



Strategic Risk Annual Report 2021

Chair's foreword | Andy Burman

While the past year or two have been difficult for all of us, working through a pandemic, we have all adapted and learned to be agile in the way we think and deliver. The work of the SRC has continued and we are delighted that we achieved the ability to authorise ACCA members as CILEX-ACCA Probate Entities.

We also learned about the challenges facing all businesses in the insurance market, as the insurer underwriting the Regulatory Compensation Arrangements withdrew its services. However, this was not an issue unique to CILEX and we continue to manage such risks in new and innovative ways.

The role of the SRC is vital to the independence and success of CILEX Regulation and our work is both unique and challenging. We remain committed to ensuring that CILEX Regulation remains aware of all the challenges the profession faces and has independent oversight to guide it.



Andy Burman
Strategic Risk Committee Chair

Introduction

- CILEx Regulation operates an outcomes-focused, proportionate, and risk-based approach to regulation.
- It is designated to authorise both individuals and entities.
- During 2021 it was designated to authorise ACCA members who wanted to set up a CILEX-ACCA Probate Entity.
- This report outlines the work undertaken by the Strategic Risk Committee in relation to risk in 2021.
- It also identifies areas for development of our risk-based approach to regulation.

The functions of the Strategic Risk Committee

The Strategic Risk Committee (known after as 'the committee') provides an oversight function for the review and application of CILEx Regulation's risk framework and how this should be applied to our entity authorisation processes. In addition, it can consider and decide whether to endorse decisions made by officers to reject or revoke authorisation for CILEx Regulation's firms. It also oversees supervision of both regulated individuals and practitioners.

The committee is made up of five members, comprising both Lay and Professional members, all of whom have helped support CILEx Regulation in its work during 2021. They are Andy Burman, Kim Painter, Sarah Ryan, Vicky Smith and Judith Worthington.

The committee continued to hold remote meetings for 2021 and has remained fully supportive of both the CILEX Regulation staff and the regulated firms. They continued to take a keen interest in staff wellbeing with the transition to a remote workforce.

The committee has expressed a desire to review its effectiveness in 2022.

Individual supervision

Whilst the collection of additional data, to enhance CILEx Regulation's understanding of its regulated community, was completed in 2021, the launch of risk-based supervision through a practitioner risk matrix was delayed again until 2022.

The committee remains fully supportive of the importance of the introduction of the practitioner risk matrix but were frustrated that it had not progressed as anticipated.

Once this work has been completed, it will enable a review of the risks posed by regulated individuals and enable the committee to provide input as to how CILEX Regulation could segment its regulated community to provide appropriate levels of individual supervision, based on that risk assessment.

The committee was provided with an update on the LSB's workstream on ongoing competence which relates to potential enhancements to individual supervision of legal professionals. The committee was able to share their experience of similar schemes and how CILEx Regulation may approach achieving the required expectations.

Areas for development in 2022

- To analyse the first outputs from the risk matrices and then feed these into the review of CILEx Regulation's approach to supervision.
- Continue to advise on approaches to ongoing competence and look at the possible future amendments to CILEx Regulation's approach to supervision.

Entity authorisation and supervision

The Committee continued to have an important role in delivering its key oversight function in relation to our regulated firms.

The committee was kept updated on the progress of CILEx Regulation's proposed approach to enable ACCA firms to continue to offer non contentious probate services to their clients. They were pleased to learn of the approval granted by the Legal Services Board to authorise ACCA members who wanted to be regulated by CILEx Regulation for probate activities. The first ACCA firms were authorised in 2021. These firms form part of the oversight role of the committee.

The committee was advised of the risks which arose relating to the CILEx Regulation Compensation Arrangements which had been caused by the withdrawal of the insurer that underwrote the compensation fund and the changes that would be necessary to ensure the continuance of entity regulation at CILEx Regulation.

In addition, they were provided with the opportunity to consider any risks and benefits which may arise from a proposed review of our Entity offering.

The committee sought clarity on the progress with the new CRM, particularly in relation to timescales for the implementation of the risk matrices and the progress of the first online application system, which was created for ACCA members to apply for regulation of probate activities with CILEx Regulation.

At each meeting the committee was provided with an overview of the entity applications received. The committee has requested the opportunity to consider how they can be more effective when working remotely, especially in relation to the conduct of the annual review of the application process.

Areas for development in 2022

- To continue to monitor the implementation of the CRM developments to determine the impact of the technological changes on the assessment of risks posed by the regulated community.
- To review the risks identified with the initial authorisation of CILEX-ACCA Probate firms and comment on proposals for development of the supervisory model.
- To review the effectiveness of the online application process for CILEX-ACCA Probate firms in assessing initial risk and make recommendations for change.
- To review the effectiveness of risk assessments completed by the office and to recommend enhancements to the process.

Anti Money Laundering

The Strategic Risk Committee has continued to provide a valuable oversight to the Anti Money Laundering (AML) work of CILEx Regulation. Its primary role has been to oversee CILEx Regulation's progress against its action plan (agreed with Office for Professional Body Anti Money Laundering Supervision (OPBAS), following the second supervisory assessment).

The committee has been advised of the wider supervisory activities that have been completed, which includes work related to the Economic Crime Plan, intelligence sharing, and law enforcement activities. The Annual Supervision report was presented to the committee.

The AML Risk Matrix is expected to be live in 2022.

Areas for development in 2022

- To review the application of the AML Risk Matrix and how this can aid the approach to supervision of AML compliance.

Other areas of oversight

The committee was pleased to see the progress of CILEx Regulation's application to become a Designated Professional Body (DPB) under the Financial Services and Markets Act 2000. The committee also received reports in relation to the claims management fee caps.

The committee continued to be involved in CILEx Regulation's work in relation to transparency which originated from the CMA recommendations, and it has continued to provide advice and guidance in relation to the development of indicators of quality. The committee's views were sought on the use of review and comparison sites in the legal sector.

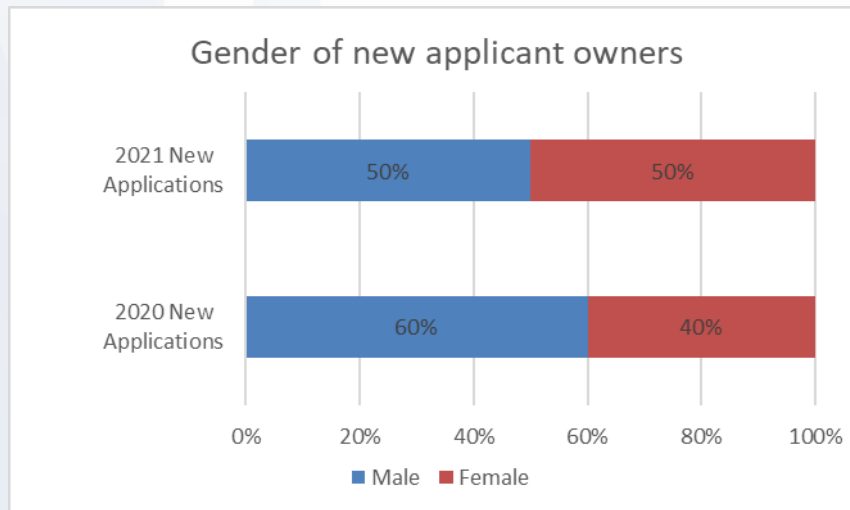
Areas for development in 2022

- Subject to our approval as a DPB, to provide oversight to the implementation of the policies and procedures required to enable CILEx Regulation firms to deliver ancillary insurance products. The committee will also provide an assessment of potential risks posed by this new initiative and these will be reviewed and considered to determine which risks should be added to CILEx Regulation's Risk frameworks.
- To review the outcomes from the pilot (conducted by the legal regulators) on the use of review and comparison sites to enable the committee to provide advice and guidance to CILEx Regulation as to possible next steps for this work.
- To provide oversight of CILEx Regulation's compliance in relation to the financial sanctions regime.

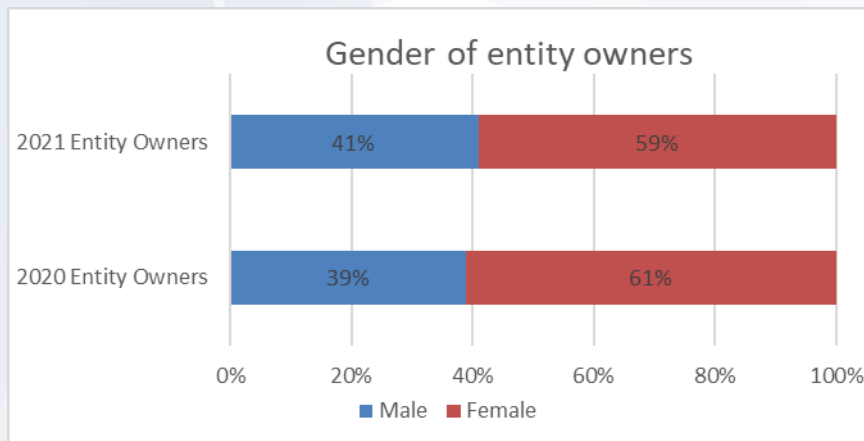
Analysis of equality and diversity data for applicant firms

CILEx regulation has reviewed the diversity data for entity authorisation applications processed up to the end of 2021, in relation to gender and ethnicity. This provides evidence to enable CILEx Regulation to consider the overall impact of decision-making on applications with protected characteristics. (It should be noted that due to the systems CILEx Regulation has in place, prior to an application being submitted, there were no refused applications. In addition, CILEx Regulation received small numbers of applications for entity regulation at present, therefore, findings may be of limited statistical value).

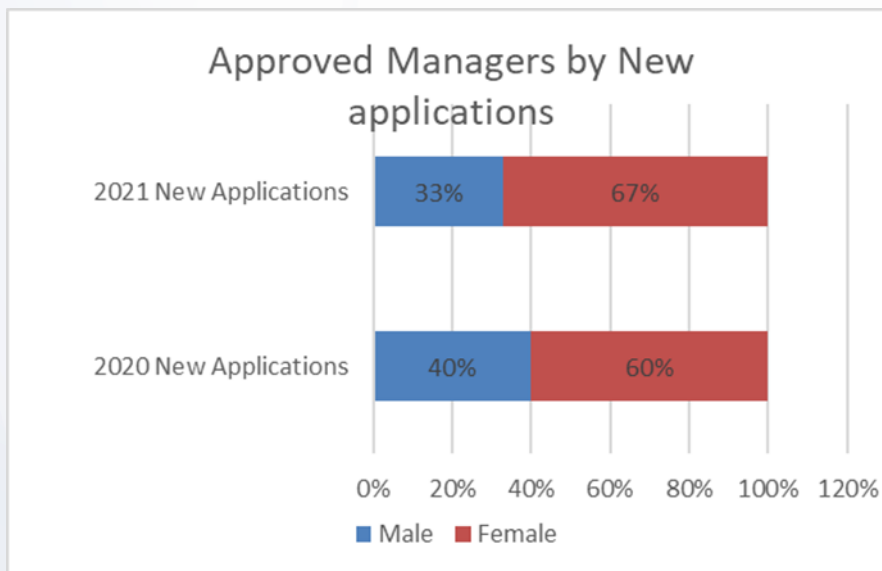
This year saw an equal number of applications from male (50%) and female (50%) entity owners.



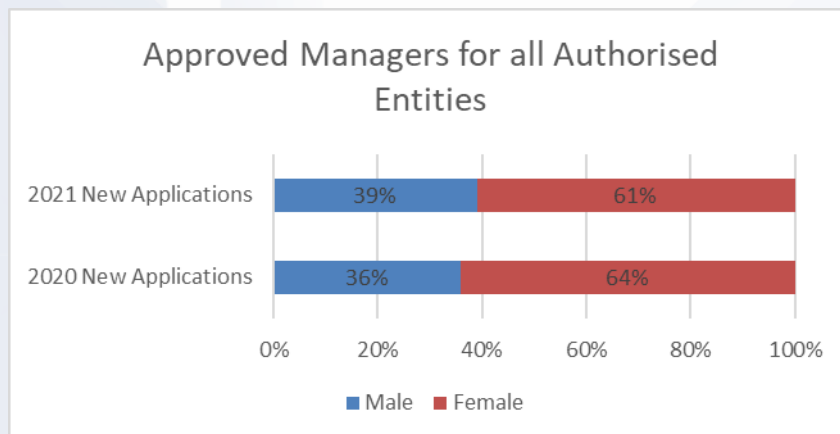
There continued to be more female (59%) entity owners than male (41%).



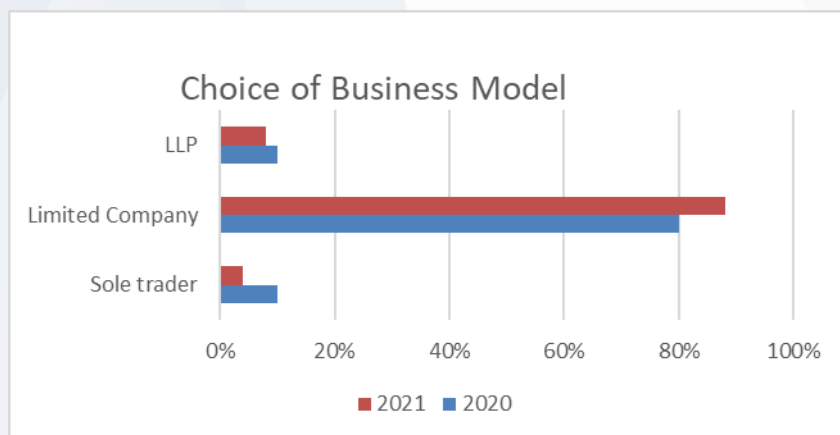
There was an increase in the number of applications from females (67%) in comparison with 2020.



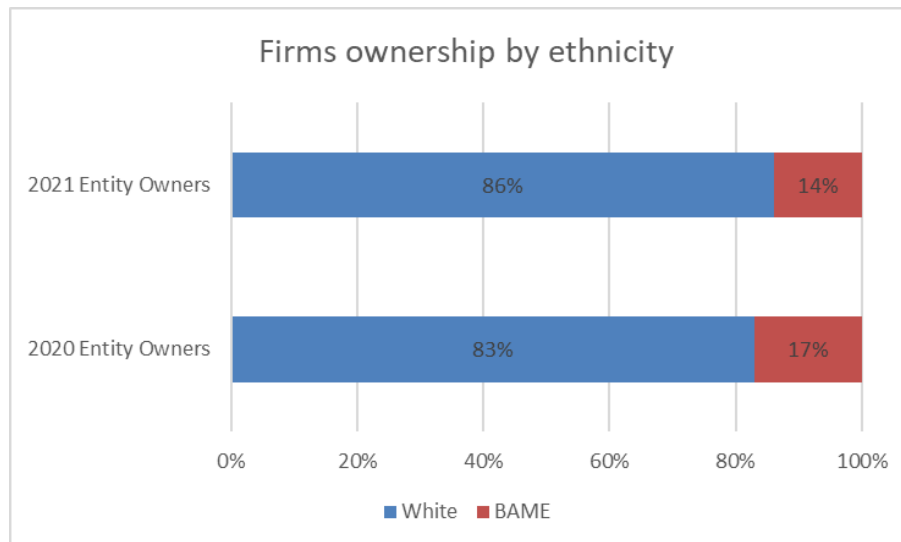
There remain more female approved managers (61%) than male approved managers (39%)



The favoured business model for entities remains a Limited Company, although often these are operated by one approved manager/owner.



The majority of entity applications continue to be from white applicants. There are four firms with owners from a BAME¹ background (16%) compared with 21 from a white background (84%). This was again affected by two firms moving out of regulation with owners from a BAME background.



This information is collected to enable us to report to the Legal Services Board and to monitor the diversity of our regulated firms. This will continue to be monitored for 2022.

Conclusion

- The work of the Strategic Risk Committee in 2022 will continue to focus on guiding the development of our risk policy for individuals and firms.
- The committee is keen to see the practitioner risk matrix become live and available to CILEx Regulation, which will allow the strategy relating to the supervision of regulated individuals to progress in 2022.
- Working with the committee, in 2022, CILEx Regulation will continue its work on quality indicators. It will also maintain its emphasis on AML supervision, progress the DPB application, and focus on financial sanctions.
- The committee will review the progress of the ACCA applications and consider the effectiveness of the implementation of the first online application process through the CRM.

¹We used the term BAME in the 2020 report so this is used again for comparison, pending a review of its appropriateness.