



Decision notice

Issued by the Legal Services Board under Part 3 of Schedule 4 to the Legal Services Act 2007

ILEX Professional Standards application for approval of changes to its regulatory arrangements in relation to contributions to its Compensation Fund 2015

The Legal Services Board (**LSB**) has granted an application from ILEX Professional Standards (**IPS**) approving alterations to the regulatory arrangements in relation to contributions to the IPS Compensation Fund for 2015. The Chartered Institute of Legal Executives (**CILEx**) is an approved regulator and IPS is the regulatory arm to which CILEx has delegated its regulatory functions. This decision notice sets out the decision taken, including a brief description of the changes. The notes at the end of this notice explain the statutory basis for the decision. The chronology for the LSB's handling of this application is set out at the end of this decision notice.

Proposed changes

1. The application seeks approval of the level of contributions from IPS authorised entities to the IPS Compensation Fund.
2. As part of its arrangements for the regulation of entities, IPS proposed the establishment of a compensation fund. On 8 December 2014, an order (made under section 69 of the Legal Services Act 2007 (**the Act**)) came into force which provides CILEx the power to establish such a compensation fund. IPS is responsible for the management of the fund.
3. IPS opened its entity regulation process with effect from 5 January 2015, and firms, eventually authorised through the entity regulation process, will be required to contribute to the compensation fund.
4. The payments to the fund are based on the level of turnover. The first contribution for a newly established entity will be based on projected turnover set out in the authorisation application form. An established entity's contribution will be calculated on the basis of its accounts. The table in Annex A of this notice sets out the proposed contribution levels.

Issues considered in the assessment of the application

5. As part of the assessment of the application, the LSB asked IPS to clarify some aspects of the proposed changes and the outcome of our enquiries is set out below.

Basis of calculation of contributions

6. The LSB sought clarification on the rationale for the particular contributions structure proposed. IPS explained that the contributions structure was designed to take a risk based approach to potential calls on the compensation fund while at the same time taking into account the ability of entities to pay. IPS carried out some testing when developing the structure and concluded that actual/anticipated turnover was a good indicator of level of claims that may be made against an entity. The LSB is satisfied that in the context of IPS only recently becoming an entity regulator and its compensation fund being newly established, it has done what it can reasonably be expected to do to ensure that contributions are as proportionate and sufficient as possible. We are also reassured that IPS will be able to review the basis of the contributions as it gains more actual data on contributors and claims.

Communications

7. The LSB considers it important that approved regulators present any information on contributions to a compensation fund in a clear and transparent way so that those who are or may be required to pay can determine with a degree of confidence how much they may be required to contribute. IPS confirmed that information would be provided on its website, and on authorisation, an entity will receive a letter confirming the contribution that it needs to make. Entities will also receive communication at annual return stage about the contributions that they will need to make.

Decision

8. The LSB has considered this IPS application against the criteria in paragraph 25(3) of Schedule 4 to the Act. The LSB considers that there is no reason to refuse this application; accordingly, the application is granted.
9. The table in Annex A of this notice sets out the contribution levels approved in this decision.

Chronology

- The LSB confirmed receipt of an application from IPS on 22 December 2014.
- The 28 day initial decision period for considering the application ended on 18 January 2015.
- An extension notice was issued on 16 January 2015.
- This decision notice is effective from 22 January 2015.
- The decision notice will be published on our website on 23 January 2015.

Caroline Wallace
Strategy Director
Acting under delegated authority granted by the Board of the Legal Services Board
22 January 2015

Notes:

1. The LSB is required by Part 3 of Schedule 4 to the Act to review and grant or refuse applications by approved regulators to make alterations to their regulatory arrangements.
2. Paragraph 25(3) of Schedule 4 to the Act explains that the LSB may refuse an application setting out a proposed change to the regulatory arrangements only if it is satisfied that
 - (a) granting the application would be prejudicial to the regulatory objectives
 - (b) granting the application would be contrary to any provision made by or by virtue of this Act or any other enactment or would result in any of the designation requirements ceasing to be satisfied in relation to the approved regulator
 - (c) granting the application would be contrary to the public interest
 - (d) the alteration would enable the approved regulator to authorise persons to carry on activities which are reserved legal activities in relation to which it is not a relevant approved regulator
 - (e) the alteration would enable the approved regulator to license persons under Part 5 [of the Act] to carry on activities which are reserved legal activities in relation to which it is not a licensing authority, or
 - (f) the alteration has been or is likely to be made otherwise than in accordance with the procedures (whether statutory or otherwise) which apply in relation to the making of the alteration.
3. The designation requirements referred to in paragraph 2(b) above are set out in paragraph 25(4) of Schedule 4 to the Act and are
 - (a) a requirement that the approved regulator has appropriate internal governance arrangements in place
 - (b) a requirement that the applicant is competent, and has sufficient resources to perform the role of approved regulator in relation to the reserved legal activities in respect of which it is designated, and
 - (c) the requirements set out in paragraphs 13(2)(c) to (e) of Schedule 4, namely that the regulatory arrangements are appropriate, comply with the requirements in respect of resolution of regulatory conflict (imposed by sections 52 and 54 of the Act) and comply with the requirements in relation to the handling of complaints (imposed by sections 112 and 145 of the Act).
4. In accordance with paragraphs 20(1) and 23(3) of Schedule 4 to the Act, the LSB has made rules¹ about the manner and form in which applications to alter regulatory arrangements must be made. Amongst other things, the rules highlight the applicant's obligations under section 28 of the Act to have regard to the Better Regulation Principles. They also require applicants to provide information about each proposed change and details of the consultation undertaken.
5. If the LSB is not satisfied that one or more of the criteria for refusal are met, then it must approve the application in whole, or the parts of it that can be approved.

¹ Rules for Rule Change Applications – Version 2 (November 2010)

Approved IPS Compensation Fund contribution levels

		ENTITY TYPE			
		Turnover amount	Client account	Escrow	No client money
Litigation Immigration	Up to £100,000	600	450	300	
	£100,001 to £200,000	800	650	400	
	£200,001 to £300,000	1000	750	500	
	£300,001 to £400,000	1200	800	600	
	£400,001 to £500,00	1400	1050	700	
	£500,001 to £750,000	1700	1300	850	
	£750,001 to £1,000,000	2500	1750	1250	
	£1,000,000 +	5000	3500	2500	
Probate Conveyancing	Up to £100,000	800	600	400	
	£100,001 to £200,000	1000	750	500	
	£200,001 to £300,000	1200	950	600	
	£300,001 to £400,000	1400	1050	700	
	£400,001 to £500,00	1600	1200	800	
	£500,001 to £750,000	2000	1500	1000	
	£750,001 to £1,000,000	3000	2200	1500	
	£1,000,000 +	6000	4400	3000	

Notes:

- Contributions will be collected on an annual basis, on the anniversary of authorisation for each entity.
- If the circumstances of the entity change during the course of the 12-month period, either in terms of the type of work undertaken (for example, addition of litigation to probate) or if the entity begins to hold client money, the entity will be expected to pay pro-rata the appropriate amount for the remainder of the relevant period.