

# ANNEX 1: CILEx LAWYER (CIVIL LITIGATION)

A CILEx Lawyer (Civil Litigation) must follow the Chartered Legal Executive (Civil) route to qualification as being a CILEx Fellow is a prerequisite of practising civil litigation independently.

The technical knowledge requirements are set out below and must be coupled with the general qualification route to Chartered Legal Executive status. Where knowledge requirements have been met as part of the route to qualification as a Chartered Legal Executive, this need not be repeated.

Practitioner knowledge requirements should be set and assessed at Level 6 as a minimum

In addition to demonstrating this knowledge, individuals must also demonstrate the requirements set out in the competence framework, contextualised for their area of practice.

**KNOWLEDGE REQUIREMENTS:****GENERAL KNOWLEDGE REQUIREMENTS FOR ALL CILEx PRACTITIONERS**

<b>MINIMUM CONTENT:</b>
<b>STAGE 1</b>
Introduction to law and legal practice
Introduction to dispute resolution
Introduction to conveyancing
Introduction to criminal practice
Introduction to wills and probate
Introduction to public law
Introduction to human rights law
Introduction to legal technology
Conduct and professional ethics
<b>STAGE 2</b>
Contextualised legal technology
Conduct and professional ethics
<b>PRACTITIONER</b>
Basic accounts
Specialist legal technology
Conduct and professional ethics

**TECHNICAL KNOWLEDGE REQUIREMENTS SPECIFIC TO A CILEx LAWYER (CIVIL LITIGATION)**

<b>MINIMUM CONTENT:</b>
<b>Contract law</b>
The core principles of the law of contract including;
The requirements of a legally binding contract
Determining a party's intention to create legal relations
Understanding 'Consideration'.
Understanding Privity of contract and the rights of third parties
Determining the terms of a contract – both express and implied terms, including certainty

Understanding the implications of Exemption clauses and unfair terms
Understanding Misrepresentation and mistake
Determining whether Duress and/or undue influence arises
Understanding Illegal contracts
Determining the discharge of a contract
Understanding the legal and equitable Remedies for breach of contract that may arise, including interpretation of terms and performance
<b>Tort law</b>
The core principles of tortious liability and sources – cases, statutes or regulations.
Understanding the objectives of the law of tort
Understanding vicarious liability
Understanding Trespass
Understanding Negligence, including causation, duty of care and remoteness (of damage)
Understanding Employers' liability
Understanding Occupiers' liability
Understanding Nuisance
Determining defences including consent and contributory negligence
Remedies, including damages and injunctions
<b>Civil litigation</b>
Understanding Alternative Dispute Resolution (ADR) – methods and their appropriateness as a means of dispute resolution
Main underlying features that enable litigation, including courts' structure
The portals
Pre-action steps before a claim is issued, (including ADR)
Understanding limitation, joinder
The stages of proceedings in court, including jurisdiction and, which court
Drafting Statements of Case
Understanding when a matter can be terminated without a trial
Track allocation system, directions
Disclosure
Key steps made in the progress of a matter to trial
Interim applications

Evidence, drafting witness statements and drafting applications
Offers of settlement
Trial procedure and preparations for trial
Orders and judgments, enforcement and appeal
Costs and Funding
<b>Evidence</b>
Rules and principles of evidence as they operate in civil proceedings
Drafting witness statements
Expert evidence – appropriate use, adducing
Throughout to demonstrate an ability to act honestly and with integrity and in accordance with the principles of professional conduct rules

## COMPETENCE REQUIREMENTS:

### 1. APPLICATION OF LAW AND PRACTICE

- ✓ Undertake legal research
  - Use relevant sources and appropriate research tools
  - Apply current law to the research problem
  - Record and present findings accurately and clearly
- ✓ Critically analyse facts and law
- ✓ Synthesise all relevant information to provide advice
- ✓ Find solutions where possible
- ✓ Draft legal documents
  - Apply the principles of good drafting to produce clear, unambiguous and accurate documents with appropriate language structure and formatting and which meet all formal and legal requirements
  - Select forms and precedents and use, adapt and edit them in a way that is appropriate to the claim/defence and the Civil Procedure Rules
  - Draft a document, whether from scratch or by using precedents, that forms a coherent whole and, which reflects the client's wishes and objectives, and where appropriate advances the matter and provides a clear risk analysis

### 2. COMMUNICATION

- ✓ Communicate orally and in writing, clearly and effectively:
  - Choose the most appropriate method of communication, including electronic communication and observing appropriate etiquette
  - Use language tailored to the audience and the purposes of the communication
  - Apply oral communication and listening skills to build trust, ask questions and understand, to provide explanation and advice, as appropriate
  - Produce clear, unambiguous and accurate written communications with appropriate language and structure
  - Demonstrate emotional competence to achieve effective communication
- ✓ Negotiate effectively
  - Identify when negotiation is necessary
  - Demonstrate effective preparation and planning and apply strategies which reflect an understanding of the client's objectives, expectations and risk, and which seeks to manage those appropriately, as far as practicable
  - Identify and evaluate the interests, strengths, weaknesses and risks of other parties who have an interest in the matter being negotiated
  - Choose and explain the most appropriate method of negotiation (e.g. letter, face to face meeting etc.)
  - Identify when it is in the client's best interests to settle and give appropriate advice
  - Take the necessary steps to ensure agreement/settlement reached is clear and lawful
  - Recommend any appropriate ADR process which would be in the best interest of the client and advise the client as to how to pursue a particular ADR process
  - Behave ethically in negotiating agreement or compromise
- ✓ Advocate/oral presentation
  - Apply oral presentation techniques clearly, succinctly and persuasively, appropriate to the audience and focussed and relevant to the context
- ✓ Advocate
  - Apply the rights of audience conduct rules as they operate in civil practice
  - *Chambers rights only*
    - Draft:
      - a skeleton argument using case analysis and theory, and
      - a consent order
  - *Open court rights*
    - Analyse relevant facts and law to achieve effective preparation which anticipates and responds to potential counter arguments and challenges, and which advances the client's case
    - Apply principles of good writing and drafting in the preparation and presentation of written submissions

- Make oral presentations clear, succinct, focused, relevant to the context, persuasive and appropriate to the audience
  - Respond to arguments and questions presented during a hearing
  - Demonstrate courtesy and respect for equality and diversity
  - Examine, cross-examine and re-examine appropriately, using emotional competence
  - Identify when it is appropriate to adduce expert evidence and challenge expert evidence effectively
  - Demonstrate good practice when dealing with vulnerable clients and witnesses
  - Deal effectively with uncooperative witnesses
  - Identify issues of ethical and professional conduct and take appropriate action
  - Act according to the requirements of court etiquette and conventions of advocacy
- ✓ Develop, maintain and manage 3<sup>rd</sup> party relationships
    - Work both independently and as part of a team
    - Conduct effective interviews with potential witnesses
    - Deal with others involved in a matter appropriately, professionally and ethically
    - Provide others involved in a matter with appropriate information, instructions and guidance
    - Identify, and where appropriate, instruct an advocate or expert

### 3. CLIENT RELATIONSHIP

- ✓ Take instructions
  - Conduct effective interviews with a client to achieve a full understanding of the facts and the client's objectives
  - Identify and obtain all relevant information , and where appropriate, investigate relevant facts
  - Recognise when information is missing or held by a 3<sup>rd</sup> party and seek to obtain the necessary consents to acquire it
  - Identify what evidence is required to advance the client's case and takes steps to acquire
  - Identify and apply any specific requirements relating to minors and/or vulnerable clients
  - Identify actual or potential conflicts and act accordingly
- ✓ Evaluate options and risks to the client
  - Analyse the strengths and weaknesses of the client's claim/defence
  - Identify issues, including the client's personal circumstances, which may impact on the achievement of the client's objectives
  - Formulate a case strategy which is compatible with the client's objectives and is legally and procedurally sustainable
- ✓ Give advice
  - Communicate clear, accurate and practical advice both orally and in writing on matters relating to law, procedure, strategy and prospects of success

- Be aware of and apply the practice rules relating to contentious and non-contentious costs and give clear accurate and regular advice on costs issues arising in the case
- Provide clear and accurate advice on funding options including private funding, public funding, insurance, conditional fees and other types of 3<sup>rd</sup> party funding
- ✓ Provide good customer service
  - Identify the steps which need to be taken to achieve the client's wishes or further their objectives as far as practicable, and plan and implement their progress
  - Communicate with the client on progress towards achieving their objectives, including risks which have not previously been identified

#### **4. EFFECTIVE WORKING PRACTICES**

- ✓ Progress matters
  - Deal with matters without causing delay
  - Identify and manage risks, as far as practicable, to the achievement of the client's objectives
- ✓ Plan workload and manage files
  - Plan and prioritise workload and manage files and tasks concurrently and efficiently, making best use of resources and exercising effective judgement
  - Maintain files and records in accordance with office and regulatory procedures
  - Seek support where necessary
  - Manage financial transactions on the file
- ✓ Project manage
- ✓ Understand and utilise innovation (entrepreneurship) where appropriate

#### **5. BUSINESS AWARENESS**

- ✓ Identify and evaluate options and risks to the business in which you work
- ✓ Undertake business development
- ✓ Network
- ✓ Identify marketing opportunities
- ✓ Understand and use financial management tools

#### **6. SELF DEVELOPMENT**

- ✓ Reflect and self-evaluate, including understanding your own limitations and the need for adaptability.
- ✓ Develop awareness of the role of your own emotions within the workplace and recognise the emotions and vulnerabilities of clients.
- ✓ Foster personal physical and mental wellbeing and contribute where possible to a positive workplace environment.
- ✓ Demonstrate leadership and management skills.
- ✓ Identify and undertake professional development necessary to ensure competence and good practice and a commitment to supervisory requirements.

## **7. CONDUCT, ETHICS AND PROFESSIONALISM**

- ✓ Understand and put into practice the CILEx Regulation Code of Conduct and the CILEx Rights of Audience Conduct Rules
  - Apply professional obligations in a diverse range of situations relating to substantive law and the rules of professional conduct
  - Apply obligations to the court, clients, other lawyers and the public
- ✓ Understand and put into practice all relevant legal and regulatory requirements (e.g. data protection, anti-money laundering legislation and regulation, conflicts, withdrawal from a case, undertakings, confidentiality and privilege)
- ✓ Understand and put into practice the principles of client care
- ✓ Provide certainty and clarity as to the legal services being provided and the basis of charging and draft compliant care letters
- ✓ Understand and put into practice complaint handling requirements
  - Apply the conduct rules
  - Take the necessary steps required in the event that a mistake (or an act of negligence) has occurred
- ✓ Understand and put into practice, principles of equality, diversity and inclusion, including the needs of vulnerable consumers
- ✓ Identify situations where ethical, legal or regulatory requirements are engaged and take appropriate action
- ✓ Resist pressure to condone, ignore or act unethically

## **8. USE OF TECHNOLOGY**

You will be able to:

- ✓ Use available technology as it is used in civil litigation and advocacy
- ✓ Identify uses for emerging technology in civil litigation and advocacy and recommend its implementation where appropriate
- ✓ Understand ethical challenges of technology and use technology ethically