

<b>Title:</b> Section 69 Order: To modify the functions of Chartered Institute of Legal Executives  <b>IA No:</b> MoJ032/2014  <b>Lead department or agency:</b> Ministry of Justice  <b>Other departments or agencies:</b> Chartered Institute of Legal Executives, ILEX Professional Standards Ltd, LSB	<b>Impact Assessment (IA)</b>		
	<b>Date:</b> 07/10/2014		
	<b>Stage:</b> Final		
	<b>Source of intervention:</b> Domestic		
	<b>Type of measure:</b> Secondary Legislation		
<b>Contact for enquiries:</b> Admin.justice@justice.gsi.gov.uk			

<b>Summary: Intervention and Options</b>	<b>RPC Opinion:</b> Not applicable
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Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Two-Out?	Measure qualifies as
NQ	NQ	NQ	No	Zero net cost

**What is the problem under consideration? Why is government intervention necessary?**

CILEx has been approved by the Legal Services Board to award practice rights in the reserved legal activity areas. CILEx will regulate, through IPS (ILEX Professional Standards Ltd), legal practices delivering these legal services. CILEx must be able to protect the interests of the public and consumers in accordance with the regulatory objectives under the Legal Services Act 2007. This includes being able to provide redress in the form of compensation to clients and to be able to intervene into legal practices. CILEx requires statutory orders to be able intervene and collect payments to maintain the fund.

**What are the policy objectives and the intended effects?**

The first policy objective is to set up and maintain a Compensation Fund (the Fund). The purpose of the Fund will be to provide redress to clients who have suffered loss and hardship due to the failure to account or dishonesty of an entity regulated by IPS and who have no other route of redress available to them. The intended effect will be to put clients back into the position that they were in before the loss occurred. The second policy objective is to enable CILEx to seek an order of the High Court to intervene into a regulated practice. The power to intervene is aimed at protecting consumers and providing the public with continued assurance that there are mechanisms in place to protect and safeguard their interests when things go wrong

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

**Option 1: Set up a compensation fund** - CILEx will establish and maintain a fund from which redress can be provided to clients who have suffered loss due to the failure to account or dishonesty of an entity regulated by IPS.

**Option 2: Intervention Powers** IPS to have the power to take targeted and proportionate enforcement action, including intervention into an entity to protect the interests of consumers.

The government is implementing options 1 and 2.

<b>Will the policy be reviewed?</b> It will not be reviewed.					
Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	<b>Micro</b> Yes	<b>&lt; 20</b> Yes	<b>Small</b> Yes	<b>Medium</b> Yes	<b>Large</b> Yes
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b> NA		<b>Non-traded:</b> NA

*I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.*

Signed by the responsible Minister: \_\_\_\_\_ **Shailesh Vara** \_\_\_\_\_ Date: 7 October 2014

# Summary: Analysis & Evidence

# Policy Option 1

Description: Compensation fund - CILEx will establish and maintain a fund from which redress can be provided to clients who have suffered loss due to the failure to account or dishonesty of an entity regulated by IPS.

## FULL ECONOMIC ASSESSMENT

Price Base Year N/A	PV Base Year N/A	Time Period Years N/A	Net Benefit (Present Value (PV)) (£m)			
			Low:	High:	Best Estimate: NQ	
<b>COSTS (£m)</b>	<b>Total Transition</b> (Constant Price) Years		<b>Average Annual</b> (excl. Transition) (Constant Price)		<b>Total Cost</b> (Present Value)	
Low						
High						
Best Estimate	NQ		NQ		NQ	
<b>Description and scale of key monetised costs by 'main affected groups'</b>						
It has not been possible to monetise all costs of this policy. IPS regulated entities will pay an annual contribution of around £30,000 per annum. CILEx will set aside £1m from its reserves to establish the fund and pay £30,000 during the first year for insurance coverage.						
<b>Other key non-monetised costs by 'main affected groups'</b>						
IPS will face small costs from administrative burdens from collecting and processing regulated entities annual contributions to the fund. These costs are likely to be negligible and have not been monetised. Consumers may face higher costs if regulated entities choose to recover their annual contribution costs by charging higher prices to consumers of their services.						
<b>BENEFITS (£m)</b>	<b>Total Transition</b> (Constant Price) Years		<b>Average Annual</b> (excl. Transition) (Constant Price)		<b>Total Benefit</b> (Present Value)	
Low						
High						
Best Estimate	NQ		NQ		NQ	
<b>Description and scale of key monetised benefits by 'main affected groups'</b>						
It has not been possible to monetise all of the benefits of this policy. IPS will benefit by around £30,000 per annum from regulated entities annual contributions to the fund.						
<b>Other key non-monetised benefits by 'main affected groups'</b>						
Regulated entities may benefit from increased consumer confidence as a result of consumers having a right of redress. Consumers will benefit from being able to receive compensation in cases where loss or hardship has been caused by poor practice or dishonesty by a regulated entity. It has not been possible to monetise this benefit as it is unknown what the likely size of claim will be.						
<b>Key assumptions/sensitivities/risks</b>					<b>Discount rate (%)</b>	NA
The size of contributions to the Fund is based on assumptions made about the number of entities seeking regulation by IPS each year following the research which IPS conducted. The low-demand scenario of regulated entities, of 60 per annum, has been used as it is the most likely scenario based on research.						
Research and subsequent testing has identified that most regulated entities will have turnover of less than £100,000 per annum and therefore this has been used in assumptions about costs.						
The level of annual contribution is assumed to be around £30,000 based on discussions with insurers. Assumptions are made that IPS will receive claims against the Fund based on 2% regulated entities.						

## BUSINESS ASSESSMENT (Option 1)

<b>Direct impact on business (Equivalent Annual) £:</b>			<b>In scope of OITO?</b>	<b>Measure qualifies as</b>
Costs: NQ	Benefits: NQ	Net: NQ	No	Zero net cost

# Summary: Analysis & Evidence

# Policy Option 2

Description: **Intervention Powers – IPS to have the power to take targeted and proportionate enforcement action, including intervention into an entity to protect the interests of consumers**

## FULL ECONOMIC ASSESSMENT

Price Base Year N/A	PV Base Year N/A	Time Period Years N/A	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: NQ
<b>COSTS (£m)</b>	<b>Total Transition</b> (Constant Price) Years		<b>Average Annual</b> (excl. Transition) (Constant Price)		<b>Total Cost</b> (Present Value)
Low					
High					
Best Estimate	NQ		NQ		NQ
<b>Description and scale of key monetised costs by ‘main affected groups’</b>					
It has not been possible to monetise all of the costs of this policy. The IPS will face costs of around £50,000 per intervention. One intervention per year is estimated to be undertaken. Regulated entities will pay an annual fee to cover the cost of interventions into entities suspected of malpractice. The annual cost to IPS firms will be around £50,000.					
<b>Other key non-monetised costs by ‘main affected groups’</b>					
Consumers may face increased costs if regulated entities choose to pass on the annual regulatory costs to consumers via higher prices.					
<b>BENEFITS (£m)</b>	<b>Total Transition</b> (Constant Price) Years		<b>Average Annual</b> (excl. Transition) (Constant Price)		<b>Total Benefit</b> (Present Value)
Low					
High					
Best Estimate	NQ		NQ		NQ
<b>Description and scale of key monetised benefits by ‘main affected groups’</b>					
It has not been possible to monetise all of the benefits of this policy. IPS will receive around £50,000 per annum in regulatory fees.					
<b>Other key non-monetised benefits by ‘main affected groups’</b>					
IPS and CILEx will benefit from being able to protect consumers appropriately. Consumers will benefit from increased protection against poor practice.					
<b>Key assumptions/sensitivities/risks</b>					<b>Discount rate (%)</b>
The number of regulated entities is based on research and is assumed to be around 60 firms. Interventions are assumed to occur for around 2% of entities (around 1 case per year). This is based on experience in comparable regulators.					3.5

## BUSINESS ASSESSMENT (Option 2)

<b>Direct impact on business (Equivalent Annual) £:</b>			<b>In scope of OITO?</b>	<b>Measure qualifies as</b>
Costs: NQ	Benefits: NQ	Net: NQ	No	Zero net cost

# Evidence Base

## 1. Introduction

### Background

- 1.1 The Chartered Institute of Legal Executives (CILEx) is an approved regulator under the Legal Services Act 2007 (the Act). The Act prescribes legal activities which are reserved or regulated and may be conducted by authorised persons or entities only. CILEx has received approval from the Legal Services Board (LSB) for applications to authorise practitioners to carry out reserved legal activities. CILEx, through Ilex Professional Standards (IPS), its regulatory body, will regulate legal practices, called entities, delivering reserved and regulated legal services.
- 1.2 The reserved legal activities are the conduct of litigation; exercise of rights of audience, probate and reserved instrument activities and administration of oaths. Statutory orders are being secured for CILEx to become an approved regulator to award probate activity and reserved instrument activity rights. CILEx is already an approved regulator for awarding rights to conduct litigation and the exercise rights of audience and a designated regulator for immigration services. Currently it fulfils this role by regulating individual CILEx members, rather than legal practices (known as entities).
- 1.3 Rights to practise in each of the reserved and regulated areas will be awarded to applicants who can demonstrate they are competent. Competence will be assessed by reference to the knowledge, skills and experience of applicants. A person who meets the requirements will be awarded the right to practice in the reserved legal activity area in which they demonstrated competence. A person who meets the requirements will be authorised under the Act to practise in the reserved or regulated area in which they demonstrate competence. In addition, each authorised person will be required by IPS to demonstrate competence in practice management and accounts.
- 1.4 From January 2015, CILEx, through IPS, will also regulate legal practice entities. Each entity must have a person(s) responsible for managing the entity and handling its accounting function. This person(s) must demonstrate competence in practice management and accounts, as applicable, to a higher standard.
- 1.5 IPS has developed a risk based approach to the regulation of entities. Entities seeking regulation will need to supply supporting evidence relating to their business structure, legal activities, business planning, accounts and management procedures. IPS will assess this information to determine the level of risk an entity might pose to compliance with the Principles set out in the CILEx Code of Conduct. As part of the assessment process IPS may decide to carry out a site inspection of an entity to further investigate and analyse its processes and procedures.
- 1.6 Entities regulated by IPS will be required to supply annual accountants' reports and submit an annual return to IPS, which will trigger further assessment of risks. All entities must have in place professional indemnity insurance and comply with CILEx and IPS rules and regulations, including the CILEx Code of Conduct. IPS will adapt its regulatory arrangements to respond to developments in legal services, and to issues arising from its supervisory and monitoring activities.
- 1.7 Most entities regulated by IPS will provide legal services in one practice area. They will be owned and managed by CILEx authorised practitioners or other lawyers. IPS commissioned independent research to obtain data to assess the action it needs to take to ensure that it has sufficient resources in place to meet the requirements of entity regulation. The research consisted of two online surveys, launched between September and October 2011. These

surveys were completed by both CILEx membership (860 responses received) and non-CILEx members (107 responses received). The surveys produced information on whether respondents would apply for practice rights and/or to set up entities regulated by IPS to provide reserved or regulated services; when they expected to apply for practice rights/entity regulation; what reserved activities they proposed to apply for/provide. The research indicates that the number of entities that will be regulated in the first year of the operation of the scheme will range from 60 entities (low demand- most likely), 185 entities (medium demand- possible) to 400 entities (high level demand- unlikely). IPS has been testing its processes and collecting information on entities likely to apply for regulation which indicates that the turnover of most entities will be under £500,000 per annum and that they will handle client money.

1. 8 The IPS model of regulation will differ from the current legal services sector. The majority of legal practices currently comprise solicitors regulated by the Solicitors Regulation Authority (SRA). Once authorised by the SRA these firms are able to provide the full range of legal services. The IPS approach follows recent recommendations in research reports commissioned by the Legal Services Board and Legal Services Consumer Panel that a competence based approach be taken to authorisation. Authorised persons will be required to show they are qualified in the specific practice areas as opposed to being authorised to carry out all areas of legal practice.

### **Problem under consideration**

1. 9 The Act sets out requirements that an approved regulator must have in place to regulate legal practices. They include the ability to provide redress to clients of an entity regulated by an approved regulator.
1. 10 CILEx recognises that despite the risk based approach to regulation and supervision of entities there may be instances where dishonesty, failure to account or other uninsured events occur which cause loss or hardship to consumers of services delivered by entities. Specifically dishonesty or fraud can arise from failure to account to clients and to protect client money and assets or using client money other than for client matters. In those instances it is necessary to protect consumers by providing redress in the form of compensation to place them back into the position they would have been in had the action not taken place leading to their loss.
1. 11 The Act also requires that CILEx must protect and promote the interests of consumers and the public. Despite IPS' risk based approach to regulation (which is outlined in paragraph 1.5 above) there will be instances where regulated entities demonstrate risks which require immediate action, to protect clients, consumers and the public. The action will be to intervene into entities to manage them towards closure.
1. 12 The problem identified by CILEx is that a regulator needs statutory powers to enable it to seek an order from the High Court to enable it to intervene into an entity. IPS is unable to intervene in the absence of these statutory powers. CILEx is not a statutory body and does not have statutory powers to intervene into entities, neither is there any other provision by which it can gain the intervention powers it requires. In the absence of intervention powers IPS and CILEx are unable to protect clients against urgent risks or seek court orders to enable it to do so.

## Policy objective and policy options

1. 13 The first policy objective is to set up and maintain a Compensation Fund ('the Fund'). The purpose of the Fund will be to provide redress to clients/consumers who have suffered loss or hardship arising from dishonesty, failure to account or any other uninsured event, and have no other route of redress available to them and, as far as possible, to put them back into the position that they were in before the loss occurred. The Fund will allow CILEx to meet the regulatory objective of protecting and promoting the interests of consumers and allow compensation to be paid in cases where consumers have suffered financial loss.
1. 14 CILEx also needs the power to seek payments from entities regulated by it, through IPS for the purpose of maintaining the Compensation Fund.
1. 15 The second policy objective is to enable CILEx to apply to the High Court for an order to intervene into a regulated entity. The power to intervene offers a high degree of protection in the interest of all stakeholders but particularly consumers of legal services. The power to intervene is aimed at providing consumers and the public with continued assurance that there are mechanisms in place to protect and safeguard their interests when entities are found to be non-compliant with the regulations.

### Option 1: Set up a compensation fund

1. 16 Under option 1 CILEx will seek an Order under s69 of the Act to give it the authority to establish and maintain, and seek payments for, the Fund for the purpose of making grants to persons who have suffered loss and hardship. To preserve the independence of the Fund, independent Trustees will be appointed. Grants will be made at the discretion of, or under delegated powers by, trustees.
1. 17 CILEx has set aside £1million from its reserves to establish the Fund. This amount was determined based on the fact that the maximum amount of discretionary grant is set at £500,000.
1. 18 In order to ensure that claims will be able to be met from the Fund as soon as entity regulation comes into effect CILEx has secured an insurance policy which will cover and pay against assessed claims relating to anything other than professional negligence. An initial annual premium in the region of £30,000 has been quoted for this insurance, which will be payable by CILEx. Each claim on the insurance will attribute an excess. The excess will be calculated on a per claim basis and will be payable by CILEx. Each year an entity will have to pay a Fund fee to meet the costs of maintaining the insurance and managing the Fund. This will be in addition to the general regulation fee which entities have to pay. The Fund fee is separate because it will take into account the different risks presented by each entity to the Fund. For example entities holding no client money will pose less of a risk to the Fund, which will result in reduced payments. The Fund fee will include each entity's contribution to the Fund and each entity's contribution to the insurance premium that CILEx has had to pay. Where payment of the Fund fee has not been paid by an entity, CILEx must be able to recover amounts due as a debt.
1. 19 Growth in the Fund will depend on demand for entity regulation provided by IPS. Each year IPS will carry out budgeting exercises that determine the level of payment to be made by entities to the maintenance of the Fund. The level of contribution will be tiered by reference to the size of entity (determined by turnover), whether they use an escrow service and hold client money.

## Option 2: Intervention powers

1. 20 Under option 2 CILEx will seek an Order under s69 of the Act to give it the power to intervene into entities. IPS, on behalf of CILEx, will take a risk based approach to the regulation of entities. Post authorisation IPS will keep under review, through intelligence gathering and monitoring activity, new and emerging risks to the delivery of regulatory outcomes it has developed which are designed to protect the public and consumers. Where significant risks are identified IPS will need to have the power to take targeted and proportionate enforcement action, including intervention into an entity to protect the interests of consumers and the public and their assets in the control of a regulated entity.
1. 21 The powers available on intervention follow those available at schedule 14 of the Act. The desired outcome is to have intervention powers that will allow IPS, on behalf of CILEx, to act with speed and apply to the High Court to obtain an order which will have the effect of freezing an entity's bank accounts, and enable IPS to deal with client files in such a way that they are either returned to the clients or forwarded to another legal representative to be dealt with. It will prevent an entity from using client money or documents at points of high risk identified in the intervention conditions.
1. 22 Once the decision to intervene has been made, the bank accounts of the entity will be frozen to safeguard against funds being misappropriated. The money that is frozen will be held in trust in a special account in the name of CILEx or a person nominated on its behalf. The powers to hold an entity's money on trust will be derived through the intervention powers. The funds will then be distributed to their rightful owner.
1. 23 The step of intervening into an entity will not be taken lightly and will be used as a last resort where other regulatory action cannot be taken to protect the interests of consumers. Ultimately steps to intervene will be taken where it is necessary to protect the interests of clients and to ensure that client monies are not misapplied and to ensure that client documents are protected.
1. 24 Intervention costs will be met from the regulation fee charged to entities. Intervention costs have been assessed on the basis that after the first year interventions will occur in respect of 2% of regulated entities, based on the experience of other comparable regulators. In some cases, the costs of intervention may be recovered through the intervention process. The regulation fee will also cover authorisation and supervision activities, administration, staffing and resource costs relating to entity regulation including, for example, the cost of establishing a Strategic Risk Committee.

## Economic rationale

1. 25 The economic rationale for a compensation fund relates to improved equity. The aim of the Fund is to compensate clients of IPS regulated entities for losses they incur due to the dishonesty or failure of an IPS regulated entity. The scheme protects clients welfare by providing an opportunity for redress in the form of compensation to place the client back into the position they would have been in had the action leading to the their loss not taken place.
1. 26 The economic rationale for intervention powers relates to protecting client money and assets. The aim of the intervention powers is to prevent client losses occurring, thereby reducing the financial and other costs that clients would otherwise incur in seeking redress after a loss has occurred. It also delivers the objective of promoting competition in the provision of legal services by making available an increased range of legal services provider that the public can instruct. CILEx will also be able to assure the public that entities regulated by IPS meet

the regulatory objective of being strong, diverse and effective by offering the same level of protection as other legal services regulators.

## Main affected groups

1. 27 The proposals are likely to affect the following groups:
  - a. IPS regulated entities
  - b. IPS and CILEx
  - c. Consumers.

## 2. Costs and Benefits

2. 1 This IA identifies, where possible, the monetised and non-monetised costs and benefits for individuals, groups and businesses in England and Wales with the aim of understanding what the overall impact might be on society from implementing these proposals.

### Option 0 – Base case (do nothing)

#### Description

2. 2 Under the do nothing base case the proposals highlighted in Options 1-2 would not be implemented. The do nothing is compared to itself and therefore the costs and benefits are necessarily zero, as is its Net Present Value (NPV).

### Option 1: Set up a compensation fund

#### Description

2. 3 Under this option CILEx will establish and maintain a fund from which redress can be provided to clients of IPS regulated entities who suffer loss or hardship arising from dishonesty or failure to account by the entity.

### Costs of Option 1

#### *Cost to IPS regulated entities*

2. 4 IPS regulated entities will make an annual payment to the fund. IPS will assess the payment to be made each year, consult its regulated community on the proposals and seek LSB approval for it in accordance with s51 of the Act. IPS intends to introduce different bandings for contributions to be made by entities to the fund each year. The bandings are likely to include level of turnover, whether the entity holds client money in escrow or does not hold client money at all. The table sets out contributions that may be made by each entity in the first year of regulation based on the low demand scenario of 60 regulated entities per year. The contributions are averaged to the mid-point between different practice areas.



**Table 1: Contributions to be paid by each entity during the first year**

Turnover	Other Criteria	Level of Annual Contribution
Up to £100,000	Hold client money	£700
	Escrow account	£550
	No client money held	£325
£100,001 to £500,000	Hold client money	£1200
	Escrow account	£950
	No client money held	£600
Over £500,000	Hold client money	£2400
	Escrow account	£1750
	No client money held	£1200

2. 5 In setting the level of annual contribution IPS will make assumptions in its budget about likely number of regulated entities and the premium to be paid to insurers. The research referred to in paragraph 1.7 indicates that the number of regulated entities will range from 60 entities (low demand- most likely), 185 entities (medium demand- possible) to 400 entities (high demand-unlikely). The aim will be that contributions made by entities must cover the insurance premium and will build up the amount held in the Fund.
2. 6 The amount generated from contributions will depend on actual number of regulated entities and the criteria they meet against which their contribution will be set. The most likely scenario is a low demand of 60 entities. The total cost to IPS regulated firms is therefore likely to be around £30,000.<sup>1</sup>
2. 7 IPS regulated firms may also face additional administrative costs in complying and processing the payment of the Fund contribution. These costs are likely to be negligible and have therefore not been monetised.

#### *Costs to IPS and CILEx*

2. 8 CILEx will set aside £1m from its reserves to establish the Fund. The Fund will pay the insurance premium, which has been assessed as being in the region of £30,000 for the first year of the scheme.
2. 9 Each year the Fund will be used to pay the insurance premium. IPS will collect the annual contribution to the Fund from each entity. The contribution will be paid into the Fund.
2. 10 The proposal is likely to impose some additional administrative burdens for IPS in collecting and processing the regulated entities' contributions to the fund. These costs are likely to be negligible.

#### *Costs to consumers*

2. 11 The Fund carries a financial cost to entities regulated by IPS. It is possible that regulated entities will pass on these costs to consumers through prices for their services.

<sup>1</sup> This is based on the fees in table 1 and assuming that there is low demand of 60 entities which on average hold less than £100,001 based on research (see paragraph.1.7). It is assumed that the majority of firms hold money in an escrow account.

## Benefits of Option 1

### *Benefits to IPS regulated entities*

2. 12 Regulated entities may benefit from increased consumer confidence as a result of consumers having a right of redress being available in cases where loss or hardship arises from dishonesty or a failure to account.

### *Benefits to IPS and CILEx*

2. 13 Establishing the Fund enables IPS and CILEx to meet the requirements of the Act and to regulate entities providing reserved and regulated legal services to the public. Payments to the Fund enable IPS and CILEx to meet the costs of compensating those who suffer loss or hardship arising from dishonesty or failure to account by entities.

### *Benefits to consumers*

2. 14 Consumers will benefit from being able to seek legal services from IPS regulated legal practices with the assurance that redress is available in case of dishonesty or failure to account by an entity. This will enable consumers to gain the same level of protection and redress from IPS regulated entities as from entities regulated by other legal services regulators. Claims on the Fund are expected to be limited by the risk based approach and monitoring arrangements adopted by IPS to regulating entities. They are expected to follow a similar pattern to interventions and constitute 2% of regulated entities. The proposals reflect the established principle in the legal services sector of spreading the cost and risk of default by regulated entities across practitioners, in the interest of consumers and public protection.

## Assumptions and risks for Option 1

2. 15 The level of contributions to the Fund are based on assumptions made as to the number of entities seeking regulation by IPS each year following the research which IPS conducted, as described earlier. The low-point number of regulated entities, of 60 per annum, has been used.
2. 16 Research has segmented entities by practice area, as set out in the Oxera framework. IPS has segmented further by turnover. The research and subsequent testing has identified that most regulated entities will have turnover of less than £100,000 per annum and therefore this has been used in estimating likely revenue for IPS.
2. 17 The levels of annual contributions are based on an assumption that the insurance premium will be around £30,000 per annum. This is based on discussions with insurers.
2. 18 It is assumed that IPS will receive claims against the Fund based on 2% regulated entities.

## Option 2: Intervention powers

### **Description**

2. 19 Under this option, where significant risks are identified, IPS have the power to take targeted and proportionate enforcement action, including intervention into an entity to protect the interests of consumers and the public and their assets in the control of a regulated entity.

### **Costs of Option 2**

#### *Cost to IPS regulated entities*

2. 20 All regulated entities will pay an annual regulatory fee which covers the costs of interventions into entities. The fee will also cover supervision and monitoring activity, administration, staff and resource costs including, for example maintaining a Strategic Risk Committee. The table

below sets out costs of interventions based on likely numbers of regulated number of entities drawn from research.

Entity Numbers	Number of Interventions	Cost per intervention
Most likely (0-60 entities)	0 - 1 entity	£0 – 50,000
Possible (61-185 entities)	1 - 4 entities	£50,000 - £200,000
Unlikely (186-400 entities)	4 - 8 entities	£200,000 - £400,000

2. 21 Using a midpoint estimate the annual cost to IPS regulated firms will be around £50,000 in aggregate.
2. 22 IPS regulated firms may also face additional administrative costs in complying and processing the payment of the regulatory fee. These costs are likely to be minimal and have not been monetised.

#### *Costs to IPS*

2. 23 IPS will be responsible for paying for intervention costs. In practice intervention agents will be used. IPS has estimated the cost of each intervention will be around £50,000. This will include IPS staff time, intervention agents and trustees who manage the statutory trust into which money seized from an entity is placed.
2. 24 IPS makes the assumption that it will intervene into around 2% regulated entities each year, based on the experience of comparable regulators. Therefore the most likely number of interventions per year is around 1. Costs would therefore amount to around £50,000 per year.

#### *Costs to consumers*

2. 25 The regulatory fee carries a financial cost to entities regulated by IPS. It is possible that regulated entities will pass these costs onto consumers through increased prices for their services.

## **Benefits of Option 2**

#### *Benefits to IPS regulated entities*

2. 26 Enabling IPS to be able to intervene into regulated entities enables entities to provide assurances to legal services consumers that there is adequate regulation in place over them and that their clients will be protected. This provides an important market benefit to the entity and enables it to compete with other regulated legal practices.

#### *Benefits to IPS and CILEx*

2. 27 Establishing the intervention powers enables IPS and CILEx to meet the requirements of the Act, including delivery of the statutory objectives of protecting client and public interest, and to regulate entities providing reserved and regulated legal services to the public.
2. 28 IPS will benefit from annual regulatory fees of around £50,000. This is based on costs of one intervention per year at around £50,000 per intervention (see paragraph 2.23-2.24).

### *Benefits to consumers*

2. 29 The availability of intervention powers enables consumers to seek legal services from IPS regulated entities with the assurance that their interests will be protected through the ability of IPS to intervene. Consumers will be assured that they will receive the same level of protection from an IPS regulated entity as from an entity regulated by another legal services regulator.

### **Assumptions and risks for option 2**

2. 30 The assumption as to the number of regulated entities is based on research, as described earlier. The assumption that intervention will occur in 2% entities per annum is based on the experience of comparable regulators.

## **3. Implementation**

3. 1 It is envisaged that this Order for both Compensation Fund and intervention powers will be made by December 2014. CILEx, through IPS, will commence the operation of the Fund and regulation of entities in January 2015.
3. 2 IPS has developed Compensation Fund Rules for which approval can be sought as soon as the Order is made. IPS will begin recruiting for trustees to manage the Compensation Fund around September 2014, with a view to making appointments and carrying out training of trustees by December 2014. Internal implementation processes are in place or being implemented. This work will have concluded by December 2014.
3. 3 IPS is developing internal procedures and processes for intervention. This work will have concluded by December 2014. IPS will begin recruiting for trustees to manage the Statutory Trust Fund around September 2014, with a view to making appointments and carrying out training of trustees by December 2014.

## Annex A- Small and Micro Business Assessment

For the purposes of this assessment, the parameter used to define small businesses is up to 49 full time employees, and for micro businesses up to 10 employees.

The aim of the policy is to set up and maintain a Compensation Fund to provide redress for consumers who have suffered loss or hardship arising from mal-practice by firms regulated by CILEx. The policy also allows CILEx to apply for a High Court order to enable it to intervene into regulated entities in cases where intervention is necessary to protect consumer interests.

CILEx's own research suggests that they will regulate around 185 firms under a medium demand scenario. Research suggested that the turnover of the majority of entities will be under £500,000. We assume that the majority of firms are therefore small and micro businesses.

For the purpose of the small and micro assessment, the following exemptions were considered:

- Full exemption
- Partial exemption
- Extended transition period
- Temporary exemption
- Varying requirements by type and/or size of business
- Direct financial aid for smaller businesses
- Opt-in and voluntary solutions
- Specific information campaigns or user guides training and dedicated support for smaller businesses

Following from the evidence above, allowing any exemptions targeted at small and micro business could have a negative impact on the benefit derived from the changes to the regulatory powers of CILEx. The compensation fund would not be viable unless all firms are required to pay. The intervention powers would be ineffective unless they were to include small and micro businesses given that they make up the majority of the industry.