

# This guidance

Has 5 sections and is for any business seeking to apply:

- **for the existing non regulated business to be regulated by the CLC;**
- **to have a subsidiary NewCo regulated by the CLC; or**
- **acquire a Material Interest in an existing CLC regulated business.**

In order to be granted or continue with a CLC Practice Licence corporate applicants must satisfy the CLC that the existing business is well managed, financially viable, and when a regulated body, compliant. It is also important that the business can evidence 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.

### **Section 1: IMPORTANT INFORMATION FOR PERSONS BODIES WITH A MATERIAL INTEREST**

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 Persons' and Bodies intending to hold a material interest must be declared as they are subject to our approval.

The individual completing this form should notify any registered Officers of the (investing) body that as a BOOM (Beneficial Owner/Officers/Managers) of the body intending to hold a

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material interest the CLC requires them to be identified and that they will need to undergo a suitability test; including criminality and sanctions checks, and where appropriate disciplinary checks with other regulatory bodies and verification of funds. Managers are listed on the CLC's Public Register.

Confirmation from the CLC that a body and its Officers have passed the suitability test is required *before* completion of the investment/merger/acquisition can be executed. Also applies to new practice, switching and hive-off applications.

The CLC [ABS Framework](#) requires the CLC to be satisfied that owners are fit to own.

Where the beneficial owner is a corporate body the suitability 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 Officers (Members/Directors) and owners.**

The CLC needs to be satisfied that the proposed owner arrangements do not demonstrate there is a significant risk of undue or improper influence risk.

### 1.a SUITABILITY TESTS

#### Persons and Bodies intending to hold a material interest

The CLC must be satisfied that each manager (Individual and/or the body with a restricted interest) is suitable ([S72 and S90, Legal Services Act](#)) and the provisions of [LSA Schedule 13, s6\(1\)](#) set out what the CLC must approve. In summary the CLC is seeking to satisfy itself of the following:

- a. the person's (or body) holding of that interest does not compromise the regulatory objectives,

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- b. the person's (or body) holding of that interest does not compromise compliance with the duties imposed by section 176 by the licensed body or persons to whom subparagraph (2) applies, and
- c. the person (or body) is otherwise a fit and proper person to hold that interest.

In making its determination the CLC will have particular regard to—

- a. the person's (or body) probity and financial position,
- b. whether the person (or body) is disqualified as mentioned in section 100(1), or included in the list kept by the Board under paragraph 51,
- c. the person's (or body) associates, and) any other matter which may be specified in licensing rules.

The CLC will raise an objection to any one of the individuals and/or bodies not unsuitable. *The CLC's object will set out its reasons in a warning notice* (applies to new applicants and notifications concerning existing incoming parties into CLC licensed bodies).

In reference to the [CLC's ABS Framework](#), Warning notices can be served in the scenarios outlined at 8.17 (objecting to the material interest or issuing subject to conditions) or 13.2 (enforcement for non-compliance with regulatory arrangements).

### **1.b IT IS NOT POSSIBLE TO PURSUE A LICENSING APPLICATION WHEN**

The body or its owners/registered managers seeking to apply are subject to:

1. ongoing criminal or financial investigation or proceedings taken by an enforcement body;
2. ongoing regulatory and disciplinary allegations, investigations, proceedings and appeal processes taken by a regulatory or licensing body before the outcome of the adverse event is known and any sanctions and financial penalties have been complied; and

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3. a disqualification order applied by a regulatory or licensing body before the judgement has been successfully appealed.

This includes but is not limited to:

a. **Solicitors, FCILEx lawyers or FCA regulated Financial Controllers:**

- i. with unspent sanctions and or penalties;
- ii. that have been removed from the Solicitors roll/CILEx or FCA register and who have not (at the time of applying) had their licence/registration reinstated (i.e. restored free of conditions) by the original licensing/enforcement body.

b. **Owners, Directors, Members, Partners, HoLP and HoFA of CLC regulated practices that have been formally notified that the practice is in continued non-compliance and or subject to disciplinary allegations, investigations or proceedings.**

### Section 2: PREPARING YOUR DOCUMENTATION AND SUPPORTING EVIDENCE

1. The first part of the process, which is at no cost to you, is for you to tell us about the exiting business. Businesses should be prepared to provide:
2. a short 1-2 page synopsis explaining the investment (including any financing arrangements), ownership, governance models;
3. regulatory inspection and monitoring reports about the exiting business;
4. allegations, investigating and disciplinary information relating to any of the investors, owners or key personnel;
5. financial information including last (i) three years management accounts, (ii) an up to date copy of the most recent balance sheet; and (iii) loan and financing agreements or statements;
6. its current Professional Indemnity Insurance (PII) certificate together with the last three years PII claims history (provided by the insurer);

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7. an organisational chart, detailing investors (private and corporate), the key personnel listing lawyers (with regulatory ID) and non-lawyers, and key functions, such as HoLP/HoFA/Complaints/MLRO/CFO/COO etc;
8. A detailed business continuity plan.

**Important Note.** The BCP should be explicit about the arrangements necessary to manage all aspects of any transaction in any event that triggers the following:

- The absence of the Authorised Person/HoLP/HoFA
- Short unplanned absences
- Medium and long-term planned absences
- Rapid closure (triggered by death, external events and foreclosure)
- Orderly managed closure (triggered by retirement, company wind up, planned closure)

Eventualities should include:

- Incapacity, dealing with family emergencies, bereavements, death of key personnel or owners.
- External events that could trigger a rapid wind-up that means the proper conclusion of legal services is not possible, such as failure to secure PII cover

In all instances Registered Managers should plan a course of action and nominate responsible individuals from the trigger event through to the conclusion of any post closure responsibilities. Including specific arrangements for, but not limited to, access to banking facilities/funds to pay for cover and other professional services/ access to and licences for digital systems/files and storage/insurance etc.

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*We will also ask for copies of the businesses current policies and procedures, including a completed practice wide AML risk assessment and detailed business continuity plan.*  
(Including arrangements for planned and unplanned cover and closure processes)

### **Section 3: INVESTORS/OWNERS AND KEY PERSONNEL**

Will be expected to agree to comply with the CLC's AML requirements by paying for and completing credit, sanctions and criminality checks carried out by Experian:

Typically, we will ask the key personnel to complete the individual application associated to the role they will hold in the CLC NewCo so that we can collect their personal information. We then latterly charge the fee for these applications when the business proceeds to make a formal CLC NewCo application and we will include all charges on a single invoice. Key personnel are listed below:

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

[View the CLC's Universal Guidance of Individuals applying for a CLC Licence or Authorisation.](#)

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### Professional Checks:

The CLC will need to satisfy itself that the current business is operated and 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; and
- 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.

*Please note, the 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.*

### Declarations

A nominated owner/managers must sign the Business Information Declaration.

### Fees

**No Fees for the initial review.** Standard Fees are listed on the [CLC website](#)

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### Section 4: SUBMITTING THE APPLICATION

**Complete and submit your digital application through the online platform, DocuSign,** attaching all relevant supporting information. All documents uploaded should be clearly titled with the question number they relate to. A nominated owner/manager will receive the email link to access the DocuSign form.

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.

The CLC endeavours to process **straightforward applications within 90 days of confirming a complete application** (inclusive of confirmation of receipt of payment of all associated fees have been sent from them CLC finance team to the CLC licensing team). Typically, the CLC aims to notify all applicants of our licence determination within this period.

We will be in contact with you at key stages of process to make further enquires whilst we are reviewing your application. **However, with the exception of these formal updates we will not be able to provide email updates on an ad hoc basis.**

### 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.*



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### 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

### Section 5: DEFINITIONS

**'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.

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.

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

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

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

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.

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%.

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;

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- 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.

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.

'**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.

**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)