

# **THE PRE-REGULATION BUSINESS INFORMATION FORM**

## **THIS GUIDANCE IS FOR**

**Any business that intends to (i) apply to be regulated by the CLC or (ii) acquire a Material Interest in an existing CLC regulated business.**

## **BACKGROUND**

In order to be granted or continue with a CLC Practice Licence applicants must satisfy the CLC the existing business is well managed, financial viable, and when a regulated body, compliant.

It is also important that the business can evidence (if requested) that it 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

The CLC uses the below framework of Licensing Outcomes to establish whether a business can meet its regulatory requirements.

### **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 managers.
6. The business has suitable (trustworthy, qualified, skilled, experienced) managers.

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## **INTRODUCTION**

The first part of the process, which is at no cost to you, is for you to tell us about business that intends to (i) apply to be regulated by the CLC or (ii) acquire a Material Interest in an existing CLC regulated business. Businesses should submit together with the completed form, documentation detailing:

Business should be prepared to provide:

1. A most recent inspection and monitoring report (if available);
2. financial information including last three years management accounts;
3. most recent Professional Indemnity Insurance (PII);
4. last three years claims history;
5. 2-3 page synopsis explaining the investment, ownership, governance and business structures is attached;
6. Policies and procedures, including a completed practice wide AML risk assessment.

AND, to arrange for agreed Managers (see below) to comply with the CLC's AML requires which is to pay for and complete credit, sanctions and criminality checks carried out by Experian:

- a. Owners
- b. Director (Ltd)/ Member(LLP) \*registered on Companies House
- c. Equity Partners
- d. HoLP
- e. HoFA
- f. Private Investors; and
- g. Officers of Corporate Investors.

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## **1. IMPORTANT INFORMATION TO READ BEFORE SUBMITTING**

**Documentation to be provided by each agreed Manager that will be sent to Experian:**

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

- 1 x proof of Photo ID (passport or driving licence);
- 1 x proof of residency, such as a utility bill (no more than 3 months old);
- 1x bank or building society statement; OR
- a Mortgage statement (no more than 12 months old).

Copy proofs of identity need to be certified by an independent regulated Authorised Person, such as a Licensed Conveyancer, Accountant, Barrister, Notary or Solicitor.

***The correct way to certify each page of a document is demonstrated below.***

*I certify that this document is a true copy of the original.*

*OR (where documents contain photographs)  
I certify that this is a true copy of the original and a good likeness.*

**PRINT NAME IN CAPITALS**

**SIGN**

**LICENCE OR PRACTISING CERTIFICATE NUMBER**

**DATE**

**CONTACT ADDRESS**

**DAYTIME TELEPHONE NUMBER**

**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 managers;

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- b) Search Companies House for listings for the business, and for its owners and managers 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):** Businesses must provide evidence of their current PII and their last three years claims record (provided by the insurer).

- a. When the business intends to apply to be regulated by the CLC 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;
- b. When the business intends to acquire a Material Interest in an existing CLC regulated business, confirmation must be obtained from the current CLC insurer they accept the intended new owner on CLC terms and will continue to provide cover.

### **Details of Insurers**

The CLC encourages firms to seek quotes from more than one insurer. Click on the names to find out more about each scheme.

[Gallagher CLC Scheme](#)

[Hera CLC Scheme](#)

[Howdens CLC Scheme](#)

[Marsh JLT CLC Scheme](#)

[Miller CLC Scheme](#)

Background documents

Below you can read and download the relevant policies and documents.

[CLC Professional Indemnity Insurance Terms \(effective 1st July 2016\)](#)

[Participating Insurers Agreement \(sample agreement\)](#)

[CLC Professional Indemnity Insurance Code](#)

[CLC Professional Indemnity Insurance Framework](#)

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**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 managers 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.

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 can be submitted by post in hard copy or by email. Please tell us how you intend to submit your information before submitting it.**

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### **IMPORTANT INSTRUCTIONS ABOUT HOW TO PREPARE YOUR BUSINESS INFORMATION PACK BY POST**

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 **do not bind, staple or hole punch** the pages of your application or supporting documents

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.

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.

#### **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 pre-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.

**5.2** The CLC endeavours to process **straightforward applications within 42 days**, or before. Applicants should respond within 10 working days to any emails from 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.

**5.3 All licensing queries:** Must be made by email to [licensing@clc-uk.org](mailto:licensing@clc-uk.org) . Please ensure your full name preceded by PRE-REGULATION BUSINESS FORM is included

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in the email subject area. The CLC will respond to enquiries using the email address provided for the person in the 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](mailto:privacy@clc-uk.org) or in writing to:

Council for Licensed Conveyancers, We Work, 131 Finsbury Pavement, London EC2A 1NT

Main Line: 020 3859 0904

### **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

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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 **'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.

**8.6** A person or legal Practice that 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);
- 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%.

**8.7** 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;



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- 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.

**8.8** 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.

**8.9 '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.

**8.10 CLC Approved Managers** A CLC 'manager' is defined as a person (lawyer and non-lawyer) who is;

1. if the body is a limited company, a director registered at Companies House; or
2. if the body is a Limited Liability Partnership, an LLP member registered at Companies House; or
3. if the body is a partnership, an equity or salaried partner e.g. listed as a partner on the Practice's headed paper; or
4. Sole Practitioner; or
5. HoLP and HoFA; or
6. Private or Corporate Investors (Beneficial Owners)