

## **Waiver Policy**

This document sets out CILEx Regulation's approach to granting regulatory waivers and governs the procedure whereby a regulated individual/entity may submit a request that they should no longer be bound by a certain rule or regulation.

### **Our Position**

In considering our approach to regulation, we acknowledge that legal services provision is changing and that a number of external influences, new business models, and innovative developments are transforming the way legal services are being delivered. We want to be able to ensure that our regulatory framework does not act as a restrictor to use and development of novel forms of legal services provision that can help address consumer needs in a safe manner.

We do not consider the current format of our rules and regulations to be overly restrictive, as we have always endeavoured to maintain a focus on addressing risk in the way we operate. By operating to a Code of Conduct, with any necessary supporting rules and regulations to cover specific risks or to comply with legislative requirements. This means that individuals and firms have flexibility in the way they are able to deliver legal services.

It is with this context in mind that we have produced this policy, which is intended to provide for those unknown circumstances that may lie beyond the scope of our current rules and regulations.

### **Rationale**

We are able to consider waiving any of our rules and regulations, other than those imposed by statute, or those which exceed or contravene the regulatory objectives as set out in the Legal Services Act 2007 (detailed below).

So as not to be overly prescriptive in the ways in which a waiver may be granted, we have structured this policy to be outcomes focused. As such, an applicant is not limited with respect to the rules for which they may request a waiver, nor for what purpose.

This does not mean that a waiver will automatically be granted upon request, but that we are open to accepting applications, with the determination being made on a case-by-case basis.

Any waiver granted will be done so for a fixed duration, as specified by CILEx Regulation in our application response, and agreed by the applicant. This may be extended or reduced depending on the specific circumstances of that case.

All waiver decisions will be published in a public register unless otherwise agreed upon by the applicant and CILEx Regulation, and only in permitted circumstances (see below).

### **Criteria for Granting a Waiver**

As stated above, while we will not seek to restrict the types of waiver applications we receive, there are certain grounds for automatic refusal:

1. We are unable to grant waivers to obligations imposed by statute or any other legislation.

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2. The applicant has other reasonable avenues through which they can achieve their desired result.
3. The waiver requested must be compatible with the regulatory objectives set out in Section 1 of the Legal Services Act 2007. Namely:
  - Protecting and promoting the public interest.
  - Supporting the constitutional principles of the rule of law.
  - Improving access to justice.
  - Protecting and promoting the interests of consumers.
  - Promoting competition in the provision of legal services.
  - Encouraging an independent, strong, diverse and effective legal profession.
  - Increasing public understanding of the citizen's legal rights and duties.
  - Promoting and maintaining adherence to the professional principles.

We expect applicants to outline the ways in which the requested waiver may impact any of the regulatory objectives listed above. This includes situations whereby objective may be furthered, while another is adversely affected.

This information is required as part of the waiver application.

### **Publication of Waivers**

We will endeavour to publish a summary of all our waiver decisions on the CILEx Regulation website.

Any such published decision will cover:

- The waiver requested.
- Whether the waiver was granted or refused.
- The reasoning for the decision.
- The duration for which the waiver has been granted.
- Any other conditions attached to the granted waiver.

However, there are circumstances where publishing a waiver decision may not be the correct course of action. For instance:

- Where named third parties will be impacted by the decision.
- The rights of consumers may be impacted by the decision.
- Disclosing the waiver granted may confer a disadvantage upon the applicant.
- The publication would adversely affect the commercial interests of the applicant.
- The publication contains confidential information.

There may also be circumstances under which limited disclosure may be appropriate, for example by publishing the decision, but omitting the name of the applicant.

These circumstances do not represent an exhaustive list of our considerations, and each application will be assessed on its individual merits.

### **Contact**

If you would like any further information, or would like apply for a waiver, please get in touch with us at [info@cilexregulation.org.uk](mailto:info@cilexregulation.org.uk)