



## Licensing *Alternative Business Structures* - The *Licensed Body (ABS)* Licensing Framework

### 1. Introduction

#### Purpose of Framework

The purpose of this framework is to ensure that consumers have confidence in the way bodies owned or managed by ***Non-Authorised Persons*** – i.e. someone who is not a lawyer and so is not authorised by an ***Approved Regulator*** to provide a ***reserved legal activity*** such as ***conveyancing, probate, litigation*** or ***advocacy*** - deliver services regulated by the ***CLC***. To achieve this, the ***CLC*** will only license bodies able and willing to act in a principled manner and deliver the ***CLC Code of***

***Conduct's Outcomes*** by complying with its ***Overriding Principles***:

- Act with independence and integrity;
- Maintain high standards of work;
- Act in the best interests of ***Clients***;
- Comply with your duty to the court;
- Deal with regulators and ombudsmen in an open and co-operative way; and
- Promote equality of access and service.

#### Overview of Framework

This document sets out:

- what is meant by a ***Licensed Body*** (also called an ***Alternative Business Structure***);
- how the ***CLC*** expects ***Licensed Body*** applications to be made;
- the information upon which it bases its application determinations;
- the circumstances in which an application may be approved, made subject to ***conditions*** or refused;
- how ***licence*** determinations can be appealed; and
- the regulatory responsibilities of successful ***applicants*** must comply; and the range of regulatory/***enforcement*** responses available to us if these are not met.

**Terms used** - words presented in bold italicised font – such as ***Authorised Persons***, ***Approved Regulator*** and ***Overriding Principles*** above - are defined in the Glossary of Terms provided at the rear of the **CLC Handbook**. Please refer to these definitions where you need clarification.

**CLC Handbook** - references are made to the **CLC's Code of Conduct**, **Licensed Body**, and **Conflicts of Interest Code**; these are found in the **CLC Handbook** (available on the **CLC website**) and should be read in conjunction with this Framework.

## 2 **Forms of Alternative Business Structures (ABS)**

2.1 The **2007 Act** removed restrictions on the management and ownership structures of traditional legal services firms. **Non-Authorised Persons** (non-lawyers) are now able to be owners of legal services providers and such firms are now able to provide other services alongside **legal activities**. For instance:

- a sole **CLC lawyer** and an independent financial adviser might set up a business providing **conveyancing services** and mortgage advice;
- **conveyancing services** are provided alongside estate agency or surveying services;
- **probate** activity is made available alongside funeral services.

2.2 Combining businesses in such a way might allow overhead savings to be made, enhance career progression opportunities for **Non-Authorised Persons** – providing skills such as strategic leadership, management, human resources, finance and IT, essential to a well-run business - and offer **Clients** the opportunity to source a range of different services from one provider (a one-stop shop).

2.3 We use the term **licensable body** to mean a business which is applying to become a **CLC Licensed Body**. '**Alternative Business Structure**' is a widely recognised term but it is not used in the main body of the **2007 Act** text. Therefore we use the term '**Licensed Body**' when referring to the licensing of such structures.

2.4 A **Licensed Body** may take the form of:

- A legal body part-owned by a **Non-Authorised Person**;
- A legal body owned by **Authorised Persons** but managed by at least one **Non-Authorised Person**;
- A business wholly owned by a **Non-Authorised Person(s)** providing both legal and other services; or
- A range of models in between.

2.5 It may be constituted as a partnership, a **Limited Liability Partnership**, or Limited **Company**. The structure and business model is of the body's choosing.

2.6 A **licensable body** can be partly or wholly owned by a **Non-Authorised Person(s)** and it can provide both legal and non-legal services. Provided that one **manager**, the **Head of Legal Practice (HoLP)**, is an **Authorised Person** it can otherwise be managed by **Non-Authorised**

**Persons.** NB. If the **HoLP** is not authorised to deliver the particular legal service the body provides there must be another **Authorised Person** who is so authorised.

- 2.7 As a **Licensing Authority** regulated by the **Legal Services Board** the **CLC** is able to license and regulate **ABS** providing **conveyancing, probate, litigation** and **advocacy\*** services with a range of other services.

\*Applicable should our application to regulate **litigation** and **advocacy** prove successful.

### 3 Who can apply?

- 3.1 The **licensable body** must have:

- A practising address in England and Wales (or Wales);
- A designated **Head of Legal Practice** who is an **Authorised Person** in relation to **Reserved Legal Activities**;
- A **Head of Finance and Administration (HoFA)**.

- 3.2 Legal services must be provided or supervised by **Authorised Persons** licensed by an **Approved Regulator**, such as the **CLC** or Solicitors Regulation Authority. Any non-**reserved legal activities** must be provided or supervised by appropriately experienced and/or qualified persons.
- 3.3 A **Licensed Body** must have **professional indemnity insurance** in place which complies with the minimum requirements of Article 3 IMD and the **CLC's PII Policy Wording**.
- 3.4 If the **CLC** is not satisfied by the **conditions** and cover provided by the **authorised insurer**, the body will be required to take out a **supplemental policy** so that the professional indemnity complies with the minimum requirements of Article 3 IMD and the **CLC's PII Policy Wording**.
- 3.5 No body may provide legal services regulated by the **CLC** unless and until it has **Professional Indemnity Insurance** which complies with these requirements and has produced **evidence of insurance** to us. NB. A body may increase the level of indemnity cover above the minimum required under Article 3 IMD and the **CLC's PII Policy Wording**.
- 3.6 The **CLC** maintains a **Compensation Fund** for the purpose of making discretionary payments to persons who have suffered loss as a result of negligence, fraud or dishonesty or a failure to account, by a **CLC**-regulated body. Each body licensed by the **CLC** is required to make a contribution to the **Compensation Fund**. The fee payable is a percentage (as determined by the **CLC** and approved by the **LSB**) of the turnover (or estimated turnover) of that body. The income received is applied solely for the purpose of maintaining, managing and administering the Fund.
- 3.7 The **CLC** requires each body to pay an annual regulatory fee. The fee payable is a percentage (as determined by the **CLC** and approved by the **LSB**) of the turnover (or estimated turnover) of that body. The income received funds the regulatory activities of the **CLC**, but not any costs attributed to the **Compensation Fund**.
- 3.8 A body which is able and willing to meet all of these requirements can apply to become a **CLC Licensed Body**.
- 3.9 We cannot accept applications from **Special Bodies**.

#### 4 **Licensed Body (ABS) Applications**

##### 4.1 Applications must include:

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| <p>(a) a correctly completed <b>CLC ABS Licensed Body</b> application form (including identification of the <b>Regulated Services</b> the body wishes to provide);</p> <p>(b) declaration, and proof of identity, of the <b>HoLP</b> and <b>HoFA</b> and consent for data verification to be carried out;</p> <p>(c) declaration, and proof of identity, of each <b>Authorised Person Manager</b>;</p> <p>(d) declaration, and proof of identify, of each <b>Non-Authorised Person Manager</b>, and consent for data verification to be carried out;</p> <p>(e) declaration, and proof of identity, of each <b>Authorised Person</b> with a <b>material interest*</b>;</p> <p>(f) declaration, and proof of identity, of each <b>Non-Authorised Person</b> with a <b>material interest*</b>, and consent for data verification to be carried out (the declaration must identify any <b>associates</b>);</p> <p>(fA) the following information:</p> <p>(A) the identities of shareholders or members, whether natural or legal persons, that have a holding in the applicant that exceeds 10 %, and the amounts of those holdings;</p> <p>(B) the identities of persons who have close links with the applicant;</p> <p>(C) information that those holdings or close links do not prevent the effective exercise of the supervisory functions of the CLC.</p> <p>(g) if it is a <b>Company</b> or <b>LLP</b> its certificate of incorporation;</p> <p>(h) evidence (or an offer) of appropriate <b>professional indemnity insurance</b>;</p> <p>(i) the application fee payable.</p> |
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There are many ways a person can hold a **material interest\*** – please ensure you reference the **CLC Handbook Glossary of Terms**.

- 4.2 We would prefer to receive applications electronically (in Microsoft Word format), but hard copy applications by post are also welcome.

##### **Licence Application Data**

- 4.3 Full and frank information disclosure is needed to help us determine if:

- owners are fit to own;
- **managers** are fit to manage; and
- the body is fit to provide legal services to the public.

- 4.4 We require the following information:

<b>Persons</b>	<ul style="list-style-type: none"><li>• Declaration of Persons with a <b>material interest</b> of 10% or more interest in the body;</li></ul>
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	<ul style="list-style-type: none"> <li>• Declaration of <b>associates</b> with 3% or more <b>interest</b>;</li> <li>• Declaration of <b>Head of Legal Practice</b> accompanied by details of relevant experience, qualifications, training and professional history information;</li> <li>• Declaration of <b>Head of Finance and Administration</b> accompanied by details of relevant experience, qualifications, training and professional history information;</li> <li>• Declarations of all <b>Managers</b>;</li> <li>• Declarations of <b>Authorised Persons</b> (specifying which activities they are authorised to provide and by which <b>Approved Regulator</b>);</li> <li>• Staff structure, including numbers of <b>Authorised Persons</b> and <b>NonAuthorised Persons</b>.</li> </ul>
<b>Financial</b>	<ul style="list-style-type: none"> <li>• Proof of funding source;</li> <li>• Business Plan &amp; Financial Forecasts;</li> <li>• Bank details;</li> </ul>
	<ul style="list-style-type: none"> <li>• Where applicable, the organisation's last 3 years of accounts.</li> </ul>
<b>Statements</b>	<ul style="list-style-type: none"> <li>• An outline of the services proposed and how you will ensure they are delivered to a high standard;</li> <li>• Statement outlining compatibility with delivery of the <b>Code of Conduct Outcomes</b> and the <b>Licensed Body Code</b> (and where there are issues, details of how these have been, or will be resolved);</li> <li>• Who will carry out <b>Reserved Legal Activities</b>;</li> <li>• How the body aims to improve <b>access to justice</b>.</li> </ul>
<b>Arrangements for:</b>	<ul style="list-style-type: none"> <li>• Compliance with <b>CLC regulatory arrangements</b>; Notifying us of a breach of regulatory responsibilities;</li> <li>• Notifying us of a proposed change of <b>material interest</b>;</li> <li>• Provision of any non-<b>reserved legal activities</b>;</li> <li>• Governance and management;</li> <li>• <b>HoLP</b> and <b>HoFA</b> to have management level status and entitlement to dissent from decisions made by the management;</li> <li>• Preventing and dealing with <b>conflicts of interests</b> and <b>improper influence</b>;</li> <li>• <b>Complaints</b>-handling;</li> </ul>

	<ul style="list-style-type: none"> <li>Ensuring the body employs only <b>fit and proper persons</b> (and no-one disqualified by a <b>Licensing Authority</b>).</li> </ul>
<b>Fit and Proper Declaration – Persons with material interest, HoLP, HoFA &amp; Managers</b>	<ul style="list-style-type: none"> <li>Any criminal charge or conviction (including spent convictions and cautions) or cases pending in the UK or elsewhere;</li> <li>Any previous disciplinary proceedings commenced by a professional or regulatory body in the UK or elsewhere (whether concluded or not);</li> <li>Any adverse order or finding of a civil court or employment tribunal; Any disqualification as a director;</li> <li>Any declaration of bankruptcy (and whether or not this has been discharged) or Individual Voluntary Arrangement;</li> <li>Disqualification from acting in any capacity for a legal services, financial or other provider (including a <b>Licensed Body</b>);</li> <li>Any other information that could reasonably be expected to have a bearing on the individual being fit and proper to own or manage a <b>Licensed Body</b>.</li> </ul>

NB. The requirement for accounts for the 3 years immediately preceding an application applies to companies which own (10% or more) of the **licensable body**.

#### **Governance and Management Arrangements**

- 4.5 The **CLC Code of Conduct** and the underpinning **Conflicts of Interest** Code make clear our requirements regarding the prevention, identification and mitigation of such conflicts. All bodies regulated by the **CLC** must comply with these requirements in order that **Clients** receive high standards, and independent, service.
- 4.6 The **CLC Licensed Body** Code explicitly requires that **Non-Authorised Persons** with a **material interest** must not be allowed to exert **improper influence**. **Licensed Bodies** and the **Authorised Persons** within them must always support the constitutional principle of the rule of law and act in the best interests of their **Clients**. Licensable bodies must be able to demonstrate that they have in place **arrangements** enabling this.
- 4.7 To be licensed a **licensable body** must employ at least one **Authorised Person** who is authorised to provide each of the **Reserved Legal Activities** the body proposes to deliver. If these persons are not **managers** we will need to be satisfied that the body's **arrangements** take this into account.
- 4.8 Given the importance of the roles of the **HoLP** and **HoFA** we will be looking for skilled individuals suited to the business needs of the body. We set no specific requirements in this area other than the **HoLP** should be an **Authorised Person** and a recommendation that the **HoFA** should have accountancy experience and/or an accountancy qualification.

- 4.9 The suitability of the proposed **candidates** will be judged according to the body's size and **risk profile**. For example, it may be acceptable for the **HoFA** of a small firm not to have an accountancy qualification. In such instances, accountancy experience would be acceptable.
- 4.10 Only those bodies with appropriate **arrangements** will be licensed. Examples of high-level good practice of risk management and business **arrangements** are provided in the **CLC Handbook, Management and Supervision Guidance**.

### **Employment Arrangements**

- 4.11 Our licensing **terms** are clear in their requirement that the interests of the public and of **Clients** must be protected. It is therefore very important that a **Licensed Body** employs only those persons it is confident will act in a manner compatible with these interests.
- 4.12 It is for the body to determine the most appropriate **arrangements** for it to be confident of the fitness and probity of its **employees**. This may take the form of an employment contract clause which requires **employees** to declare an issue to the body, a self-declaration form (which is completed when an offer of employment is made and on an annual basis thereafter), a Disclosure and Barring Service (DBS [criminal history]) check, or other system. The body may target particular roles which it considers more important in this regard than others e.g. those handling **Client monies** may be subject to a DBS check whilst other **employees** are required to declare any fit and proper issues.
- 4.13 The **Legal Services Board (LSB)** maintains a list of all persons disqualified from roles in Licensed Bodies. The list is available to view on the **LSB's** website for you to check against your **employees**, or proposed **employees**. The list is available to view on the **LSB's** website:  
<http://www.legalservicesboard.org.uk/>
- 4.14 You must not employ any listed person in the role in respect of which they are disqualified. To do so is a significant breach of your regulatory responsibilities and is likely to result in the body's **licence** being suspended and/or revoked.
- 4.15 We consider the qualifications and experience of the **Licensed Body's employees** to be a matter for the body itself to decide. It is the **licensable body's** duty to ensure it has the appropriate individuals in place to ensure the regulatory requirements are met and that the rule of law is supported.

### **Business Plan and financial projections**

- 4.16 The Business Plan must cover the 3 years from when the body could reasonably expect to be licensed (90 days after the **CLC** has received a complete application). An **applicant** will need to demonstrate they have critically examined their:
- financial forecasts;
  - **employees** numbers, skills and knowledge;
  - anticipated turnover;
  - running expenses;
  - capital investment;
  - capital expenditure and liquidity;

- how the body will be initially funded (and how prepared for a given initial period where it is likely to receive little comparative income);
- proposed premises;
- the body's marketing strategy;
- its accounting systems and procedures;
- any expansion plans; and
- any other information deemed relevant by the **applicant** or the **CLC**.

### **Access to Justice**

4.17 An **applicant** must be able to demonstrate that licensing the body would improve **access to justice** i.e. recognition of, and response to potential and actual, consumer needs. This may take the form of provision of a greater range of services and methods of accessing these services, lower prices, extended opening hours, accessibility, online provision, or other factors. It is up to the individual **applicant** as to how they define **access to justice** and how they demonstrate they will improve it.

4.18 We anticipate that an application will be refused because of **access to justice** considerations only in exceptional circumstances.

### **Supplementary Information**

4.19 You may wish to provide examples of how you actively promote the **CLC Outcomes**, e.g.:-

- Certification or assessment of activities by independent or accredited bodies; or
- Drawing up your own quality charter or participation in quality charters or labels drawn up by professional bodies (particularly consumer association assessments).

4.20 Provision of supplementary information will be welcomed and judged favourably by the **CLC** as long as it is pertinent to your application. Please do not provide irrelevant material as this is likely to unnecessarily prolong the application determination period time.

### **Any other info**

4.21 We require the declaration of 'any other information that could reasonably be expected to have a bearing on their being fit and proper' with regard to **Non-Authorised Persons** with 10% or more **material interest**, **HoLPs** and **HoFAs**. This could include:

- by a reason of character, conduct or association and in particular has been in breach of statutory requirements regarding payment of tax or for a **licence**;
- they lack capacity within the meaning of the Mental Capacity Act 2005 and powers under sections 15 to 20 or section 48 have been exercised.

### **Material Interest Details**

4.22 The holding by a **Non-Authorised Person** (i.e. non-lawyer) of a **material interest** in a **Licensed Body** is subject to the **CLC**'s approval. A **licence** will not be granted until we have approved all **Non-Authorised Persons** with a **material interest**. A **licence** application must identify all **Non-Authorised Persons** who own or are expected to own such a **material interest** in the body when the **licence** is issued. All **Non-Authorised Persons** with a **material interest** will be subject to the fit and proper test and must consent to the **CLC** sharing the information with other bodies for verification purposes.



4.23 The **material interest** declaration refers both to the actual or proposed **material interest** (10% or more) and/or any of that person's **associates** with a **material interest** of 3% or more. The type of interest concerned must be identified. Failure to fully and truthfully to declare this information when aware of the facts is a criminal offence making the declarer liable on summary conviction to a fine. There are a number of different ways in which a **Non-Authorised Person** can have a **material interest**.

4.24 It is very important that a body providing legal services is able to meet its regulatory responsibilities. Having an accurate picture of those who control Licensed Bodies is an important part of the **CLC** recognising any risks to this. Therefore all non-**Authorised Persons'** **material interest** must be declared as they are subject to our approval.

4.25 If any of these details look likely to change – e.g. the identity of an owner, or the nature or value of their interest - whilst we are determining the **licence** application, the **applicant** must notify us of this within 7 days of the proposal. If the **applicant** had no knowledge of a change which has taken place they must notify us within 7 days after they are made aware. It is a criminal offence not to identify a non-**Authorised Person** who has, or expects to have, an interest in the event a **Licensed Body licence** is issued to the **applicant**. If such a breach were to occur, the breach and the fine would be likely to be taken into account as part of the determination of the **licence** application. However, it is a defence for a person charged with such an offence if they are able to show that they had no knowledge of the duty to notify.

4.26 You must inform all **Non-Authorised Person** with a **material interest** that the **Licensed Body** application process requires them to be identified and that they will need to undergo a fit and proper test, which includes a Criminal Record Bureau Check. You must obtain from them a completed and signed fit and proper declaration form. You must advise them that they may need to provide us with information/documents to inform our **licence** application assessment (or during the duration of the **licence** if we become concerned by their **material interest**). You should also explain that provision of false or misleading information is a criminal offence liable on summary conviction to a fine and on conviction on indictment to a term of imprisonment.

4.27 The fit and proper test helps inform our assessment of **improper influence** i.e. whether the **Non-Authorised Person's material interest** would compromise the delivery of the **CLC Code of Conduct's Outcomes** or could cause **Authorised Persons** to be unable to meet their regulatory duties.

## 5 Transitional arrangements for **CLC Recognised Bodies**

5.1 These arrangements apply to bodies licensed by the **CLC** as a **Recognised Body** on the date it is authorised as a **Licensing Authority** but which, because they are owned or managed by persons who are not **Authorised Persons**, need to become a **Licensed Body** by the date specified by the **CLC**.

5.2 We will provide these bodies with the information we currently hold on them, requiring them to verify or amend it as appropriate. Relevant data to fill any information gaps must be provided. These bodies must appoint their Heads of Legal Practice and Heads of Finance and Admin; and declare **Authorised Persons** with **material interest** and their **associates**.

5.3 These applications will be fast-tracked as they have a track record with us. We are familiar with the structures, systems and **controls** of these bodies; and have carried out monitoring inspections on them (often over a number of years). A current **CLC Recognised Body** which applies to become a **CLC Licensed Body** will receive notification of the **CLC's** determination

within 42 days of receipt of their completed **Licensed Body** application. The application will be assessed and determined using the same criteria as new **applicants**.

- 5.4 Should there have been significant changes to ownership we will extend the 42 day determination period to 90 days to ensure we are confident of capturing any risks to the **Code of Conduct Outcomes** the new owner(s) may present. Any additional work we have to undertake will increase the application fee payable (see paragraph 7.5).

## 6 Licensed Bodies regulated by other **Licensing Authorities**

- 6.1 An **ABS** already licensed by another **Licensing Authority** which is seeking instead to be licensed by the **CLC** will need to complete the **licence** application as required by all **applicants**. An **applicant** which has had its **Licensed Body licence** revoked by another **Licensing Authority** will not automatically be excluded from applying for a **CLC Licence**. However, the **licence** revocation will be a relevant factor in our determination of the application. Where we have revoked a body's **licence** we will not accept an application if it is made within 12 months of the **licence** revocation, unless there are exceptional circumstances. We will need to be fully satisfied that the issue which triggered the revocation has been addressed and the remainder of the application would need to evidence that all **CLC** licensing requirements are met in full.

## 7 Fees

- 7.1 The standard **licence** application fee is broadly reflective of a range of key factors including cost, size and **risk profile** of Licensed Bodies.
- 7.2 The **applicant** will be charged the cost to the **CLC** of processing a standard application. On the basis that the standard application will take 2 days to process the fee for a first time **Licensed Body** application is £1200.
- 7.3 We reserve the right to require further information and/or statements should we see reasonable grounds to do so. We also reserve the right to charge additional amounts above the standard fee for applications which take more than the expected determination period of 2 days e.g. bodies with unusual or complex ownership, structures, particularly where there is a foreign – i.e. not in England or Wales - ownership element (which may require more extensive data verification endeavours), or where incomplete information has been provided. These will be charged at £80 per hour.
- 7.4 The **CLC** will use external advisers where it feels that it is necessary, more appropriate or more efficient to consider parts of the application (e.g. to deal with technically complex, unusually data intense, poorly prepared or urgent applications). It will ask the **applicant** to pay for the work performed.
- 7.5 We anticipate there will be less resource required to process an application from a **Recognised Body** which is currently regulated by the CLC than from an entity which we have not previously regulated. We shall therefore require payment of a lower standard fee of £600 for such applications. We reserve the right to charge an increased fee (based on an hourly rate of £80) on an hourly basis where the time we need to spend in assessing the application exceeds 2 days (e.g. where there have been significant ownership changes or incomplete information has been provided).
- 7.6 We reserve the right to review the fee schedule and to vary the fee methodology as appropriate.

- 7.7 The **applicant** will be required to pay for the data verification (including Criminal Record Checks) which needs to accompany the application. This will be carried out by a provider accredited by the **CLC**. As the extent of verification of fit and proper data varies according to the role, so does the cost, which is currently in the range £85-£120. We shall notify applicants at the time of making their application of current prices. You may be able to claim back the Value Added Tax from these costs if VAT-registered. We may carry out additional checks if we believe it is appropriate to do so and shall charge the **applicant** the cost of doing so.
- 7.8 We anticipate that **licence** modifications/removal of **conditions** requests will take no more than 4 hours to determine. The standard application fee for such requests will be £320. We reserve the right to charge additional amounts for particularly complex applications which take longer than this to determine. These will be charged at £80 per hour.
- 7.9 Should a **Licensed Body** apply to change the individual person occupying the role of **HoLP** or **HoFA** the standard application fee will be £240. This is based on the assumption that such requests will take no more than 3 hours to determine. We reserve the right to charge additional amounts for particularly complex applications which take longer than this to determine. The **applicant** will be required to pay for the data verification which needs to accompany the application.
- 7.10 The annual Regulatory Fee will be determined each year. The current rates are set out in the Fees Rules 2010 at [www.clc-uk.org](http://www.clc-uk.org).
- 7.11 **Compensation Fund** contribution to be determined each year. For the period 1 November 2010 to 31 October 2011, there is a nil contribution

## 8 Licence Application Assessment

### Acknowledgement of receipt of application

- 8.1 We will aim to acknowledge receipt of your application within 3 **working days**. If your application is incomplete we will return it to you identifying those elements which are missing or have not been properly completed.
- 8.2 Provision of any false, misleading or incomplete information is likely to delay consideration of your application and if material will result in the application being rejected. If the **CLC** becomes aware after granting a **licence** that a body, a person with **material interest** or a **manager** of that body, has provided false or misleading information the **licence** may be suspended or revoked.

### Data Verification

- 8.3 The **HoLP**, **HoFA**, persons with **material interest** and all **Managers** must sign their declarations to confirm the information they have provided is correct. Information provided will be kept secure and used only for these purposes.
- 8.4 We shall carry out such checks as we consider necessary to verify the information you have provided. For the **Non-Authorised Persons** with **material interest**, **Non-Authorised Person Managers**, the **HoLP** and **HoFA**, this will include checks of the fit and proper declarations e.g. credit, **insolvency**, and insurance. We will obtain Standard Disclosure and Baring Service (DBS, previously the Criminal Record Bureau) checks of unfiltered<sup>1</sup> cautions and convictions for the **HoLP** and **HoFA** and those with a material interest (this may include associates – see item 8.6). We

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<sup>1</sup> The 29<sup>th</sup> May 2013 amendment to the Rehabilitation of Offenders Act 1974 allows that certain old minor cautions and convictions are no longer subject to disclosure.

reserve the right to request a Basic Disclosure and Barring Service check (covers unspent convictions only) for a manager or Authorised Person. The applicant will be required to pay for these checks (see paragraph 7.7). We have information-sharing agreements with other regulatory, professional and data verification bodies to aid the verification. The information will be shared in accordance with data protection legislation.

- 8.5 We will check the disciplinary records of **Authorised Persons** with their relevant **Approved Regulator**. Where this identifies issues we may verify the fit and proper declaration data and charge the **applicant** accordingly.
- 8.6 Verification of information on all **associates** is unlikely to be either practical or proportionate. Only where there are concerns about an **associate**, particularly significant influence or control concerns, will we seek additional, information or require information to be verified.

### Licensing Approach

- 8.7 All **Approved Regulators** of legal services providers must act in a way which is compatible with the **regulatory objectives**. Therefore the **Overriding Principles** and **Outcomes** of our **regulatory arrangements** are devised to support them and a body's **licence** application will be assessed in light of these; on receipt of the application and validation of relevant data we will carry out an assessment of the risks posed to delivery of the **Outcomes** and compliance with the **Licensed Body Code** if we approve the application for a **licence**.
- 8.8 All interested parties will be signposted to the electronic version, or provided with a hard copy of, the **CLC Handbook** so they are aware of the regulatory responsibilities of a **Licensed Body** and those involved with it.
- 8.9 We will assess the application to determine the body's capability and capacity to deliver the **CLC's Code of Conduct's Outcomes** and to meet the **CLC's Licensed Body Code**. Please see the **CLC Handbook**.
- 8.10 This will be determined by an assessment of the following factors:

- The body's activities and **Client** type (including whether the non-**reserved legal activities** the body is proposing to provide are closely related to the **reserved legal activities** proposed);
- The quality of the governance/management **arrangements** (including regulatory compliance **arrangements** such as ensuring **Non-Authorised Persons** do not cause or substantially contribute to a regulatory breach by the **licensed body**, or **Authorised Persons** within it) and risk management strategies;
- The quality of the **arrangements** to prevent and deal with **Improper Influence** and **Conflicts of Interest**, ensuring **Authorised Persons** maintain the **Overriding Principles** and comply with their own individual regulatory responsibilities;
- Probity of funding source;
- Financial viability of the body and the integrity of the Business Plan/financial projections in light of the body's proposals;

- **Client money** handling *arrangements*;
- The quality of operating procedures including **complaints**-handling;
- Resources allocated to, and **arrangements** for **reserved legal activities** (in particular who will be providing them or supervising their provision), this will include an assessment of the ratio of **Authorised Persons** to **Non-Authorised Persons**
- Competence to deliver non-reserved activities, including the resources, **arrangements**, sophistication or vulnerability of their **Clients**, its relatedness to the **reserved legal activities** the **applicant** proposes to provide and **access to justice** implications if the activities were not permitted;
- Suitability of proposed **Non-Authorised Persons** with **material interests** and how they may impact upon the body's independence and integrity (they must not prejudice a) delivery of the **Code of Conduct's outcomes** or b) the ability of **Authorised Persons** to meet their regulatory duties);
- Suitability of proposed **Head of Legal Practice (HoLP)** and **Head of Finance & Administration (HoFA)**;
- The **arrangements** in place which permit the **HoLP** and **HoFA** to report on matters direct to the **CLC** without prior consultation or approval from the **licensable body**, its **Managers**, owners or **associates**;
- Where the **applicant** is proposing that the designated **HoLP** and the **HoFA** are the same person whether this is appropriate taking account of the size and **risk profile** of the **licensable body**;
- Suitability of proposed **Managers** and **Authorised Persons**;
- its professional indemnity insurance arrangements comply with the minimum requirements of Article 3 IMD and the **CLC's PII Policy Wording**;
- Quality of employment **arrangements**, particularly procedures for ensuring **managers** and **employees** are **fit and proper persons**;
- Any significantly prejudicial **access to justice** barriers;
- Any other factors which the **CLC** believes may pose a risk to delivery of the **Code of Conduct's Outcomes**.

8.11 We will consider the following factors in determining the suitability of declared **Non-Authorised Persons** with **material interest**:

- a) Whether there is a risk of **improper influence** i.e. that the person's **material interest** is likely to compromise delivery of the **Code of Conduct Outcomes** and the regulatory duties of both the **Licensed Body** and its **Authorised Persons** (e.g. they are subject to other duties which may conflict/compromise the regulatory duties);
- b) Any concerns identified by the fit and proper tests;
- c) Their financial position;
- d) Whether they have been disqualified by a **Licensing Authority** from acting as an **HoLP, HoFA, manager or employee** of a **Licensed Body**;
- e) The person's **associates**.

8.12 We will consider the following factors in determining the suitability of the proposed HoLP:

- a) Any concerns identified by the fit and proper test;
- b) If they are an **Authorised Person**;
- c) Whether they have been disqualified by a **Licensing Authority** from acting as an **HoLP, HoFA, manager or employee** of a **Licensed Body**;
- d) Whether they have been subject to disciplinary proceedings or disciplinary investigation;
- e) Their competence and credibility to fulfil the role effectively;
- f) Their level of seniority and whether this is appropriate to the size and structure of the **Licensed Body**.

8.13 We will consider the following factors in determining the suitability of the proposed **HoFA**:

- a) Any concerns identified by the fit and proper test;
- b) Whether they have been disqualified by a **Licensing Authority** from acting as an **HoLP, HoFA, manager or employee** of a **Licensed Body**;
- c) Their competence and credibility to fulfil the role, including their accountancy experience, competence and/or whether they have a recognised accounting qualification;
- d) Their level of seniority and whether this is appropriate to the size and structure of the **Licensed Body**.

8.14 We will consider the following factors in determining the suitability of the proposed **Managers**:

- |   |
|---|
| <p>a) Any concerns identified by the fit and proper test;</p> <p>b) Whether they have been disqualified by a <b>Licensing Authority</b> from acting as an <b>HoLP, HoFA, manager</b> or <b>employee</b> of a <b>Licensed Body</b>; c) Their competence and credibility to fulfil the role;</p> <p>d) Their level of seniority and area of management.</p> |
|---|

8.15 Where the **beneficial owner** is a corporate body the fit and proper test will broadly reflect the approach taken in respect of **Licensed Body** applications. This may include governance **arrangements**, financial **arrangements** and application of the fit and proper test to its Directors. This test may also be applied to the owner(s) of a corporate body.

8.16 We will approve a person's **material interest** where we are satisfied that it would not present a risk to the **Code of Conduct Outcomes** or **Authorised Persons'** duties and the person is otherwise considered a **fit and proper person** to own that interest. Should we approve a **NonAuthorised Person's material interest** this will be taken to mean that we have also approved any lesser **material interest** they have in the body.

8.17 Where we consider a **Non-Authorised Person's material interest** presents a risk we will seek to impose **conditions** on that interest. Where we consider a risk too significant to be mitigated by **conditions** we will object to the interest. In both cases we will issue a warning notice to both the **applicant** body and the investor specifying the reasons for our intended measure. The notice will state the reasons for our determination and, if we propose to issue a **licence** subject to **conditions**, their nature.

#### **Licence Application Determination**

8.18 All of our **regulatory arrangements** seek to promote the **regulatory objectives**. Our **Code of Conduct** identifies positive **Outcomes** which all licensees must deliver through compliance with a number of **Overriding Principles** of behaviour. All applications will be assessed against the body's capability and capacity to deliver on these responsibilities.

8.19 If we are not completely satisfied that the body will deliver the **Outcomes**, we may issue a **licence** subject to **conditions** or may refuse the **licence** application.

8.19A We shall refuse the licence application if the laws, regulations or administrative provisions of a third country governing one or more natural or legal persons with which the body has close links, or difficulties involved in the enforcement of those laws, regulations or administrative provisions, prevent the effective exercise of their supervisory functions.

8.20 Provision of adverse information concerning an individual does not necessarily preclude our approval of them. We will assess the information provided against the individual's proposed role and against the circumstances e.g. the individual may be able to satisfy the **CLC** they have learnt from the identified event. Our determination will depend upon the nature of the information provided and whether this puts at risk compliance with the body's regulatory responsibilities. For instance, we are likely to disregard spent convictions for less serious offences, provided they are not dishonesty or fraud related. We consider that dishonesty or fraud related convictions are likely to present too great a risk to delivery of positive **Outcomes** for **Clients**. In such instances, we are unlikely to be confident that the body will meet **Overriding Principle 1 Act with Independence and Integrity**; and **Overriding Principle 5 to Deal with regulators and ombudsmen in an open and cooperative way**. Where an individual has been declared bankrupt or been subject to an Individual Voluntary Arrangement (particularly if it is recent), it is likely that an application for that individual

to be approved as a **HoFA** will be refused as the role requires both financial capability as well as probity.

8.21 We are likely to defer our decision until after any pending cases or proceedings have been determined, unless the subject matter of the case or proceeding is less serious and is not dishonesty related.

8.22 The determination of the risks presented by individual persons will be based upon an assessment of the following:

**(a) Is there full confidence that the HoLP/HoFA has integrity and is trustworthy and honest?**

(i) Unless there are exceptional circumstances the **CLC** will not be satisfied that the individual is a **fit and proper person** and will refuse the **candidate** if they have:

- convictions for offences involving dishonesty; or
- deceived or sought to deceive others, e.g. academic authorities, employers or members of the public.

(ii) The following might satisfy the Committee of the individual's present integrity, honesty and trustworthiness:

- if in view of the time since the behaviour occurred the individual has demonstrated a subsequent pattern of exemplary behaviour; or
- the incident was of a minor nature, as indicated by the sentence or sanction applied.

(iii) The type of evidence considered should normally include each of the following:

- at least one independent account of the event(s), including sentencing remarks where a criminal conviction is being considered;
- references from at least two independent people who know the individual well and are familiar with the matters being considered. Ideally one of the references should be provided by an **Authorised Person** of good standing;
- evidence of rehabilitation independently corroborated e.g. independent reports, references from employers, or from a professional or regulatory body; and the individual's account of the events and attitude towards them.

(iv) Where a conviction or disciplinary hearing is being considered the **CLC** will not question or look behind the finding other than in exceptional circumstances, although material such as sentencing remarks and any explanatory statement will be considered. For example, a decision may be demonstrably wrong where later events, such as after acquired evidence or a change in the law, call the original decision into question.

(v) Where the matter being considered concerns academic misconduct (e.g. plagiarism) the **CLC** will take into account the range of academic misconduct that occurs.

(vi) For the purposes of the assessment whether an individual is a **fit and proper person** to become an **HoLP/HoFA**, there will be particular concern where in the commission of academic misconduct the individual has committed deliberate and dishonest acts in order to achieve personal gain or advantage.

(vii) The following factors would therefore be of particular interest to the **CLC**:



- the extent to which the individual was aware of the rules and procedures governing the referencing of material, or the use of group work or collaborative material;
- the extent to which the individual could reasonably have been expected to realise that the offence did not constitute legitimate academic body;
- the extent to which the individual acted with intent to deceive; and
- the degree of benefit or advantage gained as a result of the offence.

(viii) As in the approach to consideration of criminal convictions, the assessment will not seek to re-open the investigation undertaken by the training organisation, nor will it cast doubt on the validity and appropriateness of the decision taken, providing appropriate investigation and disciplinary procedures were followed, but statements intended to explain or mitigate the conduct in issue will be considered.

**(b) Is there full confidence that the *HoLP/HoFA* are willing now to comply with legal and regulatory requirements?**

(i) Unless there are exceptional circumstances there will not be full confidence and will refuse the *candidate* if they:

- have been convicted of a criminal offence;
- have failed to disclose information to a regulatory body when required to do so or has provided false or misleading information;
- have been formally disciplined, sanctioned, or barred by a regulatory body; or
- have failed to comply with the reasonable requests of a regulatory body.

(ii) It may be possible for full confidence to be established in the individual's willingness to comply with legal and regulatory requirements if:

- in view of the time since the incident the individual is able to demonstrate that there has been a subsequent pattern of exemplary behaviour;
- a matter that was not disclosed was trivial or in view of the time when it occurred is no longer material or the breach was minor, as indicated by any sanction imposed; or
- the incident can be shown to have been the result of a genuine mistake or oversight.

(iii) The evidence considered should normally include each of the following:

- certificates of standing or statements from the relevant regulatory body or disciplinary tribunal and any limitations on the individual's rights to practise or freedom to act;
- the individual's explanation for failure to comply; and
- evidence of rehabilitation independently corroborated e.g. independent reports, references from employers, or from a professional or regulatory body.

**(c) Is there full confidence that the *HoFA* is able responsibly to manage financial affairs?**

(i) Unless there are exceptional circumstances there will not be full confidence that the individual can responsibly manage financial affairs and the ***candidate*** refused if:

- the individual has been made bankrupt, has entered into an individual voluntary arrangement or has unmanageable debts arising from the individual's recklessness,
- incompetence or dishonesty;
- the individual has deliberately sought to avoid responsibility for debts; or
- there is evidence of dishonesty in relation to the management of finances.

(ii) The following might help to establish confidence in the individual's ability to manage financial affairs:

- if in view of the time since the bankruptcy or occurrence of the debts there is evidence of subsequent sound financial management and conduct and that creditors have been paid;
- the individual is able to establish that he was affected by exceptional circumstances beyond his control or which he could not have reasonably foreseen.

(iii) The type of evidence considered should normally include each of the following:

- credit check information;
- the individual's explanation of the circumstances, corroborated where possible;  actions taken to clear any debts.

(iv) The Business Plan and Financial Forecasts will be reviewed to determine:

- if it has adequate resources, including financial, skills and knowledge, for the body to be viable and to be effectively run;
- how critically they have examined the business' aims and the market for it;  how realistic the financial projections are;
- if the financial forecasts take into account a realistic anticipated turnover, fixed costs and calculated variable costs.

Where there are concerns about the viability or suitability of a ***licensable body*** the ***CLC*** may refuse to issue a ***licence*** or issue a ***licence*** subject to ***conditions***.

**(d) Is there a risk that the issue of a *licence* to the body will diminish public confidence in the legal services profession?**

(i) Unless there are exceptional circumstances there is a risk that public confidence in the profession will be diminished if a ***licence*** is issued to a body in which the ***HoLP/HoFA***:

- has served a prison sentence, has remained on ***licence*** or is listed on the Sexual Offenders Register;
- has misused his position to obtain pecuniary advantage, particularly if associated with the provision of legal services;
- has been responsible for dishonest or violent behaviour;

- has been convicted of offences associated with obstructing the course of justice;
- has been convicted of a racially motivated offence; or
- has knowingly worked when his competence was impaired by alcohol or drugs; in which case, unless the risk can be addressed to the satisfaction of the **CLC**, the application will be refused or will be issued subject to **conditions**.

(ii) The risk might be addressed satisfactorily if:

- in view of the time since the misbehaviour occurred the individual concerned is able to demonstrate that there has been a subsequent pattern of exemplary behaviour; or
- the misbehaviour was not of a serious nature, as indicated by the sentence or sanction applied.

(iii) The evidence provided should normally include each of the following:

- independent accounts of the convictions and behaviours that have given rise to the concerns, e.g. sentencing remarks;
- evidence of rehabilitation independently corroborated e.g. independent reports, references from employers, or from a professional or regulatory body.

(iv) Proposed governance and management **arrangements** are not sufficiently adequate to ensure the **Licensed Body** meets the licensing requirements and all members of staff are aware of their licensing responsibilities.

v) Proposed owner **arrangements** demonstrate there is a significant risk of undue or **improper influence** risk

vi) Proposed operating procedures and quality assurance systems are not sufficiently adequate to instil public confidence in the quality of services provision. vii) The **HoLP&HoFA** are not readily provided with access to the **Licensed Body's** management and staff and the **CLC** whenever necessary and are not of an appropriate management level)

**(e) Is there a risk that the issue of a licence to the body could result in harm to members of the public, the profession or the body?**

(i) The **CLC** will consider there is a risk of harm to members of the public, the profession or the individual if there is evidence in respect of a **HoLP/HoFA** that:

- they are or have been dependent on drugs or alcohol;
- their mental health or their exposure to stressful situations can seriously impair their judgment, their ability to manage their work or their professional relationships;
- they have been violent with colleagues or **Clients**; or
- they have experienced recurrent episodes of behaviour/dependency/illness; which have given cause for concern in which case, unless the risk can be addressed to the satisfaction of the **CLC**, the application will be refused.

(ii) The evidence considered will normally include:

- recent and full medical reports, including psychiatric reports where relevant; accounts from employers and other parties; and
- a statement from the individual concerned.

8.23 Unless a **HoLP** or **HoFA** is demonstrably inappropriate for the role – for instance, the **HoLP** is not an **Authorised Person** - we are unlikely to decline an application for either of these posts. If however, a **candidate** is in our view insufficiently skilled given the body's size or profile this will inform our risk assessment of the body and may result in **conditions** such as targeted **Continuous Professional Development (CPD)** requirements of the individual and/or increased supervision. It is the **licensable body's** duty to ensure it has the appropriate individuals in place to ensure the regulatory requirements are met and that the rule of law is supported.

8.24 Should we decide not to approve a proposed **HoLP** or **HoFA** because the **candidate** is wholly unsuited for the role we will not use this decision to refuse the application itself if we are satisfied with all other elements of the application and the body subsequently nominates a more satisfactory individual for the role. Note: the Rehabilitation of Offenders Act 1974 does not apply for a HoLP or HoFA. Spent convictions should be declared

#### **Non-Authorised Person with Material Interest**

8.25 The approach taken will be similar to that identified at 8.22 (a)-(e) and will be assessed against the quality of the body's **arrangements** for regulatory compliance (including the calibre and management level of the **HoLP/HoFA candidates**). All other things being equal we are likely to be less stringent about adverse information provided on these individuals rather than the roles of the **HoLP/HoFA**. As identified at 8.22 (a)-(e) we will assess the risks posed by the information presented. This approach will also be adopted where we seek information on an **associate** who causes us concern. Where an **associate** is an **employee** of the body this will inform our assessment of the likelihood of **improper influence**. Note: the Rehabilitation of Offenders Act 1974 does not apply for those who hold a material interest. Spent convictions should be declared.

#### **Managers**

8.26 The approach taken will be similar to that identified at 8.22 (a)-(e) – 8.24. Note: the Rehabilitation of Offenders Act 1974 is not exempted for managers as it is for HoLP/HoFAs and those who hold a material interest. Spent convictions do not need to be declared.

#### **Outcomes-focused**

8.27 To protect the public, **Clients** and the reputation of the legal sector the grant of a **licence** must not compromise the **Code of Conduct outcomes**. The **CLC** determines all correctly completed **licence** applications it receives. We will only grant a **Licensed Body licence** where the assessment set out at 8.10-8.26 has satisfied us that our **regulatory arrangements** are/will be complied with.

8.28 The **CLC Authorised Officer** and their team will determine **licence** applications based upon an assessment of risk to the **Outcomes**. Where clarification of the information provided in an application is required the licensable body will be contacted. We will interview the **HoLP** and/or the **HoFA** as part of their designation, to discuss details of the application and the **applicant's** proposals and to achieve clarification (or reassurance where needed). We may also require other stakeholders to attend an interview to address particular concerns.

## Complex applications

- 8.29 In the case of a particularly complex application or where adverse information is provided the **licence** application will be determined by the **CLC Authorised Officer** in consultation with a Legal Practice Inspector (or an **employee** of equivalent or senior status).
- 8.30 Adverse information does not necessarily mean **licence conditions** will be imposed or the application will be refused. If adverse information is provided it will be discussed with the **applicant** to determine the risk posed to the **Code of Conduct's outcomes**, any resource implications for the **CLC** and the **applicant's** willingness or capacity to address the issue. We will not grant the **Licensed Body licence** unless we approve, either unconditionally or conditionally, each **Non-Authorised Person's material interest**. Please see section 10 for information on the options available to us on provision of adverse information which could threaten delivery of the **Code of Conduct's Outcomes**.
- 8.31 Where we are not fully satisfied with information provided but would require the body to make only minor adjustments – e.g. a slight amendment of an arrangement – we will require confirmation, which we shall verify, that the adjustment has been made before the **licence** is issued, rather than impose a **condition** upon the **licence**. **Conditions** will only be imposed where they are needed to safeguard **Client** interests and where the issue is such that it must be formally recognised within the **licence terms**.

## Notification

- 8.32 We aim to will notify all **applicants** of our **licence** determination within 90 days of receiving a complete application. If, because of the complex nature of the application or because we require additional information, additional time is needed to make the determination we will notify you of this before the end of the original 90 day determination period. We will inform you of the reasons for the extension and its additional period, which will not exceed a further 90 days.
- 8.33 The **CLC** will determine one of the following:
- To grant a **licence** free of **conditions**; or
  - To grant a **licence** subject to **conditions** (to mitigate risks posed to the **Code of Conduct Outcomes**);
  - To refuse the application (because of the seriousness of the risk(s) posed to the **Code of Conduct Outcomes**).

## Granting of a Licence

- 8.34 Where a **licence** is granted it will be issued as soon as is reasonably practicable. If we are satisfied that all **Non-Authorised Persons material interest** holders meet our approval requirements the interest will be approved without **conditions** and we will advise both the **Licensed Body** and the investor of this as soon as is reasonably practicable.
- 8.35 The **Licence** will specify its **terms** by way of endorsement:
- All **authorisations** that the **CLC** grants the body to carry on **reserved legal activities**;
  - All **permissions** that the **CLC** grants the body to provide non-**reserved legal activities**;
  - Any **conditions** applicable to the exercise of the **authorisations** and **permissions**.

- 8.36 The **Licensed Body** can only carry on its **authorisations** and **permissions** in its capacity as the holder of its **Licence**.
- 8.37 The **Licensed Body** must not carry on a **reserved legal activity** which is not within its **authorisations**.
- 8.38 When carrying on its **authorisations**, a **Licensed Body** must comply at all times with its **conditions**.
- 8.39 Where non-reserved services are permitted we will adopt a co-regulatory approach with the relevant **Approved Regulator** as per our ABS Multidisciplinary **Memorandum of Understanding**. Where this is not appropriate it is likely we will require the **applicant** to ringfence the services for which it has **authorisations** and **permissions**.
- 8.40 If the application is approved, as a new licensee, we will provide you with any reasonable support or advice you require in the initial setting-up stages and for a short time.
- 8.41 **Licences** are issued for an indefinite period – other than temporary **licences** issued because of a change in the membership of a body - and are valid from the date of issue. **Licensed Bodies** will be required each year to pay the Regulatory Fee and a contribution to the **CLC Compensation Fund**. Should a body not provide this fee/contribution they will have invalidated the **licence**. **Licences** continue to have effect after a **Licensed Body** has ceased to practise.

## 9 **Licensed Body (ABS) Register**

9.1 Our register of **Licensed Bodies** will be available on our website. This should aid public confidence in legal services providers, enabling interested parties such as the public to be able to identify licensed bodies and their owners, **managers** and statutory officers. The following information is held on this register:

- Name of **Licensed Body**
- Whether the **licence** is suspended or revoked and the date on which suspension or revocation took place
- Any **enforcement** action or sanction on the **Licensed Body**, its owner or any **employee**
- Trading name of the **Licensed Body**
- Previous names of the **Licensed Body**
- The **company** registration number
- The **licence** number of the body
- Previous **licences** held by the body
- The date the **licence** was issued
- Registered address of the **Licensed Body**
- Practising address(es) of the **Licensed Body**
- The names of the **Head of Legal Practice** and the **Head of Finance and Administration**
- The authorising body of the **Head of Legal Practice**

- The **reserved legal activities** that the body is authorised to undertake
- Any endorsements placed on the **Licensed Body**

9.2 We will keep the register as up to date as reasonably practicable. It will reflect any change made within 28 days.

9.3 In very exceptional circumstances the **CLC** may agree it is appropriate not to publish details of the **beneficial owner**; it is up to the individual **applicant** to make such a case to us. The **CLC** will only consider this in exceptional circumstances e.g. where a real risk of physical harm has been demonstrated.

## 10 Adverse Information

### Licence Conditions

10.1 We will assess the risk posed by an applicant body. Where risks differ, so do our requirements. If we are not satisfied that an applicant's arrangements meet our approval requirements, but could be met through the implementation of additional safeguards, the licence will be issued with conditions. Any conditions will be noted on the licence and on the CLC's register, in addition to any endorsements (see 8.35).

10.2 We will simultaneously issue you with a notice explaining the requirements of the **condition(s)**, the reasons for its imposition and its duration (if time-bound). Any **conditions** imposed will take effect at the time the **CLC** directs e.g. a **condition** may take immediate effect or at a future date, or may not have effect until after any appeal in relation to it. **Conditions** will only be imposed where we consider that compliance with them would mean the **Code of Conduct Outcomes** would no longer be threatened e.g. if we are satisfied that our notified **material interest** approval requirements are likely not to be met by the imposition of **conditions** we would object to the notified interest. In contrast, the purpose of endorsements is to make it clear which **legal activities** a **Licensed Body** is authorised to undertake.

10.3 **Conditions** placed upon the **Licensed Body** may result in it incurring expenditure and can include:

- (i) a limitation of the types of non-reserved services it may provide
- This **condition** will be imposed where the **CLC** is not satisfied that there are adequate **arrangements** in place to ensure the non-reserved activities are provided or supervised by suitably experienced or qualified staff;
- (ii) a requirement that the body as a whole or a person within, or connected to it, takes a specific step, such as:
- Where we consider a **Non-Authorised Person's material interest** poses a risk to **Authorised Persons'** duties we may approve the notified interest subject to **conditions** e.g. prohibited from engaging in the day-to-day activities of the business or exerting influence on any of the **managers** or **employees** to act, or refuse to act, for a particular person;
  - Improvements to be made to the body's **arrangements**;
  - Targeted **Continuous Professional Development** for persons within the body (this may be the **HoLP** and/or the **HoFA**, as well as **managers** and/or other relevant staff).

10.4 Where **arrangements** need to be improved, the **licence** will only be fully endorsed when these improvements have been made and where they are to the satisfaction of the **CLC**.

10.5 In cases where **conditions** would not be appropriate due to the significance of the risk posed and/or where the body lacks the capacity or inclination to comply with the proposed **conditions** the **licence** application will be refused.

#### **Licence Refusal**

10.6 When refusing an application, the **CLC** shall notify the **applicant** of the grounds on which the refusal was made.

10.7 The **CLC** may refuse to grant a **Licensed Body licence** where it is not satisfied that the business is able to comply with the **CLC Licensed Body Code** and presents a significant risk to the delivery of positive **Client Outcomes**. Factors which could determine such a decision include:

- A **material interest** causes significant concern which cannot be mitigated through **conditions**;
- Inadequate funds and/or resources;
- Inappropriate governance/management **arrangements**;
- Legal services would/are not delivered and/or managed by appropriately qualified **Authorised Persons**;
- The **conditions** imposed by the **CLC** upon which a **licence** would be issued have not been met;
- The body's **arrangements** make it vulnerable to **improper influence**;
- The body has not provided the application information requested, or has provided incomplete, or false or misleading information;
- Concerns that the proposed **HoLP/HoFA/owner(s)** is not fit and proper for their proposed role have not been resolved by mitigating measures and there is no suitable substitute;
- Indemnity insurance provisions do not provide suitable protection for **Clients** The **Compensation Fund** contribution required has not been made;
- Fees owed to the **CLC** have not been paid.

10.8 The **CLC** shall notify the **applicant** of the grounds on which the application has been refused and their right for this to be reviewed.

## **11 Regulatory Responsibilities of a Licensed Body (ABS)**



- 11.1 All entities regulated by the **CLC** must comply with the **Code of Conduct**. The aim of the Code is to help promote the **regulatory objectives**. All applications will be assessed against the body's capability and capacity to deliver the Code's **Outcomes** and to comply with its **Overriding Principles**.
- 11.2 All the other **CLC** Codes are designed to ensure those we regulate deliver the **Code of Conduct's Outcomes**. We require **applicant** bodies to provide us with a Compatibility Statement concerning the **Code of Conduct Outcomes** and **Licensed Body** Code and any steps taken to address any identified issues e.g. a **Non-Authorised Person** with a **material interest** is subject to other duties which could potentially conflict with the **Code of Conduct's Overriding Principles**. Wherever appropriate or possible we will work with an **applicant** to address an issue which has been reported to us.
- 11.3 No **licensable body** will be licensed as a **CLC Licensed Body** until we are satisfied that their application demonstrates that the body will meet these regulatory responsibilities and deliver the **Code of Conduct's Outcomes**.
- 11.4 All of our **regulatory arrangements** are set out in the **CLC Handbook**, an electronic copy of which is available on the **CLC** website: <http://www.clc-org.uk/>

A hard copy of this document will be available to those unable to access an electronic copy.

#### **Improper Influence**

- 11.5 We will always investigate allegations of **improper influence** and where we are satisfied there is evidence of this we will follow our **Enforcement** Policy (please see the **CLC Handbook**).
- 11.6 Should a **HoLP** need to report **improper influence** they should do so to the **CLC Authorised Officer**

#### **Material interests**

- 11.7 As identified in the **Licensed Body** Code persons proposing to take a step which would result in them acquiring a **material interest** in a **Licensed Body** must notify both the **Licensed Body** and the **CLC** of this. A person with an existing **material interest** acquiring an additional kind of **material interest** must do the same.
- 11.8 Any proposed **Non-Authorised Person** with a **material interest** (of 10% or more) of a **CLC Licensed Body** will be given temporary pre-approval of their notifiable interest for an initial period of 90 days during which time the status of the body's **licence** will become temporary. The approval will become permanent only when the **CLC** has judged them fit to own. The 90 day determination of whether to approve, place **conditions** (or further **conditions**) on, or object to, an interest gives us sufficient time to analyse the information provided and to properly consider all relevant issues to determine what the appropriate approach should be. Failure to respond promptly to requests for information may result in a delay in determining the application, or in exceptional circumstances in the application being refused.
- 11.9 If a person had no knowledge of the facts that led to this (such as on inheritance of shares) they must inform both us and the body within 7 calendar days upon possessing such knowledge.
- 11.10 Failure to notify a proposed step, or an actual acquisition, is a criminal offence which upon conviction could result in a fine. If we are notified of a proposed step and the person subsequently takes the step without our approval they are liable on summary conviction to a fine and a conviction on indictment to a term of imprisonment or a fine (or both).

11.11 We will consider representations made regarding our stated intention to impose **conditions** or object. These will be considered within 28 days of issue of the notice. Should we then approve the **material interest** subject to **conditions** we will issue both the **applicant** body and the investor with a notice specifying the reasons for the **conditions**, their nature, and explaining that we could ultimately divest the person of their **material interest** if it is judged necessary in the interests of the public and **Clients** to do so.

11.12 In a partnership a **Non-Authorised Person's material interest** which is not approved by us does not make it unlawful for the partnership's business to be carried on or for the partners to carry it on in partnership.

## 12 Monitoring

12.1 The factors which determine our regulatory relationship with the bodies and persons we regulate are set out in the **CLC** Regulatory Policy. We systematically collect information to help us monitor how effectively our **regulatory arrangements** are operating. All **CLC** regulated entities are required to submit data into our secure online Management Information System. The information held on this system is analysed and helps inform our regulatory profiling. We may require you to provide us with information (such as reconciliation statements) on a periodic basis to satisfy us that your declared systems are in place and are operating satisfactorily.

12.2 All entities regulated by the **CLC** are required to submit an annual information form. The data the Licensed Bodies are required to provide includes:

**HoLP** and **HoFA**, **Managers**, owners and **Authorised Persons** (including any changes in their circumstance);

**HoLP/HoFA Continuing Professional Development** Records;

- Who is involved in dealing with and managing **Client Money**;
- Breakdown of work;
- Volume of transactions;
- Profile of work by complexity;

Referral **arrangements**;

- Significant new sources of work;
- The type of services provided;
- Turnover and profit;
- How **Clients** access services;

**Complaints** data;

Any additional information you may wish to provide e.g. evidence of recognised external accreditation, customer satisfaction feedback results or findings from internal compliance activity.

12.3 According to the risk posed by the body we may require information more frequently (and more varied). This will only be requested when justified by risk assessment. Our investigation may include an inspection which may be carried out remotely or through a site visit.

### 13 CLC Enforcement Powers

- 13.1 All Licensed Bodies and their stakeholders must comply with our **regulatory arrangements** at all times. Where a non-compliance issue is identified we will always seek to resolve it informally in the first instance. Where this has failed or where the severity of the risk renders this inappropriate, we will take formal **enforcement** action. We always seek to ensure our **enforcement** response is proportionate to the risk identified. We have a number of statutory powers available to us to protect the interests of the public and **Clients**. These powers can be exercised against the **Licensed Body** itself or an owner, **manager** or **employee** of it (or all of these individuals) and can be used in isolation or in conjunction.
- 13.2 Where an issue has been identified the **CLC** will provide you with a warning notice\* to inform you of the action we intend to take as a result, why it is considered necessary and when the Notice will come into effect. You will be able to make representations to us concerning our intentions.
- 13.3 The **CLC** Regulatory Policy explains what we as a regulator of legal services are seeking to achieve and how our regulatory philosophy is put into practice. The **CLC Enforcement** Policy explains how we identify and respond to non-compliance with our regulatory requirements and the factors which determine the form our response takes.
- 13.4 \*The exception to this is where **intervention** is deemed necessary.

#### Licence Conditions

- 13.5 In addition to any endorsement (see 8.34), we will impose **conditions** upon a **licence** where we consider additional safeguards are needed to protect **Clients**. **Conditions** include:
- Requiring the body as a whole or a person within, or connected to it, must take a specific step e.g. where the **CLC** is not satisfied that the **HoLP** or **HoFA** remains 'fit and proper' for the role, we may withdraw our approval of that individual (requiring another individual be designated for the role);
  - Limiting the duration of the licence (applied only in exceptional circumstances and in conjunction with other **conditions** e.g. in the event of the running down of a practice).
- 13.6 **Conditions** may be imposed in the granting of a **licence** or at any stage in a **licence's** duration. We may impose further **conditions** or adopt other **enforcement** measures if **conditions** are not complied with.
- 13.7 **Conditions** are likely to be time-bound. The period within which they must be complied with will be stated on the re-issued **licence**.

#### Financial Penalties

- 13.8 We may impose a financial penalty upon a **Licensed Body**, and/or one or more of its **Managers** or **employees**. We are likely to issue a financial penalty when behaviour is inappropriate and needs changing to deter future non-compliance. We will determine if the act or omission was deliberate, the impact (potential or actual) of the behaviour on a **Client**, or **Clients** in general, the reputation of the legal services sector, whether the breach was a one-off or a repeated issue and the attitude of the individual or body, to determine if a financial penalty could be considered an appropriate action and if so, the appropriate level. The penalty will be proportionate to the breach and take account of the resources of the **Licensed Body**.

13.9 The **Legal Services Board (LSB)** has set the maximum penalty thresholds for a **Licensed Body** and an individual within it at £250 million and £50 million respectively.

13.10 We do not profit from a financial penalty; the payment is made into the Government's Consolidated Fund.

### **Disqualification**

13.11 Disqualification is a serious sanction. If a **HoLP, HoFA, manager** or **employee** is found to have intentionally, or through neglect, significantly breached their duties, or caused, or substantially contributed to a significant breach of the **licence terms** or its **conditions** they may be disqualified from holding that post, or any role, in any **Licensed Body**. A disqualified individual may apply for the disqualification to be terminated only when 12 months have passed since they were disqualified.

13.12 The **LSB** will maintain a list of those individuals who have been disqualified to ensure that people who are disqualified from involvement in the provision of legal services are kept from further harming the public. We will notify the **LSB** – within 7 days of these events - of a determination to disqualify, the results of any review, if one is requested, and any decision that the disqualification should cease to be in force.

13.13 The list of disqualified persons will include the following information:

- Full name
- Other names known by
- Date of birth
- Type of disqualification (as a **manager, employee, HoLP, or HoFA**)
- Date of disqualification decision
- Review date
- Result of review
- Cessation of disqualification
- Name of the **Licensed Body** they were previously employed by, or **manager** of
- Number of **licence**
- **Licensing Authority**
- Type of authorisation (if an **Authorised Person** e.g. **CLC lawyer [licensed conveyancer or licensed CLC practitioner, solicitor** etc.)
- Practising certificate number (if any)
- Details of misconduct i.e. reason for disqualification.

The list is available to view on the **LSB's** website: <http://www.legalservicesboard.org.uk/>

13.14 The **LSB** maintains a similar list of the persons **Licensing Authorities** have objected to owning a **material interest**, who have had **conditions** placed on it, or for whom a **divestiture** application has been made.

## **Divestiture**

13.15 Where there are **improper influence** concerns regarding a **material interest** holding we will act. Our **enforcement** response may take the form of **conditions** or an objection, or could result in a Restriction Notice and ultimately **divestiture**. We will issue a Restriction Notice where a person has a **material interest** shareholding in a body corporate with a share capital and:

- they are a **Non-Authorised Person** who has acquired that interest without having secured our approval of that holding; or
- the **conditions** imposed (Conditional Approval of Notified Interest) upon that interest have been breached; or
- our objection to the interest has been disregarded.

13.16 The Notice will advise you of our intention to apply to the High Court for the holding to be divested if at the end of the period prescribed in the Notice the **divestiture conditions** (identified above) still apply. The Notice will direct that the relevant shares are until further notice - i.e. until the High Court makes an Order; we decide not to apply for an Order; or the body ceases to be licensed by the **CLC** - made subject to one or more of the following restrictions:-

<ul style="list-style-type: none"><li>• a transfer (or agreement) of shares or the right to be issued with them is void;</li><li>• voting rights are not exercisable in respect of the shares;</li></ul>
<ul style="list-style-type: none"><li>• no further shares are to be issued to or in pursuance of any offer made to their holder; and</li><li>• no payment is to be made of any sum due from the <b>company</b> on the shares (except in a liquidation).</li></ul>

13.17 The **material interest** holder will be given the opportunity to make representations for the action not to be taken.

13.18 We will notify the **LSB** of any objections/**conditions** imposed, varied or cancelled, any Restriction Notice issued, as well as the outcome of any subsequent review or appeal. We will also notify them if we approve the holding of a person included in this list and provide reasons for that decision. The Notice will state the reasons for the action taken. We will issue a copy of the Notice to both the individual investor and the **Licensed Body**.

13.19 If the High Court is satisfied that the **divestiture condition** is met it may order the sale of the shares so the **Non-Authorised Person** will no longer have a **material interest** (if they hold more than one type of interest, the interest to which the **divestiture condition** applies is satisfied). No such Order will be made as a result of breach of **conditions** or of an objection until the end of the period within which an appeal could be made, or if such an appeal is made, it has been determined or withdrawn. Where an Order is made, the proceeds of the sale (less the sale costs) must be paid into court for the benefit of the persons beneficially interested to them.

13.20 Alternatively, in the case of notified interest **conditions** being breached the High Court may order compliance with the **conditions**.

### Suspension and/or Revocation of a body's Licence

13.21 The decision to suspend or revoke a **licence** will not be taken lightly. We will only use this measure where, due to the seriousness and/or persistence of the act or omission no other **enforcement** action is judged adequate to address the identified issue.

13.22 A **licence** may be suspended or revoked if:

- a) The body changes its structure and/or **arrangements** so it is no longer a **Licensed Body**;
  - b) A **Reserved Legal Activity** is not carried out by an **Authorised Person** entitled to carry out that activity;
  - c) An **employee/manager/non-Authorised Person** with **material interest** causes or substantially contributes to the **Licensed Body** breaching our **regulatory arrangements**, or one of its **Authorised Person managers** or **employees** to breach their regulatory duties;
  - d) The **Licensed Body**, or one of its **Authorised Person managers/employees**, breach its/their regulatory responsibilities;
  - e) The body employs a person disqualified from being a **manager/employee** of a **Licensed Body** as a **manager/employee** and that person was disqualified for breaching their duties (as set out at c) & d));
  - f) The **Licensed Body** does not have a designated **Head of Legal Practice** or **Head of Finance & Administration** approved by the **CLC**;
- 
- g) A **Non-Authorised Person** with **material interest** has not notified us of their interest;
  - h) A **Non-Authorised Person** with **material interest** is in breach of the **conditions** (or further **conditions**) we have placed upon the (notifiable or existing) interest;
  - i) We have objected to the (notifiable or existing) holding of a **Non-Authorised Person's material interest**;
  - j) The **Licensed Body** is in breach of the **terms** or **conditions** applicable to its **licence** if the breach is incapable of being remedied or has not been remedied within a reasonable period;
  - k) The **Licensed Body** is the subject of an allegation or **complaint** which, if substantiated, is likely to have serious implications for that body.

13.23 **Licence** suspension will not automatically result in **licence** revocation. We may end the suspension where we (or the FTT) are satisfied that to do so would not present a risk to **Clients**. Where this is the case, the body may be subject to a more intensive regulatory relationship to ensure the risks are kept to a minimum.

13.24 A **CLC Licensed Body licence** will also cease to have effect if the body is issued with a **Licensed Body licence** by another **Licensing Authority**.

## **Intervention**

13.25 Where a body's **licence** has suspended or revoked or the **CLC** is satisfied that one or more of the following **conditions** applies:-

- The **licence terms** are not being complied with;
- Persons have been appointed receiver or **manager** of the **Licensed Body's** property;
- A relevant **insolvency event** has occurred;
- We have reason to suspect a **Manager's** or **employee's** dishonesty in connection with the **Licensed Body's** business, any related Trust or the business of another body in which a **Manager** or **employee** is or was employed;
- Undue delay\* by the **Licensed Body** in any matter in which it is/was acting for a **Client** or with any related trust;
- Undue delay\* by a **Manager** or **employee** in connection with any trust of which that persons is/was a trustee (in their capacity as such a **Manager** or **employee**)
- It is necessary to protect the interests of **Clients** or the beneficiaries of a related
- Trust;

We may exercise our powers to intervene in the business. As set out in our Regulatory Policy (please see the **CLC Handbook**) we would only take this action where the interests of **Clients** have been seriously compromised or are at grave risk of being seriously compromised, and where no other **enforcement** action is judged adequate to address a serious and or persistent issue, or if the body's viability is threatened or it becomes insolvent. This power can be invoked even after the **Licensed Body Licence** has ceased/been revoked.

13.26 \*The undue delay **conditions** apply only where we have given you a notice inviting you to explain the reason for the undue delay and you have not provided an explanation we are satisfied with within the period specified in the notice. In such cases you will be given notice of the failure and advised that **intervention** will take place.

## **Intervention - Applications & Orders**

13.27 Where it is judged that **intervention** is the appropriate measure we can apply to the High Court for the following Orders to be made:

- Prohibiting the payment of money by a person or financial institution holding money on behalf of the **Licensed Body**;
- Recovery or receipt of money held by or on behalf of the **Licensed Body** (in connection with its **Licensed Body** activities or a trust);\*\*
- Information about and identification of money and accounts held;

- Production/delivery of documents (this may ultimately result in an appointed person being authorised to enter any premises to search/take possession);
- Communication redirection (this may ultimately result in steps being taken in relation to a website of the **Licensed Body**);
- Possession/disposal/destruction/take copies (or extracts from) of documents;
- Appointment of a new or substitute trustee (where the **Licensed Body** or any of its **employees** or **managers** is a trustee of a trust);
- Liable party to payment costs incurred due to **CLC intervention** activities.

13.28 We must inform you of our intention to do so via a Notice. If an application is agreed the High Court will make an Order to that affect. The Order will take effect once we have provided you with a copy of it.

13.29 \*\* The sums of money and the right to recover or receive them will vest in us and are held by us on trust and for the persons beneficially entitled to them.

13.30 Where we intervene in a body we will suspend or revoke a **licence** (though we will not intervene in all cases where a **licence** has been suspended or revoked)

#### 14 Licence Modification

14.1 We will not issue any automatic waivers of **regulatory arrangements**; a body wishing to have a responsibility waived will need to make a specific application. A **Licensed Body** is entitled at any time to apply for a modification of its **licence terms** or **conditions**. If the modification concerns removal of **licence conditions** it is unlikely that an application will be successful if it is made within 12 months after the **terms** or **conditions** have been imposed, unless there are exceptional circumstances. (The 12 month exemption period does not apply to **conditions** which are time-bound). It is a matter for the **Licensed Body** to satisfy the **CLC** that the **condition** should be removed.

14.2 A body wishing to modify its **licence terms**, endorsements or **conditions** must complete the appropriate **CLC** form and provide us with evidence to justify the modification. The standard modification fee will be £320. This is cost-reflective of the 4 hours we judge will be required to assess the modification application. We reserve the right to charge additional amounts above the standard fee for particularly complex applications which take more than the expected time. These will be charged at £80 per hour. The request will be determined by the **CLC Authorised Officer**. The determination will be made within 28 days of receipt of the complete modification application.

14.3 The **CLC** will only modify **licence terms**, endorsements or a **condition** without obtaining consent from the affected body or individual where there is an evidenced need to do so, for example:

- There has been a change in legislation or in our **regulatory arrangements** which impacts upon the **terms** of the **licence**;



- Where a **licence condition** is only to have effect for a period of time, that period has expired – we may decide to remove the **condition** if we are satisfied it is no longer applicable, or where we believe there are good reasons to do so we may extend the period the **condition** is to have effect;
- The **CLC** is satisfied any **condition** or endorsement in force is no longer applicable – we may decide to remove the **condition** or endorsement or to substitute it with a further **condition** or endorsement which in the circumstances of the case is more likely to address the regulatory concerns we have identified;
- We have identified a significant and/or immediate risk to **Clients** which justifies the imposition of a **condition(s)** or endorsement(s) for the protection of **Clients** or it is consistent with the **regulatory objectives** for a **condition(s)** or endorsement(s) to be imposed as a matter of emergency pending a more detailed investigation, particularly if the alternative would be to require the body to cease trading.

14.4 We will modify the **terms, conditions** or endorsements of the **licence** by giving the **Licensed Body** written notice. The modifications will have effect from the time we give the notice, or such later time as the notice may specify.

## 15 **Review/appeal of CLC determination/enforcement**

15.1 An individual or **Licensed Body** who is dissatisfied with any **CLC** licensing or **enforcement** determination e.g.:

- Refusal of application for a **licence**;
- Any endorsement or **condition** imposed on a **licence**;
- Modification of a **licence**;
- Refusal to designate as **Head of Legal Practice**, or withdrawal of approval;
- Refusal to designate as **Head of Finance and Administration**, or withdrawal of approval;
- Disqualification from some or all of the roles within a **Licensed Body**;
- Suspension and Revocation of **licence**;
- A financial penalty i.e. its imposition, the amount and/or the payment timescales;
- Imposition of **conditions** on or objections to a holding.

may appeal against the determination. The **respondent** must submit an appeal to the CLC within 28 days of being notified of the determination.

15.2 The **Adjudication Panel** (with a quorum of 3) will determine when it is appropriate to impose sanctions – such as disqualification of the Body or a **Manager**, licence revocation or imposition of a penalty.

15.3 No member of the **Adjudication Panel** is a member of the **CLC** Council or an **employee** of the **CLC**.

15.4 Wherever possible the **applicant** making the appeal will be provided with the decision of the **Adjudication Panel** within 42 days of receipt of the request for the appeal. The CLC reserves the right to extend this to 90 days where needed.

#### **First-Tier Tribunal**

15.5 Having been notified of the determination made by the Adjudication Panel, the **applicant** may appeal to the First-Tier Tribunal (FTT). The FTT provides a general right of appeal wherever an individual or **ABS** does not accept the CLC's decision. It will hear appeals only from those who have exhausted their resolution options within the **CLC**, or where the **CLC Adjudication Panel** has not met its published timescales. Unless otherwise directed by the FTT, the appeal request must be made within 28 days after the determination was sent to the **applicant**, or within 14 days after expiry of the time for the **Adjudication Panel** to determine an appeal.

15.6 The FTT is an independent public body, established under the Tribunals, Court and Enforcement Act 2007. The General Regulatory Chamber of the FTT will hear the appeal. This will constitute a substantive re-hearing of the issue and its determination. Appeals will be heard by a Committee of a legally qualified chairperson and a lay member.

15.7 The FTT can reach any decision which the **CLC** could have made and can:

- Affirm the **CLC** decision wholly or in part;
- Quash the **CLC** decision wholly or in part;
- Substitute the whole or part of a **CLC** decision with a new decision of a kind the **CLC** could have made;
- Remit the matter to the **CLC** (generally, or for determination in accordance with a finding made or direction given by the Tribunal).

15.8 Subject to its Procedure Rules, the First Tier Tribunal is likely to award costs only where it considers a party has acted unreasonably.

15.9 There is a right of onward appeal to the Upper Tribunal on any point of law arising from a decision made by the First-Tier Tribunal.

#### **Consistency of determinations**

15.10 After operating as a **Licensing Authority** for six months we will assess the consistency of our licensing determinations – including the circumstances in which **conditions** are made and how often – to ensure we are employing a consistent approach. This quality control exercise will be carried out every year after to ensure our licensing approach is consistently applied. With the approval of the **LSB** we shall make such changes as we consider necessary in the light of these assessments.

### **16 Transfer and Continuity of Licences**

16.1 No change permitted under requirement 16 is effective unless and until it has been approved by the CLC with or without **conditions** and any fee (as provided by requirement 7) has been paid. Depending on the nature of the change proposed, the CLC may require the **Body** or any of its **HoLP, HoFA, Non-Authorised Persons** with a **Material Interest** or **Managers** to comply with some or all of the provisions of requirements 4 and 8.

16.2 In addition to the requirements of the **Notification Code**, we must be **promptly** informed of all such vacancies or changes and we must be provided with full and complete details of the new relevant person so that we can determine/approve their appointment.

16.3 In a **Limited Liability Partnership** of two **Members**, if one of them:

(a)	is committed to prison in civil or criminal proceedings; or
(b)	is unable, because of incapacity caused by illness, accident or age, to attend to the body for a period of more than 14 days (or such other period as the <b>CLC</b> may determine); or
(c)	Lacks capacity (within the meaning of the Mental Capacity Act 2005) and powers under sections 15-20, or section 48, of that Act have been exercised in relation to him; or
(d)	abandons the body; or
(e)	has a <b>licence</b> issued by the <b>CLC</b> subject to a <b>condition</b> which would be breached by continuing as a <b>LLP Member</b> ; or
(f)	is not a <b>CLC lawyer</b> ; or
(g)	dies,

the **licence** will continue in full force and effect provided the remaining **LLP Member** is an **Authorised Person**, and within 28 days of the occurrence an additional person has become an **LLP Member**. We may extend the 28 day period (up to a maximum of 120 days) upon the **Licensed Body's** request.

16.4 Where the **Head of Legal Practice** or the **Head of Finance and Administration**:

(a)	is committed to prison in civil or criminal proceedings;
(b)	is unable, because of incapacity caused by illness, accident or age, to attend to the body for a period of more than 14 days (or such other period as the <b>CLC</b> may determine);
(c)	Lacks capacity (within the meaning of the Mental Capacity Act 2005) and powers under sections 15-20, or section 48, of that Act have been exercised in relation to him;
(d)	leaves the <b>Licensed Body</b> ;

(e)	has a <b>licence</b> issued by an <b>Approved Regulator</b> subject to a <b>condition</b> which would be breached by continuing as a <b>Head of Legal Practice</b> or <b>Head of Finance and Administration</b> ; or
(f)	dies;

the **licence** will only continue in full force and effect provided an appropriately qualified and suitable replacement is in place within 28 days of the occurrence. We may extend the 28 day period (up to a maximum of 120 days) upon the **Licensed Body's** request.

16.5 Where there is a change in ownership in a **Body** the effect of which is that:

- (a) a **Non-Authorised Person** acquires a **Material Interest** in a **Body** (or there is a change of 10% or more in the **Material Interest** a **Non-Authorised Person** has in a **Body**); and/or
- (b) a **Body** ceases to exist and another entity (which may be a **Body**) succeeds to the whole or substantially the whole of that **Body's** business

the **CLC** may determine that:

- i) the **licence** of the **Body** continues in effect (with or without such **Authorisations, Permissions** and/or **Conditions** as the **CLC** may determine);
- ii) the **licence** of the **Body** is transferred to the entity which has succeeded to the whole or substantially the whole of that **Body's** business (or to another person approved by the **CLC**) and that **licence** has effect with or without such **Authorisations, Permissions** and/or **Conditions** as the **CLC** may determine; or
- iii) a temporary **licence** is issued to the **Body** or to the entity which has succeeded to the whole or substantially the whole of that **Body's** business (or to another person approved by the **CLC**) for a period of up to 90 days and that the temporary **licence** has effect with or without such **Authorisations, Permissions** and/or **Conditions** as the **CLC** may determine.

16.6 If the above requirements are not met the **licence** may have effect with or without such **Authorisations, Permissions** and/or **Conditions** as the **CLC** may determine, be suspended, cease to have effect or be revoked.

## 17 Other

17.1 Any **CLC** document served on a licensable or **Licensed Body (ABS)** under our **regulatory arrangements** will be posted to its principal office in the United Kingdom.