

Alternative Route to Practice Rights - Tender Details

PART 1

1.1. Introduction

CILEx Regulation is the independent regulator for Chartered Legal Executives (Fellows), other grades of CILEx membership, CILEx Practitioners and Firms. As part of our review of our qualifying requirements and aligned to our strategic objective of strengthening the diversity of our profession through flexible and agile regulatory models, we propose to introduce an additional route by which Fellows can achieve authorisation to work in specialised areas. This is described more fully in Part 2 of this document.

We intend to appoint an organisation, either on their own account or as part of a consortium, to develop and deliver training and an assessment of competence in the specialised practice areas of:

- Civil Litigation*
- Criminal Litigation*
- Conveyancing Practice
- Family Litigation*
- Immigration Practice
- Probate Practice

*Fellows would also need to complete the advocacy training programme as currently required. Bidders are not required to include provision for advocacy training or assessment. Details as to how our current requirements for advocacy are met are [here](#).

Bidders are invited to provide responses, and where required supporting evidence, to the Statement of Requirements which is available on request. To assist in preparing their bid, bidders will find detailed information about the current education, training and experiential requirements for qualification as a Chartered Legal Executive on our website [here](#). This invitation to tender follows a consultation on granting additional practice rights for established Fellows: the consultation is available [here](#).

The Rules and Handbook Guidance for Practice Rights which specify the current requirements for acquiring additional practice rights are available on our website:

Area of Practice	Rules	Handbook
Conveyancing	Link	Link
Probate	Link	Link
Immigration	Link	Link
Litigation & Advocacy for civil proceedings	Link	Link
Litigation & Advocacy for criminal proceedings		Link
Litigation & Advocacy for family proceedings		Link

Key dates

The Legal Services Board has now approved the first stage of the rules for an alternative route to practice rights for established Fellows. The next stage of the implementation of this scheme involves the appointment of a training and assessment provider to develop the scheme including sample assessment materials, proposals for training and assessment and a pilot of the resulting provision. CILEx Regulation intend to submit a further application to the Legal Services Board in September 2021 following the outcome of the pilot, with a view to rolling out the new route to practice rights at the end of 2021.

The table below sets out the key dates.

Date	Requirement
8 January 2021	Closing date for clarification questions from bidders
22 January 2021	Closing date for submission of responses
February 2021	Consideration of responses by CILEx Regulation
15 February 2021	Notification of shortlisted bidders and next steps

1.2. Clarification

We are happy to accept clarification questions from bidders. Clarification questions should be sent to Danielle Ingle, Practitioner Authorisation and Supervision Team Leader (danielle.ingle@cilexregulation.org.uk). Please note the closing date for receiving clarification questions is 8 January 2021. In the interests of fairness, we will circulate details of all questions raised to all bidders (anonymised) and our responses.

1.3. Evaluation

We will evaluate responses according to the following equally weighted categories:

Category	Criterion	Statement of Requirement reference
Capability/knowledge experience	<ul style="list-style-type: none"> Has the bidder demonstrated a breadth and depth of experience in developing and delivering training and competence-based assessments? Does the evidence provided demonstrate experience of developing and delivery assessments and training of a similar type and scale? Has the bidder demonstrated knowledge and understanding of CILEx Regulation's qualification framework? If the bidder proposes to sub-contract any element of the assessment and/or training have these been fully identified and their role explained? Has the bidder demonstrated that it will apply effective and robust approaches to 	B.1, B.2, B.3, B.4, B.5, B.6

	<p>standardisation, marking and moderation to ensure reliability and consistency of assessment decisions?</p>	
Delivery	<ul style="list-style-type: none"> • Has the bidder provided details of their proposed training by reference to: <ul style="list-style-type: none"> ○ Outcomes ○ Duration ○ Availability ○ Format ○ Locations • Has the bidder provided details of the design and development of the assessment? • Are the bidder's proposed resources, including staffing, sufficient adequate and appropriately qualified to develop and deliver the assessment and training in the specified practice areas? 	B.2, B.4, B.5, B.6, B.7, C.1,
Quality assurance and risk management	<p>Does the bidder have:</p> <ul style="list-style-type: none"> • policies and processes which ensure the integrity and security of the assessment • policies and processes to assure the quality of the assessment, and training, including checks for validity, reliability, accuracy, and bias • clear and fair policies and processes for complaints, appeals and requests for reasonable adjustments • appropriate, and GDPR compliant mechanisms for collecting data, 	B.3, B.5, B.6, B.7,C.2, C.3, C.4, D.1, D.2,

	<p>storing and destroying data and analysing data for the purposes of standard setting and analysing performance</p> <ul style="list-style-type: none"> • policies and processes to identify and manage actual, potential and perceived conflicts of interest • Does the bid set out key risks and appropriate mitigation? 	
Cost and value for money	<ul style="list-style-type: none"> • Has a breakdown of costs been supplied? • Does the bid set out how the proposal offers value for money? • Are there innovative ideas offered to maximise value for money? 	B.1-6, E.1, E.2, E.3

We will score each category according to the following marking scheme:

	Score	
Excellent	4	The bidder has provided a full response to all requirements and demonstrates a deep understanding of the desired outcomes. The response identifies factors that will offer potential added value and/or innovation. The evidence provided in support is strong.
Good	3	The bidder has provided a full response to all or most of the requirements and shows a good understanding of the desired outcomes. The response identifies factors that will offer potential added value. The evidence provided is good.
Satisfactory	2	The bidder has provided responses to all or most of the categories but there are some aspects which lack detail or clarity. The evidence provided is adequate.
Poor	1	The responses are incomplete or lack detail. The evidence in support is weak or unrelated to the requirements. Major reservations of the bidder's understanding and proposed methodology.
Unacceptable	0	No response given or the response does not address the requirement.

On completion of the shortlisting stage we may invite all shortlisted applicants to make a presentation to the Evaluation Panel.

PART 2

2.1 Background

Our regulated activity includes overseeing the education, qualification and practice standards of Chartered Legal Executives, CILEx Practitioners and others in our regulated community. In carrying out this work we focus education and training on requirements which ensure competence standards.

Under our current regulations to achieve Fellow status, a Chartered Legal Executive must have met the following requirements:

- **knowledge** - completed the academic stage of training: CILEx Level 3 qualifications which are set and assessed at 'A' level standard and CILEx Level 6 qualifications which are set and assessed at university degree standard. (A fast track route is available to graduates with a qualifying law degree); and
- **experience** - undertaken a minimum of three years' [qualifying employment](#); and
- **skill** - demonstrated competence in the [work-based learning outcomes](#) - a competence- based assessment requiring a demonstration of 27 learning outcomes.

Having achieved Fellow status, an individual is not however permitted to work in a reserved area of activity or a regulated activity unless he or she is supervised by an authorised person. Reserved areas of work include litigation, probate and conveyancing. Immigration is a regulated area of work. The Rules and Handbook Guidance for Practice Rights which specify the current requirements for acquiring additional practice rights are available [here](#).

As part of our work in ensuring that our education and training requirements reflect developments in the provision of legal services and our commitment to a diverse talent stream and enhanced social mobility we want to provide a choice for existing Fellows who wish to be authorised to work in a reserved or regulated area.

We intend to provide the following choice; to either

1. Follow the existing route to authorisation to work unsupervised in a reserved or regulated area as follows:

The current provision

- (a) **knowledge** - achievement in CILEx level 6 examinations or equivalent or through five portfolios covering a range of matters handled in their casework; and
- (b) **Experience** - five years working in the legal sector of which at least two years are in the specialist field; and
- (c) **Skill** - in the practice area by way of one, or a combination of a logbook and portfolio of evidence demonstrating the learning outcomes have been met; or completion of a specified course;

or

The new and alternative provision

2. Acquire additional rights to practice by demonstrating competence in the practice area as follows:

- a) A Fellow with 5 years or more qualifying employment including 2 years' or more experience in the Specified Practice Area may be granted a certificate to practice in that Specified Practice Area provided that he or she meets the following requirements:
 - I. Pass an Assessment in the relevant practice area; and
 - II. Provide Satisfactory Evidence of experience in the relevant practice area.

- b) A Fellow with 5 years or more qualifying employment with less than 2 years' experience in the Specified Practice Area may be granted a certificate to practice in that Specified Practice Area provided that he or she meets the following requirements:
 - I. complete an Approved Course delivered by an Authorised Provider; and
 - II. pass an Assessment administered by an Authorised Provider in the Specified Practice area; and
 - III. provide Satisfactory Evidence of successful completion of the course in the Specified Practice Area and evidence of at least 5 years of qualifying employment.

Relevant experience would be tested by CILEx Regulation through the practice rights application process.

There are currently around 6,500 practising Fellows who do not have specialist practice rights. Although it is unlikely that they will all want to take advantage of this route, it will be open to any Fellow holding a current practising certificate to extend the rights held. It is a route also open to any Fellow who has qualified via the apprenticeship route.

2.2 The training

There is no expectation that the training would deliver the same outcomes as a sustained period of relevant practical experience in the practice area. Relevant experience will be assessed by CILEx Regulation through the application process. We would however expect the training to focus on the core knowledge and skills required for competent and safe practice in the practice area and have the following outcomes which would be assessed in the assessment:

- Level 6 knowledge of the law and practice in the specialist area
- Competence in the relevant skills for the specialist practice area:
 - client care
 - research
 - drafting
 - letter writing
 - interviewing and advising

We have not otherwise specified the requirements of training; we have asked bidders to provide a training strategy and an outline training schedule as part of their response.

2.3 The Assessment

It is crucial that consumers, the regulator, the profession and other stakeholders have confidence in the assessment and this must drive the decisions to be made as to type of assessment, the standard applied to be assured of an individual's competence, and by who, and how it is delivered.

The choice of assessment must therefore be driven by the following minimum essential criteria:

- Validity - it must measure what it is intended to measure and the inferences and decisions that are made (i.e. the competence of a passing/failing candidate) on the basis of the assessment can be justified. This is achieved by making sure that assessment questions align to the relevant competences.
- Reliability - the results provide confidence that repeated or equivalent assessments would provide consistent results about a candidate's level of achievement. Reliability is essential to the defensibility of the pass mark and outcome for candidates.
- Fair – it is non-discriminatory.
- Feasibility – affordable and efficient.
- Acceptable to stakeholders.

We are confident that the assurance that a Fellow has acquired a breadth and depth of knowledge and skills to an appropriate standard for safe practice in a reserved or regulated area of practice can be robustly and reliably established through objective assessment. We propose the following assessment method:

Assessment type	Competence Assessed	Assessment description	Assessment conditions
Multiple choice/single best answer/multiple response	<ul style="list-style-type: none"> - Knowledge, understanding and application of law and practice - Client relationship - Conduct ethics and professionalism 	Assessment of applied technical knowledge	<ul style="list-style-type: none"> - Closed book - Timed -1.5 hours - 45 questions - Computer-based - Electronically marked
Written and oral practical skills test	<ul style="list-style-type: none"> - Knowledge, understanding and application of law and practice - Client relationship - Conduct ethics and professionalism - Use of technology - Effective working practices - Communication 	<ul style="list-style-type: none"> - Conduct interview with standardised client - Draft/critique legal document - Communicate finding to client in writing 	<ul style="list-style-type: none"> - Timed – 2 hours - Access to online research tools - Completed on a computer - Marked manually - Specific assessment criteria for law and skills competences

We have reached this decision having reviewed assessment methods adopted by other professional and regulatory bodies which, like us, place the protection of the consumer at the heart of their regulatory framework. We will however consider any alternative appropriate fully reasoned models proposed in the bid. The final assessment specification would be drawn up by the appointed provider and subject to our approval.