

Date	27 September 2023
Item	09.0
Title	Director of Operations' Report
Author	David Pope, Director of Operations
Purpose	This paper provides the Board with an update on the work of the Operations Directorate undertaken since the last meeting.
Recommendation	The Board is asked to <ul style="list-style-type: none"> ➤ NOTE this report. ➤ NOTE the 2022 AML annual report which will now be published ➤ NOTE the response to the HM Treasury AML consultation
Timing	N/A
Impact Assessment	N/A
Impact on Regulatory Objectives	The work covered in this report impacts on the following: <ul style="list-style-type: none"> - encouraging an independent, strong, diverse and effective legal profession; - protecting and promoting the consumer and public interest; and - promoting and maintaining adherence to the professional principles. And the proposed objective: <ul style="list-style-type: none"> - promoting the prevention and detection of economic crime
Implications for resources	The loss of CRL staff due to impact of CILEX decision to proceed with re delegation and no certainty on future prospects for staff.
Impact on consumer empowerment	N/A
Impact on ongoing competence	Currently monitored via CPD non-compliance, this will change with adoption of the LSB requirements for assessing ongoing competence.
Publication status	For full publication.
Appendices	None

Introduction

1. This paper provides the Board with an update on the work of the Operations Directorate including:
 - The work of the Practitioner Team,
 - The work of the Entity Team,
 - The work relevant to the proposed new regulatory objective on Economic Crime, and
 - The work of the Enforcement Team.
2. In addition to the data contained in the Operations Report, which is provided with a narrative, CRL has published its KPI's on a quarterly basis.

PRACTITIONER TEAM UPDATE

Rule change applications

3. The minor changes to a number of rules that CRL had identified which had a reference to 'Qualifying Employment', rather than the new 'Qualifying Experience', were dealt with by the LSB under its new exemption and have been agreed.
4. CRL has identified issues related to the scope of the Immigration Practice Rights and the guidance provided within the handbook, which was designated as a regulatory arrangement back in 2014. This has caused some confusion to practitioners related to Judicial reviews, which require the practitioner to hold a Civil Litigation Practice Right to instruct a representative and they cannot appear in an Upper Tribunal without Higher Rights.
5. The LSB have discussed with CRL how this might be rectified; they recognise that CRL is not seeking to extend the scope of the practice right and they have agreed that CRL can submit an exempt direction application to address this.

Operations

6. The Practitioner manager has started updating resources on the automated emails and website to provide clarity on timescales to aid both applicants in understanding when information will be assessed and to help the team with workflows.

Qualifying Experience (QE)

Qualifying Experience													
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD
Applications 2023	55	57	63	51	44	45	41						356
Applications 2022	61	65	62	70	57	72	43	67	58	43	42	28	668
Av No weeks to overall decision	9	5	4	5	5	5	4						
% QE decisions made by ALC	10.9	0	1.6	8	0	0.6	0.1						

7. The average time to first assessment for QE in July 2023 was 20 working days and this was with both members of staff taking leave at separate times during this period. Only 7 cases were expected to be considered at the ALC in August as the simplification in process continues to provide operational benefits.
8. The drop in QE applications has continued and has been reflected in our budget reforecasting. CRL will continue to monitor the number of applications through 2023.

Work Based Learning (WBL)

Work Based Learning													
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD
Applications 2023	54	58	59	62	57	43	43						376
No. authorisations	72	53	38	53	65	63	57						401

Av. no. weeks to overall decision	14.4	12.4	12.5	12.3	12.4	12.3	9.6						
Av. no. resubmissions per application	1.7	1.6	1.6	1.6	1.6	1.6	1.5						
Applications 2022	42	37	71	70	62	52	48	77	65	65	60	38	687

9. The average time to first assessment of WBL applications in July 2023 was 39 working days. The oldest file waiting to be assessed on 17 August 2023 was 45 working days.

Practice Rights & Advocacy

Practice Rights & Advocacy 2023													
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	YTD
No of practice rights holders	149	155	164	165	165	165	195						
Applications received	5	9	4	8	9	4	5						44
Applications authorised	2	3	11	2	0	1	9						28
Av. no. weeks to overall decision	40.6	40.5	47.6	47.2	45.8	44.8	42.8						
No of practice right holders (ACCA-Probate)	54	55	49	49	49	55	55						

10. The number of portfolio applications for practice rights remains ahead of last year. CILEX continues to put out messages related to CILEX Lawyer, and these have generated enquiries about practice rights.
11. The number of practice rights increased significantly in July as those who were assessed through the new training and assessment route completed their authorisations.

Courses

12. The availability of advocacy courses for applicants progressing from both the portfolio and the training and assessment route continue to be problematic. Dates are dependent on availability of trainers and with regards to the civil litigation pathway a date for applicants is currently set for mid-December which means that some applicants are having to wait nearly six months. In addition, the maximum number of students on a course can vary depending on whether a second trainer can be sought an initial 7-8 maximum increasing to 15 if a second trainer is available. In the meantime, the PAS team have to tried to manage applicant expectations and frustrations on a regular basis.
13. Ideally this would be addressed with CILEX as a priority for them, offering advocacy courses which are also required for the CLE apprenticeships.

Training and assessment for practice rights

14. The training and assessment route to practice rights for the four areas probate, conveyancing, civil and family litigation continues to be popular. At the time of drafting this paper there were 42 applicants registered to start in September 2023 with nearly half registering for conveyancing. The vast majority of applicants were registering for the assessment only pathway. Results from the July assessments are expected in September.

15. Since the scheduled assessments commenced in late 2022, 66 Fellows have passed an assessment as follows: 31 conveyancing, 21 civil litigation, 6 family litigation and 8 probate. Some of those still need to complete the advocacy course and final parts of their authorisation.
16. The training provider has provided further communications to share with applicants about the time commitments required and the structure of the courses as well as update syllabus for each pathway.

Immigration

17. CRL attended an MoJ Immigration roundtable on 11 July 2023 to discuss issues related to
 - the provision and regulation of Immigration services,
 - specific issues raised, including reporting, information-sharing and supervision systems and agreements.
 - agree a forward plan of monitoring improvement and reporting.
 - Home Office wishing to discuss the integrity of the firms and behaviours of practitioners in the immigration system.
18. CRL is required to produce an action plan for the Home Office by 15 September 2023 covering the issues discussed,
19. CRL met with the Professional Enablers Taskforce on 10 August 2023 to discuss in more detail how CRL regulates CILEX members and the number of CILEX members who identify as working within the area of immigration.
20. CRL has used data from the risk matrices to identify members where further enquiry is needed related to the provision of immigration services. This work will be completed by the end of September 2023.

CPD Non-Compliance

Compliance Year 2021/2022	30/09/2022	17/08/2023	% reduction since 1 October 2022
Associate Prosecutors	15	0	100%
Fellows	757*	73	90.36%
Advanced Paralegals (Graduates)	505	162	67.9%
WBL reduction	137	9	93.4%
Paralegals (Associates)	1410	560	60.29%
Total	2824	804	71.5%

* this figure was reduced to 700 after any submission errors were corrected.

21. There has been some progress made since the last update with emails being sent out in July and August. The final numbers will be an improvement on the year 2020/21.

22. CRL had to resolve an issue caused by CILEX sending out an email asking all members regardless of their grade (and whether they had been granted exemptions or not) to update their outstanding CPD. This caused a significant influx of communications by members into the CPD inbox which the team then had to deal with. Following discussions, CILEX sent out a correction when CRL notified them of the error. A correct CILEX communication was sent out in August reminding relevant members of the CPD deadline in August and the extension deadline. CRL has also included a reminder in its August newsletter.
23. Finally, congratulations to [REDACTED], a member of the PAS team who became a Fellow in August. The first Chartered Legal Executive to work at CRL.

ENTITY TEAM UPDATE

Policy

FCA / Claims Management Activities

24. CRL has been working with the Financial Conduct Authority (FCA), the Solicitors Regulation Authority (SRA) and Bar Standards Board (BSB) on the introduction of new rules related to claims management activities and fee caps.
25. The SRA has now published their consultation on proposed rules and CRL will continue to work with them and the BSB on progressing this work.

Professional Indemnity Insurance (PII)

26. Any proactive work with insurers is now on hold as they require greater certainty on CRL's long term future following CILEX's proposed changes to regulatory arrangements before they will discuss offering new facilities.

Compensation Arrangements

27. Whilst conversations have continued with brokers about mitigations which could be built into the PII policies as options to amend compensation arrangements at CRL, there has been no progress since the consultations have been live.
28. CILEX have confirmed their intention to continue to support the existing compensation arrangements during the remainder of 2023 and any future transition period. The LSB have been advised.

HM Land Registry

29. CRL has continued to work with HM Land Registry on their policies related to lawyer assurance as part of their register digitisation work, and the new working groups that HM Land Registry has set up to develop collaborative work amongst stakeholders in the home buying and selling sector. This is in addition to the work related to the Land Registry Advisory Council and Home Buyers and Sellers Group.

Rule changes

Designated Professional Body (DPB) application.

30. With ministerial support obtained, HM Treasury has commenced work on the Statutory Instrument but there is no update available on the timescale.

Operations

ACCA Performance Update

Current ACCA Firms												
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec
No. of CILEX-ACCA Probate firms 2023	42	42	39	39	39	40	39					
No. of CILEX-ACCA Probate firms 2022	21	28	37	39	42	43	43	43	43	42	42	42

31. The ACCA renewals are making slow but steady progress. Following completion of the [provider] course in April, CRL has received new applications from practitioners and firms.

Entity Performance Update

Current Entity applications												
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec
2023												
No. of CILEX Authorised firms	22	20	19	19	19	19	19					
No. applications granted full authorisation	0	0	0	0	0	1	0					
No. renewals authorised	1	4	3	2	1	2	1					
Av. no. weeks to decision (application)	2	2	2	2	2	2	2					
No. ABS	1	1	1	1	1	1	1					
2022												
No. of CILEX Authorised firms	24	24	24	25	25	25	25	24	23	23	22	22

32. June saw one new Probate firm authorised but one other firm close. The other firm has delayed their authorisation pending the commencement of a new PII policy.

Annual Returns

33. All Annual Returns for 2023 are up to date.

ECONOMIC CRIME UPDATE

Economic Crime and Corporate Transparency Bill

34. The Economic Crime and Corporate Transparency Bill has completed its passage through the House of Lords and is now awaiting final amendments and Royal Assent.

Anti-Money Laundering (AML) Supervision

35. CRL has its next meeting with OPBAS on 19 October 2023.
36. CRL submitted its 2022/23 HMT Annual AML/CTF Supervision Questionnaire to HM Treasury in June 2023.
37. HMT issued its consultation, Reforming anti-money laundering and counter-terrorism financing supervision, on 30 June 2023, and this closes on 30 September 2023. CRL has attended the various HMT engagement events over the last months. Because of the possible implications of consolidation of AML supervision and the similar issues with CILEX's decision to review regulatory arrangements, CRL's consultation response is attached for **Noting** at **Appendix XXX**.
38. CRL attended the Legal Regulators AML Forum on 19 July 2023 and the Legal Sector Affinity Group meeting on 4 July 2023. The next meetings will be on 3 October 2023.
39. CRL staff will be attending AML training arranged with an external AML trainer by the Law Society of Scotland on 5 October 2023.

Sanctions

40. In addition to the extension of the general licence for fees, there has now been imposed a ban on the provision of trust services and legal advisory services in connection with Russia. This information has been communicated direct to our firms and the Financial Sanctions page on the CRL website has been updated.

ENFORCEMENT TEAM UPDATE

Rules changes

41. Within the business plan is a planned enforcement rule review and a workplan for this major piece of work was being constructed. With the current uncertainty, any progress on this is to be delayed until CILEX have concluded their review of regulatory arrangements. This will now go into 2024.

Operational

42. The following table sets out the number of prior conduct declarations and misconduct complaints that CRL has received over the last three years, including the current year to date.

	2020	2021	2022	2023
Misconduct Complaints	65	58	73	41
Prior Conduct declarations	945	517	264	146

Immigration

43. CRL provided the Board with a separate paper at the 4 August 2023 Board teleconference. A verbal update will be provided.

Prior conduct

Prior Conduct Declarations

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2023												
Declarations received	27	22	24	21	22	14	16					
No of cases resolved	37	32	25	19	24	18	32					
No of cases live	99	89	88	90	88	84	68					
No of cases 'On hold'	23	24	26	26	24	24	23					
No of cases - net	76	65	62	64	62	60	45					
2022												
Declarations received	18	20	16	22	22	17	18	17	18	19	43	28
No of cases resolved	13	17	21	30	27	33	22	16	34	44	25	21
No of cases live	172	203	185	168	162	139	143	115	115	87	94	109
No of cases 'On hold'								13	14	18	14	20
No of cases - net								102	101	69	80	89

44. The Team continues to reduce the number of live cases, which are now at historic lows. Recent declarations are being determined quicker and action is being taken on those historic declarations related to misconduct matters.
45. The oldest case (138 weeks) was dealt with at the June PCP as reported to the Board In July. The oldest case not on hold now is from 16 Jan 2021 (132 weeks as at end of July) and this should go to the October PCP.
46. At 31 July 2023 there were 68 open cases, currently 17 can be determined by an investigator. The remaining 51 may require a PCP decision. Of the 45 open cases that are not on hold, 22 cases are pre 2023 (down from 29 at last report), which demonstrates the continued progress being made.
47. Currently there are now only 55 open cases received on or before 31 July 2023, 22 of which are on hold. Of these, 10 cases can be determined by an investigator and 45 may require a PCP decision. Of the 10 cases the oldest one is less than 12 months old (1/9/22) and likely to be closed in the next week or so.
48. The PCP ran out of time to deal with all prior conduct declarations at its last meeting on 10 August owing to the application for an interim suspension. Those will be carried forward to the October meeting.
49. The following table provides an analysis of prior conduct complaints by age (as at 31 July 2023):

	0-6 months	6-12 months	12-18 months	18-24 months	24+ months	Total
No of live cases	28	17	9	8	6	68
Those 'On Hold'	7	8	3	2	3	23
No of cases - net	21	9	6	6	3	45

52. The initial assessment procedure continues to operate well with the Manager taking full responsibility for maintaining the expected standard.

Principles breached:

Principles breached	2021	2022	2023
Principle 1 – Rule of Law	8	3	0
Principle 2 – Professional Conduct	51	38	3
Principle 3 – Honesty and Integrity	31	20	4
Principle 4 – Legal Obligations	8	11	2
Principle 5 – Act Competently	10	8	0
Principle 6 – Treat Everyone Fairly	4	3	0
Principle 7 – Ensure Independence	0	3	0
Principle 8 – Act Effectively	1	2	0
Principle 9 – Protect Client Money	0	0	0
Total breaches	113	88	9

53. In 2021 and 2022 when a complaint was received, the Enforcement Team assessed the member’s alleged misconduct against the Code of Conduct and identified which Principles might have been breached. There was no consideration of the weight of the evidence at that stage.
54. During 2022 the approach changed, and it was decided to record the principles only when CRL issued a formal notice of investigation containing allegations which the member was required to respond to. This more accurately reflected the actual misconduct, rather than that alleged. Breached principles may now be added much later in the investigation (unless there is strong evidence at the outset).

Disciplinary Panels

Professional Conduct Panel (PCP)

55. CRL has scheduled 10 PCP meetings for 2023 and 7 have been held to date. The next one is on 21 September 2023. The August meeting included an on-notice application for an interim suspension pending a DT for Paralegal member who had been the subject of an undercover investigation into unlawful immigration and made the subject of a S43 order by the SRA. The member and CRL attended. As a result, there was insufficient time to determine all the cases listed. These have been adjourned to the September meeting.

Disciplinary Tribunal (DT)

56. These are scheduled as required. One took place on 27 July 2023 and the Investigation Manager represented CRL. Following an application to proceed in absence, all 15 charges were proved, and the member excluded for three years. The decision will be published after the appeal period has expired (42 days). The member is self-employed, works in immigration and his firm is currently regulated by OISC.
57. The next DT will be scheduled as soon as is possible subject to panel and clerk availability to determine the case currently subject to the interim suspension (which is likely to be appealed). (However, availability is proving problematic over next couple of months – the current situation impacts on recruiting further panel members).

Appeals Panel

58. Two appeals hearings are listed scheduled for 12 and 13 October 2023. One concerns an appeal regarding publication of a sanction, the other by an applicant whose application for membership refused (applied a day after being struck of the roll of solicitors – this info added as CRL can't claim costs against non-members).

Recommendation

59. The Board is asked to

- **NOTE** the report.
- **NOTE** the 2022 AML annual report which will now be published
- **NOTE** the response to the HM Treasury AML consultation