

Strategic Risk Report 2016



Introduction

- CILEx Regulation operates an outcomes-focused, proportionate and risk-based approach to regulation.
- It is designated to authorise both individuals and entities.
- This report outlines the work undertaken in relation to risk in 2016 in relation to the regulation of both individuals and entities and in relation to both authorisation and supervision.
- It also identifies areas for development of our risk-based approach to regulation.

Individual authorisation

- CILEx Regulation is responsible for authorising Chartered Legal Executives and CILEx Practitioners.
- Qualification arrangements for admission as an Authorised Person are proportionate to the reserved activity for which the individual is authorised to practise.

Area for development

There is some evidence that the approach taken may be overly cautious in its assessment of competence for gaining admission, including duplication of assessment requirements where individuals seek admission to become both a Chartered Legal Executive and a CILEx Practitioner. Therefore, the approach will be subject to review during 2017-8 taking into account the risks associated with authorisation.



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Individual supervision

- CILEx Regulation regulates all CILEx members and non-members who hold independent practice rights.
- We operate a risk-based and proportionate approach to supervision of these individuals based on risk.
- Our CPD scheme is outcomes-focused and risk-based, with differential arrangements in place based on the nature of the work undertaken by the regulated member and the qualification level of the individual as follows:
 - Studying members working towards Level 3 qualifications – no CPD requirements;
 - Studying members working towards Level 6 qualifications – requirement to undertake hours-based CPD;
 - Graduate members working towards Chartered Legal Executive status – required to undertake 5 CPD outcomes each year, including at least 1 professionalism outcome;
 - Chartered Legal Executives - required to undertake 9 CPD outcomes each year, including at least 1 professionalism outcome;
 - Chartered Legal Executive Advocates - required to undertake 9 CPD outcomes each year, including at least 2 outcomes focused on advocacy skills and at least 1 professionalism outcome;
 - Independent Practice Rights holders – as for Chartered Legal Executives with additional advocacy requirements as appropriate.
- Some CILEx members are self-employed, working in unreserved areas of practice and without supervision. These individuals have been identified as being of higher risk and therefore, they are subject to pro-active supervision by CILEx Regulation. We contact these members annually and work with them to ensure they are aware of the obligations which arise through regulation.
- In the first instance, we work with non-compliers to enable them to remain competent, however persistent non-compliers are subject to enforcement action.

Areas for development

- ✓ The outcomes-focused CPD scheme has been in operation since 2014 and it is recommended that the scheme is reviewed after 3 years of operation to determine its effectiveness and make changes as required.
- ✓ In addition, it is recommended that the risk-based approach to individual supervision is enhanced, taking into account the area of practice in which the individual works, the type of practice in which the individual works (e.g. regulated firm) the nature of the work undertaken (e.g. advocacy) and the type of consumer to which legal services are delivered (e.g. vulnerable consumer).



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Entity authorisation and supervision

- CILEx Regulation has been able to authorise entities since 2015.
- 2016 is the first full year of authorisation of CILEx entities.
- The authorisation process includes the use of risk frameworks to applications seeking entity regulation with CILEx Regulation.
- The risk frameworks are overseen by the Strategic Risk Committee (SRC), who receive intelligence to inform their oversight and information in relation to refused applications and decisions to revoke authorisation to enable them to provide advice to CILEx Regulation on this decision-making.
- The frameworks have been peer-reviewed as part of our self-assessment in 2016 and by a financial institution to ensure that they are robust and resilient.
- The CILEx Council has also reviewed the risk frameworks and sanctions available to CILEx Regulation as part of the 2016 review of entity regulation.
- In relation to supervision, CILEx Regulation operates a pro-active approach. It maintains regular contact with its authorised entities and provides them with regular updates on potential risks to the entity (e.g. information on cyber-crime).

Areas for development

- ✓ CILEx Regulation has discussed possible additional information which could be provided to the SRC, which will assist it in carrying out its functions. These should be implemented in 2017 and include the provision of benchmarking data of successful applications in addition to referrals of refused applications.
- ✓ CILEx Regulation is proposing to seek designation as an ABS Licensing Authority during 2017 and we intend to work with the SRC to develop the existing risk frameworks to incorporate the additional risks which this type of entity may present.



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Summary

- CILEx Regulation has continued to develop its risk-based regulation in 2016.
- In 2017, it is intended to extend the remit of the SRC to advise CILEx Regulation in its development of a strategy to delivery pro-active supervision of individuals regulated by us.
- CILEx Regulation intends to undertake a comprehensive review of the education and training arrangements as they apply to individuals seeking authorisation to enable it to take a more proportionate approach to authorisation. This review will also consider how the existing individual supervision requirements can be better targeted at those individuals who pose the greatest risk. It is expected that this work will start in 2017.
- Working with the SRC, CILEx Regulation will continue to develop its risk frameworks, which underpin the authorisation and supervision of entities, as applications for regulation increase.
- Working with the SRC, CILEx Regulation will research, review and develop its risk frameworks to incorporate the additional risks posed by ABS licensing.



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