

CILEx Regulation Email Service Policy

CILEx Regulation generally corresponds with all parties via email, unless the intended recipient specifically requests otherwise. However, Rule 5(1) of the CILEx Regulation Enforcement Rules 2018 (the Enforcement Rules) currently requires certain information (“notices”) to be given (“served”) by sending it via first class post, delivering it by hand, or by any other means directed by the Professional Conduct Panel (PCP), Disciplinary Tribunal (DT) or Appeals Panel (AP) of CILEx Regulation.

The purpose of this policy is to extend the way in which those notices can be served under Rule 5(1), to include sending the information electronically by email. It is produced in accordance with Rule 5, which allows CILEx Regulation to adopt a written policy about the types of electronic service that would be effective under Rule 5(1) and should be read in conjunction with the Enforcement Rules and its associated annexes.

The definitions contained within Enforcement Rules apply to this policy. Any reference to a “Rule” within this Policy is a reference to a section of the Enforcement Rules.

Who does this policy apply to?

This policy applies to any person required to give or receive a notice under the Enforcement Rules including, but not limited to, CILEx Regulation, Applicants, Relevant Persons, complainants and the Clerks to the PCP, DT and AP.

What types of notices does this policy apply to?

This policy applies to any notice that has to be given under the Enforcement Rules, which must be served in line with Rule 5(1), including:

- Notifications by CILEx Regulation to Applicants, Relevant Persons and the PCP of any delegated decisions made in respect of prior conduct matters under Rule 13(1)(e);
- Notifications by CILEx Regulation to an Applicant, or Relevant Person, that their prior conduct matter has been referred to the PCP;
- Notice of misconduct investigations by CILEx Regulation to Relevant Persons;
- Notices by CILEx Regulation to complainants and Relevant Persons of an Investigator’s decision to reject an allegation without further reference to the PCP;
- Notices by CILEx Regulation to complainants and Relevant Persons of an Investigator’s decision to refer an allegation straight to the DT;
- Notices of Applications by CILEx Regulation for Interim Orders;
- Notice by CILEx Regulation to the DT Clerk and Respondent(s) of an application for a DT hearing, including notice of the charges and particulars of the allegations being presented by CILEx Regulation to the DT;

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- Notice by parties to DT proceedings of the witness statements, facts and documentary evidence being relied on;
- The provision of DT hearing documentation by the parties to the proceedings, including the witness statements, facts and evidence being relied;
- Notice by a party to DT proceedings of any challenges to the witness statements, facts and documentary evidence being relied on by another party;
- Notice of appeals;
- The provision of any documents an appellant wishes to rely on for an appeal;
- Notifications of PCP, DT and AP decisions and orders;
- Notifications by CILEx Regulation under Rule 37 of decisions made about a person it regulates to their employer(s), an Authorised Entity, a Legal services body within the meaning of s.9A of the Administration of Justice Act 1985 and/or any other regulatory or oversight body.

Service by electronic means

In addition to the means set out in Rule 5(1), any notice required to be given under the Rules may be given to a person, or that person's representative by sending it from a relevant email address to the other person's relevant email address, subject to the general requirements and exclusions set out below.

CILEx Regulation will aim to serve by email all notices that it is required give under the Enforcement Rules, in line with this policy, unless the party entitled to receive the notice specifies otherwise, or it is not reasonably practicable to do so.

Relevant email addresses

A relevant email address is any one of the following:

1. CILEx Regulation

- The company email address for the Investigation Manager, or an Investigation Officer of CILEx Regulation in the following format:
firstname.lastname@cilexregulation.org.uk; or

Any other email address provided by CILEx Regulation for the purpose of its investigations and enforcement activities.

2. Applicants and Relevant Persons

- a.) Where the Applicant or Relevant Person is an individual, their email address last known by CILEx Regulation, which may include:

- Their work or personal email address set out in their CILEx membership record, or in any application forms or correspondence with with CILEx Regulation or any other CILEx group company;
- Any other email address the Applicant or Relevant Person provides to CILEx Regulation specifically for the purpose of communicating with CILEx Regulation, including the email address(es) of any representative(s); or
- Any email address(es) provided by Applicant or Relevant Person’s representative(s) in its communications with CILEx Regulation.

b.) Where the Applicant or Relevant Person is not an individual, the last known email address of the Applicant or Relevant Person, or of any its directors, partners, managers, Approved Managers or Compliance Managers, which may include:

- Any email address set out in the CILEx membership record of any of the persons mentioned at point “b.” above, or in any of their application forms or correspondence with CILEx Regulation or any other CILEx group company;
- The email address of any of the persons mentioned at point “b.)” above as set out on the Applicant or Relevant Person’s official website;
- Any other email address the Applicant or Relevant Person provides to CILEx Regulation specifically for the purpose of communicating with CILEx Regulation, including the email address(es) of any representative(s); or
- Any email address(es) provided by the Applicant or Relevant Person’s representative(s) in its communications with CILEx Regulation.

3. Complainants

- The email address provided by the complainant in their complaint form to CILEx Regulation;
- The email address last used by the complainant to communicate with CILEx Regulation;
- Any other email address the complainant provides to CILEx Regulation specifically for the purpose of communicating with CILEx Regulation, including the email address(es) any of their representative(s); or
- Any email address(es) provided by the complainant’s representative(s) in communications with CILEx Regulation.

4. The Clerks to the PCP, DT or AP

- The CILEx Regulation email address for the relevant Clerk in the following format:
firstname.lastname@cilexregulation.org.

General requirements

- Where a relevant email address is given in conjunction with a postal, document exchange (DX) or other address, the email address will be deemed to be the correct address for service, unless the party entitled to receive the notice specifies otherwise;
- A party serving a notice under the Enforcement Rules must have regard to the email and communication preferences of the person entitled to receive the notice. The preferred address for service should be used if one is indicated;
- Each party to whom this policy applies must ensure that their contact details and communication preferences are kept up to date and that any changes are notified to the relevant parties as soon as practicable;
- Any person who wishes to send/receive a notice via a third party's email account must ensure that they have the necessary permissions to use that third party's account for communicating with CILEx Regulation;
- A party who serves a notice by email in accordance with this policy need not in addition serve a hard copy by post or DX or by hand; if a party subsequently sends a hard copy of a notice that has already been served by email in accordance with this policy, the notice served by email will take precedence unless the sender specifies otherwise;
- Any information that is required to be given as a notice under the Enforcement Rules should be typed or handwritten where possible and either included within the body or attached to the email;
- Information contained within a hyperlink to a separate website should be downloaded and attached separately or inserted within the body of the email where possible;
- Emails may also include images, screenshots, photographs, videos, animations and audio recordings in the following file formats: Adobe PDF, Microsoft Word, Excel, PowerPoint, JPEG(JPG), BMP and PNG MP3 and WAV. MP4 and MOV. Any Apple Mac (OSx & iOS) and Open Office documents must be saveable in a passable Microsoft format.
- The maximum permitted size of any email notice sent to CILEx Regulation, including any attachments is 100Mb. Each attachment must not exceed 25Mb on its own.
- All parties, other than CILEx Regulation, must confirm upon request, the maximum permitted size of any emails and attachments they can receive by email.
- Matters of a sensitive, highly personal nature should be attached separately and password protected where possible;
- Any password protected material will not be deemed served until the correct password to access the material has been sent to the party entitled to receive the notice in accordance with Rule 5(1) and/or this policy;
- A party serving a notice under this policy may be required to produce on request an email delivery receipt as proof of email transmission.

Excluded forms of electronic communication

The following types of electronic notices are excluded from this policy and may be disregarded and deleted if received by a party to whom this policy applies:

- Notices sent from any social media pages (including, but not limited to, LinkedIn, Facebook, Instagram, Snapchat, WhatsApp and Twitter), unless they are sent via email from a relevant email address to a relevant email address which meets the general requirements set out above;
- Notices sent to/via fax;
- Telephone messages (including, but not limited to, messages given during live calls, voicemails, answer machine messages, SMS texts and other forms of instant messaging), unless they are transcribed or captured as an image or recording and sent via email from a relevant email address to a relevant email address, which meets the general requirements set out above;
- Any notices containing material that is offensive, obscene, discriminatory, inconstant with CILEx Regulation's unreasonable behaviour policy, or otherwise inappropriate, unless it forms a substantial part of the matter being dealt with by CILEx Regulation;
- Any notices formed mainly or wholly for advertising or promotional purposes, unless it forms a substantial part of the matter being dealt with by CILEx Regulation;
- Any notices that contain or require software to be downloaded or installed (other than the software programs and file formats identified in the general requirements above);
- Any notices containing viruses, spyware or other malware.

Deemed service

Any notice that is served by email in accordance with this policy is deemed to be served on the same day that the notice is sent.

Where it is satisfied on reasonable grounds that it is in the public interest to do so, the PCP, DT or AP (as the case may be) may:

- deem service effective even though the requirements of this policy and/ or Rules 5(1) have not been complied with;
- dispense with the requirement for service altogether; or
- make an order for substituted or alternative service on such term as it considers appropriate.