

**MINUTES OF THE MEETING OF THE  
BOARD OF DIRECTORS OF CILEx REGULATION LIMITED  
HELD ON 27 MAY 2016**

**Present:**

Sam Younger (Chair), Patrick Bligh-Cheesman, Ian Chivers, Andrew Donovan, Luisa Fulci, Harvey Sandercock

**Apologies:**

David Gilbertson

**In attendance:**

Jill Durham, Head of Policy & Governance, CILEx Regulation  
Laura Gadsby, Management Accountant, CILEx  
Beccy Ryder, Personal Assistant, CILEx Regulation  
Helen Whiteman, Chief Executive Officer, CILEx Regulation  
David Edwards, President, CILEx  
Linda Ford, Chief Operating Officer, CILEx  
Vicky Purtill, Director of Education, CILEx

**1 Declaration of interest**

Andrew Donovan declared an interest in the Compensation Fund in relation to his work on revised arrangements.

The Board retired into confidential session (separate minutes).

**2 Minutes**

**DECISION:**

- To agree the minutes of the Board meeting held on 22 March 2016 as a true record.

**3 CEO Report**

Helen Whiteman reported the following by way of update:

Client care letter research: The office had collaborated with other regulators on client care letter research. £31k had been contributed by regulators collectively to fund the research, which was at the invitation to tender stage.

QASA: The MoJ had invited representatives of the Joint Advisory Group to a meeting on 24 May 2016 which Jill Durham had dialled in to. Elizabeth Gibby and John Russell had represented MoJ. The delayed outcome of the MoJ consultation on the introduction of a criminal defence panel was awaited. Ministers were still raising questions and in particular in relation to plea only advocates. LSB emphasised the level of investment in QASA over a period of years and pressed the MoJ to reach a decision in order that a way forward might be found.

Entity regulation: Helen invited Linda Ford to update the Board on CILEx proposals to support marketing for practice rights and entity regulation. Linda confirmed that Council recognised there needed to be a comprehensive marketing approach and that this sat with CILEx. CILEx has made a commitment to market practice rights and entity regulation as an integral part of its marketing strategy in order to offer a suite of opportunities to members. This would include reinstating road shows, redeveloping the website to make options, routes and information clearer and linking to the CILEx Regulation site. Linda invited CILEx Regulation to work with CILEx to design the marketing plan and agree resource requirements.

Helen asked Linda about the CILEx budget for marketing and whether the 2016 and 2017 provisions would be ring-fenced. Linda agreed and confirmed that the majority of the CILEx marketing budget would be spent on individual and entity practice rights. CILEx would put a plan and timetable in place which would be agreed with CILEx Regulation. Linda confirmed that plans would be developing through a regulatory issues group set up between CILEx and CILEx Regulation officers. Linda advised that the recent restructure in CILEx had put more resource into this area and CILEx as a result now had a central core team working on stakeholder engagement and had adopted efficiencies.

Work-based learning: Helen invited Linda to share the CILEx view on proposed WBL fee increases previously agreed by the Board. Linda reported that member feedback suggested members' understanding of outcomes focused assessment was still developing, with the majority of applicants resubmitting portfolios sometimes more than once. The CILEx view was that to increase fees before addressing this might be unhelpful. It may be preferable to delay the price rise until work had been completed to improve members' understanding of the process. The Board agreed with the principle of reviewing the fee after process improvement despite reservations that it was not recovering its costs currently and to hold off any interim price rise might mean a more significant price rise at a later stage.

Preliminary indications from a review of the process indicated that it could be streamlined without loss of robustness of approach to the qualification; members better mentored throughout; and assessment moved on-line.

## **DECISION:**

- To place the decision made at the Board's January 2016 meeting to increase WBL fees on hold pending the outcomes of the process review.

Strategy: The July Board meeting would be combined with a strategy session revisiting the Chairman's paper on future vision and working with smaller regulators. The Chairman invited Board members in the interim to indicate priorities to the office for the strategy discussion.

## **4 Finance**

### (1) 2015 Annual accounts

FRSC and Council had agreed the group financial statements. The Board approved the 2015 annual accounts for signature and filing.

## **DECISION:**

- To approve the 2015 annual accounts.
- To require a separate audit partner to complete the CILEx Regulation 2016 audit.

### (2) Associate Prosecutor (AP) Fees 2017

The Board were invited to agree fee options for consultation. Board members asked about the extent to which they were required to take into account the consultation response when reaching a decision later in the process on the figure for submission for LSB approval. The office confirmed that the response must be taken into account but the figure for submission for approval was ultimately a matter for the Board.

The Board asked why the full cost of recovery (£276.32) was not the recommended option particularly as AP numbers were in decline. The office confirmed that this would represent a significant percentage increase over last year's fee, which would need to be the subject of liaison with the Crown Prosecution Service (CPS) which funded the fees and had its own budgetary considerations.

Helen and Jill had recently met with CPS by way of stakeholder engagement and to discuss informally the likely fee increase. The CPS had explained where the AP role sits within their current structure and reasons for the decline in numbers. There were progression issues both in terms of APs' inability to progress to become Crown Prosecutors and progression issues for Fellows employed by CPS as paralegals.

CILEx and CILEx Regulation had agreed to work with CPS to address these issues, although changes to primary legislation were involved in relation to the 'general qualification' requirement under the Courts and Legal Services Act

1990. This qualification was a requirement for progression to Crown Prosecutor under the Prosecution of Offences Act 1985.

The Board discussed three consultation options representing a 10% increase; a 25% increase representing a more significant move towards costs recovery; and a full cost recovery option of £276.32 representing a 57% increase. The Board agreed to consult on the two higher figures only on the basis that it was no longer viable to expect CILEx to subsidise the shortfall should the fee be increased by only 10%. It was agreed that transitional arrangements could be offered to move to full cost recovery within three years.

Helen advised that there is a new CEO at the CPS, Nick Farland, who was keen to look at a revised strategy for APs. This offered an opportunity to refresh the relationship with the CPS.

**DECISION:**

- To consult with the Crown Prosecution Service on the following 2017 AP fee options:
  - £220
  - £276.

(3) Practising Certificate Fees 2017

The Board were advised that work carried out on the cost of regulation demonstrated that to achieve full recovery of the cost of regulation required a Fellowship fee of £372.

**DECISION:**

- To consult with Fellows on the following 2017 PCF options as proposed by CILEx Finance and Remuneration Standing Committee (FRSC):
  - £355
  - £365
  - £372.

(4) CILEx member practice rights top up fees 2017

**DECISION:**

- To consult on the following options for member practice rights top up fees:
  - £50 per practice right (no increase)
  - £55 per practice right (10% increase)
  - £60 per practice right (20% increase).

(5) Non-member practice rights fees 2017

Historically non-members had not received membership benefits and had paid lower fees. The approach sought by CILEx for 2017 was to enable members to access practice rights at a lower cost than non-members. The Board was concerned with this approach as it was membership that cost extra and not the top up fee.

The Board agreed that pending a wider review by CILEx of membership fees and how they are structured, to consult on increases pro rata to member top up fees.

The Board also invited CILEx to review fees for self-employed members as part of its wider review of fees.

**DECISION:**

- To consult on the following options for non-member practice rights fees:
  - £450 per year (no increase) (top-up fee per practice right payable in addition)
  - £495 per year (10% increase) (top-up fee per practice right payable in addition)
  - £540 per year (20% increase) (top-up fee per practice right payable in addition).

(6) Entity regulation fees (application, inspection and renewal) 2017

The Board noted that income had not been fully achieved in part due to entity applications falling into lower fee brackets due to turnover. The Board agreed to consult on no increase and a 1.5% inflationary increase on application, inspection and renewal fees, subject to the office checking the mandatory requirements\* for consultation under the Legal Services Act 2007.

The Board was also invited to consider the fee structure, which for entity application, inspection and renewal showed an upper turnover bracket of £500,001 to £750k whereas the compensation fund contribution fee structure showed additional turnover brackets of £750,001 to £1m, and £1m plus. The Board agreed as an interim measure and to provide greater consistency with the compensation contribution structure, to show the upper fee bracket for entity application, inspections and renewal fees as turnover of £500,001 plus.

**DECISION:**

- To consult on the following fee options for application and inspection:

Turnover	Client money	Escrow	No Client money	Current Fee		Proposed Fee	
				Application	Inspection	Application	Inspection
£0 to £100,000	✓			1350	775	1370	787
		✓		950	650	964	660
			✓	750	450	761	457
£100,001 to £200,000	✓			1900	950	1929	964
		✓		1350	700	1370	711
			✓	1050	550	1066	558
£200,001 to £300,000	✓			2250	1250	2284	1269
		✓		1550	875	1573	888
			✓	1300	700	1320	711
£300,001 to £400,000	✓			2550	1400	2588	1421
		✓		1750	1100	1776	1117
			✓	1500	850	1523	863
£400,001 to £500,000	✓			2950	1550	2994	1573
		✓		2350	1250	2385	1269
			✓	1650	950	1675	964
£500,001 plus	✓			4250	2000	4314	2030
		✓		3400	1600	3451	1624
			✓	2350	1200	2385	1218

To consult on the following fee options for annual renewal:

Turnover	Client money	Escrow	No Client money	Current Fee	Proposed Fee
£0 to £100,000	✓			1,025	1,040
		✓		830	842
			✓	670	680
£100,001 to £200,000	✓			1,425	1,446
		✓		1,230	1,248
			✓	1,025	1,040
£200,001 to £300,000	✓			1,625	1,649
		✓		1,430	1,451
			✓	1,125	1,142
£300,001 to £400,000	✓			1,825	1,852
		✓		1,530	1,553
			✓	1,225	1,243
£400,001 to £500,000	✓			2,025	2,055
		✓		1,630	1,654
			✓	1,225	1,243
£500,001 plus	✓			2,825	2,867
		✓		2,330	2,365
			✓	1,825	1,852

Note: Under Section 51(1) Legal Services Act 2007 'practising fee' means a fee payable by a person under the approved regulator's regulatory arrangements in circumstances where the payment of the fee is a condition which must be satisfied by the approved regulator to carry on one or more activities which are reserved activities, and includes entity regulation fees and compensation fund contributions.

(7) Compensation fund contributions 2017

The Board considered fee options and agreed to make no change to the fee structure and to consult on no increase and a 1.5% inflationary increase on compensation fund contributions

**DECISION:**

- To consult on the following options for compensation fund contributions:

<b>Immigration and Litigation</b>					
Turnover	Client money	Escrow	No Client money	Current Fee	Proposed Fee
£0 to £100,000	✓			600	609
		✓		450	457
			✓	300	305
£100,001 to £200,000	✓			800	812
		✓		650	660
			✓	400	406
£200,001 to £300,000	✓			1,000	1,015
		✓		750	761
			✓	500	508
£300,001 to £400,000	✓			1,200	1,218
		✓		800	812
			✓	600	609
£400,001 to £500,000	✓			1,400	1,421
		✓		1,050	1,066
			✓	800	812
£500,001 to £750,000	✓			1,700	1,726
		✓		1,300	1,320
			✓	850	863
£750,001 to £1,000,000	✓			2,500	2,538
		✓		1,750	1,776
			✓	1,250	1,269
£1,000,001 plus	✓			5,000	5,075
		✓		3,500	3,553
			✓	2,500	2,538

Probate and Conveyancing					
Turnover	Client money	Escrow	No Client money	Current Fee	Proposed Fee
£0	✓			800	812
to		✓		600	609
£100,000			✓	400	406
£100,001	✓			1,000	1,015
to		✓		750	761
£200,000			✓	500	508
£200,001	✓			1,200	1,218
to		✓		950	964
£300,000			✓	600	609
£300,001	✓			1,400	1,421
to		✓		1,050	1,066
£400,000			✓	700	711
£400,001	✓			1,600	1,624
to		✓		1,200	1,218
£500,000			✓	800	812
£500,001	✓			2,000	2,030
to		✓		1,500	1,523
£750,000			✓	1,000	1,015
£750,001	✓			3,000	3,045
to		✓		2,000	2,030
£1,000,000			✓	1,500	1,523
£1,000,001	✓			6,000	6,090
plus		✓		4,400	4,466
			✓	3,000	3,045

(8) Management Accounts to April 2016

The Board considered the management accounts to April 2016 and received notes on variances. Helen reminded the Board that all companies in the Group would recast their budgets in July. Helen advised that Laura would be proposing a revised format for the accounts to the October meeting for the Board's approval.

The Chairman commended the office for keeping costs under control.

**DECISION:**

- To receive the management accounts to April 2016.

**5 Review of Sanctions Guidance**

The Chairman advised Linda Ford and David Edwards that a revised draft had been reviewed in confidential session earlier in the meeting including increased emphasis on risk to the public and protecting the reputation of the



profession. The Chairman explained the Board was looking to make further changes to the Guidance.

David queried the inclusion of '*no custodial sentence*' as a mitigating factor on the basis that this did not necessarily denote an offence that was not serious. The Board agreed to consider this as part of its review of the guidance – one option could be to remove this reference altogether.

The Chairman confirmed that the Authorisation Rules were also under review in relation to the fit and proper test. The Chairman invited CILEx to submit any further comments to the office.

#### **DECISION:**

- To take CILEx comments on the inclusion of '*no custodial sentence*' as a mitigating factor, into account within the ongoing review of the Sanctions Guidance.

Ian Chivers, David Edwards, Linda Ford, Vicky Purtill and Harvey Sandercock left the meeting.

## **6 LSB Regulatory Standards Assessment**

Helen reported a proposed action plan suggested by the LSB in response to the assessment. This had been received after Steven Gould had advised on actions arising from the regulatory standards assessment. The key aspect of the LSB proposed action plan was supervision of individual practitioners.

Helen advised that the office was developing the action plan for submission to the LSB by 10 June. The Board asked that the draft action plan be emailed to Board members for agreement by telecon.

#### **DECISION:**

To defer approval of the draft action plan to a telecon meeting to be scheduled.

## **7 Fees Review**

The Board considered the outcome of the consultations on changes provisionally agreed at the Board's January 2016 meeting to fees payable to committee members, external assessors, panellists and clerks.

The Board directed the office to thank all those who had responded to the consultation for their feedback and agreed a scale of fees for 2016.

The Board agreed the revision as a change to the terms and conditions of appointment of committee members, external assessors, panellists and clerks.

## **DECISION:**

- To adopt a revised fee scale for committee members, external assessors, panellists and clerks.

## **8 Expenses Policies Review**

The Board considered the outcome of consultation with committee members, external assessors, tribunal panellists and clerks on proposed changes to their travel and subsistence expenses policies as provisionally agreed at the Board's January 2016 meeting. The main area of concern had been whether the revised policy aimed to deter use of private cars in favour of public transport. It was agreed that there was no issue with use of private vehicles to attend meetings in appropriate circumstances, and that any reference that might be capable of interpretation to the contrary be deleted.

The office reported that revisions to the clerks' travel and subsistence expenses policy had also been consulted on with no feedback received.

The changes to the policies were agreed by the Board for immediate effect, subject to the above and a final check by the office for any inconsistencies in wording. The Board agreed the revisions to each policy as a change to the terms and conditions of appointment of committee members, external assessors, tribunal panellists and clerks.

## **DECISION:**

- To adopt a revised expenses policy for committee members, external assessors and panellists
- To adopt a revised expense policy for clerks.

## **9 Consultation**

The Board considered a draft response to the Anti Money Laundering Action Plan consultation and agreed this for submission to HM Treasury/BIS subject to any small changes by the office.

## **DECISION:**

To agree the proposed response to the Anti Money Laundering Action Plan consultation by HM Treasury/BIS.

## **10 Annual Report 2015**

The Board reviewed the draft Admissions and Licensing Committee annual report 2015 and agreed its content for publication with the CILEx Regulation Annual Report 2015.

## **DECISION:**

To receive the annual report of its Admissions and Licensing Committee 2015 and to agree that this be published as part of the CILEx Regulation 2015 Annual Report.

### **11 Forward Plan Review**

The Board reviewed its forward plan and added the following items:

- development of practice rights and entity marketing plan for July;
- reporting to CILEx Council on progress against plan for entity and compensation fund redesign and ABS application.

The Board noted that the strategy discussion scheduled for the July meeting had vacated 7 December 2016.

### **12 Any Other Business**

Meeting start times: it was agreed that the usual start time for future Board meetings would be 9.30am.

Meeting frequency: it was agreed that for the next period the Board would meet by telecon in between scheduled meetings.

Minutes: it was agreed that these revert to summary style.

**Date of next:** 14 July 2016 at 9:30am.

**SAM YOUNGER  
CHAIRMAN**