Guidance for CLC Registrants
(Regulated Practices)
seeking to surrender a ABS or Recognised Body Licence
2020/21

Section 1

1. INTRODUCTION

CLC Registrants (Practices) seeking to surrender an ABS or Recognise Body Licence in order to exit CLC regulation must inform the CLC of their intensions at least **4 weeks** (or 30 days whichever is soonest) **before** the date that they are requesting the Licence ceases to have effect. In surrendering the entity licence CLC Registrants are agreeing to the entity and all its registered managers being removed voluntarily from the CLC's Public Register.

It's important that early on in the exit process that the CLC agrees in writing that:

A. the CLC Registrant is **surrendering its registration**, *for example when the business intends to transfer to another regulator*, or

B. the CLC Registrant's existing **registration ceases to be effective** as a result of a material change to the ownership, governance or trading profile of the business which nullifies the legal provision or necessity of the licence, *for example when the business intends to cease providing Reserved Activities)*

It's also important for us to understand whether the business intends to:

A. Cease trading, and commence with
   I. an orderly windup of the legal entity; or
   II. a voluntary solvent administration/liquidation; or
   III. voluntary insolvent administration/liquidation; or
B. has become subject to foreclosure and subsequent administration/liquidation;
   OR

C. Continue to trade under the current legal entity, and intends to trade unregulated; or
D. Continue to trade under the current legal entity, and has been approved to transfer to another regulator; or
E. Continue to trade as a result of an acquisition or merger with another regulated business.

2. IMPORTANT INFORMATION ABOUT PII.

Please familiarise yourself with the CLC's PII Policy Terms and CLC Professional Indemnity Insurance Code.

Under the scenarios A, B and C above run off will automatically be triggered the CLC Registrant must provide confirmation fa copy of the run off endorsement from the participating insurer under its right to invoke the Run-off cover under the terms of General Conditions 8.10 and 8.11 of the CLC Policy Terms as below.

8.10 Run-off Cover If the Insured's Practice ceases during the Period of Insurance, or at the expiry of the Period of insurance (known as 'cessation') this Insurance provides run-off cover. The Insured's Practice shall (without limitation) be regarded as ceasing if (and with effect from the date upon which) the Insured firm becomes a non-CLC Regulated Practice.

8.11 Scope of run-off cover This Insurance will provide run-off cover at no additional cost in the circumstances set out in General Conditions 8.10 above and in accordance with the Insuring Clauses (but subject to the limits, exclusions and conditions of this Policy) on the basis that the Period of Insurance extends for an additional six years (ending on the sixth anniversary of the date upon which, but for this requirement it would have ended). In respect of this six year extension to the Period of Insurance only the Sum Insured shall be limited to £2,000,000 any one claim and in all, inclusive of Defence Costs, for the six year *extension and shall not indemnify the Insured in respect of any Claim or Loss arising out of any dishonest or fraudulent act or omission of the Insured.*

Under scenario C, the CLC Registrant intending to trade unregulated must also comply with the following specific requirements of the Professional Indemnity Insurance Code (s7.):

7. When providing services which are not regulated by the CLC, you advise your Client of this and inform them in writing that the activity is not covered by CLC-approved professional indemnity insurance or the CLC-administered Compensation Fund. (CoC P3q)

Under scenarios D and E above the CLC Registrant will be asked to obtain confirmation from the appropriate receiving insurer and its current CLC insurer on whether succession arrangements are appropriate for the past liability and agreed to be in place from the date that its CLC licence ceases to have effect.

*1.25 **Successor Practice** Successor Practice means a Recognised Body or Licensed Body which has acquired or merged with the whole or part of a Recognised Body or Licensed Body and the acquired or merged Body has not exercised its right to invoke the Run-off cover under the terms of General Conditions 8.11 of the CLC Policy (as above).*

Notified Claims

The CLC Registrant will be asked to verify that the business has made appropriate financial arrangements to cover the cost of any future excess related to notified open claims.

3. OWNER AND MANAGER DUTIES

At all times during the exit process the CLC Registrant and its registered managers must up hold the CLC Code on Conduct and the principles set out in the Management and Supervision Arrangements Code and Professional Indemnity Insurance Code.

CLC registrants are at all-times expected to act in a way that seeks to protect the CLC Compensation Fund, *as set out at s.21(2) of the 1985 Act, the Fund out of which grants and other payments are made by the CLC for the purposes of relieving, or mitigating losses, incurred by persons in consequence of the negligence, fraud or other dishonesty, or failure to account, on the part of a CLC Body.*

4. IMPORTANT INFORMATION ABOUT PRACTICE LICENCE FEES.

The entity and individual licence fees are due at the point of first issue or renewal. Those fees are payable in full regardless of whether the individual or entity is active under CLC regulation for the whole of that year. Entity Licence holders may have applied to take advantage of the monthly payment instalment arrangements that are offered.

Please be aware that the entity and ultimately its owners and registered managers remain liable for the total amount of fees for the year even if they are not in practice and should the entity cease to trade or exit CLC regulation (voluntarily surrender its licence) before the next standard licence renewal point, i.e. 01 November.

Any unpaid amounts are a debt to the CLC and will be pursued. Failure to pay the total entity licence fee is a breach of the Code and will render the entities owners and key personnel liable to disciplinary action.

The entity licence fee is based on the declared turnover of the previous year or in the instance of a new start up the forecast turnover for the 12 months of trading, verified by the CLC PII broker in advance of the licence being issued, and is a non-negotiable figure, based on the decision of the CLC's Council and as approved by the Legal Services Board.

Section 2

1. **EXIT PROCEDURES**

The CLC's expectation is that registered managers and key personnel will agree to a formalised surrender and exit timeline that will enable them to ensure that adequate consumer protection arrangements remain in force until the formal processes to surrender the licence and exit procedures are concluded

The CLC Registrant's (Practice) Regulatory Supervision Manger will be the central point of contact and will agree the exit plan and timelines.

As part of the exit procedure CLC Registrants are expected to comply with all monitoring and inspection team requests for information and are required to provide a detailed exit plan, including;

1. Agree a date to cease taking new instructions
    a. Draft notification letters to clients and key stakeholders,
    b. the timeline for the transfer of all live files (and agreement with the receiving agent),
    c. the provision for storage retention arrangements (and access),
    d. the reconciliation the client account;
2. Up-to-date PII information including,
    a. list of notified claims to Insurers;
    b. provision for the payment of future excesses on notified claims;
    c. provision of the Run Off Endorsement.

The Licensing Team will also be asked you to complete a digital Practice Licence cancellation form.

2.EXCEPTIONS TO THE STANDARD EXIT PROCEDURE

Cessation of Recognition:

In the event that the CLC Registrant ceases to maintain the spirit of the exit agreement or fails to keep the CLC informed of adverse events or material changes in its circumstances the CLC may consider early *Cessation of Recognition*.

> *35. If the CLC determines that the issue or continuation of a Certificate is likely to have or will have a serious adverse effect on the delivery of positive Outcomes for Clients, the CLC will determine that the Certificate ceases to have effect, notify the Recognised Body and require immediate delivery to it of the Certificate.*
>
> *Appeal*
>
> *36. An applicant dissatisfied with a determination made under requirement 7, 8 or 27 may within one month of publication of the CLC's determination appeal to the Adjudication Panel.*
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> *37. If the application is deemed to have been refused as provided under item 25, the applicant may within one month of the deemed refusal appeal to the Adjudication Panel under section 29 of the 1985 Act.*

Recognised Body Recognition Framework. To view the printable PDF version, please **click here**.

3. RETAINING A CLC REGISTRANT

Conversely, when matters of compliance or conduct remain unresolved leading up to the agreed surrender date, the CLC will retain the CLC Registrant and its register managers, on its public register, and the Licences will remain in full force until the CLC is satisfied that it is appropriate that the Registrant (and its registered managers) can be removed.

Such matters may include, but are not limited to, satisfactory provision for the insurance excesses, file storage, transfer of live files, and any allegations, investigation and pending or ongoing disciplinary action or disqualification.

Section 3

1. **THE PROCESS**

Most applications follow the steps below. We will discuss this with you in the virtual meeting.

Step 1. The nominated registered manager should email into licensing@clc-uk.org outlining key information about why the Practice intends to surrender its CLC Registration.

Step 2. The registered managers are invited to attend a virtual Microsoft Teams meeting with the CLC Licensing Team and the Practice's designated Regulatory Supervision Manager. It's important that owners and managers attend this meeting. You should come prepared with information about whether the Practice will cease or continue trading as you will be asked to explain the key considerations and timelines:

We will discuss the financial and regulatory requirements that arise as a result of the nature and triggers of the surrender request. In addition we will explain the necessary monitoring and licensing steps and their importance together with what we expect from the registered managers, i.e. Owners, Directors, Partners, Members and Key Personnel (HoLP and HoFA).

Step 3. Complete the Regulatory Supervision requirements. This will entail agreeing and executing an exit plan with key regulatory actions and agreed timescale for execution.

Step 4. Trigger Run Off and request the PII insurer issues the Endorsement and provide this to us.

Step 5. A surrender date is agreed.