

Annex 2

Education and Authorisation Rules and material

Our proposed approach is set out in the 'Education and authorisation' section of the consultation paper. This annex provides further technical information about our proposed approach, and should be read in the context of the consultation paper.

Included in this annex are:

- new draft rules for the authorisation of individual authorised CILEX lawyers, known as the SRA Authorisation of CILEX Lawyers Regulations (Annex 2.1)
- proposed amendments to our Authorisation of Firms Rules (AFRs) for the authorisation of entities owned and managed only by authorised CILEX lawyers, as authorised CILEX bodies (Annex 2.2)
- information on our proposals for other connected rules and regulations related to authorisation and education (Annex 2.3).

Draft amendments to our Application, Notice, Review and Appeal Rules (ANRARs) are at Annex 4.1.

As we have noted in the consultation paper, the current CILEX and CRL arrangements for education and authorisation provide many routes to authorisation, underpinned by a variety of rules, regulations, handbooks and guidance. In our draft rules we have sought to consolidate the rules and documentation relating to these routes as far as possible, to clarify the options available without changing the underlying authorisation requirements.

We recognise this is a complex and technical area. As part of the current consultation we are happy to discuss with interested parties how we have mapped the current requirements to our draft rules. And we welcome feedback in response to this consultation on the approach we have taken.

Authorisation of individuals as an authorised CILEX lawyer

We propose to regulate (as 'authorised CILEX lawyers') only those individual CILEX members who require authorisation to provide specified legal services without supervision. Individuals who are currently authorised by CRL to provide reserved legal services or immigration services without supervision will not need to apply to us for re-authorisation, and will be transferred to our new register of authorised CILEX lawyers.

Individuals will be able to make the following new applications to us for authorisation:

- Chartered Legal Executives (CILEX Fellows), with or without additional practising rights beyond administration of oaths.
- CILEX Practitioners – these may be existing Chartered Legal Executives seeking new practice rights for conveyancing and probate only or individuals seeking authorisation for the first time.
- CILEX Practitioners (ACCA-Probate) – members of ACCA who are authorised to provide probate services.
- Crown Prosecution Service (CPS) Associate Prosecutors.

Except for applications involving litigation and advocacy, most applications for authorisation will be made via a single application (or application bundle for firms comprised of the individual and firm applications). So, for a straightforward authorisation as an authorised

CILEX lawyer, an application can be made for Fellowship via work-based learning which will include the evidence that will enable us to assess all parts of the route to qualification.

However, where multiple applications are required or chosen, we will maintain the approach currently used by CRL which is that these need to be decided in sequence rather than concurrently. These situations include:

- Confirmation of qualifying work experience: While qualifying experience can be verified as part of the single, full application for admission as a Fellow, advance verification is available where the application wishes to get that element checked before proceeding with a full application. Where they submit this separate application first for verification of qualifying experience, that would need to be decided before they could make the application for Fellowship.
- Admission with litigation and advocacy rights: Where someone wishes to be admitted with litigation and advocacy rights, an application first needs to be made for a Certificate of Eligibility to attend the Advocacy Skills course. No further progress can be made on the substantive application for admission until that certificate is granted and the course is successfully undertaken.

Qualifying experience

We have confirmed in the draft SRA Authorisation of CILEX Lawyers Regulations that CILEX qualifying experience will include at least 2,300 hours of work that contributes to the provision of legal services. This may include up to 644 hours spent in attendance on a Legal Practice Course or the Bar Training Course.

Character and suitability

We will require all applicants seeking authorisation to disclose all matters relevant to our assessment of their character and suitability. This will include a new disclosure and barring service (DBS) check. This is in addition to any checks or declarations required by CILEX for membership purposes.

When assessing a person's suitability, we will consider any information which indicates that they are not fit to practise as an authorised CILEX lawyer for any reason. This includes anything that would adversely affect the individual's ability to meet our regulatory obligations, including taking part in regulatory investigations or proceedings if required. We are confident that our Character and Suitability rules will capture all information that would have been asked for through CRL's fit and proper tests (for role holders) and 'Prior Conduct' questions (for admissions).

Fitness to practise

If we receive information about a person's health as part of the application for authorisation, we will consider whether it is appropriate for that person to be authorised. We have published [guidance on our approach to health issues and medical evidence](#). If we decide to refuse authorisation or to impose practising conditions for reasons relating to health, the applicant will have rights of review and appeal as set out in the consultation paper. We will not maintain a separate health committee for appeals as CRL currently does.

Authorisation of firms

The 'regulatory standards' section of the consultation paper sets out how we propose to re-authorise existing CILEX entities as an SRA recognised or licensed body, an authorised

CILEX body or an authorised ACCA-Probate body, depending on who owns and manages the firm.

Existing CILEX firms will not need to make a new application for authorisation. We will work with them to manage the transition process. We will treat the firm's approved compliance manager as the firm's compliance officer for legal practice (COLP) and compliance officer for finance and administration (COFA) unless the firm applies to appoint someone else.

A new entity owned and managed by authorised CILEX lawyers will need SRA authorisation if it provides any of the following:

- reserved legal services for the public
- immigration services, unless the business is regulated by the Office of the Immigration Services Commissioner (OISC)
- claims management services, unless the business is regulated by the Financial Conduct Authority (FCA)
- regulated financial services activities as part of the legal services, unless the business is regulated by the FCA (see below).

Unless the firm's owners and managers include a solicitor, the firm's authorisation will be restricted in line with the practising rights of the authorised CILEX lawyers who own and manage the firm.

Our decision to authorise a firm, and the information we take into account, may depend on the type of body and the work it undertakes. The consultation paper sets out how we will take authorisation decisions, and the related rights of review and appeal.

Other related applications for authorisation

We will also deal with the following applications connected to ongoing authorisation:

- first annual renewal for advocacy certificates
- ongoing annual renewal for authorisation of ACCA-Probate individuals and entities
- refusal of approval of role holders in existing authorised firms
- modification of terms of licence, imposition of conditions, revocation of authorisation, withdrawal of approval, or withdrawal of practising rights on any of the above. For the purposes of this document, this last element is only referenced as part of the authorisation process rather than part of a disciplinary process.

Financial services

As set out in the 'Other regulatory issues' section of the consultation paper, firms owned and managed by authorised CILEX lawyers and authorised by us will be able to carry on regulated financial services activities under the scope of our regulation. We may ask certain questions as part of the assessment of a new firm application to be satisfied that the firm and individuals in the firm are competent to deliver services and have the appropriate systems and controls in place. If any concerns are identified, we may impose conditions on the firm's authorisation which would prevent it from carrying on any regulated financial services activities.

In addition, if there is a concern or risk that we feel cannot be managed by the firm we may limit the scope of other professional services that a firm is entitled to provide for example, claims management or alternative dispute resolution services.