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CILEx Regulation's Response to the Legal Services Board's Statement of Policy on ongoing competence (July 2022)

Overview

1. The document details CILEx Regulation's (CRL) response to the LSB Statement of Policy on ongoing competence which was published on 28 July 2022 and builds on the action plan submitted to the LSB in January 2023.
2. CILEX Fellows (Chartered Legal Executives and CILEX Practitioners), Chartered Legal Executive Advocates, ACCA accountants offering probate and Associate Prosecutors are specialist lawyers. They are trained, assessed and authorised against one area of practice, thereby ensuring that the focus of the authorisation process is led by knowledge, skills and competencies necessary to be effective in their role, for the protection of the public.
3. It is the fundamental role of CILEx Regulation (CRL) to ensure that all Chartered Legal Executives and CILEX Practitioners are competent upon qualification and remain so throughout their career.
4. This document confirms how CRL meets the ongoing competence requirements set by the LSB and identifies further planned developments for 2024.
5. In the following pages, we set out our actions against the 4 main outcomes the LSB required the regulatory bodies to consider, namely:
 - Set the standards of competence that authorised person should meet at the point of authorisation and throughout their careers;
 - Regularly determine the levels of competence within the profession(s) they regulate and identify areas where competence may need to be improved;
 - Make appropriate interventions to ensure standards of competence are maintained across the profession(s) they regulate;
 - Take suitable remedial action when standards of competence are not met by individual authorised persons.
6. We have reflected upon the direction/actions set out within the January 2023 action plan and considered:
 - (a) Their effectiveness;
 - (b) What changes/progress has been made in accessing data;
 - (c) What the other regulators are doing;
 - (d) How minimum standards are met across the sector;
 - (e) That a consistent approach is being adopted to protect the consumer/public;

- (f) What we can plan for future development.

Set the standards of competence that authorised persons should meet at the point of authorisation and throughout their careers

In meeting this objective, CRL has considered:

- Core competencies that authorised persons should have, such as knowledge of basic legal principles, client care and practice management;
- Core competencies around ethics, professional conduct and standards that ensure public confidence in the legal professions;
- Specialist competencies that particular authorised persons should have, for example, in their role as advocates.

Individual Member Authorisation

7. CRL/CILEX is unique in offering both a number of routes to becoming an authorised person and setting the standards of competence for a range of legal service providers i.e.
 - CILEX Fellows (Chartered Legal Executives and CILEX Practitioners)
 - Chartered Legal Executive Advocates
 - ACCA accountants offering probate
 - Associate Prosecutors
8. Each of these routes requires its own standard of competence to become authorised and, in some cases specific requirements for ongoing supervision.
9. To ensure that CRL is able to be confident in the standard of the specialist authorised persons it authorises, CRL admits individuals against the specialist competence frameworks that exist for each area of specialism, namely:
 - Civil litigation
 - Criminal litigation
 - Family litigation
 - Immigration
 - Probate
 - Conveyancing
 - Business
 - Employment
10. These frameworks, approved 16 June 2021 by the LSB, set out the knowledge, skills, experience and competencies required for each area of specialism at the point of entry and cover basic legal principles, client care, practice management, ethics and professional conduct.
11. There are additional knowledge, skills and competency requirements for those individuals with rights of audience and from September 2024, higher rights of audience.

12. CRL is confident that these frameworks are fit for purpose for use in assessing knowledge, skills and competence for its specialist lawyers throughout their career. During 2023, CRL asked its external assessors to review the frameworks with this purpose in mind. As a result of this review, the probate framework has been updated and this will be submitted to the LSB for approval in Q4 2024.
13. For more information on CRL's specialist competence frameworks please click [here](#).
14. As part of the approval process, members are required to submit:
 - A completed application form including the Prior Conduct declaration
 - Evidence of qualifications achieved (or exemptions) to meet technical knowledge requirements of the framework for the area of specialism being applied for (usually achieved within 3 years)
 - Evidence of experience – a minimum of 2,300 hour is required
 - A portfolio to evidence achievement of competence as set out in the relevant specialist framework handbook;
 - A reference from their employer or supervisor to support the application (see paragraph 15 for more information)
15. The employer/supervisor reference must be provided by an 'authorised person' (as defined by Section 18 of the Legal Services Act 2007) and should include comments on:
 - The supervision of the applicant's work
 - The applicant's knowledge, experience and duration of employment
 - The applicant's ability to work both independently and competently in their area of practice
 - Their suitability to gain the type and level of authorisation they are seeking approval for and
 - Confirm that the applicant is a fit and proper person
16. In addition, Chartered Legal Executive Litigator and Advocate applicants must provide evidence of successful completion of a CRL accredited Advocacy Skills Course.
17. Portfolios are assessed by occupationally competent and qualified assessors as part of CRL's Quality Assurance Strategy and approval decisions are made by CRL Officers in line with the Practitioner Authorisation Rules. The Practitioner Authorisation Rules can be viewed [here](#).
18. The overall approval process is overseen by the Admissions and Licensing Committee who report to the CRL Board annually. For copy of the Admissions and Licensing Committee's Annual Report 2023, please click [here](#).

Regulated Firms

19. CRL regulate and authorise CILEX Authorised Entities (firms) to provide legal work in specific areas of law. Firms must demonstrate that they have the right processes and procedures in place to carry out legal work before receiving authorisation.
20. The owners of firms seeking authorisation are put through a rigorous application process and are required to demonstrate that their firms are managed effectively so they can deliver legal services and are not likely to put their clients or public at risk. Firms must demonstrate the ability to:
 - Treat client information confidentially
 - Deal safely with client money
 - Deal effectively with complaints
 - Manage cases professionally
 - Provide all necessary information to their clients
 - Record clients' information accurately
 - Inform clients regularly about their case
 - Ensure each case moves forward properly
21. All authorised lawyers employed in the firm must demonstrate that they have the right knowledge, skills and experience in their specialist area of law. They must also continue to update their knowledge of their specialist area of law.
22. CRL provides prospective regulated firms with information to support their application to become a CILEX Authorised Entity on the CRL Website [here](#).

CILEX-ACCA Probate Entity

23. ACCA Accountants are able to offer probate services to their clients by becoming authorised as CILEX Practitioners (ACCA-Probate) and setting up a separate CILEX-ACCA Probate Entity.
24. To register a firm, applicants must have a Limited Company or LPP firm, separate from their ACCA Accountancy firm, to be designated as a CILEX-ACCA Probate Entity. All owners and directors of this firm must be authorised CILEX Practitioners (ACCA-Probate).
25. The CILEX-ACCA Probate firm can only provide the reserved element of probate activity and all other associated work such as estate administration will need to be undertaken through the associated ACCA regulated accountancy firm. In addition, the CILEX-ACCA Probate firm is not allowed to hold client money.
26. All CILEX-ACCA Probate firms must comply with the Price and service transparency rules detailed within the CILEX Regulation Transparency Guidance for CILEX-ACCA Probate Entities (click [here](#) to view).
27. CRL have created an online process for registering as a CILEX Practitioner (ACCA - Probate) and applying for Probate firm regulation as a CILEX-ACCA Probate Entity.

28. In addition to the CILEx Regulation Transparency Guidance (see paragraph 26), CRL has produced the following guidance:

[CILEx Regulation ACCA Handbook 2021](#)– Regulations that apply to all ACCA entities and individuals regulated by CILEx Regulation for the reserved legal activity of probate;

[Regulatory Guidance for CILEX-ACCA Probate Entities](#) - Provides guidance on areas such as client care, client money, complaints handling procedure etc;

[Professional Indemnity Insurance Factsheet](#) – Provides guidance CRL’s requirement for all Chartered Accountants practising probate under their regulation to obtain a minimum level of insurance cover.

29. The approval of CILEX Authorised Entities and CILEX-ACCA Probate Entities is governed by the CILEX Authorisation Rules which can be viewed [here](#) and the CILEx Regulation Licensing Rules which can be viewed [here](#).

30. Once approved, individual all CILEX members, CRL Regulated Firms and CILEX-ACCA Probate Entities are governed by the CILEX Code of Conduct which can be viewed [here](#). CILEX-ACCA Probate Entities and practitioners must also comply with the [CILEX-ACCA Code of Conduct](#).

Regularly determine the levels of competence within the profession(s) they regulate and identify areas where competence may need to be improved

In meeting this objective, CRL has considered:

- Information from other regulatory activities, for example, regulatory returns, first-tier complaints and thematic reviews
- Information from supervisory activities such as spot checks, audits, file reviews or equivalent oversight checks
- Feedback from, including but not limited to, consumers/users, intermediaries, supervisors, peers and judiciary
- Information from other agencies such as the Legal Ombudsman, disciplinary tribunals and government agencies that have relevant data

31. CRL collects data from a number of sources, including:

- Regulated firms’ annual returns
- First-tier complaints
- Thematic reviews
- Members CPD records
- Risk matrices
- Consumers/users
- Other agencies

32. CRL analyses this data and uses it to determine the levels of competence across our regulatory community and areas of risk where competence may need to be improved.

33. We undertake a sample of members CPD records on an annual basis to monitor ongoing competence. Please see paragraphs 72 to 85.

34. The following sections set out our work in each data area.

Regulated firms' annual returns

35. Each CRL regulated firm is required to complete annual returns to update on any changes to the Authorised Entity within the previous 12 months. CRL review the documentation to ensure it is up to date.
36. They may also be required to submit an accounting report and CRL supervises firms it regulates to ensure they actively prevent money laundering and comply with sanctions. Firms are required to comply with ad-hoc information requests when new sectorial risks are identified.
37. Specialist lawyers employed in regulated firms who are also members of CILEX, must comply with the mandatory CPD requirements. See paragraphs 47 to 55 for more information.

First-tier complaints

38. CILEX members are required under Rules 11 and 12 of the CILEx Regulation [Enforcement Rules 2023](#) to declare and provide details of certain conduct that may affect their suitability to become, or remain, a regulated legal professional. This is referred to as 'prior conduct'.
39. Members are required to declare prior conduct:
- At the earliest opportunity
 - In every application for CILEX membership or authorisation
 - Annually when renewing membership or practising certificates or
 - With their annual return if a CILEX Authorised Entity
40. Under the 'Additional Questions' section of the declaration, question 2 asks members to confirm:
- 'Have any clients made a complaint about your work and/or service to you or your employer in the last 12 months?'
- Any positive response to the question is treated as a first-tier complaint, as defined by the LSB.
41. Members who indicate they have received a client complaint about their work or service either individually or to their employer, are contacted and asked to complete a survey identifying the following:
- The area of law the complaint relates to;
 - How the complaint was dealt with;
 - If the complaint had been referred to the Legal Ombudsman.
42. In previous years, the responses to the survey were collated and a report generated. With the introduction of the LSB First-tier Complaints Handling Guidance which is

geared more towards regulated firms as opposed to individuals, the report has not been generated in 2022 or 2023.

Thematic Reviews

43. CRL does not undertake thematic reviews on an individual regulatory basis as the majority of its members work within organisations that are subject to other regulatory bodies (other legal regulators, FCA, accountancy bodies etc) or are in-house.
44. The thematic reviews carried out by other regulatory bodies are used within the work of CRL to understand risks and areas that require increased activity.
45. However, CRL has participated in a joint-regulatory body thematic review relating to Coroners' Courts with colleagues from the Solicitors Regulatory Authority (SRA) and The Bar Standards Board (BSB). An outcome of this review led to the development of web-based resources to support CILEX members working in Coroners' Courts. These resources can be viewed [here](#).
46. CRL was also previously involved in the Quality Assurance Scheme for Advocates (QASA) project and is willing to participate with other frontline regulators in the sector to develop thematic reviews by area of specialism.

Members CPD Records

47. Continuing Professional Development (CPD) is mandatory for all CILEX members each CPD year. The CILEX CPD year operates between 1 October and 30 September each year.
48. CILEX Fellows, Chartered Legal Executive Advocates, ACCA accountants offering probate services and Associate Prosecutors are required to complete 9 CPD outcomes. Of these 9 CPD outcomes:
 - A minimum of 5 must be planned outcomes and
 - 1 must be related to professionalism.
49. In addition:
 - For Chartered Legal Executive Litigator and Advocates and Chartered Legal Executive Advocates, 2 of the 5 planned outcomes must be related to advocacy skills;
 - For Chartered Legal Executive Litigator and Higher Rights Advocates and Chartered Legal Executive Higher Rights Advocates, 4 of the 5 planned outcomes must be related to advocacy skills and 2 of the 4 advocacy skills outcomes must be related to higher rights advocacy;
 - For CILEX Associate Prosecutors, 4 of the outcomes must be related to criminal practice.
50. CRL does not specify an exhaustive list of activities that will count as CPD. However, we expect authorised persons to undertake a range of CPD activities through the year. This may include, for example:

- Attending relevant courses, conferences and seminars;
- Completing distance-learning courses;
- Undertaking in-house training through their employer;
- Preparing and delivering training courses;
- Work shadowing;
- Receiving or providing coaching or mentoring.

51. CRL also recognises the following activities as CPD:

- Reflection on learning persons have gained from being involved in a 'critical incident';
- Reflection on learning gained through the experience of new tasks;
- Learning which came from something that went wrong.

52. In terms of professionalism, CRL recognise any of the following activities as CPD:

- (a) Refreshing knowledge and understanding of professional ethics including the CILEX Code of Conduct;
- (b) Improving knowledge of the primary business in which a member's clients work (business awareness);
- (c) Developing an understanding of the issues which may affect a member's clients (social awareness);
- (d) Developing client communication skills;
- (e) Improving skills in dealing with challenging clients;
- (f) Refreshing knowledge and understanding of equality and diversity issues;
- (g) Improving time management skills.

53. Members are required to complete CPD activities and update their CPD log within the MyCILEX portal by 30 September each year. For those who need additional time, they can apply for an extension, but this must be applied for by 31 August each year.

54. Failure to comply with the CPD requirements is a breach of the CRL regulations. It constitutes misconduct and will be referred to the Enforcement Team for investigation. This investigation may result in a referral to the Professional Conduct Panel (PCP) which may reprimand or warn members. The PCP may also refer cases to the Disciplinary Tribunal which has additional powers, including the power to exclude members from membership of CILEX.

55. Full guidance for members is provided on the CRL Website [here](#). On this page, CRL provides access to the following:

- CPD Handbook for Non-Associate Members (CILEX Associate Prosecutors, CILEX Fellows and Advanced Paralegals);
- CPD Regulations;
- CPD Regulations Schedule 1;
- Link to CILEX CPD Training Programmes;
- 'The importance of professional ethics' statement;
- CPD Top Tips for Success – 10-minute video.

Risk Matrices

56. CILEX Members are required to provide certain specified information to CILEX on at least an annual basis and to ensure that this information is updated promptly. This information is collected and used in accordance with the term of our Privacy Statement which can be viewed [here](#).
57. CILEX members are expected to respond openly and promptly with its regulator. This is important where this information is displayed to the public on the CILEX Authorised Practitioner Directory which can be viewed [here](#).
58. CRL makes use of risk matrices to:
 - Help inform its approach to supervision of CILEX members;
 - Any supervisory, regulatory or enforcement action that is necessary; and
 - Assess any potential risk to the consumer of a member's actions.
59. The information that is used:
 - Reflects the individual's membership status and where they work;
 - The type of work that the individual carries out;
 - The types of clients that they carry out work for; and
 - Their regulatory history.
60. This assists CRL in considering both ongoing competence requirements and the prioritisation of misconduct complaints.
61. The output of subsequent action following a score from the risk matrix does not imply that an individual themselves poses a higher or lower risk. It is purely an assessment of circumstances where an individual may possibly benefit from greater supervision.
62. The individual scores remain confidential to CRL and are not provided to CILEX members or other bodies.
63. For 2023/24 CPD Sampling Exercise, CILEX Fellows (Chartered Legal Executives and CILEX Practitioners), Chartered Legal Executive Advocates, ACCA accountants offering probate services and Associate Prosecutors scoring a risk matrix score of 17 and above who work unsupervised, will be automatically included in the sample.

Consumers/Users

64. Feedback from consumers/users is received in the form of complaints against members or authorised entities but the number of complaints received is very small as a percentage of membership. For example, only 70 complaints of misconduct were received in 2023.
65. Of the 70 complaints received, 37 were rejected based on factors such as jurisdiction, allegations did not disclose misconduct or no evidence available to substantiate allegations. However, if potential competence issues are identified within any complaint, even if rejected, this information is fed through to the Practitioner Authorisation Services Team for further investigation.

66. For more information on complaints, please refer to paragraphs 110 to 143.

Other Agencies

67. CRL receives and monitors data received from other agencies including:

- Legal Ombudsman (LeO)
- The Office of the Immigration Services Commissioner (IOSC)
- Crown Prosecution Service
- HM Land Registry
- HMRC

68. Unfortunately, the majority of the data is at 'firm' rather than 'individual' level, but CRL continues to raise this issue with the various organisations. Other regulators tend to rely upon this firm level data for individual competence as they are expecting the firm to oversee individual competence. However, where we receive an indication of potential misconduct, the data is actioned by the Enforcement Team. Please refer to paragraphs 104 to 137.

69. CRL has been actively participating in the Lawyer Assured Information process being piloted by the Land Registry that requires legal professionals (conveyancers) to provide assurance that their applications are true and accurate. Once this process goes live, CRL will be able to access data on CILEX members to understand the volume of transactions in which they have been involved (if someone is doing very few transactions how are they maintaining their competence in this area) as well as who has breached the Land Registry rules. This data will include information on:

- Minor and moderate breaches relating to competence and links to training resources that individuals could be directed to as part of a supervision/remedying competence concerns;
- Moderate or serious breaches that indicate dishonesty, fraud and other deliberate acts; and/or
- Breaches that result in (or are likely to result in) the termination of HM Land Registry (HMLR) services.

70. Dependent on the size and nature of the actual data received from HMRL relating to the above, CRL will consider and take appropriate actions to be taken in addressing any identified competence issues through the CRL Enforcement Rules.

71. The Solicitors Regulatory Authority (SRA) inform CRL of any investigations they are conducting into an SRA regulated firm where CILEX members are employed and may be involved. In such cases, the Enforcement Team contact the relevant member(s) and request they complete a Prior Conduct declaration. Once these are completed and returned, the Enforcement Team create a new case for the members and store the declaration until the SRA finalise their investigation. If the SRA report that the CILEX member(s) were not implicated in the findings of the investigation, the case is closed, and no further action is taken. If the CILEX member(s) were implicated in the findings of the SRA investigation the Enforcement Team will take further action. Please refer to paragraphs 104 to 137.

CPD sampling

72. CRL conducts an annual sample of members' CPD records at the end of each year.
73. The sample size is set at 2.5% CILEX Fellows, Chartered Legal Executive Advocates, ACCA accountants offering probate services and Associate Prosecutors. In addition, CRL reserves the right to sample any member's CPD records it considers appropriate i.e. members who did not meet the previous years' sample requirements.
74. For the 2023/2024 sample, all CILEX Fellows, Chartered Legal Executive Advocates, ACCA accountants offering probate services and Associate Prosecutors scoring a risk matrix score of 17 and above who work unsupervised, will be automatically included in the sample.
75. The 2.5% sample is selected at random by the IT Department using the Microsoft Excel RAND function. More information on the Microsoft Excel RAND function can be found [here](#).
76. IT provide CRL Officers with a spreadsheet of selected members identifying the following information for each:
 - CILEX membership number;
 - Full name;
 - Email address;
 - Type of membership i.e. CILEX Fellow;
 - Category of membership i.e. Probate and Estate Administration.
77. Members included in the sample are sent the following:
 - Explanation of the sampling exercise, details of what needs to be submitted to CRL for sampling and deadline for submission;
 - Guide to CPD Sampling;
 - Template for completion;
 - CPD Regulations;
 - CPD Regulations (Schedule 1);
 - CPD Handbook for CILEX Associate Prosecutors, CILEX Fellows and Advanced Paralegals.
78. Selected members are given 1 month to return the requested information by email.
79. Once completed samples along with supporting evidence of the CPD activities (i.e. certificate of attendance, supervisory confirmation, training notes etc) are received, checks are made by CRL Officers to ensure:
 - The completed template of CPD activities reflects what the member has input into their MyCILEX Portal record;
 - That each CPD activity has identified the new skill(s) developed or existing skill(s) updated/improved upon;
 - That the CPD activity for Professionalism was one of those listed in the guidance;
 - Members have used a diverse range of CPD delivery methods i.e. seminars, in-house training, colleague shadowing etc.

80. If completed samples and supporting evidence provided do not meet any or all of the above, members are contacted to correct the information submitted or provide an explanation why they are unable to do so.
81. Each selected member receives feedback from CRL and if no issues are raised with their completed sample and supporting evidence, they are sent a thank you and confirmation that they have met their CPD obligations.
82. Members whose sample and supporting evidence do not meet their CPD obligations and who are unable to resolve the issue or provide a reasonable explanation as to why they are unable to do so, are referred to the Enforcement Team as they have broken the following principles in the CILEX Code of Conduct:

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

Principle 5: Act competently in the best interests of your client and respect client confidentiality.
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

83. For information on what further action is taken, please refer to paragraphs 104 to 137.
84. A full report will be produced on the 2023/2024 CPD sample for consideration and approval by the CRL Board. The report will include information on the following:
 - Sample size per type of membership
 - Sample size of members receiving a risk matrix score of 17
 - Sample size per identified high-risk area of practice
 - % compliant and non-compliant with CPD obligations – overall membership, level of membership, identified high-risk areas of practice
 - % of members referred to Enforcement Team for further action – overall membership, level of membership, identified high-risk area of practice
 - CPD delivery methods
 - Types of Professionalism outcome completed
 - Type of feedback provided by CRL and
 - Recommendations for increase or decrease in sample size for identified high-risk areas of practice
85. We will ensure that this is communicated to the membership together with the lessons that can be learned by members. Our drive is to improve the compliance rates firstly of

those authorised persons subject to CPD and also the other CILEX members. The benefits to us and the public are:

- Improved consumer outcomes
- Increased protection of consumers from harm
- Building public trust and confidence in the legal sector

Make appropriate interventions to ensure standards of competence are maintained across the profession(s) they regulate

In meeting this objective, CRL has considered:

- Effective communication and engagement to draw attention to key risks and areas where competence may need to be improved;
- A range of measures, such as the promotion of reflective practice and use of feedback, including pre-authorisation education and training, to identify learning and development needs;
- A range of measures such as specifying training, learning and development requirements (including mandatory requirements);
- A range of measures such as competence assessments, for example, observation or examinations;
- A range of measures, such as specifying reaccreditation models (i.e. required period proof of competence to maintain a practising certificate).

Communication and engagement

86. CRL has created landing pages on its website for each of the reserved activities members can choose to apply for, namely:
- Civil litigation
 - Criminal litigation
 - Family litigation
 - Immigration
 - Probate
 - Conveyancing
 - Business
 - Employment
87. These pages have been created to act as a communications hub to updates on areas of interest to specialisms and will include resources and communications and links to other agencies to assist members in maintaining competence.
88. Also included within the pages are links to CPD courses available to members that could help them achieve their CPD obligations. These courses are provided by a range of organisations CRL is actively seeking other organisations with programmes available to support its members.
89. CRL is currently working in partnership with colleagues within CILEX to develop a joint communication strategy to increase engagement with members. This strategy will include a schedule of regular social media and web-based updates to ensure CILEX

members are kept fully informed of developments within CILEX and CRL as a whole and within their specialist area.

Reflective practice and pre-authorisation education

90. As part of their CPD obligations, all CILEX members are required to use reflective practice (Reflect-Plan-Act-Evaluate) to identify training and development needs. This is followed by a plan as to how they will meet these needs.
91. Within its CPD Handbook, CRL has published a Reflection and Planning template for members to use to help them identify the areas in which they wish to refresh and develop their competence and professionalism. CRL has created this template to promote a generic approach to learning and development across its membership. The CPD handbook also contains advice and support on using the template and associated Competency Framework. For more information, please click [here](#).

Specified training, learning and development requirements (including mandatory requirements)

92. We believe that it is essential for all CILEX members to understand their professional and regulatory responsibility at the point of authorisation and throughout their career. Therefore, CRL mandates one CPD outcome relating to Professionalism which includes ethics, for all members on an annual basis and members compliance with this requirement is audited by the system and potentially, through additional sampling.
93. For those authorised with rights of audience, we mandate that at least two of their objectives must relate to advocacy.
94. And new for CPD year 2024/2025, those authorised with higher rights of audience will be required to undertake at least four outcomes related to advocacy and 2 of which must relate to advocacy in the higher courts.
95. For Associate Prosecutors, we mandate that at least 4 of their objectives must relate to criminal advocacy.
96. As CILEX members authorised with rights of audience in the lower courts and those with rights of audience in all courts may not conduct litigation and advocacy on a regular basis, we have mandated the advocacy CPD elements to ensure their level of knowledge is kept up to date whilst not necessarily undertaking the legal function.

Competence assessments

97. All CILEX potential routes to member authorisation are based on competence and knowledge assessment in the area of practice as approved by the LSB.
98. For members wishing to gain higher levels of authorisation, additional mandatory competence and knowledge assessment requirements must be achieved.
99. Members wishing to gain rights of audience must successfully complete an advocacy skills assessment delivered and assessed by a CRL Approved Training Provider.
100. From September 2024, members wishing to gain higher rights of audience, will be required to successfully complete an additional training and assessment programme delivered by The University of Law (ULaw). This additional training and assessment

were developed to meet the requirements of the standards for CILEX higher court advocates in civil or criminal proceedings.

Re-accreditation

101. CILEX Chartered Legal Executive Litigators and Advocates and CILEX Chartered Legal Executive Advocates are required to go through re-accreditation after 12 months of initial certification and then every three years for those with both litigation and advocacy rights. This re-accreditation is based purely on a portfolio of evidence demonstrating competence in practice. The requirement was introduced to ensure that newly qualified litigators and advocates had successfully put in to practice the skills they had developed during their CRL approved advocacy skills training programme.
102. Originally, CRL was looking to introduce a reaccreditation model across its membership but after reviewing arrangements in place at other legal regulators, we feel that this may put CILEX members at an unfair disadvantage and potentially, create a regulatory arbitrage. We have, therefore, adopted a similar model to other regulators in which we provide assistance to members to develop and maintain required competence and take remedial action where it is proven that this is not requirement has not been met.
103. We feel that as CRL is the only legal regulator that:
- mandates a minimum amount of CPD that must be undertaken by all members annually which is checked by our Online Portal; and
 - conducts random sampling of members CPD activities on an annual basis whereby selected members must provide evidence of CPD achievement

It is not appropriate to require members to gain reaccreditation unless their current practice rights certificate has lapsed or been removed as an outcome of an Enforcement investigation.

Take suitable remedial action when standards of competence are not met by individual authorised persons

In meeting this objective, CRL has considered:

- What the most appropriate measures are, for example requiring a period of supervised practice, or requiring specific training to be completed satisfactorily;
- What evidence we rely on to verify the competence issue;
- What factors we use to determine that remedial action is suitable to address the competence issue, including reference to any aggravating or mitigating factors;
- What factors we use to determine the most appropriate remedial action;
- How we follow up the competence issue to prevent recurrence.

Enforcement Team

104. The CILEX Code of Conduct (the Code) sets out nine principles to which Relevant Persons (Approved Managers, Authorised Entities, CILEX Member or CILEX Practitioner) and/or Applicants (persons applying for Membership or Authorisation or

to be an Approved Manager) must adhere to in their conduct practice and professional performance. To access the CRL Code of Conduct, please click [here](#).

105. Competence issues are dealt with under Principle 5 which states that members must act competently, in the best interests of their client and respect client confidentiality. The 12 outcomes supporting this principle state members 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 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 CILEx Regulation where appropriate;
- 5.10 Not charge a client for the cost of handling a complaint;
- 5.11 Where your practice is regulated by CILEx Regulation, include in the terms of business with your client, a statement that CILEx Regulation is your regulator and may seek access to their papers and that, in these circumstances, you will grant CILEx Regulation access unless the client objects; and
- 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.

106. The CRL Enforcement Team review and investigate prior conduct and information received from third parties which may amount to misconduct. They may refer matters or complainants to other regulators or third parties where this may be the most appropriate action.

107. Action is taken in the most serious cases, where there is evidence of a real risk to the public and consumers, or to the standards expected.

108. CRL publish the following Rules/Guidance:

- [Enforcement Rules](#)
The rules by which the Enforcement Team operate which are governed by the Legal Services Board.
- [Enforcement Handbook](#)

This handbook is intended as a guide to assist complainants, applicants, relevant persons of CILEX and their representatives and members of CILEX Regulation's conduct panels.

- [Annex 1: Powers of the Professional Conduct Panel](#)
Provides information on the PCP's power to deal with matters of Prior Conduct, Fitness to Own and misconduct.
- [Annex 2: Sanctions Guidance](#)
Developed to promote proportionality, consistency and transparency in decision-making.
- [Annex 3 Publication Policy](#)
Sets out the arrangements for publishing disciplinary decisions made by the CILEX Regulation's conduct panels.
- [Annex 4: Adjournments of Disciplinary Hearings](#)
Provides clarification on what is required to be submitted to grant adjournments.
- [Annex 5: Health Committee Procedure Rules](#)
Rules that apply where CILEX Regulation or CILEX receive information about a Relevant Person or Applicant that raises questions of their fitness to practice on the grounds of health.
- [Annex 6: Fines Policy](#)
Sets out the levels of fines that may be ordered against individual CILEX members, CILEX Practitioners, Approved Managers and Entities (Relevant Persons) where a finding of misconduct is made.
- [Annex 7: Costs Policy](#)
Sets out the costs CILEX Regulation will seek to recover the cost of investigations and proceedings where misconduct allegations are proved after referral to the Disciplinary Tribunal or cases which are unsuccessfully appealed by the Relevant Person before the Appeals Panel.

109. In addition to the full-time members of staff within the Enforcement Team, CRL has three independent Conduct Panels that consider the conduct of those regulated by us, namely:

- Professional Conduct Panel (PCP)
- Disciplinary Tribunal (DT)
- Appeals Panel (AP)

Professional Conduct Panel (PCP)

110. The PCP considers conduct matters of Prior Conduct, Fitness to own and allegations of misconduct.

111. Prior Conduct matters are considered after a Relevant Person or Applicant makes a declaration that raises a question as to their suitability to remain a Relevant Person or become a member of CILEX or Relevant Person.

112. Fitness to Own matters are considered after a Relevant Person or Applicant makes a declaration that raises a question as to their suitability to remain owners of entities or become an owner of an entity authorised by CILEX Regulation.

113. In the instances of Prior Conduct declarations, the PCP has to decide what action to take as a result of the declaration by the Relevant Person or Applicant.

114. The PCP may, after considering further information is required and/or the new information and/or after seeking advice take the following decisions:

- Take no further action
- Accept a Relevant Person's or Applicant's application
- Refuse a Relevant Person's or Applicant's submitted application
- Impose conditions on a Relevant Person or Applicant in relation to their conduct or employment
- Require a Relevant Person or Applicant give undertakings as to their future conduct
- Warn and/or reprimand a Relevant Person or Applicant or
- Refer a case to the Disciplinary Tribunal

115. Allegations of misconduct against Relevant Persons can be made by anyone, but are typically made by clients, third parties in legal proceedings or employers. CILEx Regulation can also initiate an investigation into the conduct of a Relevant Person in the absence of a complaint or complainant.

116. CILEx Regulation investigates allegations and will refer cases to the PCP. Where there is no evidence of misconduct, the investigation will be terminated.

117. The PCP has a duty to consider allegations made against a Relevant Person and determine whether there is a case to answer. After consideration of the allegations made, the Panel may make the following decisions:

- Determine there is no case to answer
- Decide there is a case to answer and refer the allegation to the DT
- Decide there is a case to answer and with the consent of the Relevant Person and where they have admitted the allegation do the following:
 - (a) Impose conditions in relation to their conduct or in the case of an individual, their employment;
 - (b) Require the Relevant Person to give undertakings as to their future conduct;
 - (c) Reprimand the Relevant Person and/or warn them as to their future conduct.

Disciplinary Tribunal (DT)

118. The DT considers all cases referred to it by the PCP or where a case has been referred directly by a delegated decision.

119. The DT decides on balance of probabilities, whether the charges have been proved and will consider sanctions and costs where charges are proved. The DT will hear submissions from both parties on mitigation and costs before reaching the decision. The DT will give written reasons for its determination.

120. Where an allegation is proven in part or whole the DT may:

- Take no further action or
- Reprimand the respondent and/or warn them as to their future conduct

- Impose conditions in relation to their conduct or in the case of an individual, their employment
- Fine in accordance with the CILEx Regulation Fines Policy, except where the respondent has been excluded from Membership or Authorisation
- Order exclusion of the respondent from Membership or Authorisation for a fixed or indefinite period and may make recommendations with regard to future reinstatement
- Require a respondent that is an Authorised Body which has been excluded from Authorisation to enter into a Practice Management Agreement and/or
- Make an ancillary order where appropriate.

Appeals Panel (AP)

121. The AP considers appeals made against decisions of the PCP or DT. The AP decides whether the appellant has shown grounds for appeal and will proceed to determine the matter, where grounds are shown.
122. Where the grounds for appeal have not been ‘made out’ the AP will dismiss the appeal, affirm the original decision and make any ancillary orders where appropriate.
123. Where the grounds for appeal have been ‘made out’ in full, the AP will, after reconsideration of the original matter, quash or substitute the decision of the lower Conduct Panel. Ancillary orders are made, where appropriate.
124. The AP will give written reasons for its determination.

Sanctions

125. The Sanctions Guidance (click [here](#)) has been established by CILEx Regulation as a guide for its Conduct Panels.
126. The guidance is intended to promote proportionality, consistency and transparency in decision-making. CILEx Regulation is committed to promoting equality and safeguarding diversity; its procedures and processes aim to operate in a manner that is free from unlawful discrimination.
127. In the interests of fairness to all parties in the proceedings, the guidance outlines the powers and sanctions available to the Conduct Panels and those involved in decision-making. In all cases written reasons must be given by the Conduct Panels for their decisions.
128. The purpose of sanctions are to:
- Promote:
 - Good practice by CILEx members and Relevant Persons
 - Public awareness of the standards they can expect of CILEX members and Relevant Persons and
 - Confidence in the profession on the part of all involved in the administration of justice

- Protect:

- Clients
- The public interest and
- The interests and reputation of CILEX, its members and the legal profession.

129. In considering what sanction or decision to make a Conduct Panel may take into account various factors, for example, but not limited to:

- The nature and seriousness of the breach
- The risk to the public
- The protection of the reputation of the profession
- The impact of the misconduct on the affected individuals
- Whether the actions of the Relevant Person(s) were dishonest, reckless or deliberate
- Whether there are existing Prior Conduct matters
- Whether the misconduct is admitted
- Whether the Relevant Person(s) has been transparent and timely in providing information about their conduct
- Whether the Relevant Person(s) has/have shown insight or remorse
- Whether the Relevant Person(s) attempted to rectify the breach
- Evidence of rehabilitation
- The personal circumstances of the Relevant Person(s)
- Character evidence and references.

130. Details of mitigating factors and aggravating factors are provided to assist the Conduct Panels but are not exhaustive. They are to enable the Conduct Panel to balance the facts before them when reaching a decision, or sanction. Where a Conduct Panel discounts a mitigating or aggravating factor, it provides clear written reasons as to why it has done so.

Publication of Disciplinary Decisions

131. Annex 3 of the Enforcement Rules: The Publications Policy sets out the arrangements for publishing disciplinary decisions made by the Conduct Panels.

132. CRL has the power to publish all adverse findings and orders made against a Relevant Person or Applicant determined by the Conduct Panels.

133. Publication is not a sanction but is necessary to protect the public and to promote high standards across the profession. An order not to publish will be made in exceptional circumstances only. Only proven misconduct decisions will be published. A decision shall be published after the appeal period has expired or after any substantive appeal hearing and an order for publication is made.

134. Disciplinary decisions will be retained permanently on CILEX records once any publication period has passed and will be processed in accordance with CILEX and CILEX Regulation GDPR policies or as permitted by law.

Sanctions Follow-up

135. Where an allegation of misconduct in relation to Principle 5 of the Code of Conduct: Act competently in the best interests of your client and respect client confidentiality, has been proved, a sanction may be imposed relating to mandatory competence training.
136. Where such sanctions are imposed, the Enforcement Team inform the Practitioner Authorisation Service (PAS) Team. The PAS Team ensure that the Relevant Person(s) who the sanction has been imposed on, is/are selected for CPD sampling at the end of the next CPD year. As part of the sampling exercise, the Relevant Person(s) will be required to provide evidence of achievement of the mandatory competence training objective.
137. The outcome of the Relevant Person(s) sampling will be forwarded to the Enforcement Team for further action.

Summary

138. CRL is confident that we fully meet the LSB Statement of Policy on Ongoing Competence.
139. We take a proactive approach in setting and monitoring the achievement of ongoing competence through our mandated CPD and associated sampling activities as an alternative to simply responding to incidents where it is alleged that ongoing competence requirements are not being met.
140. Through the activities of our Enforcement function, we also respond quickly and efficiently to allegations of misconduct that could include competence issues and have detailed rules, policies and procedures in place to ensure that swift action is taken to resolve any issues raised through the investigation process.
141. In addition, the introduction of our risk matrices and algorithms will allow us to further investigate into particular areas of reserved activities or legal practices that may require additional supervision or training requirements.