

THE PRE-REGULATION BUSINESS INFORMATION FORM

THIS GUIDANCE IS FOR BUSINESS OWNERS WISHING TO APPLY TO THE CLC TO REGULATE:

- A. all of an existing business; or**
- B. a new business, when the current business intends to cease trading.**

BACKGROUND

In order to be granted a CLC Practice Licence applicants must satisfy the CLC Practice Licensing Outcomes.

BEFORE they are able to progress an application to become regulated by the CLC, owners of existing businesses must satisfy the CLC the existing business is well managed with motivated managers and dedicated staff, has identified the risks to the business and has policies and processes which appropriately mitigate those risks.

The information provided will help to indicate how well the business is likely to perform under CLC's regulatory arrangements

CLC Practice Licensing Outcomes

1. The CLC is able to license this business model.
2. The plan for the business indicates that it will provide legal services which protect the interests of clients.
3. The business can operate in a sustainable way.
4. The business has in place compliant governance arrangements to:
 - a. keep Client Money safe;
 - b. protect the interests of the business; and
 - c. protect the interests of clients.
5. The business has clear lines of accountability for key personnel.
6. The business has suitable (trustworthy, qualified, skilled, experienced) key personnel.

INTRODUCTION

The first part of the process, which is at no cost to you, is for you to tell us about your business. We will ask you to provide some standard information about the business for us to review. Businesses should submit together with the completed form, documentation detailing:

THE PRE-REGULATION BUSINESS INFORMATION FORM

For the Business:

- a. most recent inspection and monitoring report (if available);
- b. last three years management accounts;
- c. most recent Professional Indemnity Insurance (PII);
- d. last three years claims history;
- e. client complaints log.

AND, for all owners and key personnel:

- f. **three certified** copies of proof of identify and *address (*no older than 3 months) for ALL key personnel.
 - g. any supporting documentation relating to owners and key personnel's conduct, financial and mental health disclosures; and signed declaration form (signed by ALL current owners and key personnel/).
- OR
- h. when not regulated - has in place governance arrangements that support the spirit of regulation.

1. BEFORE SUBMITTING

Documentation to be sent to Experian:

1.1. Proof of Identity: All owners and key personnel must **provide** three separate forms of proof of identity.

- **One** copy proof of your personal identity, such as a copy of a current Passport or phot driving licence.
- **Two** proofs of your current address, such as utility bill, bank statement, Mortgage Statement, or official letter e.g. from HMRC in your name; OR, a letter from a Landlord confirming your Tenancy agreement. **No older than three months.**

Copy proofs of identity need to be certified by an independent regulated professional (not associated to the current business) such as a Licensed Conveyancer, Accountant, Barrister, Notary or Solicitor, and stating the following her/his –

- Name (in capitals)
- Signature
- Date
- Licence or registration number:
- Business address

THE PRE-REGULATION BUSINESS INFORMATION FORM

- Statement to the effect that the document is certified as true copy of the original.

1.2 Professional Checks: the CLC will need to satisfy itself that the current business is owned by and employs trustworthy, qualified, skilled and experienced individuals.

Therefore, the CLC will:

- a) Carry out professional body and regulatory checks on the business, its owners and key personnel;
- b) Search Companies House for listings for the business, and for its owners and key personnel details of any previous directorships and associations with dissolved, liquidated and insolvent companies.

No charge is made for these checks. Individuals will be asked to provide replies to any questions raised as a result of the searches carried out by the CLC. Failure to provide adequate replies will delay or ultimately prevent any subsequent licensing application being made.

1.3 Evidence of Professional Indemnity Insurance (PII): Business must provide evidence of their current PII and their last three years claims record (provided by the insurer). When the business is ready to make an application to be regulated by the CLC evidence of, or a quote for PII must be provided, compliant with the [Participating Insurers Agreement](#). Note: you will also need to provide proof of turnover from the insurer before your licensing application can be approved.

1.4 Provision of adverse information: Does not necessarily mean the CLC will reject a subsequent licensing application from the business. Where adverse information is provided it will be discussed with the business to determine the risk posed to the CLC and the business' willingness or capacity to address the issue.

1.5 Declarations: All owners and key personnel must sign the Business Information Declaration.

1.6 Forms will be returned unprocessed when:

- a) They are completed incorrectly, please note 'not applicable' is NOT acceptable response;
- b) the form is incomplete because any supporting documentation is missing, or not labelled correctly, i.e. not accurately indicating the question it relates to.

2. AFTER SATISFYING THE BUSINESS INFORMATION

2.1 Next Step: You will be invited to a preliminary meeting with the CLC licensing team to discuss how your business will satisfy the CLC's licensing outcomes.

THE PRE-REGULATION BUSINESS INFORMATION FORM

You will be asked to talk about your business strategy, structure, approach to the business, and how the Practice will be initially funded.

You will be asked to explain how the Practice's organisational structure and operating procedures will effectively identify and manage risk associated to the legal services provided, with particular reference to maintaining consumer protection and regulatory compliance.

2.2 Progressing a Licence Application: Please **do not** start to complete a Practice Licensing application form until **after** your preliminary meeting with the CLC licensing team.

After the meeting applicants should prepare information to demonstrate how the business will meet each outcome and submit this information together with a completed form and all associated individual licence applications or authorisation requests.

3. HOW TO SUBMIT YOUR BUSINESS INFORMATION FORM

Forms must be submitted by post in **hard copy ONLY**:

IMPORTANT INSTRUCTIONS ABOUT HOW TO PREPARE YOUR BUSINESS INFORMATION PACK

Once received your application and all supporting information and individuals applications will be scanned as one document.

So that this can be done without issue when compiling your application pack please:

1. **do not** bind, staple or hole punch the pages of your application or supporting documents;
2. **separate each titled section** or appendices with a clearly **titled A4 sheet of white paper**.

NOTE: Applicants must include a covering page listing **ALL of the documentation** and include in the application pack **any associated individual licence applications** submitted in support of the practice application.

Incomplete packs or applications that cannot be scanned will be returned unprocessed.

To: **Council for Licensed Conveyancers**

Licensing Team

We Work, 131 Finsbury Pavement, London EC2A 1NT

NOTE: Business' must include a covering page listing **ALL of the documentation**.

Incomplete applications or applications that cannot be scanned will be returned unprocessed.

THE PRE-REGULATION BUSINESS INFORMATION FORM

4. FEES

No Fees for the initial review. You will be notified if the CLC considers it appropriate for it to retain external advisers to advise and ask for confirmation you agree their charges.

5. PROCESSING BUSINESS INFORMATION FORMS

5.1 The time needed to process re-regulation investigations: Depends on the level of information submitted and whether any further investigation or verification of that information is required beyond the CLC's standard checks. The CLC endeavours to process non-complex forms within 42 days, or before. Applicants should respond within 10 working days to email form the CLC requesting further information to support an application. **Please note:** Applications may be rejected when supporting information is not provided within 10 working days of the original request.

5.2 All licensing queries: Must be made by email to licensing@clc-uk.org . Please ensure your full name preceded by PRE-REGULATION BUSINESS FORM in CAPITALS is included in the email subject area. The CLC will respond to enquiries using the email address provided for the person n form unless otherwise notified.

6. CHANGES AND HOW TO NOTIFY THE CLC

You must notify the CLC immediately of any changes to the information provided in the Business Information Form and the Licensing Application. **Failure to do so will result in delaying the processing of your application or result in a review of any decision made by the CLC.**

7. DATA PROTECTION ACT 1998

Using your personal data

Your details will be held by the CLC in accordance with the General Data Protection Regulations (GDPR). For the purposes of GDPR, if you provide any information to us, we will be the data controller.

For further information about how your information is used, how we maintain the security of your information, and your rights to access information we hold about you, please see our [privacy policy](#) which is kept under regular review.

You can contact our Data Protection Officer via email at privacy@clc-uk.org or in writing to:

Council for Licensed Conveyancers

Main Line: 020 3859 0904

We Work, 131 Finsbury Pavement, London EC2A 1NT

THE PRE-REGULATION BUSINESS INFORMATION FORM

8. DEFINITIONS

8.1 'Reserved legal activities' are as defined in s.12 and Schedule 2 of the Legal Services 2007 Act. Currently, there are six reserved legal activities: the exercise of a right of audience (advocacy), the conduct of litigation, reserved instrument activities, probate activities, notarial activities and the administration of oaths. The CLC currently licenses and regulates Conveyancing Services which are included in reserved instrument activities, probate activities and the administration of oaths.

8.2 An 'approved regulator' is a body which is authorised to regulate providers of legal services and includes the Law Society, Bar Council, The Chartered Institute of Legal Executives, The Council for Licensed Conveyancers, The Chartered Institute of Patent Attorneys, The Institute of Trade Mark Attorneys, The Association of Law Costs Draftsman, The Master of Faculties, The Institute of Chartered Accountants in England and Wales.

8.3 An 'authorised person' is a person who has been authorised by an approved regulator to carry out reserved legal activities, for example: -

- a) Licensed Conveyancer
- b) Licensed Probate Practitioner
- c) Solicitor
- d) A Fellow of the Chartered Institute of Legal Executives

8.4 A 'non-authorised person' is a person who has not been authorised by an approved regulator to carry out reserved legal activities.

8.5 A 'manager' is defined as a person who is:

- a) if the body is a limited company, a director of the body listed on Companies House;
- b) if the body is a partnership, a person held out as a partner (who may be an equity or salaried partner e.g. listed as a partner on the firm's headed paper);
- c) if the body is a Limited Liability Partnership, an LLP member listed on Companies House;
- d) Sole Practitioner.

8.6 A 'beneficial owner' is an individual or company which has all the benefits and entitlements of a legal owner, even if not named or registered as the legal owner.

8.7 A person or legal Practice holds a 'material interest' in a Licensed Body if the person, legal Practice (or any of the person's associates or the person and any of the person's associates together):

- a) holds at least 10% or more shares in the body (or in a parent undertaking);

THE PRE-REGULATION BUSINESS INFORMATION FORM

- b) is someone able to exercise significant influence over the management of the body (or a parent undertaking) due to their entitlement to exercise, or control the exercise of voting rights;
- c) is entitled to exercise, or control the exercise of, voting powers in the body (or a parent undertaking), which, if it consists of voting rights, constitutes at least 10% or more of the voting rights;
- d) is a partner having at least 10% interest in the capital or profits of the partnership; and includes any ultimate beneficial owner of more than 10%.

8.9 'Key Personnel' includes: authorised persons, non-authorised persons with 10% or more material interest, HoLPs and HoFAs, named managers.

8.10 An 'insolvency event' is defined as:-

- a) resolution for a voluntary winding up of the body is passed without a solvency declaration (under s.89 of the Insolvency Act 1986);
- b) the body enters administration under the meaning of Schedule B1, para 1(2)(6) of that Act;
- c) an administrative receiver within s.251 of that Act is appointed;
- d) a meeting of creditors – which has the effect of converting a members' voluntary winding up into a creditor's voluntary winding up – is held in relation to the body under s.95 of that Act;
- e) an order winding up the body is made.

8.11 An 'individual voluntary arrangement' (IVA) is an agreement between a debtor and their creditors. The agreement sets out how creditors will be repaid and normally entails setting up monthly payments over a certain period of time, such as five or six years. Alternatively, if an asset such as property can be sold, the agreement may specify that a lump sum is raised and distributed to creditors of the debtor.

8.12 'Lenders panel' comprises of lawyers who have been approved by lenders to carry out legal work on their behalf in relation to property purchases and re-mortgages.