



PAPER FOR CILEX AND CILEX REGULATION BOARDS, JUNE 2020

Internal Governance Rules: compliance assurance report

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Date:

6 June 2020

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INTRODUCTION

The purpose of this paper is to:

1. To assure the Board of CILEx Regulation/CILEx's compliance with the Internal Governance Rules 2019 (IGR).
2. To highlight areas that may require further work in the future.

ASSURANCE AND SIGN-OFF

We have been working with CILEX Regulation and CILEx on implementing the new IGR since September 2019. The transition period officially ends on 23 July 2020, but it is our view that both organisations are fully compliant with the IGR and therefore we are now able to ask both Boards to sign-off on this compliance. We are also fully confident that there is a robust infrastructure in place to fully implement, monitor and evidence compliance with the IGR going forwards. We have compliance and issue resolution processes in place and there will be regular meetings at officer and NED level to focus on IGR and greater independence issues.

We have taken a 'good-enough' approach, which is to say that we believe we are fully compliant in all areas and have met all of the LSB's requirements. In some areas we have gone beyond the requirements and some excellent work has been produced as part of this project. There are a couple of areas that we believe require some refining and they will be revisited as part of an IGR Stage 2 phase, post-implementation. This is not due to any doubts regarding the robustness of the compliance, more from the perspective that processes could be adapted to be made more practical and less bureaucratic from a business-user perspective, but this is only really possible to achieve in a live environment with live examples.

We would like to commend the efforts of the Working Group and particularly the two project leads, Stuart Dalton and Simon Garrod, for their commitment, hard-work and pragmatic approach. This project has demonstrated how it is possible for CILEx and CILEx Regulation to work together for mutual benefit, whilst maintaining their independence and reflecting their own needs and priorities.

Signing-off on IGR compliance marks the end of one project, however, CILEx/CILEx Regulation now move on to another significant stage of work: 'live' implementation, refinement and improvement of the IGR processes and arrangements. They also have the opportunity to seize the existing goodwill and momentum to focus on moving towards even greater regulatory independence.

REMAINING CHALLENGES

Whilst we are satisfied that we have reached compliance, there are a few areas which provide some remaining challenges which will need to be considered post-compliance in 'Phase 2 of the IGR':

- The second stage of training needs to be created and rolled out. The online module that has been issued to all staff and NEDs was designed to



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provide a general level of awareness to everyone. This went beyond what the LSB requested for compliance purposes, but we felt that it was important to raise awareness amongst everyone with a view to educating and helping to avoid accidental breaches. The second stage of training will focus solely on those identified as being in a position 'to influence'. This training will be delivered, when social distancing allows, face-to-face which will allow for greater detail, group discussion and specific examples. It will be delivered jointly by CILEx Regulation/CILEx.

- There are some remaining actions within the area of procurement. A procurement policy was not required in order to be IGR compliant, although clearly it is desirable from the perspective of both organisations to develop one. This will be a primary focus of the post-implementation phase and discussions have already begun.
- Whilst the devised IGR procurement processes and risk assessment are compliant, they are perceived as burdensome. We hope that by running live examples through the processes it will be possible to refine these to simplify. The LSB may also provide further clarification which could help reduce the burden, they were unwilling/unable to provide this pre-compliance deadline, but this stance may change post-July.

RECOMMENDATIONS AND CONCLUSIONS

The process of achieving IGR compliance has taken more work and resource than first envisaged. Whilst CILEx/CILEx Regulation have all the necessary expertise to hand, they do not have 'deputies' or back-up options in-house, therefore a number of Working Group members, particularly the two project leads, have had to manage a significant amount of IGR project work, a situation exacerbated by the additional challenges and increase to their BAU workload created by COVID-19. Whilst we make this point in part to honour the efforts made by the IGR Working Group, we also make it from the perspective of resource planning for the future. Implementing the IGR is the first challenge; the second, ongoing challenge, is that of improving the arrangements and monitoring IGR compliance and reporting. This will be less deadline-intensive than the work we have just completed, but it is a continuing cost to be associated with IGR compliance which will need to be factored into operational arrangements.

The LSB may have decided against a ban on shared services this time around, but with this iteration of the IGR they have certainly made them a much less attractive proposition. The majority of the 'IGR compliance burden' falls within the area of shared services with some seemingly onerous requirements. COVID-19 has raised many questions around what a workplace is and how it might function in the future, we suggest that as the organisations develop their thinking around this that the approach to shared services is revisited as part of the conversation.

Part of our original remit was to consider the issue of greater regulatory independence, going beyond the recommendations of the IGR. Whilst IGR compliance has had to take precedence over this



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workstream we have shared some 'greater independence' thinking with the project leads to follow-up on post-implementation, if desired. We recognise that nine months have passed since our original brief, and much has changed both internally and externally; we are now all operating in an environment which may well present different challenges and priorities to that of a year ago. We recommend that CILEx and CILEx Regulation take a brief pause to reassess their specific needs and desired outcomes from a potential 'Greater independence project', especially now that baseline 'independence' has risen due to the IGR implementation work. Progress towards greater independence has already been made during this project, and this can be usefully built upon in the future.

Whilst the LSB has confirmed that they have no plans for further independence moves in the next three years, CILEx/CILEx Regulation are in a strong position to use this time to help the LSB define the shape this independence takes and lead the sector by example, especially if they can capitalise on the positive momentum created by the IGR project. Compliance with the IGR is just the first very necessary step towards the much more ambitious objective of defining and achieving even greater regulatory independence.