a criminal offence;

- (b) been removed from being a trustee of, or being concerned with the management or control of, a charity;
  - (c) been removed from office as a member, director or manager of any public body;
  - (d) been adjudged bankrupt or made a composition with creditors;
  - (e) been disqualified from acting as a director of a company;
  - (f) been the subject of a civil judgment;
  - (g) been subject to any investigation or proceedings concerning the person's fitness to practise by any regulatory or professional body.
- (2) Paragraph (1)(a) shall apply subject to the Rehabilitation of Offenders Act 1974.
- (3) In respect of every Applicant or Relevant Person that is not an individual, a declaration must be made in writing to IPS if:
- (a) a resolution for a voluntary winding-up of the Relevant Person has ever been passed without a declaration of solvency under section 89 of the Insolvency Act 1986;
  - (b) the Relevant Person has ever entered administration within the meaning of paragraph 1(2)(b) of Schedule B1 to that Act;
  - (c) an administrative receiver within the meaning of section 251 of that Act has been appointed in respect of that Relevant Person;
  - (d) a meeting of creditors has been held in relation to the Relevant Person under section 95 of that Act;
  - (e) an order for the winding up of the Relevant Person has been made;
  - (f) a civil judgment has been made against that Relevant Person;
  - (g) that Relevant Person has been the subject of any investigation or proceedings conducted by any regulatory or professional body.
- (4) Each of the matters in paragraph (1) and (3) is referred to in these Rules as **prior conduct**.
- (5) In paragraphs (1)(f) and (3)(f) references to a **civil judgment** are to a judgment of a civil court concerning any debt, fraud, misrepresentation or conduct related to the administration of justice.
- (6) A declaration of prior conduct shall be considered and determined in accordance with Rules 13 and 14.



### Timing of declaration

12. (1) Every Applicant must disclose full details of prior conduct at the earliest opportunity and, unless the conduct occurs later, in any application for Membership or Authorisation.
- (2) Every Relevant Person must disclose full details of prior conduct at the earliest opportunity and in any event (if not previously disclosed to IPS or CILEx):
  - (a) in the case of a CILEx Member:
    - (i) in any application for Membership;
    - (ii) in any application for a change in Membership grade;
    - (iii) in any other application to CILEx or IPS; and
    - (iv) in an annual return;
  - (b) in the case of an Approved Manager, Authorised Body or CILEx Practitioner:
    - (i) in any application for Authorisation; and
    - (ii) in any annual return form.
- (3) Where requested to do so by IPS, an Applicant or Relevant Person must provide further details of any prior conduct.
- (4) Failure by a Relevant Person to comply with this Rule and Rule 11 may be treated as misconduct.

### Investigator decisions: prior conduct

13. (1) An Investigator may determine that no action is to be taken in relation to a declaration of prior conduct where:
  - (a) the Applicant or Relevant Person has declared an outstanding judgment and there is no evidence of:
    - (i) persistent or deliberate failure to meet financial obligations;
    - (ii) a related criminal offence; or
    - (iii) failure to make arrangements to pay off any debts;
  - (b) the Applicant or Relevant Person has declared a caution or spent conviction and is not a CILEx Fellow or applying for CILEx Fellowship;
  - (c) the Applicant or Relevant Person has declared a driving offence and:
    - (i) there is no evidence of a persistent pattern of offending,
    - (ii) a custodial sentence was not imposed; and
    - (iii) the duration of any disqualification imposed was not 18 months or

more;

- (d) the Applicant or Relevant Person is or has been subject to a bankruptcy Order or has entered into an arrangement with their creditors; or
  - (e) the prior conduct is of a kind which the Panel has given the Investigator delegated authority to determine.
- (2) The Investigator shall, within 21 days of making a decision, notify the Applicant or Relevant Person of that decision and, in respect of a decision made under paragraph (1)(e), shall at the same time inform the Panel of that decision.
- (3) An Investigator may decline to make a determination under this rule if, in the opinion of the Investigator, it would be more appropriate for the declaration to be determined by the Panel.

#### **Panel decisions: prior conduct**

- 14 (1) In considering any declaration or other information relating to prior conduct, the Panel shall have regard to any guidance published by IPS and may:
- (a) seek advice from or refer the matter to an Investigator or any CILEx or IPS committee it considers appropriate;
  - (b) request that the Applicant or Relevant Person provide such further information as the Panel may reasonably require; and
  - (c) request that the Applicant or Relevant Person or, where the Applicant or Relevant person is an entity, a representative of that entity, attend a meeting of the Panel.
- (2) Failure by a Relevant Person to comply with a request under paragraph (1)(b) or (c) may be treated as misconduct.
- (3) In respect of any prior conduct the Panel may:
- (a) decide to take no further action;
  - (b) accept or refuse any application for Membership or Authorisation or any other application to which the prior conduct relates;
  - (c) impose conditions on the Applicant or Relevant Person as it may think appropriate in respect of their future conduct and, in the case of an individual, their employment;
  - (d) require the Applicant or Relevant Person to give an undertaking as to their future conduct;
  - (e) reprimand the Relevant Person, warn the Relevant Person as to their future conduct or both; or
  - (f) refer the matter to the Disciplinary Tribunal as if it was an allegation.

### Investigating misconduct: initial procedure

15. (1) Where IPS receives a complaint or any other information to the effect that a Relevant Person may have engaged in misconduct (an **allegation**), it may investigate the allegation in accordance with these Rules.
- (2) An Investigator shall investigate an allegation as follows:
  - (a) the Investigator shall gather information about and investigate the issues involved including, where the allegation arises from a complainant, obtaining:
    - (i) any information about the complaint that the complainant wishes to provide; and
    - (ii) the consent of the complainant to provide a copy of the complaint and any supporting information to the Relevant Person;
  - (b) the Investigator shall notify the Relevant Person that an allegation has been made against them, provide the Relevant Person with details of the allegation (including a copy of any complaint or supporting information) and a copy of the Rules and invite the Relevant Person to submit representations to the Investigator within 14 days;
  - (c) the Investigator may seek information or advice from third parties.
- (3) The Investigator may supply the complainant with a copy of all or part of any response from the Relevant Person and, in that event:
  - (a) shall allow the complainant a period of 14 days in which to make written observations; and
  - (b) shall allow the Relevant Person a period of 14 days in which to comment on any observations received from the complainant.
- (4) At the conclusion of the investigation, the Investigator shall prepare a report containing a summary of the information obtained and an analysis of the issues for consideration and shall forward the same to the Relevant Person and complainant and invite them within a period of 14 days to comment in writing on the report.
- (5) Upon receipt of comments from the Relevant Person or the expiry of the time allowed for comments (whichever is the sooner), the Investigator shall either determine the matter or refer it to the Panel.
- (6) A Relevant Person is obliged to comply with and respond to reasonable enquiries made by an Investigator and failure to do so may be treated as misconduct.

### Decisions by Investigators in certain cases

16. (1) Where an Investigator is of the opinion that:
- (a) there is no evidence available to substantiate an allegation;
  - (b) the allegation does not disclose any misconduct by the Relevant Person;
  - (c) IPS has no jurisdiction to consider the allegation; or
  - (d) the time which has elapsed since the events (or knowledge of those events, if later) giving rise to the allegation exceeds the prescribed period;
- the Investigator may reject the allegation without further reference to the Panel.
- (2) For the purpose of paragraph (1)(d), the **prescribed period** means such period of not less than one year as IPS may prescribe.
- (3) Where an Investigator is of the opinion that the evidence available indicates that the Relevant Person has a case to answer in respect of an allegation; and either:
- (a) the allegation is of a serious nature; or
  - (b) an adverse finding has previously been made against the Relevant Person by the Professional Conduct Panel or Disciplinary Tribunal in respect of an allegation of a similar nature;
- the Investigator may refer the allegation directly to the Disciplinary Tribunal without further reference to the Panel.
- (4) An Investigator shall:
- (a) provide reasons for rejecting or referring to the Disciplinary Tribunal any allegation under this Rule;
  - (b) notify the Relevant Person and any complainant of the decision within 21 days; and
  - (c) report any such decision to the Panel.

### Powers of the Professional Conduct Panel

17. (1) The Panel shall consider any allegation which is referred to it and determine whether the Relevant Person has a case to answer.
- (2) In determining whether there is a case to answer, the Panel shall consider whether, based upon the available evidence, there is realistic prospect that IPS would be able to prove the allegation of misconduct before the Disciplinary Tribunal.
- (3) In respect of an allegation, the Panel may determine that:
- (a) there is no case to answer; or

- (b) there is a case to answer and:
  - (i) refer the allegation to the Disciplinary Tribunal; or
  - (ii) with the consent of the Relevant Person, dispose of the allegation in accordance with paragraph (4).
- (4) Where the Relevant Person admits an allegation and consents to the Panel doing so, the Panel may dispose of the matter by:
  - (a) requiring the Relevant Person to give undertakings as to their future conduct;
  - (b) imposing conditions on the Relevant Person in respect of their conduct or, in the case of an individual, their employment;
  - (c) reprimanding the Relevant Person, warning them as to their future conduct or both.
- (5) Before reaching a decision under paragraph (4), the Panel may request that the Relevant Person or, where the Relevant Person is an entity, a representative of that entity, attend a meeting of the Panel and failure to comply with such a request may constitute misconduct.

#### **Determination by consent**

18. (1) Where, in respect of any allegation:
- (a) an Investigator is of the opinion that the Relevant Person has a case to answer; and
  - (b) the Relevant Person admits the allegation;
- then subject to paragraph (3), the Investigator and the Relevant Person may agree to determine the allegation by consent.
- (2) The terms of any determination by consent shall include:
- (a) a statement to the effect that the Relevant Person admits the allegations(s);
  - (b) the imposition on the Relevant Person of one or more of the sanctions available to the Professional Conduct Panel under Rule 17 or the Disciplinary Tribunal under Rule 31 (other than the imposition of costs); and
  - (c) a provision that IPS may in its absolute discretion notify any person or publish the terms of the determination by consent.
- (3) A determination by consent shall not take effect until it has been approved by order of the Panel.

- (4) Failure by a Relevant Person to comply with the terms of a determination by consent shall constitute misconduct.

### Interim orders

19. (1) The Panel may at any time, on the application of an Investigator or of its own motion, consider whether it is necessary for the protection of the public, in the interests of the Relevant Person concerned or otherwise in the public interest to suspend or restrict a Relevant Person's Membership or Authorisation pending a hearing before the Disciplinary Tribunal.
- (2) The Panel shall give the Relevant Person not less than 7 days' notice of a meeting to consider the imposition or review of an interim order, unless the Panel consider that due to the seriousness or urgency of the case a shorter period of notice is appropriate.
- (3) The notice under paragraph (2) shall inform the Relevant Person of the time, date and place of the hearing, brief details of the matters giving rise to the application for an interim order and of the right to appear before and be heard by the Panel.
- (4) In considering whether to make an interim order, the Panel shall determine its own procedure in accordance with these Rules, any guidance published by IPS and the overriding requirement of fairness.
- (5) The Panel may order that the Relevant Person's Membership or Authorisation be:
  - (a) suspended; or
  - (b) subject to such restrictions as the Panel considers appropriate;for a maximum period of 18 months and any such order must be reviewed by the Panel every 3 months.
- (6) Where the Panel makes an interim order against a Relevant Person that is an Authorised Body, it may also require the Relevant Person to enter into a Practice Management Agreement.

### Appeals

20. (1) Decisions of the Panel (other than a decision to impose an interim suspension order which shall take effect immediately) shall only take effect after the period for lodging an appeal against the decision has expired or, where an appeal is made, after the appeal has been disposed of or withdrawn.

- (2) An Applicant or Relevant Person may appeal against any decision or order of the Panel other than a decision to refer a matter to the Disciplinary Tribunal
- (3) A complainant may make an application to the Panel seeking the review of a decision of an Investigator under Rule 16 to reject an allegation.
- (4) An application under paragraph (3) must be made in writing within 21 days of notification of the decision of the Investigator and, in conducting any review, the Panel may confirm the Investigator's decision, require the Investigator to investigate the matter further or consider the matter as if it was a referral made under Rule 17, but subject to such modifications as the Panel consider appropriate.
- (5) An appeal under paragraph (2) must be made in accordance with Part IV.

## PART III: THE DISCIPLINARY TRIBUNAL

## Interpretation of Part III

21. (1) In this Part, unless the context otherwise requires:

<b>Chair:</b>	means the Chair of a Disciplinary Tribunal Panel;
<b>Clerk:</b>	means the clerk to the Disciplinary Tribunal;
<b>finalised hearing date:</b>	means either the first hearing date or, where the first hearing date is varied by the Panel, that varied hearing date;
<b>first hearing date:</b>	means the hearing date set under Rule 24(1);
<b>Panel:</b>	means the members of the Disciplinary Tribunal appointed to hear a particular matter;
<b>party:</b>	means IPS and the respondent(s);
<b>respondent:</b>	means a Relevant Person against whom an allegation is made.

(2) In this Part any reference to the Professional Conduct Panel or Investigator having referred a matter to the Disciplinary Tribunal includes a decision by an Appeals Panel under Part IV to refer a matter to the Disciplinary Tribunal.

## Disciplinary Tribunal

22. (1) The Tribunal has jurisdiction to hear matters referred to it under Part II by the Professional Conduct Panel or Investigator or by an Appeals Panel under Part IV.
- (2) The Tribunal shall determine its own procedure in accordance with these Rules, the guidance published from time to time by IPS and the overriding requirement of fairness.

## Disciplinary Tribunal Panel

23. (1) A matter that has been referred to the Tribunal shall be heard by a Panel of 3 members from the list of panellists maintained under Rule 2(1)(b), of whom 2 shall be lay members and 1 shall be a professional member.



- (2) The members of the Panel shall choose one of their number to act as Chair for the purposes of the hearing.
- (3) If, during the course of any hearing, a member of the Panel is unable to continue to attend the hearing, the remaining members may, with the consent of the parties, continue with the hearing.
- (4) Where, under paragraph (3), a matter is heard by the remaining two members and they are unable to arrive at a determination, the matter shall be re-heard by a new Panel comprising panellists who were not members of the original Panel.

### Proceedings

24. (1) Where a matter has been referred to the Tribunal, the Clerk shall, as soon as reasonably practicable:
  - (a) notify the parties that the matter has been referred to the Tribunal; and
  - (b) fix a date, time and venue for the hearing of the matter by the Tribunal.
- (2) Unless the Tribunal directs otherwise, hearings shall be held at the offices of IPS but nothing in these Rules shall require any hearing to be held outside the United Kingdom.
- (3) IPS shall, not less than 42 days before the first hearing date, lodge with the Clerk a notice setting out:
  - (a) particulars of the allegations against the Respondent that are to be heard by the Tribunal; and
  - (b) the nature of the evidence that IPS will present to the Tribunal.
- (4) IPS shall, at the same time that any notice is lodged under paragraph (2), serve a copy of that notice on the Respondent.
- (5) Not less than 28 days before the first hearing date, each party will serve on the other copies of any documentary evidence in their possession or control relating to the allegations and any witness statements upon which they intend to rely.
- (6) Any fact which needs to be proved at a hearing by the evidence of witnesses may be proved by evidence given in a witness statement and a party who requires a witness to attend a hearing for the purpose of cross-examination upon the content of a witness statement served in accordance with paragraph (5) must serve notice to that effect upon the opposing party within 7 days of disclosure of the statement.

- (7) A party shall be deemed to admit the authenticity of any document disclosed under paragraph (5) above unless, within 7 days of disclosure of the document, that party serves notice requiring the document to be proved at a hearing.

#### Directions and preliminary matters

25. (1) The Panel may at any time give directions for the management and conduct of proceedings and determine any preliminary issues raised by any party.
- (2) The Panel may give directions or determine issues under paragraph (1) without a meeting of the Panel but by two or more of the Panel advising the Clerk of their decision and, in that event, the Clerk shall notify the parties of the decision within three days of the date on which the decision was made.
- (3) Where the parties consent, a single Panel member may give directions or determine an issue under paragraph (1).

#### Additional allegations

26. Where the Panel is satisfied that it would not cause unfairness to the respondent, the Panel may permit IPS to add allegations to the matter referred to the Tribunal, and those additional allegations shall be treated as if they were included in the original matter referred to the Tribunal.

#### Hearing documentation

27. Not less than 7 days before the finalised hearing date, IPS shall produce and provide the Clerk and the respondent with copies of an indexed and paginated hearing bundle comprising:
  - (a) the allegations;
  - (b) any documents relied upon by the parties;
  - (c) any witness statements; and
  - (d) any relevant notices.

#### Conduct of hearings

28. (1) Hearings shall be held in public unless the Panel is satisfied that, in the interests of justice or for the protection of the private life of the respondent, the complainant, a person giving evidence or any other person, the public should be excluded from all or part of a hearing.

- (2) The Panel shall give IPS and the respondent and, in its discretion any other person, the opportunity of being heard.
- (3) A party may be represented at a hearing by any person, whether or not legally qualified, but the Panel may refuse to permit a particular person to assist or represent a party if the Panel is satisfied that there are good and sufficient reasons for doing so.

### Evidence

29. (1) The Panel may control the evidence by giving directions as to:
  - (a) the issues on which it requires evidence;
  - (b) the nature of the evidence which it requires to decide those issues; and
  - (c) the way in which the evidence is to be placed before the Panel.
- (2) The burden of proof shall rest upon IPS and the standard of proof shall be the balance of probabilities.
- (3) Subject to the requirements of a fair hearing, the Panel may:
  - (a) admit evidence whether or not it would be admissible in civil proceedings; and
  - (b) exclude evidence that would otherwise be admissible;
- (4) The Panel may limit cross-examination.
- (5) Subject to any other provisions of these Rules, the Civil Evidence Act 1968 and the Civil Evidence Act 1995 shall apply in relation to the hearing of a matter as they apply in relation to civil proceedings.
- (6) Production before the Panel of:
  - (a) a certificate purporting to be under the hand of a competent officer of a Court in the United Kingdom or overseas that a respondent has been convicted of a criminal offence shall be conclusive evidence of the offence committed;
  - (b) a copy of the determination of any Tribunal in or outside England and Wales exercising a professional disciplinary jurisdiction shall be conclusive evidence of the facts found proved in relation to that determination;
  - (c) a copy of the judgment of any Civil Court shall be conclusive evidence of the facts found proved in relation to that judgment.

## Decisions

30. (1) Decisions of the Panel shall be made by a majority vote of the panellists present.
- (2) The Panel may:
- (a) announce its decision and reasons at the conclusion of the parties' cases;
  - (b) announce its decision at the conclusion of the parties' cases and give its reasons on a later date; or
  - (c) reserve its decision and reasons to a later date,
- (3) Where the Panel reserves its decision or reasons, the Panel shall notify the parties of its decision, reasons and any order made within 21 days of the conclusion of the parties' cases and, where necessary, the notice shall specify a date, not more than 21 days after the date of the notice, for any further hearing.
- (4) Where the Panel's decision is that one or more of the allegations against the respondent has been proved:
- (a) IPS shall inform the Panel of any previous disciplinary proceedings in which any allegation has been proved against the respondent; and
  - (b) the respondent may then make submissions in mitigation and, where appropriate, in respect of costs.
- (5) Where the Panel finds that one or more of the allegations against the respondent has been proved the Panel:
- (a) may:
    - (i) take no further action;
    - (ii) reprimand the respondent, warn the respondent as to their future conduct or both;
    - (iii) impose conditions on the respondent as it may think appropriate in respect of the respondent's conduct or, where the respondent is an individual, their employment (and such conditions may be imposed in addition to any reprimand or warning); or
    - (iv) order that the respondent be excluded from Membership or Authorisation for such period (which may be a minimum fixed or indefinite period) as it shall decide; and
  - (b) may order the respondent:
    - (i) except where the Panel has ordered that the respondent be excluded from Membership or Authorisation, to pay a fine not exceeding an amount determined by IPS from time to time; and
    - (ii) to pay costs to IPS in respect of the proceedings; and

- (c) may, in the case of a respondent that is an Authorised Body which has been excluded from Authorisation, also require the respondent to enter into a Practice Management Agreement.
- (6) For the purpose of these Rules a **Practice Management Agreement** means an agreement between IPS and an Authorised Body imposing such requirements as IPS considers appropriate in the circumstances for the orderly conduct or transfer of the Authorised Body's business, funds and client files and the terms of such an agreement may include (but are not limited to) requirements that:
- (a) the Authorised Body cease to accept new business or clients;
  - (b) the business of the Authorised Body be managed or supervised by a person appointed by IPS;
  - (c) the Authorised Body and those responsible for its management to execute powers of attorney, bank mandates or other instruments and take such other steps as are required to enable any person appointed by IPS to perform their functions under a Practice Management Agreement, including safeguarding client funds, files and other assets; and
  - (d) the Authorised Body meet the costs of any steps taken by IPS or any person appointed by it under a Practice Management Agreement.
- (7) Where the Panel finds that one or more of the allegations against the respondent has not been proved, it may order IPS to pay the reasonable costs of the respondent.
- (8) An Order of the Panel shall take effect 21 days after notification under paragraph (3) or (4) or, where a further hearing has been convened under that paragraph, 21 days after the conclusion of that hearing, unless before then a written notice of appeal has been given to the Tribunal.
- (9) Where the Panel makes an Order against a respondent under paragraph (5)(a), it may also order that the respondent's Membership or Authorisation be suspended immediately or made subject to immediate conditions until the Order takes effect in accordance with Paragraph (8) if it considers that doing so is necessary for the protection of the public, in the respondent's own interests or otherwise in the public interest.
- (10) Where the Panel makes an Order under paragraph (5) any certificate previously issued to the Relevant Person by CILEx or IPS shall cease to have effect and shall be delivered by the respondent to IPS.

### Interim orders

31. (1) The Tribunal may at any time, on the application of the Investigator or of its own motion, consider whether it is necessary for the protection of the public, in the

interests of the Relevant Person concerned or otherwise in the public interest to suspend or restrict a Relevant Person's Membership or Authorisation pending the conclusion of proceedings before the Tribunal.

- (2) The Tribunal shall give the Relevant Person not less than 7 days' notice of a meeting to consider the imposition or review of an interim order, unless the Tribunal consider that due to the seriousness or urgency of the case a shorter period of notice is appropriate.
- (3) The notice under paragraph (2) shall inform the Relevant Person of the time, date and place of the hearing, brief details of the matters giving rise to the application for an interim order for suspension and of the right to appear before and be heard by the Tribunal.
- (4) In considering whether to make an interim order, the Tribunal shall determine its own procedure in accordance with these Rules, any guidance published by IPS and the overriding requirement of fairness.
- (5) The Tribunal may order that the Relevant Person's Membership or Authorisation be:
  - (a) suspended; or
  - (b) subject to such restrictions as the Panel considers appropriate;for a maximum period of 18 months and any such order must be reviewed by the Panel every 3 months.
- (6) Where the Panel makes an interim order against a Relevant Person that is an Authorised Body it may also require the Relevant Person to enter into a Practice Management Agreement.

## Appeals

32. (1) Decisions of the Tribunal (other than a decision to impose an interim order which shall take effect immediately) shall only take effect after the period for lodging an appeal against the decision has expired or, where an appeal is made, after the appeal has been disposed of or withdrawn.
- (2) The respondent may appeal against:
  - (a) a finding by the Tribunal that one or more allegations has been proved; or
  - (b) any sanction or costs imposed by the Tribunal.
- (3) IPS may appeal against:
  - (a) a decision of the Tribunal which, in the opinion of IPS, was made based upon a manifest error, is irrational or similarly flawed; or

- (b) the imposition by the Tribunal of a sanction which, in the opinion of IPS, is unduly lenient.
- (4) An appeal must be made in accordance with Part IV.

## PART IV: THE APPEALS PANEL

## Interpretation of Part IV

33. In this Part, unless the context otherwise requires:

<b>Appeals Clerk:</b>	means the Clerk to the Appeals Panel;
<b>appellant:</b>	means the person in whose name an appeal is made to the Appeals Panel and, in the case of an appeal under Rule 32(3), means IPS;
<b>Chair</b>	means the Chair of an Appeals Panel
<b>Disciplinary Tribunal:</b>	includes a Panel of the Disciplinary Tribunal that has heard a case under Part III.

## Notice of appeal

34. (1) An appeal shall be made by giving notice in writing in accordance with this Rule.
- (2) The notice shall be addressed to the Appeals Panel at the offices of IPS and shall:
- (a) state that it is a notice of appeal and whether the appeal is made under Rule 20 or Rule 32;
  - (b) include:
    - (i) the name and address of the appellant,
    - (ii) the date, nature and other relevant details of the decision which is the subject of the appeal
    - (iii) a concise statement of the grounds of the appeal, and
    - (iv) the name and address of the appellant's representative (if any) and state whether correspondence concerning the appeal should be sent to the representative instead of the appellant;
  - (c) be signed by or on behalf of the appellant;
  - (d) be accompanied by a copy of any documents on which the appellant proposes to rely for the purposes of the appeal.
- (3) A notice of appeal must be lodged no later than 42 days after the date on which the decision that is the subject of the appeal was made.



### Appeals Panel

35. (1) The Appeals Panel shall comprise 2 lay members and 1 professional member from the list maintained under Rule 2(1)(c).
- (2) The members of the Appeals Panel shall choose one of their number to act as Chair for the purposes of the appeal.
- (3) An Appeals Panel shall consider and determine any appeal made in accordance with Rules 20 or 32.
- (4) At the beginning of the hearing the Chair shall explain to the parties the order of proceedings which the Appeal Panel proposes to adopt.
- (5) The Appeal Panel may conduct the hearing in such manner as it considers most suitable to the clarification of the issues before it and generally to the just handling of the proceedings and the parties shall be heard in such order as the Panel shall determine, taking into account that the burden of proof rests upon the appellant.
- (6) In determining an appeal, the Appeals Panel may admit any evidence it considers fair and relevant to the case before it, whether or not such evidence would be admissible in a civil proceedings.
- (7) Having considered an appeal, the Appeals Panel may
- (a) dismiss the appeal;
  - (b) allow the appeal and quash the decision appealed against; or
  - (c) substitute for the decision appealed against any other decision that the Professional Conduct Panel or Disciplinary Tribunal (as the case may be) could have made.
- and may make such ancillary orders, including orders for costs, as it considers just and appropriate.
- (8) Decisions of the Appeals Panel shall be made by a majority vote of the panellists present.
- (9) Notice of the decision of the Appeals Panel shall be given in writing to the appellant within 21 days and shall take effect 28 days after the date on which it was made.
- (10) Where the decision in an Appeal under Rule 20(2) has the effect of referring a matter to the Disciplinary Tribunal, that referral shall be treated for all purposes as if it was made by the Professional Conduct Panel.
- (11) Appeals under Rule 20 shall normally be heard in private unless the appellant

requests otherwise.

- (12) Appeals under Rule 32 shall be heard in public, unless the Appeals Panel is satisfied that, in the interests of justice or for the protection of the private life of the appellant, any complainant, person giving evidence or any other person, the public should be excluded from all or part of a hearing.

### **Representation**

36. (1) The Appeals Panel shall give the appellant and the respondent to the appeal and, at its discretion any other person who appeared before the Professional Conduct Panel or Disciplinary Tribunal, the opportunity of being heard.
- (2) A party may be represented at a hearing by any person, whether or not legally qualified, but the Appeals Panel may refuse to permit a particular person to assist or represent a party if the Appeals Panel is satisfied that there are good and sufficient reasons for doing so.

### **Determination without convening hearing**

37. The Appeals Panel may determine an appeal without convening a hearing, on the basis of any documents or written representations provided by the parties, where:
  - (a) the Appeals Panel has notified the parties of its intention to do so; and
  - (b) the parties have consented.

## PART V: OTHER MATTERS

**Notice and publication etc. of decisions**

38. (1) IPS shall cause all adverse findings and orders of the Professional Conduct Panel, Disciplinary Tribunal and Appeals Panel (Decisions) to be recorded against the relevant entry in the relevant CILEx register.
- (2) Where a Relevant Person against whom a Decision is made is
- (a) employed, or
  - (b) is a partner, director, manager of, or holds a financial interest in, a relevant body;
- IPS shall notify the employer or relevant body of the Decision.
- (3) in this Rule **relevant body** means:
- (a) an Authorised Body;
  - (b) a legal services body within the meaning of s.9A of the Administration of Justice Act 1985; or
  - (c) a body licensed under Part 5 of the Legal Services Act 2007.
- (4) IPS shall give notice of all decisions to such other regulatory and oversight bodies as it considers appropriate.
- (5) IPS shall cause all decisions and the name of the Relevant Person concerned to be published in such manner as it considers appropriate.
- (6) Paragraphs (2), (4) and (5) shall not apply to the extent that the Professional Conduct Panel, Disciplinary Tribunal or Appeals Panel directs otherwise.

**Recovery of fines and costs**

39. Any fine or costs order imposed under these Rules shall be recoverable as a debt.

**Maintenance of exhibits and transcripts**

40. Any exhibits produced or used at a hearing of the Professional Conduct Panel, Disciplinary Tribunal or Appeals Tribunal and any recording or transcript of those proceedings shall be kept by IPS for a period of at least one year after the proceedings to which they relate.

### Annual Report

41. An annual report shall be made to the IPS Board of the work of the Investigators, Professional Conduct Panel, Disciplinary Tribunal and Appeals Panel during the previous year.

### Transitional Provisions

42. (1) These Rules shall come into force on [DATE] (the **Commencement Date**).
- (2) Any allegation received by IPS before the Commencement Date but which on that date has not been referred to the Professional Conduct Panel, Disciplinary Tribunal or Appeals Tribunal in accordance with the Investigation, Disciplinary and Appeals Rules dated 4<sup>th</sup> January 2010 (the **Old Rules**) shall be dealt with under these Rules.
- (3) Any allegation received by IPS before the Commencement Date and which on that date has been referred to the Professional Conduct Panel, Disciplinary Tribunal or Appeals Tribunal under the Old Rules shall continue to be dealt with in accordance with the Old Rules.
- (4) Any allegation received by IPS after the Commencement Date shall be dealt with in accordance with these Rules.

## **APPENDIX 9**

# **PROFESSIONAL INDEMNITY INSURANCE RULES**

## IPS PROFESSIONAL INDEMNITY INSURANCE RULES

## Interpretation

1. In these Rules, unless otherwise provided:

<b>Authorised Body:</b>	has the same meaning as in the IPS Authorisation Rules;
<b>Cessation Period:</b>	means, in respect of an Authorised Body: <ul style="list-style-type: none"> <li>(a) that has ceased business and paid the requisite run off premium, the period of 60 days from the end of an Indemnity Period; and</li> <li>(b) that has not ceased business but is unable to renew or obtain qualifying insurance, the period of 60 days from the end of an Extended Indemnity Period;</li> </ul>
<b>Extended Indemnity Period:</b>	means the period of 30 days from the end of an Indemnity Period, during which a policy of qualifying insurance continues to have effect;
<b>Indemnity Period:</b>	means any period of one year during which indemnity cover is provided to an Authorised Body under a policy of qualifying insurance;
<b>IPS:</b>	means ILEX Professional Standards Limited;
<b>Minimum Wording:</b>	means the minimum policy wording prescribed by IPS from time to time which must form part of a policy of qualifying insurance;
<b>qualifying insurance:</b>	means a policy of indemnity insurance that is provided by a qualifying insurer which provides cover in accordance with the Minimum Wording and the Qualifying Insurers Agreement;
<b>qualifying insurer:</b>	means an insurer who is a party to a Qualifying Insurers Agreement which remains in force for the purpose of issuing new policies of qualifying insurance;
<b>Qualifying Insurers Agreement</b>	means an agreement between IPS and one or more insurers for the provision by those insurers of qualifying insurance to Authorised Bodies;
<b>regulated legal activity:</b>	means: <ul style="list-style-type: none"> <li>(a) a reserved legal activity; or</li> <li>(b) immigration advice or immigration services;</li> </ul>
<b>reserved legal activity:</b>	has the same meaning as in the Legal Services Act

2007;

**run-off premium:**

means the premium which an Authorised Body is liable to pay under a policy of qualifying insurance for the provision of run-off cover for the period of six years after the Authorised Body has ceased to carry on business.

### Insurance obligation

2. (1) Every Authorised Body carrying on one or more regulated legal activity during any Indemnity Period must have qualifying insurance.
- (2) A person who is the Compliance Manager of an Authorised Body must ensure that the Authorised Body complies with Paragraph (1) and the other requirements of these Rules.

### Cessation

3. (1) An Authorised Body that has been unable to renew or obtain qualifying insurance before the end of an Extended Indemnity Period must cease practice promptly and by no later than the end of the Cessation Period.
- (2) During a Cessation Period, the Authorised Body may only engage in activities connected with private legal practice to discharge its obligations within the scope of instructions given to the Authorised Body before the Cessation Period or which are necessary in connection with the discharge of such obligations.
- (3) An Authorised Body that ceases practice for any reason shall:
  - (a) within 28 days of ceasing business:
    - (i) pay the run off premium to its qualifying insurer, or
    - (ii) obtain alternative and equivalent run-off cover from another qualifying insurer; or
  - (b) where it is unable to comply with paragraph (a), promptly inform IPS.

### Insolvency of qualifying insurer

4. If a qualifying insurer is the subject of an insolvency event, an Authorised Body that is insured by that insurer must obtain qualifying insurance from another qualifying insurer as soon as reasonably practicable and in any event within four weeks of the insolvency event.

### Monitoring

5. IPS may require an Authorised Body that is, or is reasonably believed by IPS to be, conducting business to provide IPS with such information as it may reasonably require to be satisfied that the Authorised Body has qualifying insurance.

### Use of information

6. (1) A qualifying insurer, in relation to any Authorised Body which applies to it for qualifying insurance, shall inform IPS of:
  - (a) any failure by the Authorised Body to pay any premium or to reimburse any part of a policy excess which has been paid to a claimant by the qualifying insurer;
  - (b) a material inaccuracy in any proposal form submitted by or on behalf of the Authorised Body;
  - (c) any matter or circumstances that, but for the provisions of the Minimum Wording, would entitle a qualifying insurer to avoid or repudiate the Authorised Body's policy;
  - (d) any suspected dishonesty or fraud by or on behalf of the Authorised Body;
  - (e) any claim of inadequate professional services made against the Authorised Body of which the qualifying insurer is aware; and
  - (f) any matter or circumstances that would entitle the qualifying insurer to receive a run-off premium from the Authorised Body.
- (2) A qualifying insurer may provide information to IPS under Paragraph (1) without giving notice to the Authorised Body concerned:

### Insurance details

7. (1) An Authorised Body shall provide details of its qualifying insurance when requested to do so by a person who asserts a claim against that policy or has any other legitimate interest in the information.
- (2) The details which must be provided under Paragraph (1) are:
  - (a) the name of the qualifying insurer(s);
  - (b) the policy number(s); and
  - (c) the address and contact details of the qualifying insurer(s) for the purpose of making any claim.



### Accountants' reports

8. Any accountant's report which an Authorised Body is required to deliver to IPS under the IPS Accounts Rules must contain a statement certifying (if it is the case) that, for the period covered by the report, the Authorised Body had proof of qualifying insurance.

### Disciplinary consequences of non-compliance

9. Failure by an Authorised Body or a person who is an Authorised Manager of an Authorised Body to comply with these Rules may be treated as misconduct.

### Waiver

10. (1) IPS may waive any provision of these Rules as it thinks fit.
- (2) A waiver may:
  - (a) apply in a particular case or cases;
  - (b) include extending the time, prospectively or retrospectively, for the doing of any act under any Rule; and
  - (c) be subject to such terms and conditions as IPS thinks fit.
- (3) Any application for a waiver must be made in writing to IPS as soon as reasonably practicable and the making of an application shall not relieve an Authorised Body or any person from any obligation under these Rules.



## **APPENDIX 10**

### **IPS MINIMUM WORDING**

# Professional Indemnity Insurance (Firms authorised by CILEX/IPS)

## 1. Coverage

The Insurer to the extent and in the manner hereinafter provided hereby agrees:

### 1.1 Civil Liability

To indemnify the Insured against any Civil Liability to the extent that it arises from Private Legal Practice in connection with the Firm's Practice, a Prior Practice or a Successor Practice provided that a Claim in respect of such liability:

- a) is first made against an Insured during the Period of Insurance; or
- b) is made against an Insured during or after the Period of Insurance and arising from Circumstances first notified to the Insurer during the Period of Insurance.

### 1.2 Extended Indemnity Period and Cessation Period

To indemnify the Insured for the Extended Indemnity period and the Cessation Period against any Civil Liability as defined in clause 1.1 above, strictly subject to payment of additional premium as follows:

- a) The premium payable for the Extended Indemnity Period shall be 1/12 of the premium payable for the Period of Insurance under this policy such payment to be made before the expiry of the Extended Indemnity Period;
- b) The premium payable for the Cessation Period shall be 2/12 of the premium payable for the Period of Insurance under this policy such payment to be made within 14 days of the commencement of the Cessation Period

Provided that in the event that the Insured obtains alternative cover during the Extended Indemnity Period or Cessation Period then cover under this clause will be cancelled ab initio and premium returned to the Insured less any payments made by the Insured in respect of the cover under this clause.

### 1.3 Run-off Cover

a) To indemnify the Insured if the Firm's Practice ceases during or on expiry of the Period of Insurance or Extended Indemnity Period or Cessation Period and the Firm has not obtained succeeding insurance in compliance with the Minimum Terms against any Civil Liability as defined in clause 1.1 above (a 'Cessation') during a period ending on the sixth anniversary of the date upon which the Period of Insurance ends.

b) Indemnity under this clause will only be available if there is no Successor Practice and will be strictly subject to payment of premium as referred to in clause 1.2(c) below within 28 days of cessation.

c) An additional premium of 225% of the annual (or, where applicable, annualised) premium shown in the Schedule (recalculated to reflect the compulsory minimum Limit of Indemnity with a nil excess will become payable in full within 28 days of Cessation of the Firm if there is no Successor Practice.

d) Notwithstanding sub-clauses a) and b) above, an Insured which is ceasing during the Period of Insurance and which, but for this provision, would be succeeded to, may elect before its Cessation to be insured under run-off cover provided such election and payment in full of the run-off premium (calculated in accordance with sub-clause c) ) is made prior to its Cessation.

e) Payment of the run-off premium will be in addition to and not in substitution for payment of the premium for the Period of Insurance.

f) Where run-off cover has been activated in accordance with this Policy but the Firm's Practice restarts, the Insurer may cancel such run-off cover on such terms as the Insurer in its sole discretion requires, provided that:

i) there is insurance complying with the Minimum Terms in relation to that Firm in force on the date of cancellation; and

ii) the Insurer providing such insurance confirms in writing to the Firm and the Insurer (if different) that:

aa) it is providing the Firm with insurance that complies with the Minimum Terms for the current indemnity period; and

bb) it is doing so on the basis that the Firm's Practice is regarded as being a continuation of the

Firm's Practice prior to Cessation and that accordingly it is liable for Claims against the Firm arising from incidents, occurrences, facts, matters, acts and/or omissions that occurred prior to Cessation.

g) For these purposes a Firm's Practice shall (without limitation) be regarded as ceasing if (and with effect from the date upon which) the Firm ceases to be regulated by ILEX Professional Standards Limited.

#### **1.4 Defence Costs**

To indemnify the Insured against Defence Costs in relation to:

a) any Claim referred to in clause 1.1; or

b) any Circumstances first notified to the Insurer during the Period of Insurance; or

c) any investigation or inquiry (save in respect of any disciplinary proceeding under the authority of ILEX Professional Standards Limited) during or after the Period of Insurance arising from any Claim referred to in clause 1.1 or from Circumstances first notified to the Insurer during the Period of Insurance.

#### **1.5 Minimum Wording**

a) This policy shall be construed and modified so far as is necessary to incorporate the Minimum Wording in force from time to time from the date on which any change in the Minimum Wording comes into effect.

b) Where clause 1.5 (a) applies:

i) unless the Minimum Wording expressly provide to the contrary, any change in them shall not confer any increased cover or benefit on the Insured in relation to:

aa) Claims already made or intimated; or

bb) Claims arising from Circumstances already notified to the Insurer at the time the change in the Minimum Wording takes effect.

ii) the Insurer may charge such additional premium as the Insurer in its sole discretion considers would have applied had the change in the Minimum Wording been known at the time the premium for the Policy was agreed.

## **2. Limit of Indemnity**

**2.1** The limit of the Insurer's liability under this Policy shall be the sum specified in the Schedule for any One Claim, exclusive of Defence Costs, save that the Limit of Indemnity under this Policy shall not exceed the minimum required limit of indemnity as required by ILEX Professional Standards Limited if cover is provided pursuant to clause 1.3 above.

**2.2** The Insurer shall indemnify the Insured in respect of all Defence Costs under clause 1.4 provided that, if payment in excess of the amount of indemnity available under this Policy has to

be made to dispose of any Claim or Claims against the Insured, the Insurer's liability for such Defence Costs shall be such proportion thereof as the amount of indemnity available under this Policy bears to the amount required to dispose of such Claim or Claims.

**2.3** Where this Policy is underwritten jointly with any other insurer:

- (a) the Insurer shall be severally liable only for its respective proportion of liability as set out in the Schedule; and
- (b) in addition to the proportionate limit of Defence Costs set out in clause 2.2, the Insurer's liability for Defence Costs shall be further limited to the extent or proportion of the Insurer's liability in relation to the Claim.

### **3. Excess**

**3.1** The amount of the Excess specified in the Schedule shall be borne by the Insured for any One Claim save that, where cover is provided pursuant to clause 1.3, the Excess shall be nil . The amount of the Excess shall not be applicable to Defence Costs under clause 1.4 of this Policy.

**3.2** In the event of non-disclosure by the Insured of any Circumstances existing at the date of inception of the Policy that subsequently lead to a Claim, the Excess payable by the Insured shall be 5% of gross fees for the last financial year (subject to a cap of £10,000) or twice the Excess specified in the Schedule, whichever is the greater, save that for the purpose of calculating any aggregate Excess the amount specified in the Schedule shall apply.

### **4. Exclusions**

This Policy shall not indemnify the Insured against any Claim or for any Defence Costs:

#### **4.1 Prior cover**

In respect of which the Insured is entitled to be indemnified in whole or in part under a professional indemnity contract for a period earlier than the Period of Insurance, whether by reason of notification of Circumstances under the earlier contract or otherwise.

#### **4.2 Death or bodily injury**

In respect of causing or contributing to death or bodily injury, but this exclusion is not to apply to liability for psychological injury or emotional distress that arises from a breach of duty in the performance of or failure to perform Private Legal Practice.

#### **4.3 Property damage**

In respect of causing or contributing to damage to, or destruction or physical loss of any property (other than property in the care, custody or control of any Insured in connection with the Firm's Practice and not occupied or used in the course of the Firm's Practice), but this exclusion is not to apply to liability for damage, destruction or loss that arises from breach of duty in the performance of or failure to perform Private Legal Practice.

**4.4 Partnership disputes**

Arising from any actual or alleged breach of the Firm's partnership or shareholder agreement or arrangements, including an equivalent agreement or arrangement where the Firm is a Limited Liability Partnership or a company without a share capital.

**4.5 Employment breaches, discrimination etc.**

Arising from wrongful dismissal, repudiation or breach of an employment contract or arrangement, termination of a training contract, harassment, discrimination or like conduct in relation to any partnership or shareholder agreement or arrangement or the equivalent where the Firm is a Limited Liability Partnership or a company without a share capital, or in relation to any employment or training agreement or arrangement.

**4.6 Debts and trading liabilities**

Arising out of or in connection with any:

- a) trading or personal debt of any Insured; or
- b) legal liability assumed or accepted by an Insured or an Insured Firm under any contract or agreement for the supply to, or use by, the Insured or Insured Firm of goods or services in the course of the Insured Firm's Practice, have that this exclusion 4.6(b) will not apply to any legal liability arising in the course of an Insured Firm's Practice in connection with its or any Insured's use of or access to the HM Land Registry network (including, without limitation, access under a Network Access Agreement made under the Land Registration (Network Access) Rules and the Land Registration (Electronic Communications) Order 2007) other than an obligation to pay search fees or other charges for searches or services provided by HM Land Registry to the Insured Firm; or
- c) guarantee, indemnity or undertaking by an Insured in connection with the provision of any finance, property, assistance or other benefit or advantage directly or indirectly to that Insured.

**4.7 Fines and penalties**

In respect of any:

- a) fine or penalty; or
- b) award of punitive, exemplary or like damages under the law of the United States of America or Canada other than in respect of defamation; or
- c) order or agreement to pay the costs of a complainant, regulator, investigator or prosecutor of any professional conduct complaint against, or investigation into the professional conduct of, any Insured.

**4.8 Fraud or dishonesty**

In respect of or arising from dishonesty or a fraudulent act or omission committed or condoned by the Insured, except that:

- a) this exclusion is not to apply to any other Insured who did not commit or condone the dishonesty or fraudulent act or omission; and
- b) no dishonesty or fraudulent act or omission will be imputed to a body corporate unless it was committed or condoned by, in the case of a company, all directors of that company, or, in the case of a Limited Liability Partnership, all members of that Limited Liability Partnership.

**4.9 Directors' or officers' liability**

In respect of or arising from the Insured's capacity as a director or officer of a body corporate except that this exclusion is not to apply to:

- a) any liability of that Insured that arises from a breach of duty in the performance of or a failure to perform legal work; and b) any vicarious or joint liability of any other Insured.

**4.10 Overseas practice**

In respect of any liability incurred in connection with the provision of professional services by the Firm that is carried on from an office outside England and Wales.

#### **4.11 Other insurance**

If an Insured is entitled to claim, or but for the existence of this Policy would be entitled to claim, against any other policy of insurance, the Insurer shall not be liable to indemnify under this Policy except:

- a) to the extent required by the Minimum Wording; and
- b) in respect of any sum in excess of the amount that would have been payable under the other policy had this Policy not been effected. For the purposes of this clause, 'policy' and 'insurance' shall include cover provided by any mutual or other similar fund.

#### **4.12 War and terrorism and asbestos**

In respect of, or in any way in connection with:

- a) terrorism, war or other hostilities; and/or
- b) asbestos or any actual or alleged asbestos related injury or damage involving the use, presence, existence, detection, removal, elimination or avoidance of asbestos or exposure to asbestos; provided that this exclusion does not apply to any Civil Liability or related Defence Costs arising from any actual or alleged breach of duty in the performance of or failure to perform Private Legal Practice or a failure to discharge or fulfil any duty incidental to the Firm's Practice or to the conduct of Private Legal Practice.

#### **4.13 New instructions during the Cessation Period**

In respect of any liability arising out of work new instructions accepted by the Insured during the Cessation Period.

### **5. Special conditions**

#### **5.1 Non disclosure or misrepresentation**

Insurers will not:

- a. seek to avoid or repudiate this Policy for non-disclosure or misrepresentation other than fraudulent non-disclosure or fraudulent misrepresentation; or
- b. seek damages for or seek to reject any claim on the grounds of non-disclosure or misrepresentation during the course of negotiating this Policy or on the grounds of a breach of any warranty save where such non-disclosure or misrepresentation is fraudulent or where such breach of warranty was made with an intent to deceive.

The Insured shall establish to the reasonable satisfaction of the Insurer that any alleged non-disclosure, misrepresentation or breach of warranty was free of any fraudulent conduct or intent to deceive.

Provided always that the insurer will be able to adjust the premium and the terms and conditions to those which would have applied had the circumstances of the misrepresentation or non disclosure been disclosed'.

#### **5.2 Cancellation**

This Policy may not be cancelled except by the agreement of both the Firm and the Insurer, and in any event only in circumstances where:

- (a) the Firm's Practice is merged into a Successor Practice which has the benefit of insurance complying with the Minimum Terms, in which case cancellation shall have effect no earlier than the date of such merger; or
  - (b) replacement insurance complying with the Minimum Terms commences, in which case cancellation shall have effect no earlier than the date on which such replacement insurance commences; or
  - (c) it subsequently transpires that the Firm is not required to effect a policy complying with the Minimum Terms, in which case cancellation shall have effect from the start of the relevant Indemnity Period or such later date as agreed between the Firm and the Insurer.
- Any cancellation of this Policy shall not affect the rights and obligations of the parties that have accrued under this Policy prior to the date from which cancellation has effect.



### **5.3 Double insurance**

- a) Where the Firm's Practice is succeeded during the Period of Insurance and, as a result, a situation of 'double insurance' exists between two or more insurers of the Successor Practice, contribution between insurers shall be determined in accordance with the relative numbers of Principals of the constituent practices immediately prior to succession.
- b) The Insured shall: i) give notice in writing to the other insurer(s) immediately of all matters referred to in clauses 6.1 and 6.2; and ii) comply with the terms of the other policy/policies.

### **5.4 No set-off**

Any amount payable by the Insurer to indemnify an Insured against Civil Liability to a claimant will only be paid to the claimant, or at the claimant's direction, and the Insurer is not entitled to set-off against any such amount any payment due to the Insurer including, without limitation, any payment of premium or reimbursement due to the Insurer.

### **5.5 Advancement of Defence Costs**

The Insurer shall pay Defence Costs incurred in the defence or settlement of any Claim at the time they are incurred, including Defence Costs incurred on behalf of an Insured who is alleged to have committed or condoned dishonesty or a fraudulent act or omission, except that the Insurer shall not be liable for Defence Costs incurred on behalf of the Insured after the earlier of:

- a) the Insured admitting to the Insurer the commission or condoning of a dishonest or fraudulent act or omission; or
- b) a court or arbitrator or other judicial body finding that the Insured was in fact guilty of a dishonest or fraudulent act or omission.

### **5.6 Resolution of disputes regarding whether a firm is a Successor Practice**

If there is a dispute as to whether a firm is a Successor Practice for the purpose of clauses 1.1 and 1.2, the Insured and the Insurer will take all reasonable steps (including, if appropriate, referring the dispute to arbitration) to resolve the dispute in conjunction with any related dispute between any other party that has insurance complying with the Minimum Terms and that party's insurer.

## **6. General Conditions**

### **6.1 Notice of Circumstances**

The Insured shall give notice in writing to the Insurer immediately of any Circumstance of which the Insured shall become aware that may give rise to a Claim against the Insured. Provided such notice has been given during the Period of Insurance, any Claim arising from that Circumstance that is subsequently made after the expiry of the Period of Insurance shall be deemed for the purpose of this Policy to have been made on the date of notification of the Circumstance.

### **6.2 Notice of Claim**

The Insured shall give notice in writing to the Insurer immediately in the event of:

- a) any Claim made against the Insured;
- b) the receipt of notice from any party of an intention to make a Claim against the Insured.

### **6.3 Contents of notice**

Any notice given under clauses 6.1 or 6.2 must contain full particulars including all material facts, dates and persons involved and, in the case of notice of a Circumstance, the reasons for anticipating that the Circumstance may give rise to a Claim.

### **6.4 Notice of changes**

- a) The Insured shall give prior notice in writing that it is going to merge, acquire or absorb any other legal practice or change its name or address during the Period of Insurance. The Insurer

shall have the right to charge such additional premium as the Insurer in its sole discretion considers arises from the change.

- b) The Insured shall give notice in writing of Cessation of, or intervention in, the Firm and shall pay such additional premium as may be due for run-off cover on or before the date of Cessation.
- c) The Insured shall give notice in writing immediately after obtaining any replacement insurance complying with the Minimum Terms.

#### **6.5 Co-operation of the Insured**

a) The Insured shall not make any express or implied admission or denial of liability, or any other arrangement, offer, promise or payment or incur any costs and expenses without the prior written consent of the Insurer.

b) The Insured shall, at its own expense, provide the Insurer or any solicitor appointed by the Insurer with all information, evidence, documents and assistance as the Insurer may reasonably require for the proper and efficient investigation of any Circumstance or Claim and for the conduct of any Claim, investigation or inquiry.

c) The Insurer shall be entitled, as it may in its absolute discretion think fit, at any time, to take over the conduct in the name of the Insured or the Firm of the defence or settlement of any Claim or proceedings (including any investigation or inquiry) or to prosecute in the name of the Insured or the Firm for the Insurer's own benefit any claim for indemnity or otherwise, and the Insured shall, at all times, give full information, co-operation and assistance for these purposes. The Insured authorises any solicitor appointed by the Insurer to go on the court record in any proceedings. This provision shall apply even to:

- i) the conduct of Claims;
- ii) the defence and prosecution of any proceedings; and
- iii) any claims against any other party that:
  - aa) are within the Excess; or
  - bb) include uninsured losses;

whether or not the Insured seeks indemnity under this Policy.

d) The Insured shall, in the conduct of any Claim or claim against any third party for indemnity or otherwise, comply with all rules of court and orders made by the court, follow all reasonable advice given by any solicitor appointed by the Insurer, attend any hearings, meetings or conferences as may reasonably be required and sign any documents as may reasonably be required.

e) The Insured agrees that any solicitor appointed by the Insurer shall disclose to the Insurer any information, evidence or documents that the Insured has provided to that solicitor whether privileged or not.

f) In order to ascertain whether full and accurate information has been provided in accordance with this Policy and to obtain such information in so far as it may not have been, the Insurer may appoint any person whom it thinks fit and may require the Insured or the Firm to produce to that person at such times and places as he may request all such accounting and other records and documents, and to supply him in relation thereto with such information and explanations, as he may from time to time require.

g) The Insured shall pay forthwith on demand any Value Added Tax incurred in relation to Defence Costs insofar as the Insured can recover such Value Added Tax from HM Revenue & Customs.

#### **6.6 Requirement to contest legal proceedings**

a) The Insured shall not be required to contest any legal proceedings unless a Queen's Counsel (to be mutually agreed upon by the Insured and the Insurer or failing agreement to be appointed by

the Board of ILEX Professional Standards Limited) shall advise that, taking due account of the interests of both the Insurer and the Insured, such proceedings should be contested.

b) The Queen's Counsel's fee will be payable by the party against whose contention Queen's Counsel advises.

#### **6.7 Reimbursement**

a) Any Insured who:

- i) committed; or
- ii) condoned (whether knowingly or recklessly);

non-disclosure, misrepresentation, breach of the terms or conditions of this Policy, dishonesty or any fraudulent act or omission is obliged to reimburse the Insurer to the extent that is just and equitable having regard to the prejudice caused to the Insurer's interest by such non-disclosure, misrepresentation, breach, dishonesty or fraud.

b) However, non-disclosure, misrepresentation, breach, dishonesty, fraudulent act or omission shall not be imputed to a body corporate unless it was committed or condoned by, in the case of a company, all directors of that company, or, in the case of a Limited Liability Partnership, all members of that Limited Liability Partnership.

c) The Insurer shall not be entitled to obtain reimbursement pursuant to this clause from an Insured as defined by clause 7.11(d) of this Policy who is employed in connection with the Firm's Practice or his estate or personal representatives unless that Insured:

- i) committed; or
- ii) condoned (whether knowingly or recklessly); dishonesty or any fraudulent act or omission.
- d) The Insured shall not be required to make any reimbursement under this condition to the extent that any such breach of the terms or conditions of the insurance was in order to comply with any applicable rules or codes laid down from time to time by ILEX Professional Standards Limited.
- e) The Insured shall reimburse to the Insurer any sums that the Insurer has paid but for which it has no liability to indemnify under the terms of this Policy. The Insured shall also pay interest at the rate of LIBOR plus 1%.

f) Reimbursement with interest shall apply, but is not limited, to:

g) Defence Costs, whether relating to a Claim that is not covered, or a proportion of Defence Costs by virtue of clause 2.2 or clause 5.4;

i) sums paid pending resolution of a coverage dispute;

ii) sums for which other insurers are liable;

iii) sums for which an Insured is liable.

#### **6.8 Recoveries**

a) Where any payment is made by the Insurer and any sums are recovered from any other party, those sums shall be applied in the following order:

i) reimbursement of payments by the Insurer with interest at the rate of LIBOR plus 1%; then

ii) Defence Costs and costs of any claim for recovery, whether litigated or not; then

iii) any surplus shall be paid to the Insured.

b) Subject to clause 6.7(c) above, upon notification of any Claim or Circumstance, the Insurer will be

subrogated to all rights of the Insured of indemnity, contribution or recovery to the extent of any payment made by the Insurer. The Insured will not surrender any such right, or settle any such claim for indemnity, contribution or recovery without the prior consent in writing of the Insurer.

c) Any unrecovered costs incurred in pursuing recovery claims that comprise both insured and uninsured losses shall be shared by the Insurer and the Insured in the ratio of the respective recovery claims.

#### **6.9 Requirement to obtain reimbursement**

Where a loss or Claim involves dishonesty or a fraudulent act or omission committed or condoned by an Insured, any other Insured shall at the request and expense of the Insurer take all reasonable steps to obtain reimbursement from the Insured who committed or condoned such dishonesty or fraud.

#### **6.10 Withholding assets or entitlement**

The Insurer may require the Firm to account to it for any asset or entitlement of any Insured who has committed or condoned dishonesty or any fraudulent act or omission, provided the Firm is legally entitled to hold that asset or entitlement.

#### **6.11 Funding of the Excess**

a) The Firm shall pay the Excess to the Insurer or any solicitor appointed by the Insurer forthwith upon request in connection with any payment into court, interim payment, tender or

settlement of any Claim or Claimant's costs.

#### **6.12 Arbitration**

Save as provided in clause 6.6, any dispute or disagreement between the Insured and the Insurer arising out of or in connection with this Policy shall be referred to arbitration in accordance with the Arbitration Act 1996 before a sole arbitrator to be mutually agreed upon by the Insured and the Insurer or failing agreement to be appointed by the Board of ILEX Professional Standards Limited.

#### **6.13 Special conditions to prevail**

To the extent that there exists any inconsistency between the general conditions provided under clause 6 of this Policy and the special conditions provided under clause 5 of this Policy, the special conditions shall prevail.

#### **6.14 Contracts (Rights of Third Parties) Act 1999**

It is hereby noted and agreed for the purposes of the Contracts (Rights of Third Parties) Act 1999 that the parties do not intend any term of this Policy to be enforceable by any third party.

#### **6.15 Governing law**

This policy of insurance is governed by and is to be interpreted in accordance with English law.

#### **6.16 Waiver**

The terms of this Policy shall not be waived or changed except by endorsement issued by the Insurer to form part of this policy.

### **7. Interpretation and Definitions**

In this Policy, unless the context otherwise requires:

#### **7.1 General**

- a) the singular includes the plural, and vice versa;
- b) the male gender includes the female and neuter genders;
- c) a reference to a person includes bodies corporate, partnerships, and other unincorporated associations or bodies of persons;
- d) a reference to any statute, statutory provision, code or regulation includes:
  - (i) any subordinate legislation (as defined by section 21(1) of the Interpretation Act 1978) made under it; and
  - (ii) any provision which it has superseded or re-enacted (with or without modification) or amended, and any provision superseding it or re-enacting it (with or without modification) or amending it either before, or at or after the inception of this Policy;
- e) headings are for ease of reference only and shall not affect interpretation.

#### **7.2 Circumstance**

Circumstance means an incident, occurrence, fact, matter, act or omission that may give rise to a Claim in respect of Civil Liability.

#### **7.3 Civil Liability**

Civil Liability includes liability to pay an amount in accordance with the recommendation of the Legal Ombudsman pursuant to sections 137(2)(c) and section 137(4)(b) of the Legal Services

Act 2007 or any regulatory authority by whose rules the Insured is bound provided that the Insurer will have no liability in respect of any determination by the Legal Ombudsman pursuant to section 137(2)(b) of the Legal Services Act 2007 to refund any fees paid to the Insured.

#### **7.4 Claim**

Claim means a demand for, or an assertion of a right to, civil compensation or civil damages or an intimation of an intention to seek such compensation or damages. For these purposes an obligation on the Firm and or any Insured to remedy a breach of the accounts rules published by ILEX Professional Standards Limited (as amended or replaced from time to time) shall be treated as a Claim and the obligation to remedy such breach shall be treated as a Civil Liability for the purposes of clause 1, whether or not any person makes a demand for, or an assertion of a right to, civil compensation or civil damages or an intimation of an intention to seek such compensation or damages as a result of such breach, except where any such obligation may arise as a result of the insolvency of a bank (as defined in section 87 of the Solicitors Act 1974) or a building society (within the meaning of the Building Societies Act 1986) which holds client money in a client account of the Firm or the failure of such bank of building society generally to repay monies on demand,

#### **7.5 Claimant**

Claimant means a person or entity that has made or may make a Claim, including a Claim for contribution or indemnity.

#### **7.6 Defence Costs**

Defence Costs means legal costs and disbursements and investigative and related expenses reasonably and necessarily incurred with the Insurer's prior consent (such consent not to be unreasonably withheld):

- a) in defending any proceedings relating to a Claim; or
- b) in conducting any proceedings for indemnity, contribution or recovery relating to a Claim; or
- c) in investigating, reducing, avoiding or compromising any actual or potential Claim; or
- d) in acting for an Insured in connection with any investigation or inquiry arising from any Claim referred to in clause 1.1 or from Circumstances first notified to the Insurer during the Period of Insurance.

Defence Costs does not include any internal or overhead expenses of the Firm or the Insurer or the cost of the Insured's time or any Value Added Tax insofar as the Insured can recover such Value Added Tax from HM Revenue & Customs.

#### **7.7 Employee**

Employee means any person other than a Principal:

- a) employed or otherwise engaged in the Firm's Practice (including under a contract for services),
- b) seconded to work in the Firm's Practice; or
- c) seconded by the Firm to work elsewhere.

Employee does not include any person who is engaged by the Firm under a contract for services in respect of any work where that person is required under the rules of ILEX Professional Standards Limited or any other professional body, to take out or to be insured under separate professional indemnity insurance in respect of that work.

#### **7.8 Excess**

The Excess means the first amount of a Claim that is not covered by the Policy.

#### **7.9 Firm**

The Firm means the sole practitioner, partnership or body (as constituted from time to time) authorised by ILEX Professional Standards Limited and specified in the Schedule.

**7.10 Firm's Practice**

The Firm's Practice means the Private Legal Practice carried on by the Firm, any Prior Practice and/or any Successor Practice.

**7.11 Insured**

Insured means each and all of the following persons or legal entities each being severally insured hereunder:

- a) the Firm; and
  - b) each trustee or nominee company owned by the Insured Firm and/or the Principals of the Insured Firm and regulated by ILEX Professional Standards Limited; and
  - c) each Principal, each former Principal, and each person who becomes a Principal of the Firm during the Period of Insurance; and
  - d) each Employee, each former Employee and each person who during the Period of Insurance becomes an Employee of the Firm or a company referred to in sub-clause (c); and
  - e) the estate or legal personal representatives of any deceased or legally incapacitated person referred to in sub-clause (c) or (d).
- The Insured as defined at sub-clause (a) above shall act as agent on behalf of all Insureds for the purposes of giving and receiving notices and for the purposes of endorsements to and cancellation of the Policy.

**7.12 Insurer**

The Insurer means XXXXXXXX Insurance plc.

**7.13 Limited Liability Partnership**

Limited Liability Partnership means a limited liability partnership incorporated under the Limited Liability Partnerships Act 2000.

**7.14 Minimum Wording**

Minimum Wording means the Minimum Wording specified by ILEX Professional Standards Limited.

**7.15 One Claim**

All Claims or series' of Claims arising from or in connection with or attributable to one originating cause or one originating source will be deemed to be one Claim for the purposes contemplated by clause 2.1.

**7.16 Partner**

Partner means a person who is or is held out to be a partner in a Partnership.

**7.17 Partnership**

Partnership means an unincorporated firm in which persons are or are held out as Partners and does not include a firm incorporated as a Limited Liability Partnership.

**7.18 Period of Insurance**

The Period of Insurance means the period specified in the Schedule or any endorsement thereto.

**7.19 Principal**

Principal means:

- a) where the Firm is or was:
  - (i) a sole practitioner – that practitioner;
  - (ii) a Partnership – each Partner;



(iii) a company with a share capital – each director of that company and any person who:

- (a) is held out as a director; or
- (b) beneficially owns the whole or any part of a share in the company; or
- (c) is the ultimate beneficial owner of the whole or any part of a share in the company.

(iv) a company without a share capital – each director of that company and any person who:

- (a) is held out as a director; or
  - (b) is a member of the company; or
  - (c) is the ultimate owner of the whole or any part of a body corporate or other legal person which is a member of the company;
- (v) a Limited Liability Partnership – each member of that Limited Liability Partnership, and any person who is the ultimate owner of the whole or any part of a body corporate or other legal person which is a member of the Limited Liability Partnership.
- b) where a body corporate or other legal person is a Partner in the Firm, any person who is within paragraph (a)(iii) of this definition (including sub paragraphs (a) and (c) thereof), paragraph (a)(iv) of this definition (including sub paragraphs (a) and (c) thereof), or paragraph a(v) of this definition.

#### **7.20 Prior Practice**

Prior Practice means each practice to which the Firm is ultimately a Successor Practice by way of one or more mergers, acquisitions, absorptions or other transitions, but does not include any such practice which has elected and has paid to be insured under run-off cover.

#### **7.21 Private Legal Practice**

Private Legal Practice means the provision of services in private practice as a professional authorised by ILEX Professional Standards Limited, including, without limitation: :

- a) providing such services in England, Wales or anywhere in the world, whether alone or with other lawyers in a Partnership, an authorised body or a licensed body (in respect of its regulated activities); and
- b) the provision of such services as a secondee of the Firm; and
- c) the acceptance and performance of obligation as a personal representative, trustee, attorney, insolvency practitioner or in any other role in conjunction with a Firm's Practice to the extent that any fees or other income accrue to the benefit of the Firm's Practice; and
- d) the provision of such services by any Employee; and
- e) the provision of such services pro bono publico.

Private Legal Practice does not include:

- i) practising as an Employee of an employer other than a Firm regulated by ILEX Professional Standards Limited; or
- iii) discharging the functions of any of the following offices or appointments:
  - a) judicial office;
  - b) Under Sheriffs;
  - c) members and clerks of such tribunals, committees, panels and boards as the Board of ILEX professional Standards Limited may from time to time designate but including those subject to the Tribunals and Inquiries Act 1992, the Competition Commission, Legal Services Commission Review Panels and Parole Boards;
  - d) Justices' Clerks; or
  - e) Superintendent Registrars and Deputy Superintendent Registrars of Births, Marriages and Deaths and Registrars of Local Crematoria.

#### **7.22 Authorised Body**

Authorised Body means a body for the time being authorised by ILEX professional Standards Limited.

**7.23 Successor Practice**

Successor Practice means a Firm resulting from a merger, acquisition, absorption or other transition following which the Firm succeeded to is no longer being carried on as a discrete Firm where:

- a) the owners of the succeeding Firm hold or held the Firm out, expressly or by implication, as being the successor of the other Firm, or as incorporating the other Firm, whether the holding out is contained in notepaper, business cards, electronic communication, publications, promotional material, or otherwise, or is contained in any statement or declaration by the Firm to any regulatory or taxation authority or
  - b) the Firm succeeded to was a partnership and either:
    - i) the majority of the Principals of the Firm succeeded to have become Principals of the successor Firm; or the majority of the Principals of the Firm succeeded to have not become Principals of another practice but one or more of the Principals of the Firm succeeded to have become Principals of the successor Firm and one or more of the following apply:
      - aa) the successor Firm is carried on under the same name as the Firm succeeded to or under a name that substantially incorporates the name of the Firm succeeded to (or a substantial part of the name of the Firm);
      - bb) the successor Firm is carried on from the same premises as the Firm succeeded to;
      - cc) the successor Firm acquired the goodwill and/or assets of the Firm succeeded to;
      - dd) the successor Firm assumed the liabilities of the Firm succeeded to;
      - ee) the majority of staff employed by the Firm succeeded to became Employees of the successor Firm; or
    - c) the Firm succeeded to was a sole practitioner and the sole practitioner is a Principal or Employee of the successor Firm; or
    - e) the Firm succeeded to was an entity that is now a Principal of the successor Firm.
- Except that a Firm shall not be a Successor Practice under sub-clause (b), (c), (d) or (e) if another Firm holds or held itself out as the successor or as incorporating the Firm succeeded to provided that other Firm has insurance complying with the Minimum Wording

**7.TBA Extended Indemnity Period**

Extended Indemnity Period means the period commencing at the end of the last Period of Insurance to which the policy relates and ending on the date whichever is the earlier of:

- i) the date which is 30 days after the end of the last Period of Insurance;
- (ii) the date of inception of a policy complying with the Minimum Wording in respect of the Firm for the year commencing immediately following the Period of Insurance; or
- (iii) the date upon which the Firm's Practice ceases.

**7.TBA Cessation Period**

Cessation Period means the period commencing on the expiry of the Extended Indemnity Period in circumstances where the Firm has not ceased practice or obtained a policy in accordance with the Minimum Wording for a Period of Insurance, and ending on the date which is the earlier to occur of:

- (i) the date upon which the Firm obtains a policy in accordance with the Minimum Wording; or
- (ii) the date which is 90 days after the commencement of the Extended Indemnity Period; or
- (iii) the date on which the Firm's Practice ceases



## Our complaints procedure

We value the opportunity to investigate any concerns you may have about any aspect of our service and are committed to handling all complaints fairly, thoroughly and promptly.

### Who to contact in the first instance

Many concerns can be resolved straight away therefore in the first instance please get in touch with your usual contact as they will generally be able to provide you with an immediate response to your satisfaction. Contact details will be provided on correspondence that we or our representatives have sent you. If we cannot resolve your complaint straight away we will aim to resolve your concerns as soon as possible and we will keep you informed of progress while our enquiries are continuing. The majority of complaints we receive are resolved within four weeks of receipt.

### Next steps if you are not happy with the response provided

We are dedicated to our customers and seek to do what is right however sometimes we may not be able to reach an agreement with you. If this is the case and you remain dissatisfied once you have received our response to your complaint we will refer your complaint to our Customer Relations Team for a separate review. The Customer Relations Team will contact you to let you know they have received your complaint and when their review is complete they will provide you with a final response on our behalf.

### The Financial Ombudsman Service (FOS)

If we are unable to resolve your complaint to your satisfaction within eight weeks or if you remain dissatisfied following receipt of our final response letter you can ask the FOS to formally review your case, provided your annual turnover is less than £1,000,000. You must contact the FOS within six months of our final response.

The FOS contact details are as follows:

Financial Ombudsman Service  
South Quay Plaza  
183 Marsh Wall  
London  
E14 9SR

You can telephone for free on: 08000 234 567 for people phoning from a “fixed line” (for example, a landline at home) 0300 123 9 123 for mobile-phone users who pay a monthly charge for calls to numbers starting 01

or 02 Or e-mail: [complaint.info@financial-ombudsman.org.uk](mailto:complaint.info@financial-ombudsman.org.uk)

This is a free and impartial service and will not affect your legal rights.

The FOS can help with most complaints if you are:

- a consumer
- a business employing fewer than 10 persons that has an annual turnover or balance sheet that does not exceed €2 million
- a charity with an annual income of less than £1 million
- a trustee of a trust with a net asset value of less than £1 million.

If you are unsure whether the FOS will consider your complaint please contact them directly for further information. You are entitled to contact the FOS at any stage of your complaint.

### The Financial Services Compensation Scheme (FSCS)

We are covered by the Financial Services Compensation Scheme (FSCS). You may be entitled to compensation should we be unable to meet our obligations. Further information is available on [www.fscs.org.uk](http://www.fscs.org.uk) or you may contact the FSCS on 0800 678 1100.

Following this complaints procedure does not affect your legal rights.

### How we will use your data

We hold your personal data in accordance with the Data Protection Act 1998. The information supplied to us by you may be held on computer and passed to other insurers for underwriting and claims purposes. You should show this to anyone whose personal data may be processed to administer this policy.

**Policy Administration**

In order to administer your insurance policy and any claims made under this policy we may share personal data provided to us with other companies within the XXXXXXXX Financial Services Group and with business partners including overseas companies. If we do transfer your personal data including where we propose a change of underwriter we make sure that it is appropriately protected.

**Claims History**

When you notify us about a claim or circumstance we may pass information relating to it to the relevant database. We may search these databases when you apply for insurance, in the event of any circumstance or claim, or at time of renewal to validate your claims history or that of any other person or property likely to be involved in the policy or claim.

**Fraud Prevention and Detection**

In order to prevent and detect fraud we may at any time:

- a) share information about you with other organisations including the police
  - b) undertake credit searches
  - c) check and share your details with fraud prevention and detection agencies.
- If false or inaccurate information is provided and fraud is identified details will be passed to fraud prevention agencies. Law enforcement agencies may access and use this information. We and other organisations may also access and use this information to prevent fraud and money laundering for example when:

- a) checking details on applications for credit and credit related or other facilities
- b) managing credit and credit related accounts or facilities
- c) recovering debt and tracing beneficiaries
- d) checking details on proposals and claims for all types of insurance
- e) checking details of job applicants and employees.

Please contact us if you want to receive details of the relevant fraud prevention agencies.  
We and other organisations may access and use from other countries the information recorded by fraud prevention agencies.

**APPENDIX 11**

**COMPENSATION FUND RULES**

## IPS COMPENSATION FUND RULES

### Interpretation

1. In these Rules, unless otherwise provided:

<b>Applicant:</b>	means a person applying for a Discretionary Grant;
<b>Authorised Body:</b>	has the same meaning as in the IPS Authorisation Rules;
<b>CILEx:</b>	means the Chartered Institute of Legal Executives;
<b>Discretionary Grant</b>	means a Discretionary Grant made by CILEx under Rule 4 (1)(a) or (b);
<b>the Fund:</b>	means the CILEx Compensation Fund; and
<b>IPS:</b>	means ILEX Professional Standards Limited.
<b>regulated legal activity:</b>	means: <ul style="list-style-type: none"> <li>(a) a reserved legal activity; or</li> <li>(b) immigration advice or immigration services;</li> </ul>
<b>reserved legal activity:</b>	has the same meaning as in the Legal Services Act 2007.

### The Fund

2. (1) CILEx shall establish and maintain the CILEx Compensation Fund (the Fund) which shall be applied to the payment of Discretionary Grants and for the other purposes provided for under these Rules.
- (2) Every Authorised Body shall make contributions to the Fund. The rate, amount and payment arrangements for those contributions shall be such as IPS may from time to time prescribe.
- (3) Any contribution which is not paid in accordance with paragraph (2) may be recovered by CILEx as a debt.

### Management of the Fund

3. (1) The Fund shall be managed by IPS, which may:
  - (a) hold and distribute any monies raised for the purposes of the Fund;
  - (b) invest the Fund in any investments in which trustees may invest under section 3 of the Trustee Act 2000 (general power of investment);
  - (c) insure in relation to the Fund, and pay premiums in respect of such insurance from the Fund, for such purposes and on such terms as it considers appropriate;

- (d) borrow for the purposes of the Fund, pay interest on any money so borrowed, repay any money so borrowed and use investments which form part of the Fund as security for such borrowing; and
  - (e) use the Fund to pay any other costs, charges or expenses incurred by CILEx in establishing and administering the Fund.
- (2) The payments which may be made under Paragraph (1)(e) include any expenditure, including the payment of any award of costs or damages, incurred by CILEx, IPS, their employees or agents as a result of proceedings against any of them for any good faith act or omission in the exercise or purported exercise of powers under these Rules.

### Discretionary Grants

4. (1) The Fund may be used by IPS to make Discretionary Grants to a person who is a client of an Authorised body to:
- (a) replace money which an Authorised Body has misappropriated or for which an Authorised Body has otherwise failed to account; or
  - (b) compensate a person in respect of the civil liability of an Authorised Body which, contrary to the Indemnity Insurance Rules, does not have in place a policy of qualifying insurance against which a claim in respect of that civil liability can be made.
- (2) A grant may not be made in respect of any loss:
- (a) arising solely by reason of the professional negligence of an Authorised Body;
  - (b) which is a personal debt or trading debt or liability of an Authorised Body;
  - (c) arising from practice by the Authorised Body outside of England and Wales;
  - (d) which is a claim for interest under a contract between the Applicant and an Authorised Body; or
  - (e) which did not arise from the performance or purported performance of a regulated legal activity by an Authorised Body.
- (3) Any Discretionary Grant shall be made in the absolute discretion of IPS and no person shall have a right to such a grant which is enforceable at law.

### Applications

5. (1) An application for a Discretionary Grant shall be made:
- (a) in such form as IPS may from time to time prescribe; and

- (b) not more than one year after the Applicant first knew, or with reasonable diligence should have known, about the misappropriation, failure to account or events giving rise to a civil liability (as the case may be).
- (2) An Applicant must provide evidence to satisfy IPS that, in consequence of the misappropriation, failure to account or events giving rise to a civil liability (as the case may be), the Applicant has suffered or is likely to suffer loss and hardship.
- (3) The Applicant has the burden of proving a claim and must provide IPS with such documents or other information as it may require in respect of that claim.
- (4) Failure to provide documents or other information or to co-operate with IPS may be taken into account when determining the merits of an application.

### Other remedies and subrogation

- 6. (1) A Discretionary Grant may be refused in respect of all or any part of a loss that is:
  - (a) an insured risk; or
  - (b) capable of being made good by any other means.
- (2) Before deciding whether to make a Discretionary Grant, IPS may require an Applicant to:
  - (a) pursue any civil remedy against the Authorised Body who is the subject of the application;
  - (b) commence insolvency proceedings against that Authorised Body;
  - (c) make a formal complaint to the Police or other agency against that Authorised Body; and
  - (d) assist in the taking of any action against that Authorised Body.
- (3) If a Discretionary Grant is made, any rights or remedies of the recipient shall be subrogated to CILEx and, if required by IPS (whether before or after the making of the grant) the Applicant shall:
  - (a) prove in any insolvency or winding-up of the Authorised Body;
  - (b) sue for recovery of the loss in the name of the Applicant but on behalf of CILEx; and
  - (c) comply with any other reasonable requirement for the purpose of giving effect to CILEx's rights.

**Grant Limit**

7. A Discretionary Grant may not exceed £500,000.

**Refusal of an application**

8. If an application for a Discretionary Grant is refused, whether in whole or part, IPS will inform the Applicant in writing of its decision and the reasons for that decision.