



CONSULTATION – JUNE 2012

CONTINUING PROFESSIONAL DEVELOPMENT (CPD)

Revised Scheme and Documentation

INTRODUCTION

ILEX Professional Standards Ltd (IPS) is the regulatory body for Chartered Legal Executives and other grades of members registered with the Chartered Institute of Legal Executives (CILEx). CILEx is an Approved Regulator under the Legal Services Act 2007 (the Act).

The IPS CPD Working Group has been working on revising the Continuing Professional Development (CPD) scheme for CILEx members. CILEx members in the Associate, Graduate and Fellowship grades, together with Associate Prosecutors employed by the Crown Prosecution Service, are currently required to undertake a number of CPD hours each year commensurate with their grade of membership.

IPS has carried out research into the way in which other professions both in the UK and internationally measure CPD success for their members. Evidence from the research indicated that in order to gain the best value from participating in CPD, benefit of the activity to the member is a more effective measure than a stipulated number of hours of CPD undertaken each year.

As a result, IPS has devised a new CPD system which will measure what the member gained from undertaking CPD activities (known as 'outputs' measurements). Additionally, IPS will require a minimum number of CPD activities which must be undertaken by members (known as the 'inputs' measurement of the scheme).

IPS seeks views on its proposals.

The consultation will close on 21 September 2012.

INTRODUCTION

1. IPS has undertaken a review of the CPD criteria which govern CILEx members in the Associate, Graduate, Associate Prosecutor and Fellowship grades. The present system requires that members undertake a number of hours of CPD annually, commensurate with their grade of membership. Half of the required hours should be in the member's area of specialism and a wide variety of activities can be counted as CPD.
2. However, with the increasing emphasis on the assurance of competence of the individual in order to protect the consumer and the public, IPS considers it essential that members should be able to evidence participation in effective CPD each year. This will provide more robust evidence of their on-going competence than a simple measurement of a given number of hours each year.
3. IPS has been considering what changes could be introduced to the CPD scheme for CILEx members which would place competence and professionalism at its heart, while at the same time remaining straightforward and user-friendly.

THE DEFINITION OF CONTINUING PROFESSIONAL DEVELOPMENT (CPD)

4. Under the CILEx rules, continuing professional development (CPD) is presently defined as follows:

'The systematic maintenance, improvement and extension of the professional and legal skills and personal qualities necessary for the execution of professional and legal duties and compliance with the standards required by IPS, of CILEx members throughout their working life.'

5. This definition contains 3 elements:
 - 5.1 Maintenance of knowledge, skills and competence
 - 5.2 Improvement and broadening of knowledge, skills and competence
 - 5.3 Development of personal and professional qualities including integrity, flexibility and openness to change.
6. Definitions used by some other professions include reference to:
 - 6.1 Protection of clients and the general public
 - 6.2 Furthering the career of the professional

These could equally apply to CILEx members.

7. When considering the current definition of CPD and any possible amendments which may be made to that definition, IPS considered the regulatory objectives set out in the Act. For this part of the process, IPS considered the following objectives to be of particular relevance:
 - 7.1 To protect and promote the public interest
 - 7.2 To protect and promote the interests of consumers
8. We have considered these objectives and identified the purposes of CPD to be:
 - 8.1 To maintain and improve members' on-going competence and professional performance
 - 8.2 To protect the consumer and the public through demonstration of on-going competence and professionalism
 - 8.3 To raise the reputation of both the profession and the members
 - 8.4 To raise demand for entry and continuing membership of the profession
9. To reflect these purposes, we propose an amended definition of CPD as follows:

'The maintenance, improvement and extension of the professional skills and personal qualities necessary for the execution of professional and legal duties and compliance with the standards required by IPS, of CILEx members throughout their working lives to ensure that consumers and the public remain confident in the professionalism and competence of CILEx members.'
10. We are interested in hearing your views on whether the new definition of CPD reflects the expectations and objectives of CPD

Q 1: Is the new definition of continuing professional development (CPD), in paragraph 9, fit for purpose?

MEASUREMENT OF CPD

11. Having identified the purposes of CPD and developed a revised definition, we then considered how best these purposes could be measured.
12. Under the current CILEx rules CPD is measured through the number of hours completed. An Associate is required to undertake a minimum of 8 hours each year, a Graduate member is required to undertake a minimum of 12 hours and a Fellow or Associate Prosecutor is required to undertake a minimum of 16 hours. In addition, for practising

members half of these hours must be in their specialist area of practice.

13. This method of measurement is known as measuring 'inputs'. It means that the member can choose any activity allowed within the CILEx rules and count this towards the overall hours requirement. Half of the hours must be in the member's specialist practice area, but there is no obligation to show that the CPD undertaken is relevant, needed or has contributed to their competence and professionalism.
14. We consider that this type of measurement is not the best indicator that members are undertaking relevant CPD which will maintain, improve and extend their competence and professionalism and so assist in protecting the consumer and the public.
15. An alternative method of measuring CPD is to identify what the member has learnt from the activity they have undertaken, look at the outcomes of the activity and evaluate how this has impacted on their practice. This is known as measuring 'outputs' from CPD activity.
16. However, 'outputs' can be difficult to quantify and therefore we are proposing to introduce an 'outputs' based scheme which has an element of 'inputs'.
17. The 'outputs' part of the proposed scheme will ask the member to follow a CPD cycle which is made up of reflection, planning, action and evaluation. More information on the CPD cycle can be found in the CPD handbook at paragraphs 6-9.

Q 2 Do you agree that changing the emphasis of CPD activity to an 'outputs' scheme with an 'inputs' element will ensure that CPD will better demonstrate on-going competence and professionalism of members? Please give reasons for your response.

18. The 'inputs' part of the scheme will ask the member to include a minimum number of entries on their CPD record (for more information on this please see paragraphs 10-13 of the handbook). IPS is proposing that under the new scheme all grades of membership will be required to make at least 9 entries on their CPD record each year.

Q 3 Do you agree with the changed approach to require all grades of members to make the same minimum number of entries on their CPD record? Please provide reasons for your response.

19. One of the regulatory objectives set out in the Act requires regulators to promote and maintain adherence by members to the professional principles.
20. The Act defines these principles as acting with integrity, maintaining proper standards of work, acting in the best interests of clients, complying with appropriate duties, acting with independence in the best interests of clients and keeping clients' affairs confidential.
21. IPS has considered how its CPD scheme can ensure members receive training on these principles. IPS considered that one method of providing on-going assurance that members are meeting the professional principles would be to introduce the subject of ethics as a compulsory element into annual CPD requirements. We recognise that availability of CPD on legal ethics is an issue and we are currently looking into how best to make appropriate provision.
22. It is proposed that one entry (i.e. the input) on the record each year will be on the subject of ethics.

Q 4 Do you agree that there should be an annual compulsory ethics requirement as part of the revised CPD scheme? Please give reasons for your response.

23. The current CPD rules provide a wide list of activities which members can count towards their CPD including ILEX Tutorial College (ITC) Updates, Journal reading, work shadowing, development work and attending courses and seminars.
24. With an emphasis on reflection on practice and undertaking relevant CPD, we propose to ensure that all activities where learning has taken place can be counted as CPD. This will include situations where the learning was unplanned and even where learning took place as the result of an issue arising in a matter that a member was handling.

Q 5 Do you agree that any activity where learning has taken place should be able to be counted as CPD? Please give reasons for your response

PLANNING AND RECORDING CPD ACTIVITIES

25. To ensure that the process is as simple and straightforward as possible, we have developed tools to help members to plan their CPD activities for the year and also to record unplanned activities. These tools together with a draft handbook for the proposed scheme can be found at **Annex 1**. In addition, IPS is in the process of developing more detailed guidance to further assist members to reflect on their practice, and to plan and select appropriate CPD.

26. The handbook takes members through the proposed scheme. It looks at both planned activities and unplanned learning and how each type of learning should be recorded and evaluated. The handbook also explains the process for annual logging of CPD activity through the CPD record and the requirement to keep supporting documentation safe for a period of 2 years.

27. The handbook also contains the Competency Framework for practising Chartered Legal Executives. A competency framework is a document which specifies the required competencies for a particular role or function. It has been provided as a reference document that may be helpful to members when planning their CPD at the start of the CPD year. They can consider the framework and identify possible areas for further development to ensure they continue to meet expected standards of competency.

Q 6 How helpful and easy to understand do you find the guidance on the scheme which has been provided in the handbook?

Q 7 Are the tools (i.e. the documents for reflection, planning and evaluation of CPD activities) accompanying the scheme helpful for planning and recording CPD?

Q 8 Is the Competency Framework reference document helpful for planning CPD?

Q 9 Do you have any other comments on the handbook?

MONITORING AND SAMPLING CPD ACTIVITIES OF MEMBERS

28. The role of IPS, as with other regulatory bodies, is to ensure that members of the profession are competent and professional in their work. It is important as an assurance to both consumers and the public that the register of members includes only those members who are currently competent. Ensuring members engage with CPD is one of a number of mechanisms by which a regulator can ensure on-going competence.

29. As with the existing CPD scheme, the proposed scheme will be compulsory for all members of CILEx in the Associate, Graduate, Associate Prosecutor and Fellowship grades of membership. The compulsory nature of the scheme will allow IPS to ensure on-going competence through the use of sanctions for non-compliance.

30. It is proposed under the new scheme to retain the present arrangements for non-compliance. This means that where the member has not complied with the CPD requirements their practising certificate

will not be issued, other membership benefits will be withdrawn and disciplinary action may also be taken against the member.

31. To assist with the administration of the scheme, it is proposed that the CPD year will change from 1 January – 31 December to 1 October to 30 September. This will allow members who are not compliant with the requirements of the scheme, 3 months to become compliant before their practising certificate is suspended. More information can be found on this aspect of the scheme at paragraphs 45-50 of the handbook.

Q 10 Do you agree that the CPD year should be changed from 1 January – 31 December to 1 October – 30 September, please provide reasons for your response.

32. All CILEx members who are obliged to participate in CPD activities must submit their CPD record each year and retain the remainder of their CPD documentation.
33. IPS is proposing to introduce a sampling scheme in order to monitor compliance with the requirements. There are currently approximately 14,000 members who are required to undertake CPD each year. It is proposed that a random sample of 2.5% of members will be selected proportionately across all membership grades for deeper consideration of the CPD records.
34. The members chosen each year will be asked to supply their supporting documentation and this will be cross referenced to the CPD record they have submitted. The record will be carefully considered to ensure that the CPD is relevant to the member's area of practice and matches the statements from the CPD record.
35. From the 2.5% sample, 10% will be contacted by an IPS staff member by telephone to discuss their CPD record in detail. This will allow for qualitative analysis of the records.

Q 11 Do you agree with the approach which IPS intends to take on sampling of members' CPD records, please provide reasons for your response. Do you have any suggestions for the sampling process?

36. The present CPD scheme states that where members will be absent from work for more than 6 months, they are exempt from undertaking CPD for that year. The proposed scheme will remove this exemption and require all members who are practising for any part of the year to meet their full CPD obligations (see handbook at paragraph 46). This is because IPS considers that practising members should be competent whether they are practising full or part time and even where they have had (or intend to take) a period of absence from work.

Q 12 Do you agree that the new CPD scheme should remove the CPD exemption for members who are absent from work for more than 6 months in the CPD year?

37. It is important to IPS that the new scheme does not inadvertently affect any group of individuals disproportionately.

Q 13 Do you consider that the proposed CPD scheme may have an adverse impact on any protected group as defined by the Equality Act 2010¹ or any other group? Please provide reasons for your response.

SPECIAL SITUATIONS

Additional Requirements for Advocacy

38. If a Fellow is also qualified as a Chartered Legal Executive Advocate, there is a requirement to participate in 5 hours CPD, focused on advocacy skills. Under the proposed scheme, Chartered Legal Executive Advocates will be required to undertake 2 CPD entries in Advocacy Skills as part of their overall requirement. This retains the existing CPD requirement.

Q14. Do you agree with the substitution of 5 hours CPD focused on advocacy skills for 2 entries on advocacy skills under the new scheme? Please give reasons for your response.

The proposed work based learning scheme

39. IPS is currently working on a new scheme for application for Fellowship, this is known as the Work Based Learning scheme (WBL). WBL is currently being piloted and once implemented will require applicants to prepare a portfolio of work over 2 years.

40. Because of the commitment involved in the production of the portfolio, Graduate members of CILEx who have registered to work towards Fellowship through WBL, will only be required to take part in 5 planned CPD activities in each year of the 2 year period in which they are working on their portfolio.

Q15. Do you agree that IPS should reduce the requirements for Graduate members working towards Fellowship

¹ The following characteristics are protected under the Equality Act 2010; age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation

through the work based learning scheme? This will reduce the requirement from 9 entries of which 5 are recommended to be planned, to 5 planned CPD entries for each year of the 2 year period?

CONSULTATION QUESTIONS

The questions are listed below. Please provide your responses on the attached response form, providing reasons for your answer.

Q 1: Is the new definition of continuing professional development (CPD), in paragraph 9, fit for purpose?

Q 2 Do you agree that changing the emphasis of CPD activity to an 'outputs' scheme with an 'inputs' element will ensure that CPD will better demonstrate on-going competence and professionalism of members? Please give reasons for your response.

Q 3 Do you agree with the changed approach to require all grades of members to make the same minimum number of entries on their CPD record? Please provide reasons for your response.

Q 4 Do you agree that there should be an annual compulsory ethics requirement as part of the revised CPD scheme? Please give reasons for your response.

Q 5 Do you agree that any activity where learning has taken place should be able to be counted as CPD? Please give reasons for your response.

Q 6 How helpful and easy to understand do you find the guidance on the scheme which has been provided in the handbook?

Q 7 Are the tools (i.e. the documents for reflection, planning and evaluation of CPD activities) accompanying the scheme helpful for planning and recording CPD?

Q 8 Is the Competency Framework reference document helpful for planning CPD?

Q 9 Do you have any other comments on the handbook?

Q 10 Do you agree that the CPD year should be changed from 1 January – 31 December to 1 October – 30 September, please provide reasons for your response

Q 11 Do you agree with the approach which IPS intends to take on sampling of members' CPD records? Please provide reasons for your response. Do you have any suggestions for the sampling process?

Q 12 Do you agree that the new CPD scheme should remove the CPD exemption for members who are absent from work for more than 6 months in the CPD year?

Q 13 Do you consider that the proposed CPD scheme may have an adverse impact on any protected group as defined by the Equality Act 2010² or any other group? Please provide reasons for your response.

Q 14 Do you agree with the substitution of 5 hours CPD focused on advocacy skills for 2 entries on advocacy skills under the new scheme? Please give reasons for your response.

Q15 Do you agree that IPS should reduce the requirements for Graduate members working towards Fellowship through the work based learning scheme? This will reduce the requirement from 9 entries of which 5 are recommended to be planned to 5 planned CPD entries for each year of the 2 year period?

HOW TO RESPOND

A response form has been produced for completion. Please send the response form to IPS through one of the following methods:

Email to vpurtill@ilexstandards.org.uk

By post, to ILEX Professional Standards Ltd, Kempston Manor, Kempston, Bedford, MK42 7AB

By DX to ILEX Professional Standards Ltd, DX 124780, Kempston 2

SUBMISSION DEADLINE

The deadline for the submission of responses is **21 September 2012**

^{2 2} The following characteristics are protected under the Equality Act 2010; age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation