



## REGULATORY GUIDANCE FOR CILEX-ACCA PROBATE ENTITIES

This document has no regulatory status. It is issued for guidance purposes only, and in the event of any conflict between the content of this factsheet and the content of the [CILEx Regulation-ACCA Handbook](#), the latter shall always take precedence.

Therefore, this document should not be regarded by an ACCA member or a CILEX Practitioner (ACCA-Probate) as a substitute for familiarising themselves with the appropriate regulations or, where necessary, obtaining specific advice concerning a specific situation. Any reference to a Regulation or Annex refers to the CILEx Regulation-ACCA Handbook.

Throughout this guidance we will refer to a CILEX-ACCA Probate Entity as a CILEX-ACCA Probate firm.

### CLIENT CARE INFORMATION

We require all regulated firms to provide clients with suitably drafted Client Care information prior to the client engaging the services of the firm. The information should adhere to the following basic requirements:

- 1. It should at an early stage clearly define the purpose of the information:** Explaining why the client is receiving the information and why it is important for them to read it.
- 2. It should be concise:** Whilst the letter needs to contain key information, care should be taken to not make it overly lengthy.
- 3. Use Plain English:** Whilst the letter will by its nature be formal and factual, please avoid using overly complex legal terms.
- 4. Highlight and prioritise key information:** This would include an explanation of what work will be provided, the cost, how long it will take and what the client is required to do.
- 5. Be personalised:** The contents of the letter should be specific to the clients matter and not include irrelevant information that may lead to confusion.

*(Reference to a letter could include other mediums to provide this information)*

**One set of client care information or two?**

The important consideration is that the client receives the information that they require about the work carried out by the CILEX-ACCA Probate firm. You can do this by either of the following ways:

- Issue separate client care information in the name of the CILEX-ACCA Probate firm, or
- Incorporate all the required information in the client care documentation you use for the ACCA Accountancy firm

Where the CILEX-ACCA Probate firm is dealing with the ACCA Accountancy Firm rather than directly with the client of the ACCA Accountancy Firm, it is acceptable for the CILEX-ACCA Probate firm to rely on the content of the client care information sent out by the ACCA Accountancy firm.

### **What should my client care information include?**

We would expect all ACCA members to be used to setting out client care information, but the following section will explain our expectations.

The client care information provided by the CILEX-ACCA Probate firm should include the following:

#### ***Explain who will be involved and what they will do***

- An introduction setting out the purpose of the letter.
- The name of the person and their qualification as a CILEx Practitioner (ACCA-Probate) who will be responsible for undertaking the work.
- Outline the instructions that have been given by the client.
- Define the work that the CILEX-ACCA Probate firm proposes in response to those instructions related just to non-contentious probate.

#### ***Explain why there are two firms involved***

- Explain the relationship between the ACCA Accountancy firm and the CILEX-ACCA Probate firm.
- Explain the separation between the work that will be carried out by the CILEX-ACCA Probate firm and the work that the ACCA Accountancy firm will carry out in respect of Estate Administration work.

#### ***Explain the cost and how long it will take***

- Set out the cost of the work carried out by the CILEX-ACCA Probate firm and that this will only be charged when the work is completed.
- Provide an estimate of the timescale for completing the work.
- Provide the client with the opening hours of the firm and explain the timeframe for responding to contact made outside of those hours.

#### ***Explain how you will look after the client***

- Explain what is expected of the client in terms of requests for further information etc.
- Explain that the CILEX-ACCA Probate firm is authorised by the Chartered Institute of Legal Executives to undertake probate work and is independently regulated by CILEX Regulation.
- If cancellation rights apply, define those cancellation rights.
- Explain the firm's confidentiality and data protection obligations and refer the reader to the Privacy Notice which should appear on the firm's website.
- Explain that the ACCA Accountancy firm will undertake identity and money laundering checks and that information will be shared with the CILEX-ACCA Probate firm.
- Inform clients that the ACCA Accountancy firm and the CILEX-ACCA Probate firm are covered by the same professional indemnity insurance, specifying the name of the insurer and the geographic coverage of the insurance

### **Explain what the client can do if it goes wrong**

- Outline how the client can complain should they encounter a problem with the firm's work, including subsequent referral channels such as that provided by the Legal Ombudsman. The reference in the client care information should refer to the more detailed Complaints Handling Procedure which should be available on the firm's website.
- Explain that the CILEX-ACCA Probate firm will grant CILEX Regulation access to the firm's client files so that they can audit the firm's work.

### **Where the information is provided by the ACCA Accountancy firm**

For this arrangement to be acceptable, we would expect to see the following:

- A copy of the client care information sent out by the ACCA Accountancy firm needs to be retained on the probate file held by the CILEX-ACCA Probate firm.
- The client care information will need to follow the basic principles that would apply if the client care information was being sent out directly by the CILEX-ACCA Probate firm (*Please see the information in the section above*).

However, additionally it will need to be clear on the following points:

- It will need to detail for the client what work is to be undertaken by the ACCA Accountancy firm and what will be undertaken by the CILEX-ACCA Probate firm.
- Detail who in the CILEX-ACCA Probate firm will be responsible for the probate work and how they can be contacted.
- That the PII will cover all the work carried out by both firms.
- Make the client aware that their personal data will be shared with the CILEX-ACCA Probate firm solely for the completion of the reserved elements of the probate work listed in the client care information, and that this element of the work will not commence until the client provides the ACCA Accountancy firm with written consent that that personal data can be shared with the CILEX-ACCA Probate firm.
- Define within the fee information the full cost of the probate work which is being carried out by the CILEX-ACCA Probate firm, including VAT (where payable) and disbursements, defining when and how this is to be paid.

- Ensure that the client is aware of their options for raising a complaint in respect of the elements of the work that are being carried out by the CILEX-ACCA Probate firm.

## **CLIENT MONEY**

*(See Regulation 3)*

CILEX-ACCA Probate firms are not allowed to handle client money and as such are precluded from engaging in estate administration work and from taking advanced payments for the services the firm provides.

The Client Care information setting out the work being carried out by the CILEX-ACCA Probate firm should therefore make it clear that the only services being provided by the firm are the obtaining of the grant of probate or a grant of letters of administration. It should also state that the firm will not request payment for these services until the work has been completed. Any client money should be held by the ACCA Accountancy firm.

## **COMPLAINTS HANDLING PROCEDURE**

*(See Regulations 13 & 14)*

All CILEX-ACCA Probate firms are required to have a documented Complaints Handling Procedure that is mentioned in the client care information and the CILEX Regulation-ACCA Handbook (Regulation 16) requires that it must be available on the firm's website. Principle 5 of the CILEX-ACCA Code of Conduct (Annex 8) requires the CILEX Practitioner (ACCA-Probate) to make their clients aware of their complaint handling arrangements. This includes the client's right to refer a complaint to the Legal Ombudsman or to CILEX Regulation where appropriate.

Your Complaints Handling Procedure will ensure that clients know how they can make a complaint and are aware of how such a complaint will be dealt with. It should also ensure that complaints are dealt with in a fair, transparent and prompt manner.

Clients must be made aware of your firm's Complaints Handling Procedure when they are provided with the client care information, and they should also be informed that a copy is available on the firm's website, where the firm has a website.

You may wish to have one Complaints Handling Procedure covering both your ACCA Accountancy firm's legal work and your CILEX-ACCA Probate firm, and this would be perfectly acceptable. But such a procedure should address the following points and would need to be clear that only misconduct relating to the work undertaken by the CILEX-ACCA Probate Entity can be referred to CILEX Regulation for investigation.

It is a duty of the firm to keep a documented record of each complaint it receives along with details of the action taken to resolve them.

The Complaints Handling Procedure should use simple language, be easy to follow and include the following:

- Have an introduction defining what a complaint is and suggesting the reader in the first instance to take up any concerns they might have up with the member of staff dealing with their matter but explaining that if they want to make a formal complaint even at this stage, they can do and that they should follow this procedure.
- Inform the reader that complaints can be made by telephone, email, post or any additional method the firm allows.
- Provide the necessary contact details of a person to whom all complaints should be submitted.
- The firm should acknowledge a complaint within a reasonable timeframe and detail this. The Legal Ombudsman suggests this happens within two working days.
- It should detail how a complaint will be dealt with, specifying the stages in that process, and detailing when the complainant will receive a response to their complaint.
- It should explain that the process will result in the complainant receiving a written response to their complaint detailing the firm's findings and its proposed action.
- It should state that where the complainant has received a final written response to their complaint and is still not satisfied or eight weeks has passed since they made their complaint and the firm has not provided a written response, that they can refer their complaint free of charge to the Legal Ombudsman.

The contact details for the Legal Ombudsman and the timeframe for referring such

1. complaints should be set out in the procedure. You could use the suggested wording below and the Legal Ombudsman has issued [Guidance](#) about the revised Scheme Rules which includes suggested wording for client care letters and complaints final response letters.

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## Before 1 April 2023

*If after receiving our final written response to your complaint you feel we have not resolved your complaint to your satisfaction or we have failed to provide you with a final written response to your complaint within eight weeks of you submitting your complaint, you can have your complaint independently looked at by the Legal Ombudsman. The Legal Ombudsman investigates problems about poor service relating to the provision of legal services by authorised persons such as CILEX Practitioner (ACCA-Probate).*

*Before accepting a complaint for investigation, the Legal Ombudsman will check that you have tried to resolve your complaint with us first. If you have, then you must take your complaint to the Legal Ombudsman:*

- o within six months of receiving our final written response to your complaint or if we have not provided a final written response to you within eight weeks within six months starting at the expiry of the eight-week period.*
- o no more than six years from the date of the act or omission that gave rise to the complaint.*
- o no more than three years from when you should reasonably have known there was a cause for complaint.*

*However, please note that from 1 April 2023 these time limits are changing. From the 1 April the Legal Ombudsman expects complaints to be made to them within a year of the date of the act or omission about which you are concerned or within a year of you realising there was a concern. The requirement to refer your concerns to the Legal Ombudsman within six months of our final response to you remains the same.*

*If you would like more information about the Legal Ombudsman, please contact them on:*

*Website: [www.legalombudsman.org.uk](http://www.legalombudsman.org.uk)*

*Telephone: 0300 555 0333 between 9am and 5pm*

*Email: [enquiries@legalombudsman.org.uk](mailto:enquiries@legalombudsman.org.uk)*

*Post: Legal Ombudsman, PO Box 6806, Wolverhampton, WV1 9WJ*

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## After 1 April 2023

*If after receiving our final written response to your complaint you feel we have not resolved your complaint to your satisfaction or we have failed to provide you with a final written response to your complaint within eight weeks of you submitting your complaint, you can have your complaint independently looked at by the Legal Ombudsman. The Legal Ombudsman investigates problems about poor service relating to the provision of legal services by authorised persons such as CILEX Practitioner (ACCA-Probate).*

*Before accepting a complaint for investigation, the Legal Ombudsman will check that you have tried to resolve your complaint with us first. If you have, then you must take your complaint to the Legal Ombudsman:*

- o within six months of receiving our final written response to your complaint or if we have not provided a final written response to you within eight weeks within six months starting at the expiry of the eight-week period.*
- o no more than one year from the date of the act or omission that gave rise to the complaint.*
- o no more than one year from when you should reasonably have known there was a cause for complaint.*

*If you would like more information about the Legal Ombudsman, please contact them on:*

*Website: [www.legalombudsman.org.uk](http://www.legalombudsman.org.uk)*

*Telephone: 0300 555 0333 between 9am and 5pm*

*Email: [enquiries@legalombudsman.org.uk](mailto:enquiries@legalombudsman.org.uk)*

*Post: Legal Ombudsman, PO Box 6806, Wolverhampton, WV1 9WJ*

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## Requirements for a CILEX Practitioner (ACCA-Probate)

As a CILEX Practitioner (ACCA-Probate) you are required to comply with the CILEX-ACCA Code of Conduct which can be found in the CILEx Regulation-ACCA Handbook. Where an individual believes your conduct breaches the Code of Conduct, they can free of charge refer the complaint to CILEx Regulation to investigate.

You will need to cover this in your Complaints Handling Procedure and can do so by using wording such as:

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*Where your complaint relates to the misconduct of a CILEX Practitioner (ACCA-Probate), you can refer your complaint free of charge to CILEx Regulation for them to investigate. Misconduct complaints must be made within 12 months of the act or omission that gave rise to the complaint or within 12 months of the complainant having knowledge of the act or omission that gave rise to the complaint, whichever is the greater.*

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## Alternative Dispute Resolution

This may be a new legislative requirement for CILEX-ACCA Probate firms.

The Alternative Dispute Resolution for Consumer Dispute (Competent Authorities and Information) Regulations 2015 requires the firm to give clients the contact details of an Alternative Dispute Resolution (ADR) body which has been approved to deal with legal services complaints. However, whilst the regulations require the firm to provide details of an approved ADR body, they do not require the firm to use such a service.

You can cover this requirement in your Complaints Handling Procedure by including wording along the following lines:

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*Alternative Dispute Resolution bodies such as (include the name and contact details of an ADR Approved body) exist which are competent to deal with complaints about legal services should you and our firm wish to use such an ADR body. We (state whether you do or do not) agree to use (include the name of the ADR body). (And if you do agree to use an ADR body you will need to include the timescale for contacting them about a complaint).*

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A current list of ADR approved bodies can be found here:

<https://www.tradingstandards.uk/consumers/adr-approved-bodies>

## EQUALITY AND DIVERSITY DATA

We collect diversity data from all the people working in our regulated firms via a data collection survey.

All CILEX-ACCA Probate firms are required to provide diversity data or ensure that diversity data is provided to CILEx Regulation for everyone working in the CILEX-ACCA Probate firm during the diversity data collection period.

If you run a CILEX-ACCA Probate firm, we will contact you in advance of the diversity data collection period to advise you of the procedure for collection of data.

Everyone working in a firm will need to take part in the data collection, including employees who:

- do not have legal qualifications
- work in corporate services support roles
- are on maternity leave or sick leave if they are willing to respond
- are temporary – for example, consultants or other contracted staff

## FEE LEVEL

The firm should maintain the level of income received from probate activities in line with their insurer's expectation, but certainly at less than 20% of all the firms total fee income. This is covered in the Obligations declaration in the application.

Currently insurers are looking at nearer to 10/15% as an acceptable figure. Should this figure be close to being exceeded then the firm is expected to advise the insurer and CILEx Regulation.

As we are required to monitor the suitability of the professional indemnity insurance held by the CILEX-ACCA Probate firm which will cover the probate work of the CILEX-ACCA Probate firm, it is a requirement of authorisation that annually the CILEX-ACCA Probate firm are required to advise CILEx Regulation of the income generated from probate work.

## PROFESSIONAL INDEMNITY INSURANCE / FIDELITY GUARANTEE INSURANCE

*(See Regulation 7 & Annex 4)*

We have provided separate guidance on the new levels of Professional Indemnity Insurance required by CILEX-ACCA Probate firms and the need to have in place Fidelity Guarantee Insurance.

We will be expecting CILEX-ACCA Probate firms to provide clarity to consumers that both insurances will cover both the ACCA Accountancy firm and the CILEX-ACCA Probate firm.

The guidance can be found [here](#).

## REGULATORY STATEMENT

Once authorised, firms are expected to display a regulatory statement that they are '*Name of firm* authorised as a CILEX-ACCA Probate Entity by CILEx Regulation' followed by their authorisation number.

This should be added to the website they are using (*see below Website*) and to all business communications including client care letters.

## TRANSPARENCY REQUIREMENTS

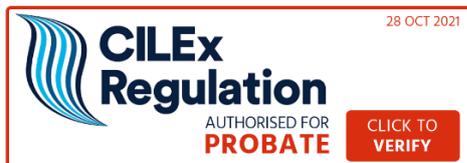
(See *Regulation 16*)

We have published separate guidance on the transparency requirements which can be found on the ACCA Probate page of our website.

## USE OF LOGO / SMART BADGE

(See *Regulation 16*)

Once authorised, firms will be expected to load on to their website page a smart badge logo to confirm that the website belongs to a CILEX-ACCA Probate Entity. They will be provided with the details of how to do this and the badge will confirm that they have consumer protections in place for probate work.



Because this logo may be placed on the website of the ACCA accountancy firm, ideally it should be placed close to the regulatory statement related to the CILEX-ACCA Probate Entity.

## WEBSITE

We will not be expecting firms to have a separate website for the CILEX-ACCA Probate firm as long as they are clear on the home page of the website of the ACCA Accountancy firm that they are operating a CILEX-ACCA Probate firm, they are displaying the Smart Badge and are meeting the transparency requirements by having a clear link on the home page to information about Probate.

If you have a separate website for probate work, then the transparency requirements will apply to that.