

**CILEx INVESTIGATION, DISCIPLINARY
AND APPEALS RULES
2015**

CILEx INVESTIGATION, DISCIPLINARY AND APPEALS RULES

PART I: GENERAL

Application of Rules, Establishment of Panels and Tribunal

1. (1) These Rules apply to any:
 - (a) allegation of misconduct made against a Relevant Person; or
 - (b) declaration of prior conduct made by an Applicant or Relevant Person.
- (2) In these rules **misconduct** means any breach of the CILEx Code of Conduct.
- (3) The Professional Conduct Panel is established for the purposes set out in Part II.
- (4) The Disciplinary Tribunal is established for the purposes set out in Part III.
- (5) The Appeals Panel is established for the purposes set out in Part IV.
- (6) Responsibility for the application and administration of these Rules is delegated by CILEx to CILEx Regulation.

Panellists

2. (1) CILEx Regulation must appoint and maintain lists of lay and professional members to act as panellists on:
 - (a) the Professional Conduct Panel;
 - (b) the Disciplinary Tribunal; and
 - (c) the Appeals Panel.
- (2) A person must not at any one time be included in more than one list maintained under paragraph (1).
- (3) CILEx Regulation must remove from the relevant list the name of any panellist:
 - (a) whose term of appointment has ended and not been renewed;
 - (b) who has resigned by giving notice in writing to that effect to CILEx Regulation; or
 - (c) who in the opinion of CILEx Regulation has ceased to be a suitable person to act as a panellist.
- (4) The term of appointment of a panellist must be not more than five years and no panellist may serve for more than ten years.

Interpretation

3. In these Rules, unless otherwise provided:

allegation:	has the meaning given in Rule 15(1);
Appeals Panel:	means the Appeals Panel established under Rule 1(5) as constituted from time to time;
Applicant:	means a person applying for Membership or Authorisation;
Approved Manager:	means a person approved by CILEx Regulation to be a Manager of an Authorised Entity;
Authorisation:	means authorisation by CILEx Regulation as an Approved Manager, Authorised Entity or CILEx Practitioner;
Authorised Entity:	means a partnership (including a limited liability partnership), company or sole principal authorised by CILEx under the Legal Services Act 2007 to: (a) carry on an activity which is a reserved legal activity; or (b) provide immigration advice or immigration services;
CILEx:	means the Chartered Institute of Legal Executives;
CILEx Member:	means a person who has been admitted to membership of CILEx in any grade;
CILEx Practitioner:	means a practitioner authorised by CILEx to provide one or more regulated legal activity;
complainant:	means a person who has made a complaint against a Relevant Person to CILEx Regulation;
Disciplinary Tribunal:	means the Disciplinary Tribunal established by Rule 1(4) as constituted from time to time;
lay member:	means a person who is not and who has never been an authorised person (within the meaning of section 18 of the Legal Services Act 2007) or registered by CILEx in any grade;
Membership:	means enrolment or reinstatement as a

	CILEx Member;
misconduct:	has the meaning given in Rule 1(2);
Person:	includes an individual, body corporate or other entity;
Practice Management Agreement:	has the meaning given in Rule 30(6);
Professional Conduct Panel:	means the Professional Conduct Panel established under Rule 1(3) as constituted from time to time;
professional member:	means a Fellow of CILEx who is not a member of the CILEx Council or the CILEx Regulation Board of Directors and who is otherwise eligible to be appointed to a list of panellists under Rule 2;
regulated legal activity:	means: <ul style="list-style-type: none"> (a) a reserved legal activity; (b) immigration advice or immigration services;
Relevant Person:	means an Approved Manager, Authorised Entity, CILEx Member or CILEx Practitioner;
reserved legal activity:	has the same meaning as in the Legal Services Act 2007.

Extension of Time

4. Where these Rules prescribe a time limit by which a person must act or after which they may not act, an Investigator, the Professional Conduct Panel, the Disciplinary Tribunal or the Appeals Panel (as the case may be) may, upon application, vary that time limit if satisfied that in all the circumstances it is reasonable to do so.

Service of Documents

5. (1) Any notice required to be given under these Rules may be given to a person or that person's representative:
- (a) by sending it by first class post to a relevant address;
 - (b) by leaving it at a relevant address;
 - (c) by personal service, effected by leaving the document with an individual or, in the case of a body corporate or other entity, with a director, officer or manager of that body corporate or entity;
 - (d) by such other method as the Professional Conduct Panel, the Disciplinary Tribunal or the Appeals Panel (as the case may be) may direct.
- (2) For the purpose of paragraph (1), a **relevant address** means:

- (a) in the case of an individual, the last known address of that person, including their usual or last known residence or usual or last known place of business;
- (b) in the case of a body corporate or other entity, its principal or registered office, its last known address or any other office or place of business which is connected to the proceedings to which the notice relates;

and for this purpose, the last known address of a Relevant Person is the address of that person as it appears in records maintained by CILEx Regulation.

- (3) A notice which is served in accordance with paragraph (1) is deemed to be served at the time of personal service or delivery or on the second working day after it was posted.
- (4) Where it is satisfied on reasonable grounds that it is in the public interest to do so, the Professional Conduct Panel, the Disciplinary Tribunal or the Appeals Panel (as the case may be) may:
 - (a) deem service to be effective even though the requirements of paragraph (1) have not been complied with; or
 - (b) dispense with the requirement of service altogether.

Effect on Membership or Authorisation

- 6. A Relevant Person must not be permitted to terminate their Membership or Authorisation whilst the subject of any investigation or proceedings under these Rules.

PART II: INVESTIGATION OF COMPLAINTS AND THE PROFESSIONAL CONDUCT PANEL

Interpretation of Part II

7. In this Part, unless the context otherwise requires:

Clerk:	means the Clerk to the Professional Conduct Panel;
Investigator:	means a person appointed by CILEx Regulation to conduct investigations under this Part;
Panel:	means the Professional Conduct Panel; and
prior conduct:	has the meaning given in Rule 11(4).

Professional Conduct Panel

8. The Panel must consider:

- (a) declarations of prior conduct made by or on behalf of Applicants and Relevant Persons and other information relating to their prior conduct; and
- (b) allegations made against Relevant Persons.

Composition of the Panel

9. (1) The quorum for a meeting of the Professional Conduct Panel is three members from the list of panellists maintained under Rule 2(1)(a), of whom two must be lay members and one must be a professional member.
- (2) The Panel must
- (a) select one of their number to chair the meeting; or
 - (b) if different members are to chair different parts of the meeting, elect one of their number to chair the proceedings on any matter before considering that matter.

Conduct of Meetings

10. (1) Meetings of the Panel are to be held in private.
- (2) Meetings must be held at the offices of CILEx Regulation unless the Panel decides otherwise but nothing in these Rules requires any meeting to be held outside the United Kingdom.
- (3) Minutes and a record of the decisions of the Panel must be made by the Clerk.

- (4) The Panel may resolve to consider and determine a matter without a meeting and, in that event, a decision signed by the members of the Panel is as valid as if it was made at a meeting.
- (5) In considering a matter, the Panel:
 - (a) may take account of, but is not bound by, the findings, views or analysis of an Investigator;
 - (b) may seek further information from the Relevant Person;
 - (c) may take account of any further representations and material adduced by the Applicant or Relevant Person.
- (6) Where, in accordance with Rule 14(1)(c) or 17(5), the Panel has requested that:
 - (a) an Applicant or Relevant Person attend a meeting of the Panel; or
 - (b) where the Applicant or Relevant Person is an entity, that a representative of that entity attend a meeting of the Panel;

an Applicant or Relevant Person who so attends or which is so represented may be represented at the meeting by any person, whether or not legally qualified, but the Panel may refuse to permit a particular person to assist or represent a party if the Panel is satisfied that there are good and sufficient reasons for doing so.
- (7) Decisions at a meeting of the Panel are to be made by a majority vote of the panellists present.
- (8) The Panel must give reasons for its decisions and inform the parties of any right of an appeal.
- (9) CILEx Regulation must within 21 days of any decision of the Panel notify the Applicant or Relevant Person of that decision and, in the case of an allegation, CILEx Regulation must notify any complainant of the decision once it takes effect.

Duty to Declare Prior Conduct

11. (1) Every Applicant or Relevant Person who is an individual must declare in writing to CILEx Regulation if that individual has at any time:
 - (a) been convicted or accepted a caution in the United Kingdom for a criminal offence, or been convicted elsewhere for an offence which, if committed in England and Wales, would constitute a criminal offence;
 - (b) been removed from being a trustee of, or being concerned with the management or control of, a charity;
 - (c) been removed from office as a member, director or manager of any public body;

- (d) been adjudged bankrupt or made a composition with creditors;
 - (e) been disqualified from acting as a director of a company;
 - (f) been the subject of a civil judgment;
 - (g) been subject to any investigation or proceedings concerning the person's fitness to practise by any regulatory or professional body.
- (2) Paragraph (1)(a) applies subject to the Rehabilitation of Offenders Act 1974.
- (3) In respect of every Applicant or Relevant Person that is not an individual, a declaration must be made in writing to CILEx Regulation if:
- (a) a resolution for a voluntary winding-up of the Relevant Person has ever been passed without a declaration of solvency under section 89 of the Insolvency Act 1986;
 - (b) the Relevant Person has ever entered administration within the meaning of paragraph 1(2)(b) of Schedule B1 to that Act;
 - (c) an administrative receiver within the meaning of section 251 of that Act has been appointed in respect of that Relevant Person;
 - (d) a meeting of creditors has been held in relation to the Relevant Person under section 95 of that Act;
 - (e) an order for the winding up of the Relevant Person has been made;
 - (f) a civil judgment has been made against that Relevant Person;
 - (g) that Relevant Person has been the subject of any investigation or proceedings conducted by any regulatory or professional body.
- (4) Each of the matters in paragraph (1) and (3) is referred to in these Rules as **prior conduct**.
- (5) In paragraphs (1)(f) and (3)(f) references to a **civil judgment** are to a judgment of a civil court concerning any debt, fraud, misrepresentation or conduct related to the administration of justice.
- (6) A declaration of prior conduct is to be considered and determined in accordance with Rules 13 and 14.

Timing of Declaration

12. (1) Every Applicant must disclose full details of prior conduct at the earliest opportunity and, unless the conduct occurs later, in any application for Membership or Authorisation.
- (2) Every Relevant Person must disclose full details of prior conduct at the earliest opportunity and in any event (if not previously disclosed to CILEx Regulation or CILEx):

- (a) in the case of a CILEx Member:
 - (i) in any application for Membership;
 - (ii) in any application for a change in Membership grade;
 - (iii) in any other application to CILEx or CILEx Regulation; and
 - (iv) in an annual return.
- (b) in the case of an Approved Manager, Authorised Entity or CILEx Practitioner:
 - (i) in any application for Authorisation; and
 - (ii) in any annual return form.
- (3) Where requested to do so by CILEx Regulation, an Applicant or Relevant Person must provide further details of any prior conduct.
- (4) Failure by a Relevant Person to comply with this Rule and Rule 11 may be treated as misconduct.

Investigator Decisions: Prior Conduct

- 13. (1) An Investigator may determine that no action is to be taken in relation to a declaration of prior conduct where:
 - (a) the Applicant or Relevant Person has declared an outstanding judgment and there is no evidence of:
 - (i) persistent or deliberate failure to meet financial obligations;
 - (ii) a related criminal offence; or
 - (iii) failure to make arrangements to pay off any debts;
 - (b) the Applicant or Relevant Person has declared a caution or spent conviction and is not a CILEx Fellow or applying for CILEx Fellowship;
 - (c) the Applicant or Relevant Person has declared a driving offence and:
 - (i) there is no evidence of a persistent pattern of offending,
 - (ii) a custodial sentence was not imposed; and
 - (iii) the duration of any disqualification imposed was not 18 months or more;
 - (d) the Applicant or Relevant Person is or has been subject to a bankruptcy Order or has entered into an arrangement with their creditors; or
 - (e) the prior conduct is of a kind which the Panel has given the Investigator delegated authority to determine.
- (2) The Investigator must, within 21 days of making a decision, notify the Applicant or Relevant Person of that decision and, in respect of a decision made under paragraph (1)(e), must at the same time inform the Panel of that decision.

- (3) An Investigator may decline to make a determination under this rule if, in the opinion of the Investigator, it would be more appropriate for the declaration to be determined by the Panel.

Panel Decisions: Prior Conduct

- 14 (1) In considering any declaration or other information relating to prior conduct, the Panel must have regard to any guidance published by CILEx Regulation and may:
 - (a) seek advice from or refer the matter to an Investigator or any CILEx or CILEx Regulation committee it considers appropriate;
 - (b) request that the Applicant or Relevant Person provide such further information as the Panel may reasonably require; and
 - (c) request that the Applicant or Relevant Person or, where the Applicant or Relevant person is an entity, a representative of that entity, attend a meeting of the Panel.
- (2) Failure by a Relevant Person to comply with a request under paragraph (1)(b) or (c) may be treated as misconduct.
- (3) In respect of any prior conduct the Panel may:
 - (a) decide to take no further action;
 - (b) accept or refuse any application for Membership or Authorisation or any other application to which the prior conduct relates;
 - (c) impose conditions on the Applicant or Relevant Person as it may think appropriate in respect of their future conduct and, in the case of an individual, their employment;
 - (d) require the Applicant or Relevant Person to give an undertaking as to their future conduct;
 - (e) reprimand the Relevant Person, warn the Relevant Person as to their future conduct or both; or
 - (f) refer the matter to the Disciplinary Tribunal as if it was an allegation.

Investigating Misconduct: Initial Procedure

15. (1) Where CILEx Regulation receives a complaint or any other information to the effect that a Relevant Person may have engaged in misconduct (an **allegation**), it may investigate the allegation in accordance with these Rules.
- (2) An Investigator must investigate an allegation as follows:
 - (a) the Investigator is to gather information about and investigate the issues involved including, where the allegation arises from a complainant, obtaining:

- (i) any information about the complaint that the complainant wishes to provide; and
 - (ii) the consent of the complainant to provide a copy of the complaint and any supporting information to the Relevant Person;
 - (b) the Investigator must notify the Relevant Person that an allegation has been made against them, provide the Relevant Person with details of the allegation (including a copy of any complaint or supporting information) and a copy of the Rules and invite the Relevant Person to submit representations to the Investigator within 14 days;
 - (c) the Investigator may seek information or advice from third parties.
- (3) The Investigator may supply the complainant with a copy of all or part of any response from the Relevant Person and, in that event:
- (a) must allow the complainant a period of 14 days in which to make written observations; and
 - (b) must allow the Relevant Person a period of 14 days in which to comment on any observations received from the complainant.
- (4) At the conclusion of the investigation, the Investigator must prepare a report containing a summary of the information obtained and an analysis of the issues for consideration and must forward the same to the Relevant Person and complainant and invite them within a period of 14 days to comment in writing on the report.
- (5) Upon receipt of comments from the Relevant Person or the expiry of the time allowed for comments (whichever is the sooner), the Investigator must either determine the matter or refer it to the Panel.
- (6) A Relevant Person is obliged to comply with and respond to reasonable enquiries made by an Investigator and failure to do so may be treated as misconduct.

Decisions by Investigators in Certain Cases

16. (1) Where an Investigator is of the opinion that:
- (a) there is no evidence available to substantiate an allegation;
 - (b) the allegation does not disclose any misconduct by the Relevant Person;
 - (c) CILEx Regulation has no jurisdiction to consider the allegation; or
 - (d) the time which has elapsed since the events (or knowledge of those events, if later) giving rise to the allegation exceeds the prescribed period;
- the Investigator may reject the allegation without further reference to the Panel.

- (2) For the purpose of paragraph (1)(d), the **prescribed period** means such period of not less than one year as CILEx Regulation may prescribe.
- (3) Where an Investigator is of the opinion that the evidence available indicates that the Relevant Person has a case to answer in respect of an allegation; and either:
 - (a) the allegation is of a serious nature; or
 - (b) an adverse finding has previously been made against the Relevant Person by the Professional Conduct Panel or Disciplinary Tribunal in respect of an allegation of a similar nature;the Investigator may refer the allegation directly to the Disciplinary Tribunal without further reference to the Panel.
- (4) An Investigator must:
 - (a) provide reasons for rejecting or referring to the Disciplinary Tribunal any allegation under this Rule;
 - (b) notify the Relevant Person and any complainant of the decision within 21 days; and
 - (c) report any such decision to the Panel.

Powers of the Professional Conduct Panel

17. (1) The Panel must consider any allegation which is referred to it and determine whether the Relevant Person has a case to answer.
- (2) In determining whether there is a case to answer, the Panel must consider whether, based upon the available evidence, there is realistic prospect that CILEx Regulation would be able to prove the allegation of misconduct before the Disciplinary Tribunal.
- (3) In respect of an allegation, the Panel may determine that:
 - (a) there is no case to answer; or
 - (b) there is a case to answer and:
 - (i) refer the allegation to the Disciplinary Tribunal; or
 - (ii) with the consent of the Relevant Person, dispose of the allegation in accordance with paragraph (4).
- (4) Where the Relevant Person admits an allegation and consents to the Panel doing so, the Panel may dispose of the matter by:
 - (a) requiring the Relevant Person to give undertakings as to their future conduct;
 - (b) imposing conditions on the Relevant Person in respect of their conduct or, in the case of an individual, their employment;

- (c) reprimanding the Relevant Person, warning them as to their future conduct or both.
- (5) Before reaching a decision under paragraph (4), the Panel may request that the Relevant Person or, where the Relevant Person is an entity, a representative of that entity, attend a meeting of the Panel and failure to comply with such a request may constitute misconduct.

Determination by Consent

18. (1) Where, in respect of any allegation:
- (a) an Investigator is of the opinion that the Relevant Person has a case to answer; and
 - (b) the Relevant Person admits the allegation;
- then subject to paragraph (3), the Investigator and the Relevant Person may agree to determine the allegation by consent.
- (2) The terms of any determination by consent must include:
- (a) a statement to the effect that the Relevant Person admits the allegation(s);
 - (b) the imposition on the Relevant Person of one or more of the sanctions available to the Professional Conduct Panel under Rule 17 or the Disciplinary Tribunal under Rule 30 (other than the imposition of costs); and
 - (c) a provision that CILEx Regulation may in its absolute discretion notify any person or publish the terms of the determination by consent.
- (3) A determination by consent must not take effect until it has been approved by order of the Panel.
- (4) Failure by a Relevant Person to comply with the terms of a determination by consent constitutes misconduct.

Interim Orders

19. (1) The Panel may at any time, on the application of an Investigator or of its own motion, consider whether it is necessary for the protection of the public, in the interests of the Relevant Person concerned or otherwise in the public interest to suspend or restrict a Relevant Person's Membership or Authorisation pending a hearing before the Disciplinary Tribunal.
- (2) The Panel must give the Relevant Person not less than 7 days' notice of a meeting to consider the imposition or review of an interim order, unless the Panel consider that due to the seriousness or urgency of the case a shorter period of notice is appropriate.

- (3) The notice under paragraph (2) must inform the Relevant Person of the time, date and place of the hearing, brief details of the matters giving rise to the application for an interim order and of the right to appear before and be heard by the Panel.
- (4) In considering whether to make an interim order, the Panel may determine its own procedure in accordance with these Rules, any guidance published by CILEx Regulation and the overriding requirement of fairness.
- (5) The Panel may order that the Relevant Person's Membership or Authorisation be:
 - (a) suspended; or
 - (b) subject to such restrictions as the Panel considers appropriate;for a maximum period of 18 months and any such order must be reviewed by the Panel every 3 months.
- (6) Where the Panel makes an interim order against a Relevant Person that is an Authorised Entity, it may also require the Relevant Person to enter into a Practice Management Agreement.

Appeals

20. (1) Decisions of the Panel (other than a decision to impose an interim suspension order which takes effect immediately) only take effect after the period for lodging an appeal against the decision has expired or, where an appeal is made, after the appeal has been disposed of or withdrawn.
- (2) An Applicant or Relevant Person may appeal against any decision or order of the Panel other than a decision to refer a matter to the Disciplinary Tribunal.
- (3) A complainant may make an application to the Panel seeking the review of a decision of an Investigator under Rule 16 to reject an allegation.
- (4) An application under paragraph (3) must be made in writing within 21 days of notification of the decision of the Investigator and, in conducting any review, the Panel may confirm the Investigator's decision, require the Investigator to investigate the matter further or consider the matter as if it was a referral made under Rule 17, but subject to such modifications as the Panel consider appropriate.
- (5) An appeal under paragraph (2) must be made in accordance with Part IV.

PART III: THE DISCIPLINARY TRIBUNAL

Interpretation of Part III

21. (1) In this Part, unless the context otherwise requires:

Chair:	means the Chair of a Disciplinary Tribunal Panel;
Clerk:	means the clerk to the Disciplinary Tribunal;
finalised hearing date:	means either the first hearing date or, where the first hearing date is varied by the Panel, that varied hearing date;
first hearing date:	means the hearing date set under Rule 24(1);
Panel:	means the members of the Disciplinary Tribunal appointed to hear a particular matter;
party:	means CILEx Regulation and the respondent(s); and
respondent:	means a Relevant Person against whom an allegation is made.

(2) In this Part any reference to the Professional Conduct Panel or Investigator having referred a matter to the Disciplinary Tribunal includes a decision by an Appeals Panel under Part IV to refer a matter to the Disciplinary Tribunal.

Disciplinary Tribunal

22. (1) The Tribunal has jurisdiction to hear matters referred to it under Part II by the Professional Conduct Panel or Investigator or by an Appeals Panel under Part IV.

(2) The Tribunal may determine its own procedure in accordance with these Rules, the guidance published from time to time by CILEx Regulation and the overriding requirement of fairness.

Disciplinary Tribunal Panel

23. (1) A matter that has been referred to the Tribunal must be heard by a Panel of 3 members from the list of panellists maintained under Rule 2(1)(b), of whom 2 must be lay members and 1 must be a professional member.

(2) The members of the Panel must choose one of their number to act as Chair for the purposes of the hearing.

- (3) If, during the course of any hearing, a member of the Panel is unable to continue to attend the hearing, the remaining members may, with the consent of the parties, continue with the hearing.
- (4) Where, under paragraph (3), a matter is heard by the remaining two members and they are unable to arrive at a determination, the matter must be re-heard by a new Panel comprising panellists who were not members of the original Panel.

Proceedings

24. (1) Where a matter has been referred to the Tribunal, the Clerk must, as soon as reasonably practicable:
 - (a) notify the parties that the matter has been referred to the Tribunal; and
 - (b) fix a date, time and venue for the hearing of the matter by the Tribunal.
- (2) Unless the Tribunal directs otherwise, hearings are to be held at the offices of CILEx Regulation but nothing in these Rules requires any hearing to be held outside the United Kingdom.
- (3) CILEx Regulation must, not less than 42 days before the first hearing date, lodge with the Clerk a notice setting out:
 - (a) particulars of the allegations against the Respondent that are to be heard by the Tribunal; and
 - (b) the nature of the evidence that CILEx Regulation will present to the Tribunal.
- (4) CILEx Regulation must, at the same time that any notice is lodged under paragraph (2), serve a copy of that notice on the Respondent.
- (5) Not less than 28 days before the first hearing date, each party will serve on the other copies of any documentary evidence in their possession or control relating to the allegations and any witness statements upon which they intend to rely.
- (6) Any fact which needs to be proved at a hearing by the evidence of witnesses may be proved by evidence given in a witness statement and a party who requires a witness to attend a hearing for the purpose of cross-examination upon the content of a witness statement served in accordance with paragraph (5) must serve notice to that effect upon the opposing party within 7 days of disclosure of the statement.
- (7) A party is deemed to admit the authenticity of any document disclosed under paragraph (5) above unless, within 7 days of disclosure of the document, that party serves notice requiring the document to be proved at a hearing.

Directions and Preliminary Matters

25. (1) The Panel may at any time give directions for the management and conduct of proceedings and determine any preliminary issues raised by any party.
- (2) The Panel may give directions or determine issues under paragraph (1) without a meeting of the Panel but by two or more of the Panel advising the Clerk of their decision and, in that event, the Clerk must notify the parties of the decision within three days of the date on which the decision was made.
- (3) Where the parties consent, a single Panel member may give directions or determine an issue under paragraph (1).

Additional Allegations

26. Where the Panel is satisfied that it would not cause unfairness to the respondent, the Panel may permit CILEx Regulation to add allegations to the matter referred to the Tribunal, and those additional allegations may be treated as if they were included in the original matter referred to the Tribunal.

Hearing Documentation

27. Not less than 7 days before the finalised hearing date, CILEx Regulation must produce and provide the Clerk and the respondent with copies of an indexed and paginated hearing bundle comprising:
 - (a) the allegations;
 - (b) any documents relied upon by the parties;
 - (c) any witness statements; and
 - (d) any relevant notices.

Conduct of Hearings

28. (1) Hearings must be held in public unless the Panel is satisfied that, in the interests of justice or for the protection of the private life of the respondent, the complainant, a person giving evidence or any other person, the public should be excluded from all or part of a hearing.
- (2) The Panel must give CILEx Regulation and the respondent and, in its discretion any other person, the opportunity of being heard.
- (3) A party may be represented at a hearing by any person, whether or not legally qualified, but the Panel may refuse to permit a particular person to assist or represent a party if the Panel is satisfied that there are good and sufficient reasons for doing so.

Evidence

29. (1) The Panel may control the evidence by giving directions as to:
- (a) the issues on which it requires evidence;
 - (b) the nature of the evidence which it requires to decide those issues; and
 - (c) the way in which the evidence is to be placed before the Panel.
- (2) The burden of proof rests upon CILEx Regulation and the standard of proof is the balance of probabilities.
- (3) Subject to the requirements of a fair hearing, the Panel may:
- (a) admit evidence whether or not it would be admissible in civil proceedings; and
 - (b) exclude evidence that would otherwise be admissible.
- (4) The Panel may limit cross-examination.
- (5) Subject to any other provisions of these Rules, the Civil Evidence Act 1968 and the Civil Evidence Act 1995 apply in relation to the hearing of a matter as they apply in relation to civil proceedings.
- (6) Production before the Panel of:
- (a) a certificate purporting to be under the hand of a competent officer of a Court in the United Kingdom or overseas that a respondent has been convicted of a criminal offence is conclusive evidence of the offence committed;
 - (b) a copy of the determination of any Tribunal in or outside England and Wales exercising a professional disciplinary jurisdiction is conclusive evidence of the facts found proved in relation to that determination;
 - (c) a copy of the judgment of any Civil Court is conclusive evidence of the facts found proved in relation to that judgment.

Decisions

30. (1) Decisions of the Panel are to be made by a majority vote of the panellists present.
- (2) The Panel may:
- (a) announce its decision and reasons at the conclusion of the parties' cases;
 - (b) announce its decision at the conclusion of the parties' cases and give its reasons on a later date; or
 - (c) reserve its decision and reasons to a later date.

- (3) Where the Panel reserves its decision or reasons, the Panel must notify the parties of its decision, reasons and any order made within 21 days of the conclusion of the parties' cases and, where necessary, the notice must specify a date, not more than 21 days after the date of the notice, for any further hearing.
- (4) Where the Panel's decision is that one or more of the allegations against the respondent has been proved:
 - (a) CILEx Regulation must inform the Panel of any previous disciplinary proceedings in which any allegation has been proved against the respondent; and
 - (b) the respondent may then make submissions in mitigation and, where appropriate, in respect of costs.
- (5) Where the Panel finds that one or more of the allegations against the respondent has been proved the Panel:
 - (a) may:
 - (i) take no further action;
 - (ii) reprimand the respondent, warn the respondent as to their future conduct or both;
 - (iii) impose conditions on the respondent as it may think appropriate in respect of the respondent's conduct or, where the respondent is an individual, their employment (and such conditions may be imposed in addition to any reprimand or warning); or
 - (iv) order that the respondent be excluded from Membership or Authorisation for such period (which may be a minimum fixed or indefinite period) as it may decide; and
 - (b) may order the respondent:
 - (i) except where the Panel has ordered that the respondent be excluded from Membership or Authorisation, to pay a fine not exceeding an amount determined by CILEx Regulation from time to time; and
 - (ii) to pay costs to CILEx Regulation in respect of the proceedings; and
 - (c) may, in the case of a respondent that is an Authorised Entity which has been excluded from Authorisation, also require the respondent to enter into a Practice Management Agreement.
- (6) For the purpose of these Rules a **Practice Management Agreement** means an agreement between CILEx Regulation and an Authorised Entity imposing such requirements as CILEx Regulation considers appropriate in the circumstances for the orderly conduct or transfer of the Authorised Entity's business, funds and client files and the terms of such an agreement may include (but are not limited to) requirements that:

- (a) the Authorised Entity cease to accept new business or clients;
 - (b) the business of the Authorised Entity be managed or supervised by a person appointed by CILEx Regulation;
 - (c) the Authorised Entity and those responsible for its management to execute powers of attorney, bank mandates or other instruments and take such other steps as are required to enable any person appointed by CILEx Regulation to perform their functions under a Practice Management Agreement, including safeguarding client funds, files and other assets; and
 - (d) the Authorised Entity meet the costs of any steps taken by CILEx Regulation or any person appointed by it under a Practice Management Agreement.
- (7) Where the Panel finds that one or more of the allegations against the respondent has not been proved, it may order CILEx Regulation to pay the reasonable costs of the respondent.
- (8) An Order of the Panel takes effect 21 days after notification under paragraph (3) or (4) or, where a further hearing has been convened under that paragraph , 21 days after the conclusion of that hearing, unless before then a written notice of appeal has been given to the Tribunal.
- (9) Where the Panel makes an Order against a respondent under paragraph (5)(a), it may also order that the respondent's Membership or Authorisation be suspended immediately or made subject to immediate conditions until the Order takes effect in accordance with Paragraph (8) if it considers that doing so is necessary for the protection of the public, in the respondent's own interests or otherwise in the public interest.
- (10) Where the Panel makes an Order under paragraph (5) any certificate previously issued to the Relevant Person by CILEx or CILEx Regulation ceases to have effect and must be delivered by the respondent to CILEx Regulation.

Interim Orders

31. (1) The Tribunal may at any time, on the application of the Investigator or of its own motion, consider whether it is necessary for the protection of the public, in the interests of the Relevant Person concerned or otherwise in the public interest to suspend or restrict a Relevant Person's Membership or Authorisation pending the conclusion of proceedings before the Tribunal.
- (2) The Tribunal must give the Relevant Person not less than 7 days' notice of a meeting to consider the imposition or review of an interim order, unless the Tribunal consider that due to the seriousness or urgency of the case a shorter period of notice is appropriate.

- (3) The notice under paragraph (2) must inform the Relevant Person of the time, date and place of the hearing, brief details of the matters giving rise to the application for an interim order for suspension and of the right to appear before and be heard by the Tribunal.
- (4) In considering whether to make an interim order, the Tribunal may determine its own procedure in accordance with these Rules, any guidance published by CILEx Regulation and the overriding requirement of fairness.
- (5) The Tribunal may order that the Relevant Person's Membership or Authorisation be:
 - (a) suspended; or
 - (b) subject to such restrictions as the Panel considers appropriate;for a maximum period of 18 months and any such order must be reviewed by the Panel every 3 months.
- (6) Where the Panel makes an interim order against a Relevant Person that is an Authorised Entity it may also require the Relevant Person to enter into a Practice Management Agreement.

Appeals

32. (1) Decisions of the Tribunal (other than a decision to impose an interim order which take effect immediately) only take effect after the period for lodging an appeal against the decision has expired or, where an appeal is made, after the appeal has been disposed of or withdrawn.
- (2) The respondent may appeal against:
 - (a) a finding by the Tribunal that one or more allegations has been proved; or
 - (b) any sanction or costs imposed by the Tribunal.
- (3) CILEx Regulation may appeal against:
 - (a) a decision of the Tribunal which, in the opinion of CILEx Regulation, was made based upon a manifest error, is irrational or similarly flawed; or
 - (b) the imposition by the Tribunal of a sanction which, in the opinion of CILEx Regulation, is unduly lenient.
- (4) An appeal must be made in accordance with Part IV.

PART IV: THE APPEALS PANEL

Interpretation of Part IV

33. In this Part, unless the context otherwise requires:

Appeals Clerk:	means the Clerk to the Appeals Panel;
appellant:	means the person in whose name an appeal is made to the Appeals Panel and, in the case of an appeal under Rule 32(3), means CILEx Regulation;
Chair	means the Chair of an Appeals Panel; and
Disciplinary Tribunal:	includes a Panel of the Disciplinary Tribunal that has heard a case under Part III.

Notice of Appeal

34. (1) An appeal must be made by giving notice in writing in accordance with this Rule.
- (2) The notice must be addressed to the Appeals Panel at the offices of CILEx Regulation and must:
- (a) state that it is a notice of appeal and whether the appeal is made under Rule 20 or Rule 32;
 - (b) include:
 - (i) the name and address of the appellant;
 - (ii) the date, nature and other relevant details of the decision which is the subject of the appeal;
 - (iii) a concise statement of the grounds of the appeal; and
 - (iv) the name and address of the appellant's representative (if any) and state whether correspondence concerning the appeal should be sent to the representative instead of the appellant;
 - (c) be signed by or on behalf of the appellant; and
 - (d) be accompanied by a copy of any documents on which the appellant proposes to rely for the purposes of the appeal.
- (3) A notice of appeal must be lodged no later than 42 days after the date on which the decision that is the subject of the appeal was made.

Appeals Panel

35. (1) The Appeals Panel must comprise 2 lay members and 1 professional member from the list maintained under Rule 2(1)(c).

- (2) The members of the Appeals Panel must choose one of their number to act as Chair for the purposes of the appeal.
- (3) An Appeals Panel must consider and determine any appeal made in accordance with Rules 20 or 32.
- (4) At the beginning of the hearing the Chair must explain to the parties the order of proceedings which the Appeal Panel proposes to adopt.
- (5) The Appeals Panel may conduct the hearing in such manner as it considers most suitable to the clarification of the issues before it and generally to the just handling of the proceedings and the parties may be heard in such order as the Panel determines, taking into account that the burden of proof rests upon the appellant.
- (6) In determining an appeal, the Appeals Panel may admit any evidence it considers fair and relevant to the case before it, whether or not such evidence would be admissible in a civil proceedings.
- (7) Having considered an appeal, the Appeals Panel may:
 - (a) dismiss the appeal;
 - (b) allow the appeal and quash the decision appealed against; or
 - (c) substitute for the decision appealed against any other decision that the Professional Conduct Panel or Disciplinary Tribunal (as the case may be) could have made;and may make such ancillary orders, including orders for costs, as it considers just and appropriate.
- (8) Decisions of the Appeals Panel are to be made by a majority vote of the panellists present.
- (9) Notice of the decision of the Appeals Panel must be given in writing to the appellant within 21 days and takes effect 28 days after the date on which it was made.
- (10) Where the decision in an Appeal under Rule 20(2) has the effect of referring a matter to the Disciplinary Tribunal, that referral may be treated for all purposes as if it was made by the Professional Conduct Panel.
- (11) Appeals under Rule 20 are normally to be heard in private unless the appellant requests otherwise.
- (12) Appeals under Rule 32 are to be heard in public, unless the Appeals Panel is satisfied that, in the interests of justice or for the protection of the private life of the appellant, any complainant, person giving evidence or any other person, the public should be excluded from all or part of a hearing.

Representation

36. (1) The Appeals Panel must give the appellant and the respondent to the appeal and, at its discretion any other person who appeared before the Professional Conduct Panel or Disciplinary Tribunal, the opportunity of being heard.
- (2) A party may be represented at a hearing by any person, whether or not legally qualified, but the Appeals Panel may refuse to permit a particular person to assist or represent a party if the Appeals Panel is satisfied that there are good and sufficient reasons for doing so.

Determination without Convening Hearing

37. The Appeals Panel may determine an appeal without convening a hearing, on the basis of any documents or written representations provided by the parties, where:
 - (a) the Appeals Panel has notified the parties of its intention to do so; and
 - (b) the parties have consented.

PART V: OTHER MATTERS

Notice and Publication etc. of Decisions

38. (1) CILEx Regulation must cause all adverse findings and orders of the Professional Conduct Panel, Disciplinary Tribunal and Appeals Panel (Decisions) to be recorded against the relevant entry in the relevant CILEx register.
- (2) Where a Relevant Person against whom a Decision is made is
- (a) employed; or
 - (b) is a partner, director, manager of, or holds a financial interest in, a relevant body,
- CILEx Regulation must notify the employer or relevant body of the Decision.
- (3) in this Rule **relevant body** means:
- (a) an Authorised Entity;
 - (b) a legal services body within the meaning of s.9A of the Administration of Justice Act 1985; or
 - (c) a body licensed under Part 5 of the Legal Services Act 2007.
- (4) CILEx Regulation must give notice of all decisions to such other regulatory and oversight bodies as it considers appropriate.
- (5) CILEx Regulation must cause all decisions and the name of the Relevant Person concerned to be published in such manner as it considers appropriate.
- (6) Paragraphs (2), (4) and (5) do not apply to the extent that the Professional Conduct Panel, Disciplinary Tribunal or Appeals Panel directs otherwise.

Recovery of Fines and Costs

39. Any fine or costs order imposed under these Rules is recoverable as a debt.

Maintenance of Exhibits and Transcripts

40. Any exhibits produced or used at a hearing of the Professional Conduct Panel, Disciplinary Tribunal or Appeals Panel and any recording or transcript of those proceedings must be kept by CILEx Regulation for a period of at least one year after the proceedings to which they relate.

Annual Report

41. An annual report must be made to the CILEx Regulation Board of the work of the Investigators, Professional Conduct Panel, Disciplinary Tribunal and Appeals Panel during the previous year.

Transitional Provisions

42. (1) These Rules come into force on 5 January 2015 (the **Commencement Date**).
- (2) Any allegation received by CILEx Regulation before the Commencement Date but which on that date has not been referred to the Professional Conduct Panel, Disciplinary Tribunal or Appeals Tribunal in accordance with the Investigation, Disciplinary and Appeals Rules dated 4 January 2010 (the **Old Rules**) must be dealt with under these Rules.
- (3) Any allegation received by CILEx Regulation before the Commencement Date and which on that date has been referred to the Professional Conduct Panel, Disciplinary Tribunal or Appeals Tribunal under the Old Rules must continue to be dealt with in accordance with the Old Rules.
- (4) Any allegation received by CILEx Regulation after the Commencement Date must be dealt with in accordance with these Rules.