

**REPORT TO:** CILEx REGULATION BOARD

**FOR:** DECISION/DISCUSSION

**DATE:** 20 NOVEMBER 2018

**REPORT TITLE:** OPERATIONAL PERFORMANCE REPORT

**SUBMITTED BY:** **Stuart Dalton, Director of Policy and Enforcement**  
**Vicky Purtill, Director of Authorisation and Supervision**

**PURPOSE OF REPORT:**

1. To present the revised Business Plan and report against Business Plan targets.

**KEY ISSUES FOR CONSIDERATION:**

2019-20 Business Plan

2. **Appendix 1** sets out the revised Strategy with a proposed change to the Mission Statement. External feedback on the objectives is it would benefit from being turned into plain English, if Board are supportive of this.
3. **Appendix 2** sets out the new Business Plan to fulfil the revised strategic objectives the Board approved in September. The operational Business Plan is saved on sharepoint should Board members wish to delve into the operational detail. **Appendix 2a** is a business plan template which will be used to present an update to Board at a strategic level rather than operational.
4. **Appendix 3** sets out the Business as Usual list which has been updated. It highlights to Board the volume of required business which must be delivered in addition to the transformative changes the Board are seeking through the Strategic Objectives.

Governance

5. Regulator independence: A working group has been set up and its first meeting took place on 23 October with the aim of modelling the financial and governance options. Proposals will then be brought to Board. The aim is for an implementation plan to be finalised for 1 April 2019.
6. CILEx Byelaws: CILEx Regulation assisted CILEx in drafting revised Byelaws to ensure they were appropriately drafted in relation to regulation. It was also a goodwill gesture to help with relations with CILEx in the context Simon Garrod, CILEx Director of Policy and Governance, was not available to do the work in the timescale. CILEx agreed to obtain legal vetting of the proposed Byelaws before they are presented to the Privy Council.
7. Group governance structure: Discussions on ensuring effective communication and relations whilst protecting regulator independence. Protocol changes need to await the outcome of independence decision-making and the LSB's new Internal Governance Rules (IGR)

8. Internal Governance Rules (IGR): A briefing will be provided to the Board once the draft IGR are published for consultation. The LSB has confirmed a 12 week consultation period starting in November.

#### Service Catalogue

9. CRL have provided detailed feedback on what is needed and desirable from the shared services. Services in relation to Education, Membership and Marketing are not provided by Group Services and therefore will form part of separate discussions which will commence after the Protocols have been agreed.

#### Meeting the regulatory objective in relation to the consumer and diversity

10. The LSB has published their report for all regulators on progress with the CMA requirements. The report in relation to CRL was positively framed with no criticisms. The LSB published that of the 10 high level priorities CRL has completed five and they were satisfied with the progress for the other five. The latest CMA action plan is attached as **Appendix 5**.
11. CRL are awaiting the outcome of the Diversity submission to the LSB. The latest equality and diversity action plan is attached as **Appendix 6**.

#### Meeting the regulatory objective in relation to diversity

12. We are awaiting the outcome of the LSB's review. We provided the self-assessment and evidence in September 2018.

#### New website

13. The development of the new corporate website is continuing and the launch is expected at the start of the new year.

#### Information Governance and GDPR

14. CILEx Regulation is a data controller, registered with the ICO. CILEx legal advice is that CILEx should be the data controllers for CRL and the CLS. The advice suggests that there is a level of liability to the parent from the subsidiary data controller. CILEx is seeking separate legal advice on any liability which could arise from the current governance arrangements.

#### Communication, Engagement and the Consumer

15. SMT has started work on a Communications and Engagement Strategy.

#### Enforcement

16. The new team are settling in well, with a final investigator appointed and set to join the team in December. There was a backlog of cases given the turnover in the team. The prior conduct backlog has been impressively reduced since the new Investigation Manager started and is now in hand. The misconduct backlog is being addressed through a risk prioritisation methodology (19 cases to go

through this process). A verbal update on progress with the backlog will be provided at the Board.

#### Barriers to entity growth

17. Work continues to address the barriers to entity growth. An update on marketing progress is provided separately.
18. The ancillary insurance solution has been provided to relevant entities and we have received no negative feedback.
19. The lender panel issue remains live and this is reflected in the risk rating. We continue to discuss the issues with relevant parties. In the longer term, this issue may be resolved by using emerging technologies such as the electronic escrow solution discussed at the Board's October Roundtable.

#### Entity/ABS Delivery Plan update

20. CILEx has now nominated 2 members for the ABS Working Group (Phil Sherwood and Helen Munro).
21. We continue to receive updates from the Ministry of Justice in relation to the delays to the laying of the required Orders before Parliament. The last update, received on 23 October 2018, states that there is still no date agreed for the Designation Order or the Section 80 Order and that the Designation Order is now unlikely to be scheduled before the end of the year. Our contact at the MoJ has a meeting with Lucy Frazer QC MP to discuss this matter, and the MoJ confirms that it is still seeking to get the Order through in time for the 1 April 2019 commencement date, but time is becoming tight to secure this date. Should this date not be met, the next commencement date will be 1 October 2019, and we will be unable to licence ABS entities prior to that date.
22. The LSB is currently consulting on the Section 80 Order, this closes on 16 November 2018. This Order is an affirmative Order and it is expected that this Order will not be laid before Parliament as quickly as the Designation Order (a negative Order). The Section 80 Order provides CILEx Regulation with access to the First Tier Tribunal to enable failed applicants a statutory appeal as a final appeal route. It is likely that CILEx Regulation will require interim appeals arrangements even after designation as a Licensing Authority and CILEx Regulation continues to work with the LSB to identify an appropriate solution to the appeals requirement.

#### Operational performance July to September 2018

23. A review of the key performance measures did not identify any significant gaps. All staff were asked as part of this process.
24. The data on operational performance in Q3 is attached at **Appendix 4**. At the end of Q4 we will have two complete years' data, which will enable a better comparison. We will produce a more detailed graph-based analysis after Q4. We will also seek views on which statistics are most valuable and any that do not provide significant insights/performance intelligence.

25. Numbers of regulated individuals: Fellow numbers stand at 8,394; the highest in the last two years. Over the last two year period the overall regulated member numbers remain stable at c.20,100. Student and Associate Prosecutor numbers have reduced over this period.
26. Practitioner: All practitioner applications are on target to exceed 2017 figures, with advocacy numbers particularly high, although no underlying cause has been identified for this increase. Further increases in individual practitioners may be expected in 2019 if the Qualification Route for Established Fellows proceeds as planned (see Education report). As a precursor to entity applications, increasing the number of individual practitioners is encouraging.
27. Entities: The number of entities is 13, up from 10 this time a year ago, although lower than budget. This is considered separately in the marketing paper.
28. Prior conduct: The average number of weeks to delegated decision has improved to 3 weeks. The Enforcement Team have done an excellent job in September of clearing a backlog of cases where information had been requested but had not been supplied.
29. Conduct complaints: All three quarters in 2018 have seen higher levels of conduct complaints than in previous years.
30. Corporate complaints: There has only been one stage 2 complaint this year and it was not upheld.
31. Comms & Engagement: Website, Twitter and LinkedIn user numbers have all increased significantly in the last two years. However, Regulation Matters users and sessions have reduced slightly.
32. Staff turnover: 35% for 2017 and 29% YTD. We have asked HR for an analysis of exit interviews to determine if there are any lessons. We will be producing an Organisational Development Plan that will cover retention.
33. Staff training
  - Vulnerable client training: Took place on 5 September 2018.
  - Sponsored qualifications: CILEx Regulation continues to sponsor a number of staff through CILEx qualifications and other professional qualifications.
  - Mindfulness: 6 week course offered to staff by the Group.
34. Finance: YTD – end of Q3:

|           |            |
|-----------|------------|
| Actual:   | £1,012,652 |
| Budget:   | £1,177,065 |
| Variance: | -£164,413  |
35. Performance reporting to LSB: The LSB received a further dataset in October 2018.

## **RECOMMENDATION:**

That the Board:

- Approve the change to the Mission Statement and changing the strategic objective wording to plain English.
- Consider progress in Q3 against Business Plan objectives.

## **APPENDICES:**

**Appendix 1:** Strategy

**Appendix 2:** Draft Business Plan

**Appendix 2a:** Strategic Dashboard

**Appendix 3:** BAU list

**Appendix 4:** Q3 Operational performance data

**Appendix 5:** CMA action plan

**Appendix 6:** EDI action plan

**Appendix 7:** ABS action plan