



## Summary of decision

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

The LSB's decision is to grant in full the application from CILEx Regulation ("CRL") to make changes to its regulatory arrangements in order to create, in principle, a new route for chartered legal executives to obtain practice rights. The purpose of granting these regulatory arrangements is to enable CRL to develop the new route to obtain practice rights by appointing a training provider, devising the assessment process and calculating the associated costs.

In making its decision, the LSB has taken into account the fact that further amendments to the regulatory arrangements will need to be approved by the LSB to enable CRL to begin offering its new route to obtaining practice rights to its Fellows. CRL anticipates making this further application to the LSB in 2021. Approval of the regulations that are the subject of this application is not sufficient on its own to bring the rules into effect.

## Decision notice

### **The CILEx Regulation (CRL) application for approval of changes to its regulatory arrangements to create, in principle, a new route to allow chartered legal executives to obtain practice rights**

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

## Chronology

- The LSB confirmed receipt of an application from CRL on 22 July 2020.
- The 28-day initial decision period for considering the application ended on 18 August 2020.
- On 14 August 2020 the LSB issued an extension notice<sup>1</sup> which extended the decision period to 18 October 2020.
- This decision notice is effective from 13 October 2020.
- The decision notice will be published on the LSB’s website by 15 October 2020.

## Background

6. Current CRL regulatory arrangements provide that Chartered Legal Executives (“Fellows”) are awarded the right to practice the reserved legal activity of administration of oaths upon obtaining fellowship. In order to obtain their own right to practise in any further reserved or regulated area of law without supervision, a Fellow is required to qualify as a CILEx Practitioner.
7. CILEx Practitioners are Fellows who have been granted one or more practice rights certificates. Those certificates are available for conveyancing, family litigation, immigration, civil litigation, criminal litigation and probate.
8. Currently, the main route<sup>2</sup> to obtaining these practice rights is set out in the application as:

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<sup>1</sup> <https://www.legalservicesboard.org.uk/our-work/statutory-decision-making/alterations-to-regulatory-arrangements/attachment/20200813-extension-notice-cilex-regulation-practice-rights>

<sup>2</sup> Annex 2 to the application explains that it is possible to obtain conveyancing and probate rights without the need to be a Fellow. It is also possible for Fellows to obtain advocacy rights without litigation rights if they are employed in a regulated law firm.

- a. Knowledge - achievement in CILEx level 6 examinations or equivalent or through five portfolios covering a range of matters handled in their casework; and
  - b. Experience - five years working in the legal sector of which at least two years are in the specialist field; and
  - c. Skill - in the practice area through completion of a logbook and portfolio or a specified course which demonstrates meeting the outcomes in the competence framework.
9. Through this application, CRL intends to introduce a new set of rules that will provide an alternative route for Fellows to gain practice rights. The new rules will sit alongside the existing rules as an alternative. The proposed route is not intended to replace the existing route.
10. The proposed alternative route for Fellows to get practice rights is largely aimed at the existing pool of around 7,000 Fellows who do not currently hold additional practice rights with an aim to increase the number of Fellows with practice rights. CRL is presently developing wider education and standards reforms that will form part of a separate application to the LSB under Part 3 to Schedule 4 to the Act.
11. CRL's application explains that it intends for the introduction of greater flexibility in acquiring practice rights to increase the number of Fellows with additional practice rights. This will provide greater consumer choice, which CRL considers will promote both competition in the provision of services and access to justice. In addition, CRL believes that the expected increase in Fellows with additional practice rights has the potential to enhance diversity within the profession.
12. Consultation on the proposed changes took place from 31 May 2019 to 23 August 2019. The consultation received three responses including a response from CILEx which included feedback from 133 of its members. All respondents were in support of the proposals.
13. CRL intends to implement the new regulatory arrangements in 2021 subject to further LSB approval once a training provider has been appointed and the assessment process and associated costs have been developed.

### **Summary of proposed changes**

14. CRL is asking the LSB to approve, in principle, the annexed regulatory arrangement for the new CILEx Regulation Practice Rights Certificate for Chartered Legal Executives Rules. There are no changes proposed to the existing route to obtaining practice rights.

#### *Practice Rights*

15. The new rules set out that a Fellow of CILEx or applicant of good standing may be granted Practice Rights Certificates if they meet the requirements set out in the rules.
16. The available Practice Rights Certificates are for:
- Conveyancing
  - Family Litigation
  - Immigration
  - Civil Litigation
  - Criminal Litigation
  - Probate

17. There are two new options for existing fellows to obtain practice rights set out at new rules 7 and 8.
18. New rule 7 sets out that a Fellow with 5 years or more qualifying employment including 2 years' or more experience in the Specified Practice Area may be granted a certificate to practice in that Specified Practice Area, provided that he or she meets the following requirements:
  - a. Pass an Assessment in the relevant practice area; and
  - b. Provide Satisfactory Evidence of experience in the relevant practice area.
19. New rule 8 sets out that a Fellow with 5 years or more qualifying employment with less than 2 years' experience in the Specified Practice Area may be granted a certificate to practice in that Specified Practice Area provided that he or she meets the following requirements:
  - a. Complete an Approved Course delivered by an Authorised Provider; and
  - b. Pass an Assessment in the relevant practice area; and
  - c. Provide Satisfactory Evidence of successful completion of the course in the Specified Practice Area and evidence of at least 5 years of qualifying employment.

*Other new rules related to decision making, titles and alignment with existing CRL rules*

20. The new rules also set out the following:
  - a. qualifying employment and employment are defined in the rules at new rules 10-14 and align with existing definitions found in other CRL rules
  - b. the existing Admissions and Licensing Committee will be responsible for decision making under the rules. Their role is set out in more detail at new rules 16-25
  - c. new rules 26-31 confirm the titles awarded to Fellows with practice rights and link to annexes that confirm the exact nature of the rights awarded to them.
  - d. new rules 32 and 33 confirm the need for Fellows to undertake Continuing Professional Development ("CPD") in accordance with CPD regulations issued by CRL.
  - e. new rules 34-38 confirm that the Code of Conduct and CILEx Regulation Enforcement Rules apply.

*Scope of application*

21. The application from CRL and new rule 39 confirm that these rules will not come into force until a training provider has been appointed, the training and assessment process has been developed, and the LSB has had the opportunity to consider and further approve the scheme in detail. If LSB is satisfied that the new route to obtaining practising rights is fit for purpose, it will approve (i) the removal of rule 39, together with (ii) any further amendments to the regulatory arrangements as may be required in light of CRL's work to develop the scheme since the date of this decision notice.

**Key issues considered in the assessment of the application**

*Rationale*

22. This application was received alongside another CRL application to amend its Exemptions Policy and in the context of CRL's plans to submit a wider application relating to its education standards. Given the importance of the design and operation of education and training pathways

we asked CRL to provide us with further documentation that would aid our understanding by setting out the overall rationale and objectives of CRL's wider education and training framework.

23. CRL provided us with additional explanatory material. Of particular relevance to this application was the explanation that CRL is aiming to reduce duplication within the current route offered to Fellows to obtain practice rights.

#### *Clarity*

24. At the same time as requesting documentation setting out the overall rationale and objectives of CRL's wider education and training framework we also set out our concern that, in the material presented to us, it is difficult to properly understand either the current or proposed future pathways to qualification.
25. Clear explanations of the pathways to Fellowship and practice rights are important not just for the LSB's assessment of CRL's regulatory arrangements but also for those members of the public who may be interested in understanding how they could seek to qualify as a Chartered Legal Executive. This material should also explain to the wider public why they should be able to place their confidence in Chartered Legal Executives.
26. CRL provided us with additional material to provide a broad overview of the pathways to qualification as a Fellow and for Fellows to obtain practice rights. In relation to this application we have an expectation that CRL will develop additional public facing guidance to ensure the routes from Fellowship to obtaining practice rights are clearly and coherently explained.

#### *Single provider of training and assessment*

27. The application sets out that CRL expects a single provider to be used to provide both the training and assessment proposed. It further explains that CRL intends to use its tender process to establish robust measures to manage any potential conflicts of interest.
28. During the course of the assessment we asked CRL to provide us with further information as to the assurance it is expecting. CRL explained that it will be seeking clear evidence of separation of the team delivering training from the team delivering the assessment. It was explained that this would include a need for CRL to see clearly documented policies and procedures for governing any such potential conflicts.
29. We expect to consider the risks associated with this potential conflict of interest in more detail when CRL approaches the LSB for further approval once a training provider has been appointed and the training and assessment process has been developed.

#### *The Assessment*

30. The application explains that the assessment has been chosen based upon a set of essential criteria for high effective assessment, it also sets out a proposal for competence to be assessed by a combination of single best answer/multiple response questions and a written/oral practical skills test.
31. The application also provided detail of an initial tender proposal document setting out CRL's expectations and criteria for training and assessment.

32. We expect to further scrutinise the detail of the training and assessment once plans are finalised when CRL approaches the LSB for further approval.

#### *Required Experience*

33. The rules annexed to the application read as though a Fellow would need a total of seven years' experience to use the route set out in new rule 7. We asked CRL to clarify whether this was correct and if not to make amendments to the rules.

34. CRL confirmed that the intention was for the minimum to be a total of five years' experience including two years of specialist experience. It was not intended to set out five plus two. CRL amended the proposed new rules to clarify this. The amended rules are annexed to this decision.

35. During the course of the assessment we also asked CRL about rule 8. This rule allows for practitioners with less than two years' experience in a specified practice area to obtain practice rights. We asked CRL to clarify whether a minimum duration of experience in the practice area is required.

36. CRL explained that all applicants are required to be Fellows with at least five years' general legal experience. They further explained that the training and assessment will be designed to ensure applicants meet the appropriate standard. While there is no minimum experience required in the relevant practice area, all Fellows are required by the Code of Conduct<sup>3</sup> to act only on matters that are within their competence.

#### *Implementation*

37. CRL intends to implement its new route to obtaining practising rights in 2021, subject to further LSB approval.

38. Once the new route is in place, CRL intends to monitor the applications received through this route and the existing route to obtaining practice rights. This will lead to an initial review two years following implementation of the new route. This is intended to enable CRL to understand and monitor the impact on equality and diversity through each route.

39. Once it has reviewed the impact of the new route we expect CRL to consider whether it remains appropriate to retain both routes to obtaining practice rights.

#### **Decision**

40. The LSB has considered the CRL application against the refusal criteria in paragraph 25(3) of Schedule 4 to the Act. It considers that there is no reason to refuse this application and accordingly, the application is granted.

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<sup>3</sup> <https://cilexregulation.org.uk/wp-content/uploads/2018/11/2.-Code-of-Conduct-2019.pdf>

41. **Annex A** of this decision notice contains a copy of the new rules which have been approved by the LSB.

**Matthew Hill, Chief Executive**

**Acting under delegated authority granted by the Board of the Legal Services Board**

*Notes:*

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

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<sup>4</sup> LSB's Rules for applications to alter regulatory arrangements – Version 2 April 2018

[https://www.legalservicesboard.org.uk/what\\_we\\_do/regulation/pdf/New%20folder%20\(2\)/FINAL\\_Rules\\_for\\_applications\\_to\\_alter\\_regulatory\\_arrangements.pdf](https://www.legalservicesboard.org.uk/what_we_do/regulation/pdf/New%20folder%20(2)/FINAL_Rules_for_applications_to_alter_regulatory_arrangements.pdf)



## **ANNEX A**

### **CILEX REGULATION PRACTICE RIGHTS CERTIFICATE FOR CHARTERED LEGAL EXECUTIVES RULES**

#### **DEFINITIONS**

1. In these rules, the following definitions apply:

- “Admissions and Licensing Committee” means the Committee established by CILEx Regulation to deal with matters relating to these Rules;
- “Appeals Panel” means the Panel established to hear appeals against decisions made by the Admissions and Licensing Committee following a rehearing;
- “Applicant” means any Chartered Legal Executive making an application for one or more Practice Rights Certificate pursuant to these Rules;
- “Approved Course” means a specified course of study or training in the Specified Practice Area for which the Practice Rights Certificate is sought and which is delivered by an Authorised Provider;
- “Assessment” means an assessment of competence in the Specified Practice Area for which the Practice Rights Certificate is sought and which is delivered by an Authorised Provider;
- “Authorised person” means a person so described in the Legal Services Act 2007. An authorised person is defined by the Act as “a person who is authorised to carry on the relevant activity by a relevant approved regulator in relation to the relevant activity”;
- “Authorised Provider” means an organisation authorised by CILEx Regulation to provide an Approved Course or Assessment;
- “Certificate of Eligibility” means a Certificate permitting an applicant to undertake an Advocacy Skills Course;
- “Chartered Legal Executive” means a CILEx member authorised by CILEx Regulation to conduct one or more reserved activities (also known as a Fellow of CILEx)
- “Chartered Legal Executive Litigator and Advocate” means a Fellow who has been granted a Litigation Certificate and a Rights of Audience Certificate by CILEx Regulation;
- “CILEx Institute Board” means the Board of the Chartered Institute;
- “CILEx Regulation” means CILEx Regulation Ltd;
- “CILEx” means the Chartered Institute of Legal Executives;
- “CPD Regulations” means the Rules of CILEx Regulation which are in place to govern the continuing professional development of Chartered Legal Executives, CILEx Practitioners and members of CILEx;

- “Enforcement Rules” means the Rules of CILEx Regulation which are in place from time to time and which govern the complaints handling, misconduct investigation and disciplinary procedures of CILEx Regulation;
- “External advisor” means a person appointed by CILEx Regulation to carry out the roles and functions identified for them by CILEx Regulation;
- “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 CILEx Regulation and, in both cases, in respect of whose conduct there is no complaint or misconduct matter outstanding, whose CPD requirements are up to date and against whom there is no disciplinary record which in the view of CILEx Regulation affects their suitability to be a Chartered Legal Executive;
- “Practice Rights Certificate” means a Conveyancing Certificate, Family Litigation Certificate, Immigration Certificate, Litigation (Civil) Certificate, Litigation (Criminal) Certificate, Probate Certificate, identified in these Rules;
- “Satisfactory Evidence” means relevant, sufficient and adequate evidence of qualifying experience in the Specified Practice Area;
- “Specified Practice Area” means any of the practice areas of Conveyancing, Family Litigation, Immigration, Litigation (Civil), Litigation (Criminal) and Probate and in respect of which a certificate may be granted according to these Rules.
- “The Act” means the Legal Services Act 2007;
- “The Officer” means a person with responsibility for the Authorisation Rules.

## ***NOTES ON THESE RULES***

2. Reference to the male gender also includes female gender.
3. Words importing the singular include the plural and vice versa.

## ***DELEGATIONS***

4. Responsibility for this authorisation scheme is delegated to CILEx Regulation by CILEx.

## **PRACTICE RIGHTS CERTIFICATES FOR FELLOWS**

5. A Fellow of CILEx or applicant in good standing who meets the requirements specified in these rules may be granted one or more of the following Practice Rights Certificates:

- (a) Conveyancing Certificate
- (b) Family Litigation Certificate
- (c) Immigration Certificate
- (d) Litigation (Civil) Certificate
- (e) Litigation (Criminal) Certificate
- (f) Probate Certificate.

6. These Rules do not affect the right of any Fellow or applicant in good standing to apply for any of the following:
- (a) a Probate Certificate pursuant to the Probate Rights Certification Rules,
  - (b) an Immigration Certificate pursuant to the Immigration Certification Rules; or
  - (c) a Conveyancing Certificate pursuant to the Reserved Instrument Activity Certification Rules.
  - (d) A Criminal, Family or Civil Litigation Certificate pursuant to the Rights to conduct Litigation and Rights of Audience Rules
7. A Fellow with 5 years or more qualifying employment including 2 years' or more experience in the Specified Practice Area may be granted a certificate to practice in that Specified Practice Area provided that he or she meets the following requirements:
- (a) Pass an Assessment in the relevant practice area; and
  - (b) Provide Satisfactory Evidence of experience in the relevant practice area.
8. A Fellow with 5 years or more qualifying employment with less than 2 years' experience in the Specified Practice Area may be granted a certificate to practice in that Specified Practice Area provided that he or she meets the following requirements:
- (a) complete an Approved Course delivered by an Authorised Provider; and
  - (b) pass an Assessment administered by an Authorised Provider in the Specified Practice area; and
  - (c) provide Satisfactory Evidence of successful completion of the course in the Specified Practice Area and evidence of at least 5 years of qualifying employment.
9. An Applicant intending to conduct Family Litigation, Civil Litigation and/or Criminal Litigation must also apply for and be granted the relevant certificate or certificates relating to rights of audience and advocacy pursuant to the Rights to Conduct Litigation and the Rights of Audience Certification Rules.

## **DEFINITION OF QUALIFYING EMPLOYMENT**

10. A person is in qualifying employment if he is employed either:

- by an authorised person in private practice;
- by an organisation where the employment is subject to supervision by an authorised person employed in duties of a legal nature by that organisation; and in either case
- the work under the terms of his employment is, for at least 20 hours per week, wholly of a legal nature.

11. An Applicant will be regarded as being employed if:

- he is employed under a contract of service and is engaged on his employer's business for specified hours; or
- he is a partner in any firm or is an owner of any company; or
- at the discretion of CILEx Regulation, he is employed under a contract for services, whether he works as an independent contractor or provides services through an intervening agent.

12. Part-time employment may be accepted as qualifying employment, if the work undertaken provides the opportunity for practical expertise to be developed. Part-time employment is employment for less than 20 hours per week. CILEx Regulation shall have the power to determine that employment for less than 20 hours per week shall be regarded as part-time qualifying employment, where it decides it is appropriate to do so.

13. Unpaid work may be regarded as 'employment' for the purposes of these rules.

14. A break in employment for any reason does not count as qualifying employment.

## ***APPLICATIONS***

15. Applicants who seek a Practice Rights Certificate must meet the requirements set out in these Rules, complete all application forms required by CILEx Regulation and pay such fees as may be fixed by CILEx Regulation from time to time.

## ***DECISION MAKING***

16. The Admissions and Licensing Committee established under the Admissions and Licensing Committee Rules shall be responsible for matters relating to these Rules.

17. In making any assessment or decision required by these Rules, the Admissions and Licensing Committee shall have regard to the relevant eligibility criteria, application guidelines, and the knowledge and competence requirements.
18. CILEx Regulation may appoint external advisors to advise CILEx Regulation and the Admissions and Licensing Committee on matters relating to these Rules.
19. The decision to approve an application for a Practice Rights Certificate may be made by an Officer of CILEx Regulation. 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 a decision.
20. Where the Officer decides that the Applicant has not met the requirements, they will give reasons for their decision. The Officer will inform the Applicant of the decision. The Applicant may withdraw their application, amend and re-submit their application or make further representation and ask that the full application be referred to the Admissions and Licensing Committee to consider.
21. The Admissions and Licensing Committee will decide whether or not an application referred to it 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.
22. The Admissions and Licensing 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.
23. The Officer will notify an applicant of their decision or the decision of the Admissions and Licensing Committee.
24. Where the application has been approved, the notification shall include the Practice Rights Certificate.

25. Where the application is unsuccessful, the notification shall set out the reasons and any pre-conditions to the consideration of any subsequent application. Where an application is unsuccessful, the Applicant may apply for reconsideration in accordance with the Admissions and Licensing Committee Rules.

#### **AUTHORISED PERSONS AT CILEX REGULATION**

26. An Applicant who has been awarded a Conveyancing Certificate will be known as a **Chartered Legal Executive (Conveyancing)** and authorised to carry out the work specified in **Annex 1A**.
27. An Applicant who has been awarded a Litigation and Advocacy (Civil Proceedings) Certificate will be a **Chartered Legal Executive Litigator and Advocate (Civil Litigation)** and, subject to meeting the requirements specified in Rule 9, authorised to carry out the work specified in **Annex 1B**
28. An Applicant who has been awarded a Litigation and Advocacy (Criminal Proceedings) Certificate will be a **Chartered Legal Executive Litigator and Advocate (Criminal Litigation)** and, subject to meeting the requirements specified in Rule 9, authorised to carry out the work specified in **Annex 1C**.
29. An Applicant who has been awarded a Litigation and Advocacy (Family Proceedings) Certificate will be a **Chartered Legal Executive Litigator and Advocate (Family Litigation)** and, subject to meeting the requirements specified in Rule 9, authorised to carry out the work specified in **Annex 1D**.
30. An Applicant who has been awarded an Immigration Certificate will be known as a **Chartered Legal Executive (Immigration)** and authorised to carry out the work specified in **Annex 1E**.
31. An Applicant who has been awarded a Probate Certificate will be known as a **Chartered Legal Executive (Probate)** and authorised to carry out the work specified in **Annex 1F**.

#### ***CONTINUING PROFESSIONAL DEVELOPMENT***

32. Chartered Legal Executives are required to undertake Continuing Professional Development (CPD) in accordance with the CPD regulations issued by CILEx Regulation from time to time.

33. Where a Chartered Legal Executive Practice Certificate has been withdrawn for 12 months or more, on the basis that they have not met their CPD requirements, they will be required to make a fresh application for a Practice Certificate in accordance with these Rules.

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

34. Chartered Legal Executives will be required to abide by the Code of Conduct of CILEx for the time being in force. They will also be bound by the associated regulatory arrangements in force from time to time.
35. Where a complaint is made, or an issue is brought to the attention of CILEx Regulation, regarding the conduct of a Chartered Legal Executive, that matter will be dealt with in accordance with the CILEx Regulation Enforcement Rules. Where a finding, order or decision is made against a Chartered Legal Executive, 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 remains a suitable person to hold a Practice Certificate. The Admissions and Licensing Committee must give reasons for its decision.
36. Rule 35 shall not apply where an order is made excluding a Chartered Legal Executive from registration of CILEx Regulation or membership of CILEx. In such a case the Chartered Legal Executive's Practice Certificate shall be invalid from the date the exclusion from membership or registration takes effect.
37. Where the Admissions and Licensing Committee decides that the Chartered Legal Executive is no longer a suitable person to hold a Practice Certificate or their Practice Certificate is invalid in accordance with Rule 35, they must return their Practice Certificate to CILEx Regulation within 28 days of them being notified of the decision. Failure to do so will constitute a disciplinary offence. The Chartered Legal Executive may not exercise any practice rights granted to them under their Practice Certificate after they have been notified of the decision.
38. Notwithstanding the Admissions and Licensing Committee Rules an appeal against the decision of the Admissions and Licensing Committee that a Chartered Legal Executive is no longer a suitable to hold a Practice 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 CILEx Regulation's Appeals Panel.

**Sunrise Clause**

39. These rules will come into force once a training provider has been appointed through a tendering process and the training and assessment process and costs have been developed and approved by the Legal Services Board.



## **ANNEX 1A**

### **CONVEYANCING PRACTICE RIGHTS**

The rights exercisable by a Fellow holding a Conveyancing Practice Rights Certificate are

- a) Prepare any instrument of transfer or charge for the purposes of the Land Registration Act 2002;
- b) Make an application or lodge a document for registration under that Act;
- c) Prepare any other instrument relating to real or personal estate for the purposes of the law of England and Wales or instrument relating to Court Proceedings in England and Wales.

Instrument includes a contract for the sale or other disposition of land (except a contract to grant a short lease) but does not include

- a) A will or other testamentary instrument;
- b) An agreement not intended to be executed as a Deed, other than a contract that is included by virtue of the preceding provisions of this sub-paragraph;
- c) A letter or Power of Attorney; or
- d) A transfer of stock containing no trust or limitation of the transfer.

A short lease means a lease referred to in section 54(2) of the Law of Property Act 1925.

## **ANNEX 1B**

### **RIGHTS TO CONDUCT LITIGATION (CIVIL PROCEEDINGS) CERTIFICATE**

To conduct litigation in all civil proceedings excluding family proceedings.

### **THE RIGHTS OF AUDIENCE EXERCISABLE BY LITIGATORS HOLDING RIGHTS OF AUDIENCE CERTIFICATES**

- a) 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.

- b) 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.

### **ANNEX 1C**

#### **RIGHTS TO CONDUCT LITIGATION (CRIMINAL PROCEEDINGS) CERTIFICATE**

To conduct litigation in all criminal proceedings.

#### **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 they, or any approved person in the same employment as them, 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.

### **ANNEX 1D**

#### **RIGHTS OF AUDIENCE (FAMILY PROCEEDINGS) CERTIFICATE IN JUDGE'S ROOM**

To exercise rights of audience in Judge's room hearings in the Family Court and High Court, except reserved proceedings, in all family proceedings.

## **RIGHTS OF AUDIENCE (FAMILY PROCEEDINGS) CERTIFICATE**

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

### **ANNEX 1E**

#### **IMMIGRATION PRACTICE RIGHTS**

The rights exercisable by a Fellow holding an Immigration Practice Rights Certificate are:

Immigration Advice is advice which

- a) Relates to a particular individual;
- b) Is given in connection with one or more relevant matters;
- c) Is given by a person who knows that he is giving it in relation to a particular individual and in connection with one or more relevant matters; and
- d) Is not given in connection with representing an individual before a Court in criminal proceedings or matters ancillary to criminal proceedings;

Immigration Services means the making of representations on behalf of a particular individual in:

- a) civil proceedings before a Court, Immigration Services Tribunal or Adjudicator in the United Kingdom, or
- b) correspondence with a Minister of the Crown or Government department, in connection with one or more of the following matters:
  - (i) A claim for asylum;
  - (ii) An application for, or the variation of, entry clearance or leave to enter or remain in the United Kingdom;
  - (iii) Unlawful entry into the United Kingdom;
  - (iv) Nationality and Citizenship under the law of the United Kingdom;
  - (v) Citizenship of the European Union;
  - (vi) Admission to a Member State under Community Law;
  - (vii) Residence in a Member State in accordance with rights conferred by or under Community Law;
  - (viii) Removal or deportation from the United Kingdom;
  - (ix) An application for bail under the Immigration Act or under the Special Immigration Appeals Commission Act 1997;

- (x) An appeal against, or an application for judicial review in relation to, any decision taken in connection with a matter referred to in Paragraph (i) to (x);

## **ANNEX 1F**

### **PROBATE PRACTICE RIGHTS**

The practice rights exercisable by a person holding a Probate Certificate are:

- to prepare any probate papers for the purposes of the law of England and Wales or in relation to any proceedings in England and Wales.
- Probate papers mean any papers on which to found or oppose a grant of probate or a grant of letters of administration.