

Date	12 July 2023
Item	9.0
Title	Director of Operations' Report
Author	David Pope, Director of Operations
Purpose	This paper provides the Board with an update on the work of the Operations Directorate undertaken since the last meeting.
Recommendation	The Board is asked to NOTE the report.
Timing	N/A
Impact Assessment	N/A
Impact on Regulatory Objectives	<p>The work covered in this report impacts on the following:</p> <ul style="list-style-type: none"> - encouraging an independent, strong, diverse and effective legal profession; - protecting and promoting the consumer and public interest; and - promoting and maintaining adherence to the professional principles. <p>And the proposed objective:</p> <ul style="list-style-type: none"> - promoting the prevention and detection of economic crime
Implications for resources	There has been no progress in relation to the impact of The Institute of Paralegals membership on the resources within the Enforcement Team in 2023.
Impact on consumer empowerment	N/A
Impact on ongoing competence	Currently monitored via CPD non-compliance, this will change with adoption of the LSB requirements for assessing ongoing competence.
Publication status	For partial publication: <i>text in italics is proposed for redaction</i>
Appendices	None

Introduction

1. This paper provides the Board with an update on the work of the Operations Directorate and includes:
 - An update on the work of the Practitioner Team,
 - An update on the work of the Entity Team,
 - An update on the work relevant to the proposed new regulatory objective on Economic Crime, and
 - An update on the work of the Enforcement Team.

2. In addition to the data contained in the Operations Report, CRL has published its KPI's on a quarterly basis. These KPI's were subject to a review at the May Board meeting and the KPIs related to the work of the Operations Directorate have now been amended within this report. In order to provide context to the data, CRL has continued to report by section with a narrative.

PRACTITIONER TEAM UPDATE

Rule change applications

3. CRL has identified that there are some minor changes required to several rules which still have a reference to 'Qualifying Employment', rather than the new 'Qualifying Experience'. The LSB believe this application can be dealt with under a new exemption they brought in during 2022 for minor changes related to previous applications. If so, this will be the first time they have utilised this exemption.

Operations

4. CRL had a successful knowledge sharing day involving the Acting CEO, Director of Operations, Practitioner team manager and the Practitioner team. From this, some valuable resources have been developed, and will be further improved by additional contributions from the whole team.
5. The Practitioner manager has identified that a number of resources would benefit from further clarity on timescales to aid both applicants in understanding when information will be assessed and to help the team with workflows. Unfortunately, the IT system does not have the functionality to provide automatic email responses whenever an applicant contacts during the year.
- 6.

Qualifying Experience (QE)

Qualifying Experience													
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD
Applications 2023	55	57	63	51	44								270
Applications 2022	61	65	62	70	57	72	43	67	58	43	42	28	668
Av No weeks to overall decision	9	5	4	5	5								
% QE decisions made by ALC	10.9	0	1.6	8	0								

7. The average time to first assessment for QE in June 2023 was 17 working days which is good. There has been a significant fall in the number of cases referred to the ALC with only 3 in June, in addition to 3 advocacy renewals. Historically CRL could have seen 30-40 cases going to the ALC.
8. The response times from applicants will have an impact on the overall decision times.
9. CRL has noted the drop in QE applications received over the last two months and this has been reflected in our budget reforecasting. If this continues this will have an impact on future WBL and ultimately practice rights applications.

Work Based Learning (WBL)

Work Based Learning													
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD
Applications 2023	54	58	59	62	57								290
No. authorisations	72	53	38	53	65								281
Av. no. weeks to overall decision	14.4	12.4	12.5	12.3	12.4								
Av. no. resubmissions per application	1.7	1.6	1.6	1.6	1.6								
Applications 2022	42	37	71	70	62	52	48	77	65	65	60	38	687

10. The average time to first assessment of WBL applications in May 2023 was 44 working days. The oldest file waiting to be assessed on 14 June 2023 was 43 working days.

Practice Rights & Advocacy

Practice Rights & Advocacy 2023													
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	YTD
No of practice rights holders	149	155	164	165	165								
Applications received	5	9	4	8	9								35
Applications authorised	2	3	11	2	0								18
Av. no. weeks to overall decision	40.6	40.5	47.6	47.2	45.8								
No of practice right holders (ACCA-Probate)	54	55	49	49	49								

11. The number of portfolio applications for practice rights has continued to increase in 2023, presumably on the back of CILEX messages related to CILEX Lawyer. The numbers for applications received and authorised do not include those applications being assessed by the ULaw route.

Courses

12-15 REDACTED

16. CRL met with the Bloomsbury Institute on 16 June 2023 to discuss the first annual review which is due in July 2023. They will be having a review in September with Wrexham University of the course and assessments, so it has been agreed that this will be provided to CRL and become the annual review date in future. The Practitioner Manager is agreeing any additional information required.

17. REDACTED

18. CRL has provided the additional information for Mercia to have their probate course accredited to deliver probate training for ACCA individuals seeking probate practice rights. It is hoped that this can be approved shortly.

ULaw training and assessment for practice rights

19. CRL has continued to maintain regular contact with ULaw and attended the Assessment Board meeting on 12 June 2023 for the results of the April assessments. ULaw has carried out a risk evaluation of the impact of AI/ChatGPT. They believe that two components of the assessment are risk free and whilst the final written module has more risk, there is mitigation as it has to be completed within two hours of, and based on, the interview.
20. Since the scheduled assessments commenced in late 2022, 66 Fellows have passed an assessment as follows: 31 conveyancing, 21 civil litigation, 6 family litigation and 8 probate. The litigation candidates will still have to complete an advocacy course, so they will not immediately show as an increase in the number of practice right holders.
21. CRL has identified that a number of Fellows have passed their assessment but have not completed the final part of their authorisation. Action is being taken to complete these practice right authorisations, as well as addressing this newly identified gap in the process.
22. Assessments will cover six areas, of which four are currently live. CRL has discussed the remaining two areas (Criminal Litigation and Immigration) with ULaw, and they are happy to consider how to deal with any future demand.
23. ULaw has scheduled assessments through to October 2024 and these have been publicised on the CRL website. CRL has discussed improvements to the exchange of data on applicants and results, so that the interaction for the Fellow can be simplified. This will also allow advocacy courses to be scheduled following publication of the assessment results.
24. ULaw has provided a video to aid applicants in understanding and addressing issues related to IT matters and this is now on the CRL website. It will be added to the communications on ULaw assessments.

CPD Non-Compliance

Compliance Year 2021/2022	30/09/2022	31/05/2023	% reduction since 1 October 2022
Associate Prosecutors	15	0	100%
Fellows	757*	77	89.8%
Advanced Paralegals (Graduates)	505	165	67.3%
WBL reduction	137	15	89.0%
Paralegals (Associates)	1410	570	59.6%
Total	2824	827	70.7%

* this figure was reduced to 700 after any submission errors were corrected.

25. For the first month CRL has not made any significant progress with CPD non-compliance. This relates to some focus in other areas from the team but is expected to recommence with further reminders in June and July.

ENTITY TEAM UPDATE

Policy

FCA / Claims Management Activities

26. CRL has been working with the Financial Conduct Authority (FCA), the Solicitors Regulation Authority (SRA) and Bar Standards Board (BSB) on the introduction of new rules related to claims management activities and fee caps.
27. The SRA has now published their consultation on proposed rules and CRL will continue to work with them and the BSB on progressing this work.

Professional Indemnity Insurance (PII)

28. Any proactive work with insurers is now on hold as they require greater certainty on CRL's long term future following CILEX's proposed changes to regulatory arrangements before they will discuss offering new facilities.

Compensation Arrangements

29. Conversations are continuing with brokers about mitigations which could be built into the PII policies as options to amend compensation arrangements at CRL.

HM Land Registry

30. CRL has been working with HM Land Registry on their policies related to lawyer assurance as part of their register digitisation work and this is covered in the Enforcement update. CRL has also been liaising with CILEX on resourcing the new working groups that HM Land Registry has set up to develop collaborative work amongst stakeholders in the home buying and selling sector. This is in addition to the work related to the Land Registry Advisory Council and Home Buyers and Sellers Group.

Rule changes

Designated Professional Body (DPB) application.

31. With ministerial support obtained, HM Treasury has commenced work on the Statutory Instrument but is not currently able to give any further update on the timescale.

Operations

ACCA Performance Update

Current ACCA Firms												
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec
No. of CILEX-ACCA Probate firms 2023	42	42	39	39	39							
No. of CILEX-ACCA Probate firms 2022	21	28	37	39	42	43	43	43	43	42	42	42

32. The ACCA renewals are making slow but steady progress. Following the Mercia course in April, CRL has received new applications from practitioners and firms.

Entity Performance Update

Current Entity applications												
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec
2023												
No. of CILEX Authorised firms	22	20	19	19	19							
No. applications granted full authorisation	0	0	0	0	0							
No. renewals authorised	1	4	3	2	1							
Av. no. weeks to decision (application)	2	2	2	2	2							
No. ABS	1	1	1	1	1							
2022												
No. of CILEX Authorised firms	24	24	24	25	25	25	25	24	23	23	22	22

33. June will see two new Probate firms authorised but one other firm close.

Annual Returns

34. All Annual Returns for 2023 are up to date.

ECONOMIC CRIME UPDATE

Economic Crime and Corporate Transparency Bill

35. The Economic Crime and Corporate Transparency Bill is at the report stage before the 3rd reading in the House of Lords.

Anti-Money Laundering (AML) Supervision

36. The Office for Professional Body Anti-money Laundering Supervision (OPBAS) held a review meeting with CRL on 28 April 2023. They were seeking confirmation that CRL continued to supervise adequately, had the appropriate resources available, were working collaboratively with CILEX and what might happen next with AML supervision. They were satisfied that CRL was able to provide adequate assurance to them, so that quarterly review meetings did not need to recommence until September 2023.
37. CRL has received the 2022/23 HMT Annual AML/CTF Supervision Questionnaire, which must be submitted by 24 July 2023. There is a focus on work related to supervision that occurred as a result new sanctions relating to the invasion of Ukraine by Russia. HMT is also seeking more detailed information on identified non-compliance by the regulated populations.
38. The Government is clear that further reform of the AML supervisory regime is needed, so the current regime will not continue. HMT will be issuing its consultation on options for changes to the AML supervisory regime at the end of June 2023. CRL has provided input as part of the Legal Sector Advisory Group to ensure the consultation correctly reflects how the legal sector operates. The options are going to be:
 - a. OPBAS + (granting OPBAS extra powers to take action against supervisors)
 - b. 1 or 3 AML supervisors for each of legal and accountancy depending on whether each devolved body has its own supervisor.
 - c. One AML supervisor to replace all Professional Body Supervisors (PBS).
 - d. One AML supervisor to replace all statutory and Professional Body Supervisors
39. There will be significant engagement with all stakeholders over the next few months by HMT because the changes impact on a variety of sectors including financial services, gambling, legal, accountancy, estate agency, HMRC and the FCA.
40. HMT has indicated a desire to have an agreed option in place by Q1 2024 and the consultation will cover the issues related to any consolidation amongst PBS.
41. CRL has been involved in discussions with other legal sector supervisors on future changes to the Legal sector guidance.
42. CRL has completed the 2023 update to the Sectoral Risk Assessment, which it is required to publish to aid firms in their own risk assessments. Proliferation financing risk and an update to financial sanctions were the main changes.
43. CRL attended the Legal Regulators AML Forum on 17 May 2023. The next Legal Sector Affinity Group meeting and AML Supervisors Forum is on 4 July 2023.

Sanctions

44. There has been no further update from OFSI on policy development in relation to the Government announcement on 30 September 2022 that there will be a ban on the provision of certain professional services, including "transactional legal advisory services" as part of the ongoing response to Russia's war in Ukraine.
45. CRL continues to communicate all changes to the sanctions regime to our regulated firms and information is added to the Financial Sanctions page on the CRL website as required.

ENFORCEMENT TEAM UPDATE

Rules changes

46. Within the business plan is a planned enforcement rule review and a workplan for this major piece of work is now being constructed.

Other Enforcement matters

47. CRL has completed the enhancements identified to Enforcement following the LSB's Regulatory Performance Assessment (RPA) by the end of Q2 2023.
48. CRL has formalised its policy for prioritisation of complaints including use of risk matrices and compiled guidance on dealing with any complaints that might refer to mental health of a member.
49. The KPIs related to enforcement work have been reviewed as part of the general KPI review and will continue to be reviewed to aid case management.
50. CRL held a panel training day on 1 June 2023. The topics covered included:
 - Case law updates related to personal conduct and open justice/publication
 - Fairness in remote hearings
 - CRL approach to previous findings

Operational

51. The following table sets out the number of prior conduct declarations and misconduct complaints that CRL has received over the last three years, including the current year to date.

	2020	2021	2022	2023
Misconduct Complaints	65	58	73	32
Prior Conduct declarations	945	517	264	116

Prior conduct

Prior Conduct Declarations												
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2023												
Declarations received	27	22	24	21	22							
No of cases resolved	37	32	25	19	24							
No of cases live	99	89	88	90	88							
No of cases 'On hold'	23	24	26	26	24							
No of cases - net	76	65	62	64	62							
2022												
Declarations received	18	20	16	22	22	17	18	17	18	19	43	28
No of cases resolved	13	17	21	30	27	33	22	16	34	44	25	21
No of cases live	172	203	185	168	162	139	143	115	115	87	94	109
No of cases 'On hold'								13	14	18	14	20
No of cases - net								102	101	69	80	89

52. The number of live cases continues to run at historic lows, reflecting the efforts made by the members of the Enforcement Team. Recent declarations are being determined quicker and the focus remains on addressing those historic declarations related to misconduct matters.
53. The oldest case, which requires PCP determination, is 'on hold' at 132 weeks but this is due to an ongoing SRA investigation and CRL's parallel misconduct investigation is on hold for the same reason.
54. The oldest reported case not 'on hold' is at 133 weeks; this was previously an 'on hold' case but has now been referred to the PCP on 22 June 2023.
55. On 20 June 2023 there were 78 open cases, currently 25 can be determined by an investigator. The remaining 52, (down from 63 since the last report), may require a PCP decision. Of the 54 open cases that are not on hold, 29 cases are pre 2023 (down from 41 at last report), which demonstrates the good progress being made with prior conduct declarations.

Misconduct

Misconduct Complaints												
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2023												
No of New Complaints	4	6	7	4	11							
No of Complaints resolved	1	1	7	4	8							
No of cases live	128	133	132	132	135							
No of cases 'On hold'	37	38	39	39	44							
No of cases - net	91	95	93	93	91							
2022												
No of New Complaints	3	4	5	11	5	8	3	10	8	10	3	3
No of Complaints resolved	1	4	3	13	4	4	2	1	2	13	9	2
No of cases live	112	112	114	112	113	117	118	127	133	130	124	125
No of cases 'On hold'							33	34	37	41	35	36
No of cases - net							85	93	96	89	89	89

Cases that are 'On Hold' are where other investigations have priority and so cannot be progressed.

56. The increase in complaints in May relates in part to notifications of academic malpractice.

57. The total number of live misconduct cases on 31 March 2023 was **135**, which can be broken down as follows:

Authorised Entities	6 (concerning 2 firms)	4.4%
Fellows	68 (one Fellow is subject to 3 separate complaints)	50.4%
Non-Authorised grades	61 (5 members are subject to multiple complaints)	45.2%

58. The oldest live case, which is on hold, is **228 weeks**. The following table provides an analysis of live complaints by age:

	0-6 months	6-12 months	12-18 months	18-24 months	24+ months
No of live cases	23	25	20	12	55
Those 'On Hold'	5	7	11	4	17

Initial Assessment of Complaint (Target 100% by month end)												
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2023	100	100	100	100	100							
2022	93.6	82.3	86	89.4	100	100	100	100	100	100	100	66.7

59. The initial assessment procedure continues to operate well with the Manager taking full responsibility for maintaining the expected standard.

Principles breached:

Principles breached	2020	2021	2022	2023
Principle 1 – Rule of Law	7	7	3	0
Principle 2 – Professional Conduct	55	51	36	9
Principle 3 – Honesty and Integrity	36	31	17	3
Principle 4 – Legal Obligations	10	7	8	1
Principle 5 – Act Competently	12	9	7	1
Principle 6 – Treat Everyone Fairly	7	4	4	0
Principle 7 – Ensure Independence	3	1	2	0
Principle 8 – Act Effectively	2	0	1	1
Principle 9 – Protect Client Money	0	1	0	0
Total breaches	132	111	78	15

60. When a complaint is received, the Enforcement Team assesses the member's alleged misconduct against the Code of Conduct and identifies which Principles may have been breached. The above table shows how the Team has assessed which principles have been breached over the last four years. A member may have broken more than one Principle.

Disciplinary Panels

Professional Conduct Panel (PCP)

61. CRL has scheduled 10 PCP meetings for 2023. 5 have been held to date. The next one is on 22 June 2023.

Disciplinary Tribunal (DT)

62. These are scheduled as required and only 1 has been scheduled so far on 27 July 2023.

Appeals Panel

63. An appeal panel hearing was held in person on 9 March 2023. Following 8 out of the 10 grounds of appeal being made out, for the first time an appeal proceeded to a full, second stage hearing. At the appeal the member was represented, with CRL represented by the Investigation Manager.

64. In addition to the response to the appeal, there were two other preliminary applications required including CRLs application to adduce additional evidence received from the SRA. The appeal by the member was dismissed after a full day's hearing and a 872 page bundle prepared by the Investigation Manager.

Recommendation

65. The Board is asked to **NOTE** the report.