

**ILEX Professional Standards Ltd**  
**Practice Rights and Qualification Arrangements**  
**Consultation Analysis**

**Q1. IPS seeks rights to conduct litigation split between civil, criminal and family proceedings. Do you have any comments on the rights sought or the proposed split between the rights?**

Yes	No
13	1

**Yes**

- As CILEx members usually specialise, this is appropriate.
- What about members of CILEx who are not Fellows but are authorised and regulated by the Ministry of Justice under the Legal Services Act 2007 to conduct litigation and advocacy in Tribunals. They are litigators.

**No**

- Given that this is not required in any other legal profession, I am not sure why this should be a requirement for people, being Fellows, who have had to show greater experience than other lawyers who are able to simply undertake this work straight after qualifying. I also believe this will cost a significant amount to administer, and likely costs to individuals in order to qualify, when as professionals we will always only act within our expertise areas in any event. Failure to do so will only lead to IPS being involved as it would with the SRA/BSB.

**IPS response**

IPS approach to regulation is by competence. While the rights to conduct litigation scheme requires Fellowship of CILEx, IPS will assess the competence of practitioners before granting them authorisation. The approach delivers a key expectation that consumers have of practitioners.

**Q2. IPS seeks rights of audience for its Litigators. The rights have been split between chambers and open court rights for civil and family proceedings and are open court rights in criminal proceedings.**  
**b. Do you agree that the civil and family rights be split between chambers and open court rights? If not, please set out your reasons.**

Yes	No
12	2

**No**

- Why should this be necessary for more experienced lawyers?
- I see no difference in the levels of advocacy and knowledge required whether appearing before a judge in chambers or open court. Competence in advocacy will be judged by the training provider?

**IPS response**

IPS developed a proportionate approach to the award of rights of audience, allowing those practitioners who do not seek open court rights to undertake a suitable qualification to assure IPS of their competence to undertake advocacy in chambers hearings.

**Q2.b. Do you agree that Litigators be able to exercise the open court rights that CILEx is already authorised to award? If not, set out your reasons.**

Yes	No
14	

**Yes**

- But also possibly extended rights to bring CILEx in line with solicitors, with an ability to qualify for higher rights in the same fashion.

**IPS response**

IPS does not seek to extend the rights of audience to higher rights in its current application. It would need to carry out separate research and analysis into demand for higher rights.

**Q3. IPS seeks probate practice rights. Do you agree that an application be made for CILEx to become an approved regulator for granting probate rights? Please set out your reasons for your response.**

Yes	No
14	

**Yes**

- Given the qualification to become a Fellow, why should this be exempted?
- CILEx regulation will provide competition for regulation services. CILEx regulated practitioners will provide competition in the legal services market.
- I agree that CILEx should be an approved regulator for this as they are in the same position as the Law Society and they can do it.
- There are anomalies in the current system. Qualified Fellows should have the same rights as solicitors, including the right to practice independently.
- I do not have probate experience but have faith in IPS as regulator and CILEx Fellows to be competent in their specific area of law.
- There are a considerable proportion of CILEx Fellows within this discipline and our organisation therefore represents a share of this practice area.
- This is not an area of law I practice particularly, however I see no reason why competent individuals should not be permitted to carry out probate activities and CILEx as a regulator ought to ensure the quality of services offered to protect both public and the good name of CILEx Fellows.

- CILEx is the professional body that regulates professional experienced practitioners in this field. It is therefore necessary that it has the ability to grant such practitioners the right to practise. It is a complete anomaly that a professional body should be denied such rights, since to do so diminishes the qualifications of the professionals in this field.
- CILEx through IPS is already an Approved Regulator of CILEx members practicing Probate so it is most suitable that CILEx through IPS regulates CILEx Probate Practitioners. Please could we have a capital P for Probate and a capital P for Practitioner? Not probate practitioner. I will be proud to be a CILEx Probate Practitioner if practicing rights are granted and wish to flaunt two capital letter P's!! Conveyancing practitioners will have a Reserved Instrument Activity Certificate with capital letters so we'd like capital letters too please.

**IPS response**

IPS agrees with the support for its application for probate rights and award of rights through a competence based assessment

**Q4. IPS seeks to authorise suitably competent applicants to carry out probate activities. Do you agree with the proposal to regulate by competence? Please set out your reasons for your response**

Yes	No
13	1

**Yes**

- Regulation by competence should be seen as a better guide of suitability than regulation by simple qualification
- Probate work is conducted in many solicitors' offices, by persons who have no formal legal training who are nominally supervised by persons authorised by title but who may have little or no competence. This practice is often facilitated by the signing of documents on behalf of the firm to transfer that nominal authority. Often the authorised person does not practice on a day to day basis in the practice area he supervises. This is and has been throughout my 40 year legal career standard practice. It is not in the public interest, it encourages overcharging, restricts accessibility to legal services and generally brings the profession into disrepute. Probate activities should be carried out by those with competence and who are properly regulated. All documents, HMRC applications etc. should bear the name and qualification of the individual so authorised.
- I am not a Fellow/Chartered Legal Executive yet and I believe that for people in my position we should have the same right, as I have been doing this for over 10 years, so I have a lot of experience in this field.
- This is a 'chicken and egg' situation. One has to practice in order to become competent, outcomes focused regulation may provide the platform by which competence is measured.
- This will provide an equality of access to various stages of qualification, the higher competence does not necessarily come with seniority and should be

regulated by competence levels.

- This is not an area of law I practice particularly, however I see no reason why competent individuals should not be permitted to carry out probate activities and CILEx as a regulator ought to ensure the quality of services offered to protect both public and the good name of CILEx Fellows.
- It is important that the public can have confidence in the quality of legal services to be provided.
- Qualification by experience is very powerful. Qualifying employment has always been a mainstay of CILEx members' progression towards formal qualification with its emphasis on practical experience in a legal office. I have learned much from very competent and highly experienced Probate Clerks and Probate Managers over many of years even though they have no formal legal qualifications. Practical experience honed over many years with real clients is of equal value to examinations so long as CPD is also kept up and competency checked for both formally qualified practitioners and those not formally qualified.
- But it would be wrong to decide that only Fellows can action. Wills and succession, introduction to law and practice, and probate practice should be enough.

**No**

- I do believe that CILEx should be able to provide these types of services, as long as they have the knowledge to do so. However, I believe that some of the experience limitations may be detrimental to some applications made, for instance, for those Fellows who may wish to cross qualify due to redundancy or change in circumstances etc. Clearly a Fellow who has suitable experience in the area of law in which they are applying for a certificate should be considered, however, I believe that a large number of people will be put off from applying due to some of the requirements, which they may not necessarily meet but who would be more than capable of carrying out the work. Presumably there will be a fee for applying for these additional rights also – is there a guide to what these might be? As a Fellow who is keen to set up on her own, I find that there are a number of obstacles and not a huge amount of flexibility when it comes to the areas I can work in, despite my varied knowledge and experience... I truly believe they [the rights] could assist a great many people in providing more legal services and to actually use the career they have chosen to study and get experience in, by becoming Fellows. If Fellows can provide legal services through solicitors' firms, why can they not also do so on their own? If they have been accepted as a Fellow they have already shown their competence and experience. They should, therefore, be able to demonstrate their skills for themselves.

**IPS response**

IPS agrees with the support for its approach to the award of rights by competence. IPS recognises that applicants will need to have opportunity to develop their knowledge, skills and experience. The Code of Conduct recognises this position. However, independent practice rights will be the reserve of competent practitioners.

<b>Q5. IPS seeks reserved instrument practice rights. Do you agree that an application be made for CILEx to become an approved regulator for granting reserved instrument rights? Please set out your reasons for your response.</b>	
Yes	No
14	
<p><b>Yes</b></p> <ul style="list-style-type: none"> <li>• Given the qualification to become a Fellow, why should this be exempted?</li> <li>• CILEx regulation will provide competition for regulation services. CILEx regulated practitioners will provide competition in the legal services market.</li> <li>• Maybe this could be considered for the probate practice rights as well as it sounds like a good idea and some probate practitioners also do transfers etc.</li> <li>• Yes, there is no difference between qualified Fellows and solicitors. Granting these rights will iron out the anomalies</li> <li>• Because CILEx already prepare, through standard of qualification, those who practise in this area – the service provided by CILEx should be wholly in terms of a seamless approach.</li> <li>• CILEx is the professional body that regulates professional experienced practitioners in this field. It is therefore necessary that it has the ability to grant such practitioners the right to practice. It is a complete anomaly that a professional body should be denied such rights, since to do so diminishes the qualifications of professionals in this field.</li> <li>• CILEx through IPS is already an Approved Regulator of CILEx members practicing Conveyancing/Land Law so I believe it is most suitable that CILEX through IPS also regulates Conveyancing Practitioners.</li> <li>• Land registry forms and procedures are very simple these days.</li> </ul>	
<b>IPS response</b>	
IPS agrees with the support for its application for reserved instrument practice rights.	

<b>Q6. IPS seeks to authorise suitably competent applicants to carry out reserved instrument activities. Do you agree with the proposal to regulate by competence? Please set out your reasons for your response.</b>	
Yes	No
13	1
<p><b>Yes</b></p> <ul style="list-style-type: none"> <li>• Conveyancing is conducted by many solicitors offices, by persons who have no formal legal training who are nominally supervised by persons authorised by title but who may have little or no competence. This practice is often facilitated by the signing of documents on behalf of the firm to transfer that nominal</li> </ul>	

authority. Often the authorised person does not practice on a day to day basis in the practice area he supervises. This is and has been throughout my 40 year legal career standard practice. It is not in the public interest, it encourages overcharging, restricts accessibility to legal services and generally brings the profession into disrepute. Reserved instrument activities should be carried out by those with competence and who are properly regulated. All documents, Land registry applications etc. should bear the name and qualification of the individual so authorised. The best protection for the general public is the maintenance of high standards within the profession and the efficacy of regulation. Regulation must be mindful at all stages of planning and implementation the cost of compliance both in terms of expenditure but also in management time. Therefore the scheme should be designed to keep expenditure as low as possible rather than emulating existing regulatory arrangements. Emphasis should be given to delivering the aims of the LSA to encourage competition and to improve access to justice. The objectives of the legislation are more likely to be achieved by encouraging a diverse range of different types of legal entity varying in size, specialisation and ambition and by lowering the costs of legal services. It is therefore vital that at all times (a) no unnecessary or unnecessarily onerous burdens to authorisation and practice are presented and (b) the cost of regulation is designed to be as low as possible.

- As I myself am a self-employed person in this position and it would be an advantage to me and my business.
- Yes, there is no difference between qualified Fellows and solicitors. Granting these rights will iron out the anomalies.
- The period of training for CILEx provides a sound foundation to be able to assess levels of competence.
- This would seem the most fair and rational basis on which to make such decisions.
- It is important that the public can have confidence in the quality of legal services to be provided.
- Yes - the same comments as answer to Question 4 above. There are very many highly competent but non qualified staff dealing with Conveyancing whose wealth of experience is many legal firm's greatest asset even though they have no formal qualification. Their CPD should still be kept up of course and competency checked. I noticed that those with Reserved Instrument Rights will be able to draft a transfer of stock (ie. stocks and shares). This is also part of a Probate Practitioner's work when transferring shares from an Executor to a beneficiary under a Will. Will Probate Practitioners also be authorised to draft transfers of stock related to their work? Wouldn't it be plainer English to call them Conveyancing Practitioners or Land Law Practitioners? Reserved Instrument Activity Certificated CILEx members is such a mouthful. The Council of Licensed Conveyancers does not seem to have suffered overmuch through using the term Conveyancer. Is it a problem to use the term? Won't the general public be helped by that term to understand what the person does? Reserved Instrument sounds more like a rarely played Stradivarius violin! I am happy that Conveyancing Practitioners will not be able to draft a Will-I think that's right

anyway- since Wills are best dealt with by Probate Practitioners or at least those with a good understanding that a Will is a very practical working document which needs to be capable of being applied after the death of the Testator.

**No**

- I do believe that CILEx should be able to provide these types of services, as long as they have the knowledge to do so. However, I believe that some of the experience limitations may be detrimental to some applications made, for instance, for those Fellows who may wish to cross qualify due to redundancy or change in circumstances etc. Clearly a Fellow who has suitable experience in the area of law in which they are applying for a certificate should be considered, however, I believe that a large number of people will be put off from applying due to some of the requirements, which they may not necessarily meet but who would be more than capable of carrying out the work. Presumably there will be a fee for applying for these additional rights also – is there a guide to what these might be? As a Fellow who is keen to set up on her own, I find that there are a number of obstacles and not a huge amount of flexibility when it comes to the areas I can work in, despite my varied knowledge and experience... I truly believe they [the rights] could assist a great many people in providing more legal services and to actually use the career they have chosen to study and get experience in, by becoming Fellows. If Fellows can provide legal services through solicitors' firms, why can they not also do so on their own? If they have been accepted as a Fellow they have already shown their competence and experience. They should, therefore, be able to demonstrate their skills for themselves.

**IPS response**

IPS agrees with the respondents supporting its approach to award of rights based on competence.

While the application for practice rights refers to reserved instrument activities, which is the term set out in the Legal Services Act, IPS will term practitioners as Conveyancing Practitioners, as this is a common term that can be understood by the public.

It will be possible for a practitioner to obtain both probate and reserved instrument rights so that they can deliver both services, as suggested by the respondent. However, the award of probate rights alone will not authorise a practitioner to undertake aspects of reserved instrument practice rights. Such an approach would not support IPS approach to authorisation by competence.

**Q7. IPS seeks to develop competence arrangements for immigration practitioners. Do you agree that an application be made to introduce formal competence arrangements for immigration practitioners? Please set out your reasons for your response.**

Yes	No	Don't know
10	2	2



**Yes**

- This is already a requirement for all other lawyers. However, as a partner in an SRA regulated immigration firm this needs to be considered along with the ability to practice independently. Should independent rights be given then this will be essential, however if not then it is an irrelevance given the SRA IAAS scheme and/or the OISC framework. I also believe that someone be already accredited in a relevant and comparable scheme (OISC or IAAS) then they should not have to requalify under any CILEx scheme as they should be deemed competent. Further consideration also needs to be given the ability to handle the LSC work, will this also apply to CILEx scheme members? If independent practice rights are given, will CILEx members be able to tender for LSC contracts? This is especially relevant for asylum work as this will remain following the LSC reforms in 2013, and thus I believe it is essential that the most experienced and able lawyers, irrelevant of being barristers, solicitors or CILEx are able to help those who need it most.
- Regulation of legal services is complex and no doubt confusing to consumers. The regulation of immigration practitioners is no exception. The consumer should be entitled to expect a minimum standard of competence from any regulated practitioner and the CILEx application will help to bring some clarity and stability to the practice of immigration practitioners.
- If IPS is doing this in other areas then immigration should also be considered.
- It is reasonable to expect that applicants will be able to demonstrate competence before applying for independent practice rights.
- CILEx needs to ensure a monitoring of services in this area is effective and this proposal is the most suitable method.
- However, for many established firms, it would not be appropriate to introduce formal competence arrangements as this would only serve as a disruption to firms which are already monitored and have evidenced their competence. However, it would be appropriate for new immigration practitioners. Perhaps a compromise or transitional arrangement for immigration practitioners with 5-10 years experience in the field may be more appropriate if new regulation is to be brought in.
- Same comments as before on great competence and experience in non qualified people. If Probate and Conveyancing authorisation will be based on competence why not immigration too?

**NO**

- Re q7: that competence testing should be on the basis of the number of complaints received.
- I consider that immigration practitioners acquire sufficient competence in their practice.

**IPS response**

IPS agrees with the majority support for its award of immigration practice rights based on an assessment of competence.

IPS reviewed the OISC and IAS schemes when developing its competence framework. The IPS framework recognises the OISC and IAS scheme where



possible. However, IPS does not agree that a passport arrangement can be sustained as there are differences between the schemes. IPS will put in place transitional arrangements for existing immigration practitioners. During that transitional period providers will undergo the competence assessment to enable them to continue to provide immigration advice and services.

**Q8. IPS has set out knowledge, skills and experience requirements which applicants must meet to obtain practice rights. Do you agree with the criteria? If not, please set out your reasons.**

Yes	No
12	1

- Yes**
- It appears directly comparable to the IAAS/OISC requirements. I do have to question the need for this given the OISC can cover anyone however. Again I reiterate my belief that those people, such as myself, who already hold senior accreditation in this area should not have to requalify in order to continue and there should be a route to automatically transfer for those who through exams/experience etc. can demonstrate their competence.
  - The criteria for probate rights and conveyancing rights should include registration as a Chartered Legal Executive – i.e. applicants would need to be Fellows of CILEx. The consultation paper does not recognise 2 elements which are important if the objectives of the LSA, that access to legal services are improved and that competition is enhanced are to be achieved. Firstly that regulation by IPS must not be more onerous than other regulators and preferably less so. Secondly that regulation by IPS must not present such administrative or financial burdens upon an applicant that regulation becomes unnecessarily expensive and wherever possible IPS should adopt payment friendly practices, monthly payments, electronic payments etc.
  - Agree with criminal law and broadly with immigration law, although some of the skills for this area of practice seem to overlap with criminal, EU law, legal research and client care. The other aspects seem to be bolt ons from the Level 6 professional higher diploma.
  - They look really detailed and comprehensive. I cannot think of anything which should be added or improved. What a labour of love to put all that together.
- No**
- The requirements for Fellows who qualified some time previously to have to pick up client care and legal research is onerous, surely 5 years in practice is enough?

**IPS response**  
 IPS agrees with the broad support for its competence frameworks. It has reflected existing frameworks, such as IAS and OISC, wherever it can. IPS carefully considered whether Fellowship of CILEx should be the starting point for the award of probate and reserved instrument rights. It found that possession of the

skills necessary to practice in these areas did not require the full Fellowship academic qualification. The skills and experience aspects are adequately reflected in the frameworks contextualised to the practice area. The LSB believes it is necessary for immigration practitioners to be Fellows of CILEx under Schedule 18 of the Legal Services Act. IPS has therefore set Fellowship as the starting point for that scheme. IPS recognises that many Fellows will not have completed the client care and legal research units. The frameworks allow these applicants to rely on existing experience and knowledge to demonstrate their competence in these areas.

**Q9. Applicants will be required to demonstrate their knowledge through completing the relevant Level 6 examination or alternative qualification. Do you agree with this proposal? If not, set out your reasons.**

Yes	No
11	3

- Yes**
- Applicants must have knowledge in an area to know what they are doing.
  - I think I agree? I took my Fellowship exams many years ago. Do I have to do the Level 6 exam again? Does the 'alternative qualification' mean the competency based testing or does it mean a qualification equivalent to the level 6 qualification. Please advise me so I know what to expect.
  - Level 3 and level 6
- No**
- Accreditation should be considered a further qualification, after having completed the academic stages. A newly qualified lawyer is not competent to work unsupervised, irrelevant of the exams passed. It should be based on practical experience or a combination of experience and examinations.
  - In my view application process should only be open to Fellows
  - Re q9: asking people to undertake qualifications will lead to increased 'suffocation' of the legal profession which is already suffering as a result of the double dip recession.

**IPS response**  
 IPS notes the responses and the concerns expressed by respondents. The knowledge element is one aspect of the competence framework. It is supplemented by skills and experience elements. The combination of these three aspects will address the concerns expressed.

**Q10. Applicants who do not hold the relevant examination but have experience that has developed their knowledge will be able to make an application based on 5 portfolios of cases which demonstrate their knowledge. Do you agree with this proposal? If not, set out your reasons.**

Yes	No
9	5

**Yes**

- But consideration to the length and time it takes to do these 5 portfolios have to be taken into account as small businesses are limited on resources.
- It seems a good idea as any if you are wishing to be authorised in the basis if your practical experience.

**No**

- I don't believe that 5 cases is enough given the breadth of the work. I do not believe that there should be a fixed amount of cases required, but it stipulated that you must show competence on all areas, including advocacy for more senior accreditation, such as level 2 under the SRA IAAS.
- Applicants should demonstrate their knowledge, skills and experience of law and practice by examination. This will ensure relevant knowledge and skills of the practitioner, promote consumer confidence and avoid accusations that the IPS practice certification is of a lesser quality than that of alternative regulated individuals. The portfolio route to authorisation undermines the scheme of qualification promoted by CILEx. It is also likely that the consideration of portfolios will increase the expense of the certification process for all applicants. It is unfair that applicants who can demonstrate compliance by examination which can be easily and cheaply verified should be charged the same as an applicant whose portfolio will take many more hours to verify. Client care skills and legal research skills do lend themselves to demonstrating by portfolio.
- I don't think you can separate basic knowledge and experience, one must have knowledge before one can gain experience. Completion of the Level 6 qualification in immigration law will demonstrate that applicant has acquired the knowledge, the experience can be gained once the qualification been achieved and can be demonstrated by way of portfolio.
- Allowing unqualified lawyers to apply undermines the whole process.
- You must have some legal qualifications. To understand the history and reason for current law.

**IPS response**

IPS carefully reviewed the responses. It is necessary that the portfolio guidelines require knowledge to be demonstrated across the range of the subject area from which an exemption is sought. IPS' existing experience with the rights of audience scheme provides a tested model that demonstrates that the portfolios allow applicants to evidence experience across the range of a practice area.

**Q11 IPS has developed skills criteria for each practice area. Do you agree that applicants should demonstrate skills through a log of evidence matched against the skills criteria? If not, set out your reasons.**

Yes	No
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**Yes**

- Subject to an exemption for those people who have already demonstrated this through other accreditation schemes.
- IPS can also consider visiting members and overseeing them doing these skills as part of the evidence log, but I understand that this may not be possible, depending on IPS resources.
- The same comments as question above.

**No**

- Applicants should demonstrate their knowledge, skills and experience of law and practice by examination. This will ensure relevant knowledge and skills of the practitioner, promote consumer confidence and avoid accusations that the IPS practice certification is of a lesser quality than that of alternative regulated individuals. The portfolio route to authorisation undermines the scheme of qualification promoted by CILEx. It is also likely that the consideration of portfolios will increase the expense of the certification process for all applicants. It is unfair that applicants who can demonstrate compliance by examination which can be easily and cheaply verified should be charged the same as an applicant whose portfolio will take many more hours to verify. Client care skills and legal research skills do lend themselves to demonstrating by portfolio.
- I agree in principle with a log of evidence to match with skills criteria, but it is a concern that this may be restrictive in terms of the log being limited within a 12 month period. If this is so, those who have been out of practise but maintain CPD will be barred from these rights by virtue of being unable to provide a log of evidence. I am interested to know what will be in place by CILEx to assist with those qualified in litigation (or even probate and conveyancing) who cannot provide a log of evidence during a preceding period (say 12 months).
- There should be no evidence log for practitioners who are able to demonstrate long service in their field of practice. Fellows who have been in practice for longer than 20 years should be exempt from providing a recent log of activity. There are many Fellows who have suffered a long break in employment as a result of the financial crisis of 2008/9 and would benefit from the ability to practice on their own account. The ability to demonstrate long service in the relevant field should be sufficient evidence of competence or if there is doubt, it should be re-tested through examination and perhaps interview.

**IPS response**

The skills criteria focus on assessing an applicant's skills to practise. IPS does not agree that skills can be demonstrated to a sufficient standard by examination and neither will it be proportionate to observe a practitioner's skills in the workplace. A practitioner must have up to date skills to practise. While IPS recognises that the recession has affected opportunities it must take account of its obligation to deliver consumer expectations that the practitioners it authorises are competent and possess up to date skills, which they have exercised recently. IPS is reviewing its CPD scheme. CILEx is separately considering how it can assist practitioners in developing their skills when returning to work after a period of absence from the workplace.

**Q12 Applicants will be required to demonstrate their experience through 3 portfolios of cases they have handled. Do you agree with this proposal? If not, set out your reasons.**

Yes	No
10	4

- Yes**
- BUT this needs to be considered as to how much time this will take as small businesses like myself only have so much resources.
  - Portfolios will provide IPS independent assessment of experience.
  - Demonstration of practical experience is vital
  - I do agree. However, what is in place where a portfolio cannot be provided within a prescribed preceding period.
  - But this should not apply to long serving Fellows of the Institute for the reasons mentioned at question 11.
- No**
- I don't believe that 3 cases is enough given the breadth of the work. I do not believe that there should be a fixed amount of cases required, but it stipulated that you must show competence on all areas, including advocacy for more senior accreditation, such as level 2 under the SRA IAAS.
  - Should consider other options.
  - You may be creating a 'chicken and egg' situation. Lots of your members do not work for a firm of solicitors and have no wish to, but still have knowledge and ability to carry out the role.

**IPS response**  
 IPS carefully considered the responses. IPS has developed a proportionate approach to the assessment of experience. Its own experience, through the rights of audience scheme identifies that three portfolios are sufficient. The requirement to demonstrate experience is not limited to the context of solicitors practices.

**Q13 Applicants seeking rights of audience will be required to undertake a rights of audience qualification course. Do you agree with this proposal? If not, set out your reasons.**

Yes	No	Not sure
9	2	3

- Yes**
- Depending on the level of rights to be granted. For 'lower' courts, such as Tribunals, I do not believe that this should be required. However, for more senior courts, I believe it should be separated as for solicitors. As such a formal course followed by examinations should be required for the High Court/CA/SC

- Consideration needs to be given to how long the course will take to complete and the cost to do it.
- Rights of audience require specific skills which may not be present in some lawyers who are good at writing a letter but not expressing themselves in open court. A good idea I am sure.

**No**

- This is unduly overbearing and unnecessarily increases the cost of compliance. Practitioners who can demonstrate a substantial number of years of practice, for instance 10 or more should be able to discharge the requirement by submitting a certificate countersigned by a regulated individual who can confirm the information certified. Practitioners between 2 and 10 years experience, can demonstrate experience through a portfolio scheme.
- Re q13: Overregulation of CILEx members will increase stress on them
- Should be experience of [handling] cases as well. This comes across as making money.

**Don't know**

- Ambivalent. I have rights of audience to appear before the Magistrates' Courts would I also have to take a course to appear before the first tier Immigration Tribunal, even though the skills are similar.

**IPS response**

The CILEx qualification does not include training in advocacy skills. The existing rights of audience course has developed the advocacy skills of applicants. IPS therefore decided that the same course should be undertaken by practitioners seeking to exercise advocacy rights as Litigators. IPS also decided that immigration practitioners should have advocacy skills to present before Immigration Tribunals. Its competency framework for immigration reflects that requirement.

**Q14 Do you agree that practitioners should demonstrate competence in practice management? If not, set out your reasons.**

Yes	No
10	4

**Yes**

- Appropriate to the size of the firm.
- I agree with reservations, as traditionally the majority of CILEx Fellows will never get this opportunity. Those that do may be limited, or may not fit the criteria adopted for competence in Practice Management – i.e. what constitutes Practice Management?
- However, I do not agree this must necessarily be done through examination.
- This is necessary to ensure adequate protection of the public. It should be tested through compulsory education and examination, if necessary and especially for practitioners seeking to practice independently.
- Because if you cannot manage your practice you are not going to be much help to members of the public or yourself.

- If they are partners, sure. If they are employees practice management is not a requirement, No!
- It is important that client money is separate from business accounts and that people understand the importance of client confidentiality, attendance notes (wills), probate diaries (probate), what needs to be shredded and what must not be, terms of engagement, PI and insurance, employment law.

**No**

- Again this is not required for any other category of lawyer, so why for CILEx? Members will only be offered partnership if it is determined that they have the skills already in place, and those going into sole practice or with other CILEx members will want to ensure on a self-regulatory basis that they have these skills as it is then their business which depends upon it. This can be managed through standard professional standards monitoring and enforcement. However, as solicitors do study accounts rules as part of the LPC, maybe this should be introduced as a requirement before members can qualify as Fellows to ensure competence.
- This requirement is more onerous than similar requirements as those which apply to individuals, regulated by other regulators. This is unnecessarily expensive and will place IPS regulated individuals at a commercial disadvantage to other regulated individuals. There is a risk that if the requirement for practice are made too onerous that the numbers wishing to adopt regulation by IPS will be limited. Competence in practice management should be demonstrated by a portfolio or by certified attendance at an approved course.
- Those seeking rights are not necessarily going to be managing practices

**IPS response**

Competence to manage a practice is important for its success and the protection of consumers. While the IPS practice management competencies do not require an assessment the risk based approach to regulation will determine whether practices meet practice management competencies and outcomes set out in the Code of Conduct. IPS believes that this delivers a proportionate approach to practice management.

IPS discussed the practice management competencies with insurance providers. Providers express interest in the proposal and indicate that it will have a positive effect on insurance premiums.

**Q15 Do you agree with the proposed practice management criteria? If not, please set out your reasons.**

Yes	No	Don't know
9	4	1

**Yes**

- Appropriate to the size of the firm.
- Again, reservedly. What assistance will be available to help the understanding of practice management and accounts principles?



- All very sensible.

**No**

- Again this is not required for any other category of lawyer, so why for CILEx? Members will only be offered partnership if it is determined that they have the skills already in place, and those going into sole practice or with other CILEx members will want to ensure on a self-regulatory basis that they have these skills as it is then their business which depends upon it. This can be managed through standard professional standards monitoring and enforcement.
- Element 1 is unnecessary and to the extent that it would be relevant, covers some of the same ground as knowledge, skills and experience of practice areas. Chartered Legal Executives should be exempt from element 2 as they are already bound by and subject to the CILEx practice rules. Elements 3 and 4 are rather old fashioned but suitably modern versions should be capable of being demonstrated by certified attendance at an approved course. The practice management criteria should also include IPR for business owners, business marketing, use of social media and other licensing requirements such as Data Protection, Consumer Credit and FSA Regulation. Again it must be realised that and training or demonstration of competence will add to the expense of regulation and it is important that it does not place an uncompetitive burden on IPS regulated individuals. Consideration should be given to making the mandatory courses for practice management and accounts part of the application package and paid for with the application fee. This will ensure compliance, maintain consistent standards of training and enable economics of scale.
- I do not agree. I believe experience and good track record are indicative of competence in the field.

**IPS response**

IPS gave detailed consideration to developing criteria that would support its risk based and competence based approach to regulation. For the reasons set out earlier it has decided that the criteria are essential to delivering practitioners with competence to manage a practice.

The criteria have been tiered to accord with the role the practitioner will perform in the management of the practice.

**Q16. Do you agree that practitioners should demonstrate competence in accounts which should be assessed? If not, state what they should do to demonstrate their knowledge of and competence to deal with accounts matters.**

Yes	No	Don't know
11	2	1

**Yes**

- Solicitors have to and this should be the benchmark. Being a partner in a firm, I appreciate how complex the accounts side of matters are and this is essential to

<p>understand for the benefit of managers, the client and to fulfil regulatory duties.</p> <ul style="list-style-type: none"> <li>• But it should be demonstrated by certified attendance at an approved course.</li> <li>• Appropriate to the size of the firm.</li> <li>• However, I do not agree that this must necessarily be done through examination.</li> <li>• Knowledge of accounts is a very basic skill for being a lawyer and running a business especially a business handling client money.</li> <li>• Don't need to go overboard. A fairly simple spread sheet suffices in my practice.</li> </ul> <p><b>No</b></p> <p>Re q16:use of accountants will alleviate pressure on CILEx members</p>
<p><b>IPS response</b></p> <p>IPS agrees with respondents and their support for the accounts course. Competence in accounts is essential for a successful practice that protects client money and manages organisation finances.</p>

<b>Q17.Do you agree with the proposed accounts competencies and the assessment criteria? If not, please set out your reasons.</b>		
Yes	No	Don't know
9	3	2
<p><b>Yes</b></p> <ul style="list-style-type: none"> <li>• But greater emphasis should be placed upon use of personal computers to run the accounts facility</li> <li>• Appropriate to the size of the firm.</li> <li>• Reservedly. What market research has been undertaken to establish CILEx members' accessibility to meeting the competencies? Is there to be a change of syllabus and/or additional modules for accounting and practice management?</li> <li>• Again all seems comprehensive and very sensible.</li> </ul> <p><b>No</b></p> <ul style="list-style-type: none"> <li>• I do not agree. I believe experience and a good track record are indicative of competence in this field.</li> <li>• learning about practice management is positive.</li> </ul>		
<p><b>IPS response</b></p> <p>IPS developed competencies in accounts in conjunction with a practitioner experienced in managing accounts of a legal practice and experienced in developing competencies in these area. The practitioner was able to rely upon their experience in developing a proportionate approach.</p> <p>The competencies have been tiered according to the role practitioners undertake in an authorised entity in connection with financial management of the practice.</p> <p>The proposed approach to entity regulations includes proposals that IPS work with entities to provide tools for management and mitigation of risk.</p>		

**Q18. Do you agree that practice rights Certificates should remain valid indefinitely? If not, state why.**

Yes	No	Don't know
11	1	1

**Yes**

- As long as a member demonstrates their CPD/other evidence of continuing development, this should be sufficient to show their continued ability to practice. Should a member not be able to demonstrate this, then certificates may be withdrawn.
- Subject to annual CPD requirements and the ability to demonstrate competence through outcomes focused regulation.
- As long as CPD is upgraded to include practice rights and advocacy.
- Provided the practitioner has not been absent from their field of experience/practice for more than 8 years.
- So long as there is some system to check if people are keeping up their CPD and knowledge on any updates in Practice Management and Accounts etc.

**No**

- Need proof of CPD.

**Unsure**

- I think IPS should be able to spot check applicants at any time and the applicant must do training/CPD to keep their certificate valid, otherwise the certificate can be revoked.

**IPS response**

IPS agrees with the respondents that continued practice can only be permitted subject to completion of CPD. IPS has built CPD requirements into its scheme, which include the withdrawal of certificates where a practitioner has failed to meet their CPD requirement.

**General comments**

- I support the application for rights, but think these should be brought into line with solicitors and barristers for Chartered Legal Executives. Putting restrictions on their area of practice and making them jump through additional hoops before they may do so will not help to change the bigoted and unequal view other have of them. The requirement to provide 2 references in addition to becoming a Fellow will not help – and will solicitors provide such a reference so the applicant can set up in competition? IPS should stand up for equal rights, irrespective of the views of other regulatory bodies. The need to protect the consumer is the same for all lawyers. To this end I do not think the approach is appropriate, especially given in not all reserved activities will the applicant need to be a Fellow – how does this protect the consumer? Unqualified lawyers should have to demonstrate competence but Fellows should not be so burdened. Fellows should be able to judge for themselves what they are competent to do. I don't believe that allowing anyone who ever worked in legal

practice to be able to apply for rights was the intention of the LSA and is likely to increase actions for incompetence, pushing up indemnity insurance. Rights should be for Fellows only and the hoops are drawn too narrowly. It would be easier and less hassle to qualify as a solicitor.

- (LeO) We do not take a firm view on which activities IPS should be able to regulate. However, we would like to emphasise that the standard of work provided by an authorised person and the level of redress available to clients should be consistent across the legal sector. This should be regardless of who the legal practitioner is regulated by.

**IPS response**

IPS notes the comments made by the first respondent. It carefully considered the approach it should take to the award of practice rights. IPS believes the competence based approach is necessary to deliver consumer expectations and also to ensure practitioners are independently assessed as competent before being authorised.

The competence based assessment approach will ensure that IPS regulated practitioners are competent to at least the same standard as other practitioners. IPS has set competence at Level 6, which is honours degree standard.