

DISPUTE RESOLUTION ANNEX TO THE IGR PROTOCOLS

PURPOSE

1. Whilst never losing sight of the primary duty to fulfil the regulatory objectives (including 'protecting and promoting the public interest') and complying with the IGR, both CILEx Regulation and CILEX commit to endeavouring to resolve matters as informally as possible in the interests of ongoing relations and best use of Board member time.
2. This is the dispute resolution annex produced under CILEX/CILEX Regulation IGR Protocol 14.2. This annex reflects provisions of the LSB's statutory rules and guidance issued in July 2019 which sets out, in the guidance to Rule 14, that 'a disagreement between an AR and regulatory body is not a dispute unless, and until, all reasonable efforts at resolution have been exhausted'.
3. This Annex is designed to cover issues and disagreements which have not been able to be resolved at officer and CEO level, requiring Board level consideration. Officers are expected to endeavour to resolve issues and disagreements informally and without the need to escalate the matter to Board level wherever possible.
4. Mechanisms already exist for officer level resolution, including periodic contract management meetings, meetings between the respective governance leads and regular meetings between the respective Chief Executives.

INTERPRETATION

5. In the event of any interpretation conflict, nothing in the Protocols or this Annex should be interpreted as fettering the Internal Governance Rules or prohibiting CILEx Regulation or CILEX from complying with the IGR or the Regulatory Objectives, under the Legal Services Act 2007.
6. IGR Rule 14.1 provides for the option to seek voluntary clarification regarding any point arising under or in connection with the Rules.
7. If the disagreement is in connection to the IGR and all reasonable efforts at resolution have been exhausted such that the matter has evolved into a dispute., then the matter should be referred under Rule 14.2 to the LSB before any further action is taken. If and when a referral is made to the LSB it is expected that evidence about the internal resolution process and the outcome will be provided.
8. Decisions made through this dispute resolution annex are non-binding, unless agreed. Only the respective Boards (or through agreed delegations) may make binding decisions.
9. To ensure consistency in application, the dispute resolution element of the protocols is set out in **Appendix 1** below.

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10. Escalation clauses are multi-tiered dispute resolution clauses, which provide for a disagreement to be escalated usually from relatively informal discussions between the parties through gradually more formal processes until the issue is finally resolved, providing a definitive end point.

Resolution and escalation stages

11. Escalation stage 1: Chairs - In the event an issue cannot be resolved at officer/CEO level, then the first escalation point under the dispute resolution Annex is for the respective Chairs of CILEx Regulation and CILEX to try to resolve the issue. The Chairs have one month from the date of the first contact from one Chair to the other to resolve the issue. If a decision is necessary in a shorter timescale, then both parties may commit to resolving the matter in the shorter timescale, as far as this is reasonable and practicable. If both Chairs and CEOs agree then the standard one-month timescale may be extended, with agreed review points.
12. Escalation stage 2: IGR NEDs Group¹ - If the matter cannot be resolved by the Chairs within the timescale, and either party believes the matter is sufficiently important to escalate further, then either party may escalate the matter to the NEDs IGR Group. If the matter is urgent or likely to be harmful if not resolved sooner then an exceptional IGR NEDs meeting will be called, if there is not an IGR NEDs meeting due shortly. Co-opted alternate Board representatives may be used if necessary to expedite a meeting.
13. A paper outlining the background, key issues and options should be prepared jointly by the CEOs and circulated by the Secretariat to the IGR NEDs Group in advance of the meeting, except where both parties agree otherwise.
14. The outcome/resolution should be conveyed to the next meeting of the respective Boards for consideration. A mutually agreed solution at the NEDs Group should be respected as far as possible. Equally, the decision of the NEDs Group is not binding on either Board, which has the power to overturn decisions made at the NEDs Group if there are strong reasons to do so. Matters can be referred back by mutual agreement for further consideration under escalation stages 1 and 2.
15. Escalation stage 3: Optional non-binding mediation. The decision to proceed with mediation is voluntary, meaning both parties need to agree to non-binding mediation in advance. The parties can agree to the mediator or if there is disagreement a mediator will be sourced and allocated by ACAS.
16. Escalation stage 4: LSB - Where relevant, at this point the matter is now considered to be a 'dispute' and must be referred to the LSB which will consider it in accordance with Rule 14.2.
17. Urgent decision-making: Where both parties agree escalation stages may be skipped to ensure that the process is as expedient as possible where the circumstances

¹ A group of NEDs from the respective CILEx Regulation and CILEX Boards (comprising 4 lay and 1 non-lay members selected to oversee IGR compliance and related matters) is used as an ongoing forum to provide a channel for communication, to aid mutual understanding and trust as well as raise matters of interest and concern to minimise issues/disagreements escalating into disputes as far as possible. The Group meets bi-annually, or as required.

necessitate this. Nothing in this annex precludes urgent escalation to the LSB, either for clarification (Rule 14.1) or as a formal referral (Rule 14.2), or alternative legal remedies being pursued such as litigation or judicial review. However, the principle of seeking informal resolution and following this resolution process unless there are exceptional reasons not to, should be respected.

Approved by the Board: 17 May 2022

Last reviewed: 10 May 2023

APPENDIX 1 – THE IGR PROTOCOL ON DISPUTES

IGR 14. DISPUTES AND REFERRALS FOR CLARIFICATION

- 1) If an approved regulator has been unable to resolve any point arising under or in connection with these Rules, it may refer that point to the Legal Services Board for clarification.
- 2) In the event of a dispute between an approved regulator with a residual role and its regulatory body in relation to any point arising under or in connection with these Rules, the dispute must be referred to the Legal Services Board before any further action is taken.
- 3) Any response provided by the Legal Services Board shall be determinative unless expressly indicated otherwise.

Protocol

- P14.1 CILEx and CILEx Regulation will use their best endeavours to resolve any dispute which arises between them.
- P14.2 If a dispute arises between CILEx and CILEx Regulation in relation to any point arising under or in connection with the IGRs which cannot be resolved informally between the CEO of CILEx and the Chief Executive of CILEx Regulation, then the dispute resolution process should be followed (see dispute resolution annex). Unless delaying referring the matter to the LSB would cause significant or irreparable harm, the matter should only be referred to the LSB once the dispute resolution process has been exhausted and it has not proven possible to resolve the matter mutually. CILEx and CILEx Regulation agree, where this is possible, to defer any decision-making in relation to the disputed matter until the matter is either mutually resolved or the LSB has ruled on the matter.
- P14.3 Where other disputes arise which fall outside the scope of **IGR 14**, CILEx and CILEx Regulation will attempt to resolve them through discussions between the Chief Executives of CILEx and CILEx Regulation and follow the dispute resolution process.