

IPS AUTHORISATION RULES

INTRODUCTION

This document sets out the requirements that need to be met when applying to be an Authorised Body. Such a body is authorised by IPS to provide legal services in order to comply with relevant provisions in the Legal Services Act 2007 ("the Act"). Once authorised, Authorised Bodies will be regulated by IPS and therefore be obliged to abide by these Rules, the IPS Code of Conduct, and all other relevant rules and guidance set by IPS and CILEx.

These rules will be supplemented by guidance on the authorisation requirements issued from time to time by IPS.

RULE 1 - APPLICATION

- 1.1 An entity seeking to be authorised by IPS must make an application. The application must meet the authorisation requirements set out by IPS.
- 1.2 The Applicant Body must ensure that all information it provides to IPS is complete and accurate. It must inform IPS of any change to the information it has provided in support of its application.
- 1.3 The Applicant Body must have a practising address in England or Wales.
- 1.4 The Applicant Body has a duty to declare prior conduct relating to any of its Managers and anyone else seeking to become an Approved Person or an Authorised Person. Prior conduct is defined in the IPS Investigation, Disciplinary and Appeals Rules (IDAR). An Applicant Body must inform IPS of full details of prior conduct as soon as reasonably practicable.
- 1.5 IPS will assess the application using its Risk Assessment Framework. Before it reaches its decision it may require the Applicant Body to provide more information.
- 1.6 IPS will consider the application and notify the Applicant Body of its decision within 6 months of the date IPS is satisfied it has received a fully completed application and all the information IPS requires to consider the application.
- 1.7 IPS may extend the 6 month period by up to a further 3 months. The Applicant Body will be advised of this prior to the expiry of the 6 month period.
- 1.8 Where the Officer assessing the application has identified any areas where the application does not meet IPS regulatory requirements the application may be suspended to allow the Applicant Body to develop the application further. Alternatively, where suitable the Officer may grant a Conditional

Authorisation, which will set out the conditions that authorisation is subject to.

- 1.9 In carrying out an assessment of the application for authorisation IPS may visit the Applicant Body to obtain further information. The timing, duration and scope of any such visit will be agreed between the Applicant Body and IPS. Such a visit will usually take place before the expiry of the 6 month period. Where a visit takes place after the expiry of that period IPS may provide the Applicant Body with a Conditional Authorisation during that period.

RULE 2 – APPLICATION DECISIONS AND DETERMINATION CRITERIA

- 2.1 Once IPS has considered the application it will either:
- (a) Grant Authorisation without conditions
 - (b) Grant Conditional Authorisation OR
 - (c) Reject Authorisation
- 2.2 In determining applications IPS will be guided by its Risk Assessment Framework and the Regulatory Objectives.
- 2.3 Where an Applicant Body is authorised, IPS will specify any limitations on authorisation which will include whether authorisation is limited to a specific reserved legal activity or activities.
- 2.4 IPS may grant an application for authorisation only if:
- (a) the Applicant Body includes Authorised Persons authorised to carry out each of the reserved legal activities the Applicant Body seeks to carry out;
 - (b) the Applicant Body provides legal services from an address in England or Wales;
 - (c) IPS is satisfied that upon authorisation the Applicant Body will be able to comply with IPS Rules and the Code of Conduct;
 - (d) IPS is satisfied that the Applicant Body's management or governance arrangements are adequate to effectively manage risk and safeguard the Regulatory Objectives;
- 2.5 IPS may place conditions on authorisation where it identifies the applicant body does not meet the requirements of rule 2.4 but the issues can be managed by conditions.

- 2.6 Where IPS determines conditions on authorisation would not be sufficient to ensure that the Applicant Body will be able to meet the Regulatory Objectives or be able to manage risk effectively IPS will reject the application for authorisation.

RULE 3 – TERMS OF AUTHORISATION

- 3.1 An Authorised Body must ensure that it notifies IPS of any change that affects its authorisation before the change takes place or, where this is not possible, within 28 days of the change occurring. Failure to do so will constitute a material breach of these rules and IPS reserves the right to revoke authorisation in such circumstances.
- 3.2 An Authorised Body, its Approved Persons and Authorised Persons must agree to be subject to all applicable IPS Rules and the Code of Conduct. The Authorised Body will be obliged to ensure that all its employees and sub-contractors also comply with the IPS Rules and Code of Conduct which apply to them.
- 3.3 IPS reserves the right to revoke Authorisation if it determines that the Authorised Body is in breach of these and/or any other IPS Rules and Code of Conduct. Any such breach will be determined by IPS and will include, but not be limited to, the following:
- (a) the Authorised Body no longer has an Approved Person;
 - (b) the Authorised Body no longer contains an Authorised Person to carry out each of the reserved legal activities it is authorised to carry out;
 - (c) the Authorised Body no longer provides legal services from an address in England or Wales;
 - (d) IPS is no longer satisfied that the Authorised Body is able to comply with applicable IPS Rules and the Code of Conduct;
 - (e) the Applicant Body's management or governance arrangements are deemed by IPS to be no longer adequate to manage risk effectively or safeguard the Regulatory Objectives;
 - (f) the Authorised Body has provided inaccurate or misleading information or there has been a material omission or failure to provide information to IPS in accordance with IPS Authorisation Requirements;
 - (g) for any other reason IPS considers that it would be contrary to the public interest or otherwise inconsistent with the Regulatory Objectives to allow authorisation to continue.

- 3.4 An Authorised Body must inform IPS as soon as reasonably practicable whether any Authorised Persons or Approved Persons have become subject to any of the prior conduct provisions referred to in the IPS Investigation, Disciplinary and Appeals Rules (IDAR).
- 3.5 Where any individual designated as an Authorised Person or an Approved Person is no longer employed by an Authorised Body or they can no longer carry out their role as an Authorised Person or an Approved Person, the Authorised Body must contact IPS prior to this change taking place informing IPS of this and nominating a replacement for the relevant role(s). This must be done as soon as reasonably practicable if this circumstance could not have been foreseen in advance of the change taking place.
- 3.6 An Authorised Body must at all times have suitable arrangements in place to ensure that:
- (a) its Authorised Persons, Managers, and employees comply with the duties imposed by section 176 of the Act and all other IPS Rules which apply to them;
 - (b) it does not employ any person disqualified from being employed in an Authorised Body providing legal services.
- 3.7 The Authorised Body must supply any information required by IPS which IPS deems necessary in order to carry out periodic risk assessment and review in support of its regulatory functions.
- 3.8 Authorised Bodies will be required to provide Annual Returns. IPS will determine the format and information requirements for such returns.
- 3.9 The Authorised Body must pay IPS the prescribed periodic fee(s) applicable to that body by the prescribed date(s). IPS will determine the amount and basis of any fee(s) required under these rules.

RULE 4 – MANAGERS AND COMPLIANCE OFFICERS

- 4.1 An Authorised Body must have at least one Manager, a Head of Legal Practice (HoLP), and a Head of Finance and Administration (HoFA). The HoLP and the HoFA are referred to as Compliance Officers in these Rules. Managers and Compliance Officers are designated as Approved Persons by IPS. Where appropriate, one person may carry out the role of Manager, HoLP and HoFA. Compliance Officers must provide their consent to be designated as such.
- 4.2 IPS will assess whether Managers and Compliance Officers in an Authorised Body are fit and proper to hold these posts. When applying to be an Authorised Body, and after authorisation has been granted, the Authorised Body must undertake not to employ any person disqualified from being

employed in an Authorised Body providing legal services, or designate in the roles of Manager or Compliance Officer anyone disqualified from performing these roles in an Authorised Body.

- 4.3 An Authorised Body must have suitable arrangements in place to ensure that Compliance Officers are able to discharge their duties in accordance with these rules, and are suitably qualified and in positions of sufficient seniority to carry out those duties effectively. The HoLP and HoFA can be supported in undertaking their compliance duties by a third party or third parties but cannot delegate overall responsibility for compliance to a third party or third parties.
- 4.4 IPS may disqualify an individual from being designated as a Compliance Officer if IPS deems that person no longer fit and proper to carry out such a role. The Authorised Body will receive at least 28 days notice before the withdrawal of designation takes place.
- 4.5 Conditions placed on Authorisation may include specific conditions which must be met by Compliance Officers.
- 4.6 The Compliance Officer designated as Head of Legal Practice (HoLP) must take all reasonable steps to:
- (a) comply with the Authorised Body's authorisation except any obligations imposed under the IPS Accounts Rules;
 - (b) ensure compliance with any statutory obligations of the body, its Managers and employees in relation to the body's carrying on of authorised activities;
 - (c) record any material compliance failures and notify IPS of them as soon as reasonably practicable. Material failures will include any breach or pattern of breaches of the IPS Code of Conduct or any other Rules set by IPS and CILEx, excluding the IPS Accounts Rules;
 - (d) record any compliance failures and make such records available to IPS on request and in any event at least annually as part of IPS Authorisation Requirements.
- 4.7 The Compliance Officer designated as Head of Finance and Administration (HoFA) must take all reasonable steps to:
- (a) ensure that the body and its employees and managers comply with any obligations imposed upon them under the IPS Accounts Rules;
 - (b) record any material compliance failures and notify IPS of any material compliance failures with the IPS Accounts Rules as soon as reasonably practicable. Material compliance failures to be notified to IPS will include

financially instability referred to in Outcome 9.2 of the IPS Code of Conduct. A material failure may also include a single material breach or pattern of breaches of the IPS Accounts Rules;

- (c) record any compliance failures concerning compliance with the IPS Accounts Rules and make such records available to IPS on request and in any event at least annually as part of IPS Authorisation Requirements.

RULE 5 – WAIVERS

- 5.1 IPS has the power to waive in exceptional circumstances provisions of these rules for a particular purpose or purposes. IPS may attach conditions to or revoke such a waiver at its own discretion.

RULE 6 – REGULATORY CONFLICT

- 6.1 If a conflict arises between a requirement imposed on an Authorised Body or on an employee or Manager of the body by IPS as the regulator of that body, and on an individual Manager or employee of that body by another approved regulator, then the requirement imposed by IPS prevails over the requirement imposed by the other approved regulator.
- 6.2 If a conflict arises between a requirement imposed on a non-IPS authorised body or on an employee or Manager of that body by another approved regulator as the regulator of that body and on an individual Manager or employee of that firm by IPS, then the requirement imposed by the other approved regulator prevails over the requirement imposed by IPS.

RULE 7 – FIT AND PROPER TEST

- 7.1 In determining whether a person is fit and proper for the purpose of these Rules, IPS will consider the person's character, suitability, fitness and propriety having regard to:
 - (a) the person's ability to comply with the professional principles in section 1(3) of the Act; and
 - (b) The factors set out in Rule 7.2.
- 7.2 The factors are whether the person:
 - (a) has been convicted of a criminal offence:
 - (i) for which a term of imprisonment was imposed;
 - (ii) involving dishonesty or fraud;
 - (iii) involving perjury or other offences relating to the administration of justice;
 - (iv) involving serious violence;

- (b) has been the subject of an adverse regulatory finding involving:
 - (i) material breach of regulatory requirements;
 - (ii) failure to provide information or the provision of false information;
 - (iii) refusal, suspension or withdrawal of regulated status;
- (c) has been declared bankrupt, entered into any individual voluntary arrangements, been the subject of a court judgement for debt;
- (d) has been removed as or disqualified from being a company director or charity trustee;
- (e) has been concerned in the management or ownership of any company which has been wound up or put into receivership or administration in circumstances of insolvency;
- (f) has engaged in other conduct involving dishonesty, violence, discrimination, abuse of trust or financial impropriety or mismanagement.

RULE 8 – APPEALS

- 8.1 An appeal may be made against any of the following decisions made by IPS under these rules:
- (a) rejection of an application for authorisation;
 - (b) revocation of authorisation;
 - (c) rejection of an application to be an Approved Person or to carry out any of the specified roles of an Approved Person including a HoLP or HoFA;
 - (d) withdrawal of Approved Person status from an individual;
 - (e) a decision that an Approved Person is no longer fit and proper to carry out any of the specified responsibilities of an Approved Person.
- 8.2 An appeal must be made by giving notice in writing within 28 days of the decision to which it relates to the Appeals Panel established under the IPS Investigation, Disciplinary and Appeals Rules (IDAR).
- 8.3 A notice under Rule 8.2 shall be addressed to the Appeals Panel at the offices of IPS and shall:
- (a) state that it is a notice of appeal under this Rule;

- (b) include:
 - (i) the name and address of the appellant,
 - (ii) the date, nature and other relevant details of the decision which is the subject of the appeal
 - (iii) a concise statement of the grounds of the appeal, and
 - (iv) the name and address of the appellant's representative (if any) and state whether correspondence concerning the appeal should be sent to the representative instead of the appellant;
- (c) be signed by or on behalf of the appellant;
- (d) be accompanied by a copy of any documents on which the appellant proposes to rely for the purposes of the appeal.

8.4 Rules 36(1), (2), (4) to (6), (8) and (9) and 37 of IDAR shall apply to an appeal made under these Rules.

8.5 Appeals shall normally be heard in private unless the appellant requests otherwise.

8.6 Having considered an appeal, the Appeals Panel may:

- (a) dismiss the appeal;
- (b) allow the appeal and quash the decision appealed against; or
- (c) substitute for the decision appealed against any other decision that the IPS could have made;

and may make such ancillary orders, including orders for costs, as it considers just and appropriate.