

**MINUTES OF THE MEETING OF THE
BOARD OF DIRECTORS OF CILEx REGULATION LIMITED
HELD ON 14 JULY 2016**

Present:

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

In attendance:

Jill Durham, Head of Policy & Governance, CILEx Regulation
Karl Cerski, Chief Finance Office, CILEx
Georgina Forde, Officer, CILEx Regulation
Helen Whiteman, Chief Executive Officer, CILEx Regulation
Martin Callan, President, CILEx
Millicent Grant, Deputy Vice President, CILEx
Victoria Hurdley, Director of Development, CILEx

1 DECLARATIONS OF INTEREST

Andrew Donovan declared an interest in the Compensation Fund Update item (confidential Board-only report) in relation to his work on revised compensation arrangements.

The Board retired into confidential session (separate minutes).

2 MINUTES

DECISION:

- To agree minutes of the Board meeting held on 27 May 2016.

3 BUSINESS DEVELOPMENT STRATEGY AND PLAN

Vicki Hurdley presented a report updating the Board on the business development strategy and plan for practice rights and entity regulation with reference to:

- developments and changes to strategy for practice rights based on insights and data collected from activity in 2015 and early 2016;
- structural changes within CILEx and outcomes from the Council strategy day in May 2016;
- entities and ABS;

➤ CILEx Regulation revised budget and business plan.

Vicki gave an outline of recent changes within CILEx which had given the opportunity to review marketing and business development activity and its focus. This had been largely about raising the profile of the CILEx brand but without necessarily linking this directly to membership growth.

CILEx was aiming to achieve membership growth by improved customer profiling including targeted emailing of specific groups such as people passing level 6 exams who might be interested in achieving practice rights.

The other focus would be working with the CILEx Regulation team to identify barriers to applying for practice rights and entity regulation and introducing more flexible ways to apply. For instance the CILEx Regulation website was information heavy without necessarily enabling a user to identify what they wanted to achieve and how to get there.

The Board acknowledged that the requirements of Fellowship might not all be relevant in terms of the areas of practice potential applicants were employed in, and that requirements to complete both the work based learning application process and the practice rights process might be off putting. Vicki explained that the new grade structure proposed for 2018 would enable processes for Fellowship and practice rights to merge. Research so far had shown that whilst applicants appreciated the value of the Fellowship, perception of the added value of practice rights was yet to be established.

The Board asked for options to address the position until such time as the new grade structure came into place. The President asked whether there were lessons that could be learnt from the Associate to Fellow scheme in terms of progressing members into practice rights, or targeting of Fellows who were partners in firms.

Vicki explained that CILEx would identify small groups and look at the work based learning structure with a view to combining the application process with practice rights. This could be achieved by mapping the practice rights and work based learning outcomes to create a matrix covering both sets of outcomes, which could then be assessed more effectively with a two for one fee structure.

Vicki tabled a marketing strategy and plan which would be used to report progress. The Chairman asked that Vicki report to future meetings. Board members agreed that development work should be supported by marketing exercises. Vicki reported that it would also be important to work with employers.

The President referred to the volume of members who had joined to train via the CILEx route and then left to become solicitors. CILEx was keen to ensure that such members had opportunities which meant they no longer needed to do so.

The Board noted a summary of key actions to achieve practice rights and entity sales targets. The Chairman thanked Vicki and invited her to update the Board at its next meeting.

DECISION:

- To receive the report for noting.

4 CEO REPORT

Board members considered a report from Helen Whiteman setting out details of stakeholder engagement since the last Board meeting, including introductory meetings at IPReg, attendance at a regulators' meeting with Lord Faulks and MoJ officials about the future of QASA, and a meeting with Marsh and RSA insurers about the terms of renewal of the compensation fund insurance.

Other matters reported included the action plan agreed with the LSB following the most recent regulatory standards assessment, a consumer engagement update and reports on operational performance across the teams.

Board members asked whether additional resources were required to address CPD backlog. Helen confirmed that the new Membership Contact Centre in CILEx would be taking more of a member support role so that the team could focus purely on non-compliance. Concern was expressed about processing times for practice rights applications. Helen confirmed two additional staff had been trained on this area, in order to improve flexibility in the use of resources. New online resources had delivered improvement in the quality of work based learning portfolios being received.

Helen also updated Board members on the following:

- ABS consultation: The MoJ had issued a consultation proposing legislative changes to Schedules 11 and 13 of the Legal Services Act to remove the prescription around ABS authorisation. The office would respond in support of the proposals.
- KPIs: The Chairman and CEO were scheduled to review the operational KPIs with a view to reporting proposals to a future Board meeting with proposals that KPIs be reported quarterly in a consistent format across operational functions.

5 WORK-BASED LEARNING (WBL)

Board members considered a report setting out proposals for changes to assessment to remove the requirement for documentary evidence in support of portfolios, other than by exception. Jill Durham reported that since the proposals had been circulated to Board members, CILEx officers had objected to the proposals on the basis that they were not soundly based in competence assessment methodology. For this reason the office considered it prudent to put the recommendations on hold pending further discussion with CILEx.

The Board took the view that the assessment methodology was a matter for CILEx Regulation. Accordingly the Board declined to entertain a request by the office to withdraw the recommendation.

Board members considered it important that assessment should be proportionate and that provision to request documentary evidence by exception was sufficient safeguard to support the removal of the default requirement to provide it.

The CILEx President and Vice President shared feedback from the representative body suggesting that members found the process onerous and welcomed any streamlining of the scheme's requirement on applicants, subject to there being no diminution of standards. They also agreed to discuss with CILEx Qualifications officers to clarify the objections and to report the proposals to the CILEx Education and Membership Standing Committees.

The report also recommended that the Board approve an application for changes to the regulatory arrangements to reduce the number of examples of how a learning outcome has been met to two where it was currently three. The assessment team in the office wholly supported this recommendation. When the scheme was designed, one of the original options had been to require one example. The WBL working group had proposed three as a precaution.

LSB had advised that this change to the regulatory arrangements (WBL rules) could be the subject of a request for an exempt direction. A future proposal would invite the Board to consider a move to a sampling model, where assessors would select and assess a number of outcomes and only review more if they were not satisfied that the applicant had met the requirements.

Jill mentioned the current system for partial submissions where assessment activity is undertaken and 'banked' but not charged for, as well as the option to move to a model which allows applicants to submit outcome by outcome. The benefits would be that the applicant would be mentored throughout the process of building their portfolio and would acquire experience and knowledge of what was required.

DECISION:

- To agree that the requirement for documentary evidence be reduced in favour of personal statements, subject to reserving the right of the assessor to request documentary evidence by exception;
- To agree that approval be sought from the LSB to change the Rules to reduce the number of examples of meeting a WBL learning outcome to two where it is currently three;
- To agree that the WBL fee be charged at first submission.

6 PCF, ASSOCIATE PROSECUTOR, PRACTICE RIGHTS, ENTITY FEES AND COMPENSATION FUND CONTRIBUTIONS 2017

Three Board members declared their status as professional members. Karl Cerski reported the FRSC decision on the PCF for 2017. The Board agreed to endorse a recommendation to Council on 21 July to increase the PCF to £364.

Board members considered the consultation feedback for the various proposed fees and to determine the appropriate fee for each. It was confirmed the options for practice rights top up fees for Fellows were £50, £55 and £60 rather than £65 as mentioned in error in the report. The Board was reminded that some fees still did not represent full cost recovery.

Board members discussed the non-member practice fees and whether to pitch this higher to encourage non-members to join CILEx in order to pay a lower fee. Conveyancing and probate rights were open to non-members and applicants were likely to be paralegals or equivalent. It was clarified the decision to extend rights to non-members had been taken in the conceptual stage of development to encourage membership growth.

Helen updated Board members on feedback received from the Crown Prosecution Service (CPS) on the Associate Prosecutor (AP) 2017 fees. They had requested a freeze or a fee increase linked to the Consumer Price Index. The Board considered the reducing numbers of APs and sought clarification on the regulatory arrangements which the office advised were historic. The President commented that CILEx had in effect been subsidising the cost of APs for a number of years. This had been explained to the CPS as part of the consultation and due to the CPS contact having been on annual leave, an interim response only had been received which tended to indicate they perhaps did not fully understand the level of subsidy thus far. Board members expressed a preference for recovering the full regulatory costs.

Board members deferred a decision on the AP fee to enable further liaison with the CPS by the office and to enable CILEx Finance and Remuneration Standing Committee to consider whether CILEx wished to subsidise the AP fee further with a view to reaching full cost recovery in three years.

DECISION:

To agree the following fee proposals for application for approval by the LSB:

- Fellows Practice Rights top up agreed at £60;
- Non-Fellows Practice Rights top up agreed at £60;
- Non-member Practice Fees agreed at £450 inclusive of one practice right;
- Entity application and renewals fees to increase by 1.5%;
- Entity regulation turnover brackets to mirror the CCF brackets;
- Compensation Fund contributions to increase by 1.5%;

To defer a decision on the AP fee pending further discussion.

7 MANAGEMENT ACCOUNTS

The CILEx Financial Director updated the Board on the current position to end of May with a net deficit of £466,764 which was £113,061 better than budget. Income remained lower than budget by £39,422 due to fewer applications for WBL, practice rights and enforcement income. Luisa Fulci queried the higher 'other costs'. The office confirmed this was legal fees, which were also split across the professional fees budget code.

Karl shared draft figures for end of June. The net deficit stood at £530k which was £170k better than budget. Again, income was down but direct costs were £100k better than budget. Luisa enquired about Group reserves. Karl confirmed that investment income had improved and Group reserves were now closer to £8m. Patrick Bligh-Cheesman queried the presentation of the accounts. Helen confirmed that Laura Gadsby would present them in a new format from October following a discussion with Sam. The Board asked for an introductory session on the new format and for future Group financial performance to be provided for noting purposes.

8 BOARD MEETINGS 2017

Sam confirmed the reduction to five in-person Board meetings per annum, with telecons in between aligned to financial quarters. An annual joint Strategy day with CILEx and the Law School was under discussion. The Board was asked to notify the office of any issues with the proposed 2017 meeting dates. The office would also circulate dates for telecons to include one in early January 2017.

9 FORWARD PLAN REVIEW

The Board agreed their forward plan for the remainder of 2016, subject to ongoing review.

10 AOB

Board members agreed the need to remain vigilant about the extent of agendas and managing meeting running times.

Board members enquired how the office proposed to liaise with the new Justice Secretary. It was confirmed that the office had requested a meeting for the Chairman.

Date of next meeting: 6 October 2016 at 9:30am.

**SAM YOUNGER
CHAIRMAN**