



SETTING UP YOUR OWN LEGAL BUSINESS

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WHAT DO I NEED TO KNOW ABOUT SETTING UP ON MY OWN?

This guide has been put together to assist you if you are thinking about becoming self-employed, or establishing your own business. It is by no means an exhaustive list of the things you should consider, but will hopefully give you some guidance on the areas to think about before proceeding.

Making sure you get all of the relevant advice at the outset is important. It will help you to formulate strategies (e.g. operations, HR, marketing, competition) and develop a structure that will grow with your business.

Careful planning will help you to comply with the CILEx Code of Conduct, which is intended to guide and support you in the work you do and the decisions you make, ensuring continued public confidence in you and your profession.

Having sound processes and procedures in place from the outset will allow you to concentrate on delivering a high standard of advice and service to your clients.

Tip: Identify the right area of legal practice – know your strengths and weaknesses and be sure that clients will identify with you.



'...clearly communicate your specialisms to consumers, as your entity will be authorised according to your individual practice rights.'

Why do I want my own business?

There may be many reasons why you are thinking about setting up on your own.

These may include:

- being your own boss
- doing what you are interested in
- managing your own deadlines
- the variety it can bring
- making money
- flexibility of working.

Tip: All self-employed members of CILEx are able to independently provide non-reserved legal services which includes general legal advice, employment law, wills and estate administration. With the addition of new practice rights and entity regulation members now have additional opportunities.

You now have the option to set up your own legal practice (called an entity), delivering reserved and regulated legal services. This entity can be authorised by CILEx Regulation and:

- allows you to be your own boss and compete on an equal footing with other practitioners
- means you clearly communicate your specialisms to consumers, as your entity will be authorised according to your individual practice rights; conveyancing, immigration, litigation - criminal, civil, family - and probate
- allows you to become part of a recognised and regulated community, with the added reassurance that your clients, you and your business are protected by independent regulation and your clients have access to redress

- is open to all Authorised Persons running their own legal practices; gaining a practice right in probate or conveyancing means you don't have to become a Fellow to have your entity authorised by CILEx Regulation
- enables you to join forces with other legal practitioners to deliver legal services
- gives you a regulator that delivers competence-based authorisation, focusing on how you run your business.

Your business idea

So, you have decided the time is right to set up your own business, you have completed sufficient research and you are certain it is a good idea. You need to create a Business Plan. Why? It will help you to draw your ideas into a more formal structure and to plan your next steps, before investing additional time and money. You may need to present a Business Plan if seeking finance, or looking to attract a business partner.

Think about the following:

- what are you offering?
- where is your market?
- who are your customers?
- what do they want/need?
- is the advice they require broader than pure legal advice?
- how will you deliver it?
- how much will it cost you?
- how much will it cost them?
- what/who are your threats?
- what are the personal and professional risks?

Make your Business Plan as concise and clear as you can, it should remain a live document developing as your firm does. It doesn't have to run for pages, but should state clearly why this is a good business idea.

Tip: CILEx Regulation offers a **Business Planning document to help you draw up a Business Plan, guide you on how to assess risks in your business and how to produce a Risk Register.**





'Make sure that you are qualified to provide all the services you are planning to offer.'

Areas of competence and qualifications

Think about the skills you will need to deliver the services you want to provide. Make sure that you are qualified to provide all the services you are planning to offer. Principle 5 of the CILEx Code of Conduct states you must act within your competence at all times.

You must ensure you comply with the CILEx Code of Conduct whenever it applies to you. Your professional and personal conduct will be judged against it.

Tip: Make your specialism your strength – if you try to do everything, you appear as a competitor (threat) to everyone.

Talk to CILEx about the type of training and experience you might need to help you achieve this. Professional development and training advice can also be found on the dedicated CILEx Careers website.

Tip: If you think you may require supplementary skills, consider undertaking additional training or courses. Many courses can now be studied flexibly via distance-learning; talk to CILEx or CILEx Regulation about courses to suit your needs.

Reserved legal activities

Make sure you are clear about the services that you are authorised to provide. The Legal Services Act 2007 sets out those activities that are designated as reserved activities. Guidance on reserved activities is available from CILEx, as well as on those activities which are regulated (immigration, insolvency and claims management). If you are unclear about whether an activity is a reserved legal activity, contact the CILEx Practice Advice Team - see page 10 of this guide.

If you plan to provide reserved activities, make sure you have the necessary qualifications, such as a practice right, and that your firm is regulated by an approved regulator, such as CILEx Regulation.

If you are seeking authorisation of your firm by CILEx Regulation, it must provide reserved or regulated legal services and must be wholly owned and managed by lawyers.

Tip: CILEx Regulation does not currently authorise Alternative Business Structures (ABS) as defined within Part 5 of the Legal Services Act 2007. An ABS is a firm where a non-lawyer is a manager of the firm or has an ownership-type interest in the firm.





'If you are unsure about your correct title, then check the CILEx website or with the CILEx Practice Advice Team.'

Practice rights

When thinking of setting up your own business, you might want to consider obtaining additional practice rights. This will enable you to add the provision of reserved legal activities to the services you will offer. If this is something you would like to pursue, now may be the time to invest in your professional development. Get in touch with CILEx to talk about the opportunities available to you.

The Legal Services Act 2007 defines areas of law that are called reserved legal activities or regulated legal activities. These are rights of audience, conduct of litigation, reserved instrument activities (conveyancing), notarial activities, probate activities and administration of oaths. Regulated legal activities refer to immigration advice and services.

You can apply for practice rights in probate or conveyancing (reserved instruments) without obtaining the status of Fellow. However, Fellowship is required for immigration and litigation practice rights.

Tip: Applying for the right to practise a reserved legal activity could:

- increase your earning potential
- authorise you to offer a wider range of legal services to clients
- improve your professional status
- recognise your knowledge, experience and skills
- give you greater career prospects
- allow you to supervise others and expand your business
- differentiate you from your competitors
- enhance your businesses profile and profitability.

What can I call myself?

It is important for your clients that they understand the professional status you have obtained with CILEx and that you work within a regulated profession.

Current practicing Fellows may call themselves 'lawyers' or 'Chartered Legal Executives'. The word 'legal' can be used in the company's name. Other job titles, as long as they do not breach the CILEx Regulation rules, and are not misleading to the public, are acceptable.

When you obtain a practice right, your professional title may change to reflect the right you have gained. If your firm becomes a CILEx Regulation Authorised Entity, you will need to clearly state this on your business communications.

If you are unsure about your correct title, then check the CILEx website, with the CILEx Practice Advice Team or with CILEx Regulation.

Tip: Principle 5 of the Code of Conduct states that you have an obligation to act in the best interests of your client. The guidance to this principle states that you must ensure that your client understands your professional status.

'If you remove data you would be breaching the client's confidentiality, this also applies to data belonging to former clients of the firm.'



Can I take clients with me?

If you change firm, or start your own business, you cannot take clients with you.

A client's contractual relationship is with the firm, not with the fee-earner handling a matter. Any data (i.e. their contact details and all information about their affairs) relating to the client belongs to the firm. If you remove data you would be breaching the client's confidentiality, this also applies to data belonging to former clients of the firm.

You cannot approach clients and ask them to leave the current firm and take their instructions to your new firm.

What does working as a consultant or locum mean?

A consultant is a person who provides expert advice professionally, whereas a locum is a person who stands in temporarily for someone else of the same profession. They will often be self-employed or work for an agency.

If you are looking to work as a consultant or locum in a reserved legal activity we strongly recommend you seek independent legal advice regarding your contractual arrangements. You should ensure that you fall within the definition of 'employee' to ensure effective and appropriate supervision. Under these conditions, CILEx members may carry out the same activities as the employing firm. Reserved legal activities should be carried out in the name of the firm.

You should always check with the firm that your work will be covered under their professional indemnity insurance policy.

Structure and business name

There are various structures you can use to provide legal services through, i.e. sole trader, partnership, limited company, limited liability partnership and Community Interest Company. Their appropriateness depends on your own circumstances and we recommend you seek professional advice as to which will offer you the best outcome.

You should consider carefully the suitability of the name you choose for your new business. There are certain restricted words that you should not use, if in doubt, check with Companies House or with CILEx Regulation.



'The systems you use, and records you maintain, should be appropriate to the size of your business and the risks associated with it.'

Managing the money

When you set up your business, make sure you have sufficient funds to cover the first few months. It may be a little while before your first bills will be paid.

To make a success of your firm, you need to know:

- if you are making money
- that you are not going to run out of cash
- any money you hold for someone else is safe
- that you have a viable financial model.

The systems you use, and records you maintain, should be appropriate to the size of your business and the risks associated with it. Think about what will work for you and whether you require any training or support.

You will need a separate business account to manage your fees and expenses.

Tip: If you are going to handle client money, you will need a client account or designated client accounts as appropriate. Remember: it is not your money and you must be able to account correctly for it. CILEx Regulation will be able to give you guidance on this.

Client care and complaint handling

We can help to ensure that your business gets off to the right start and make sure you comply with the Legal Ombudsman requirements.

CILEx Regulation can review your client care information and complaint handling procedures to make sure you have the fundamentals in place. The review will seek to confirm, for example, that you have provided clear and accurate advice of your professional status and regulation; details of the matter and what you will do for the client; what you anticipate it will cost the client and what they can do if unhappy with the service provided. You can find additional guidance on the CILEx Regulation website.

'Add a link to the CILEx and CILEx Regulation websites so that clients can understand your status, the CILEx Code of Conduct and how you are regulated. That should give confidence to your clients.'



Professional Indemnity Insurance (PII)

We strongly recommend that members running their own firm have an appropriate PII policy in place. This insurance offers you protection in the event of a claim against you, and offers reassurance to your clients that if anything were to go wrong you will be in a position to correct it.

CILEx members whose firms will be regulated by CILEx Regulation must have qualifying PII in place. Further details including our guide to PII and instructing brokers, can be found on the CILEx Regulation website.

If you do not have a local contact or broker, then the Financial Conduct Authority provides a list of brokers for information purposes only.

You should also consider whether there is a need for public liability, employer's liability and business premises insurance. For example, if you plan to work from home, will your existing contents insurance cover your business activities?

Protecting information

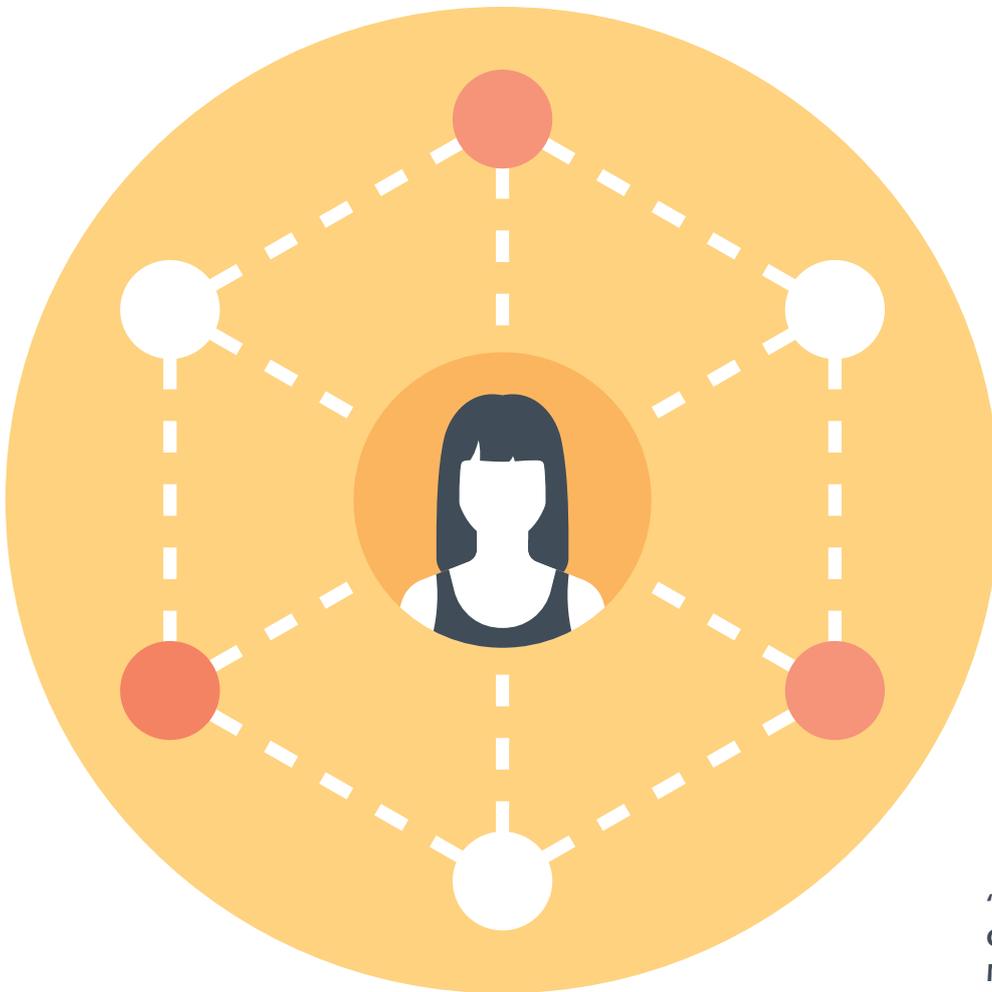
You must have the ability to store your clients' data securely and have appropriate anti-money laundering procedures in place.

Do I need a website?

Setting up a website can be a good way to promote your business. It may be a key source of leads for you, as clients may initially look for service providers via an internet search.

You should make sure that your website, or any other promotional material, accurately reflects what you are able to offer, the experience you have and the size and structure of your firm. Think about your strengths and specialisms when developing any promotional material.

You must ensure that you meet all of the regulatory and statutory requirements for disclosure of information, e.g. Companies House, Data Protection, PII, Distance Selling, Financial Conduct Authority and CILEx Regulation.



‘We would suggest joining your local CILEx branch as well as the CILEx Members Group on LinkedIn.’

Do I need to inform CILEx Regulation if I become self-employed?

Yes, you are under an obligation to inform CILEx Regulation. You can do so by calling CILEx Regulation on 01234 845770 or updating your details to reflect your new business information, including the categories of practice via the myCILEx area of the CILEx website.

CILEx Regulation will wish to understand your business so it can support and guide you in the future. Telling us that you are self-employed means we can add you to our databases for specific communications related to running your business.

CILEx practice advice

On the CILEx website you can access a range of guidance regarding general practice which should prove helpful. If you are unable to find the answer to a query, you can submit an e-mail enquiry to the Practice Advice Team on: **practiceadvice@cilex.org.uk**.

In addition, there are resources on the CILEx Regulation website designed to help members setting up their own legal firm.

CILEx support groups

Having a support network in place is a huge benefit. You may find it a useful source of business too. We would suggest joining your local CILEx branch as well as the CILEx Members Group on LinkedIn. Professional networks are an excellent means of exchanging ideas and advice. They will allow you the opportunity to forge connections with other members, who may be running their own businesses or providing similar services, and learn from others' experience.

CILEx Group websites:

CILEx

www.cilex.org.uk

CILEx Regulation

www.cilexregulation.org.uk

CILEx Careers

www.cilexcareers.org.uk

CILEx Branches

www.cilexbranches.org.uk

Where else can I get support?

There are many organisations that support business start-ups and the following are a few that may prove useful to you.

In England, the government funded website www.gov.uk is a good place to start. It provides information, contacts and advice for businesses, both start-ups and those more established, alongside a helpline for more specific queries. It will also provide advice on business tax.

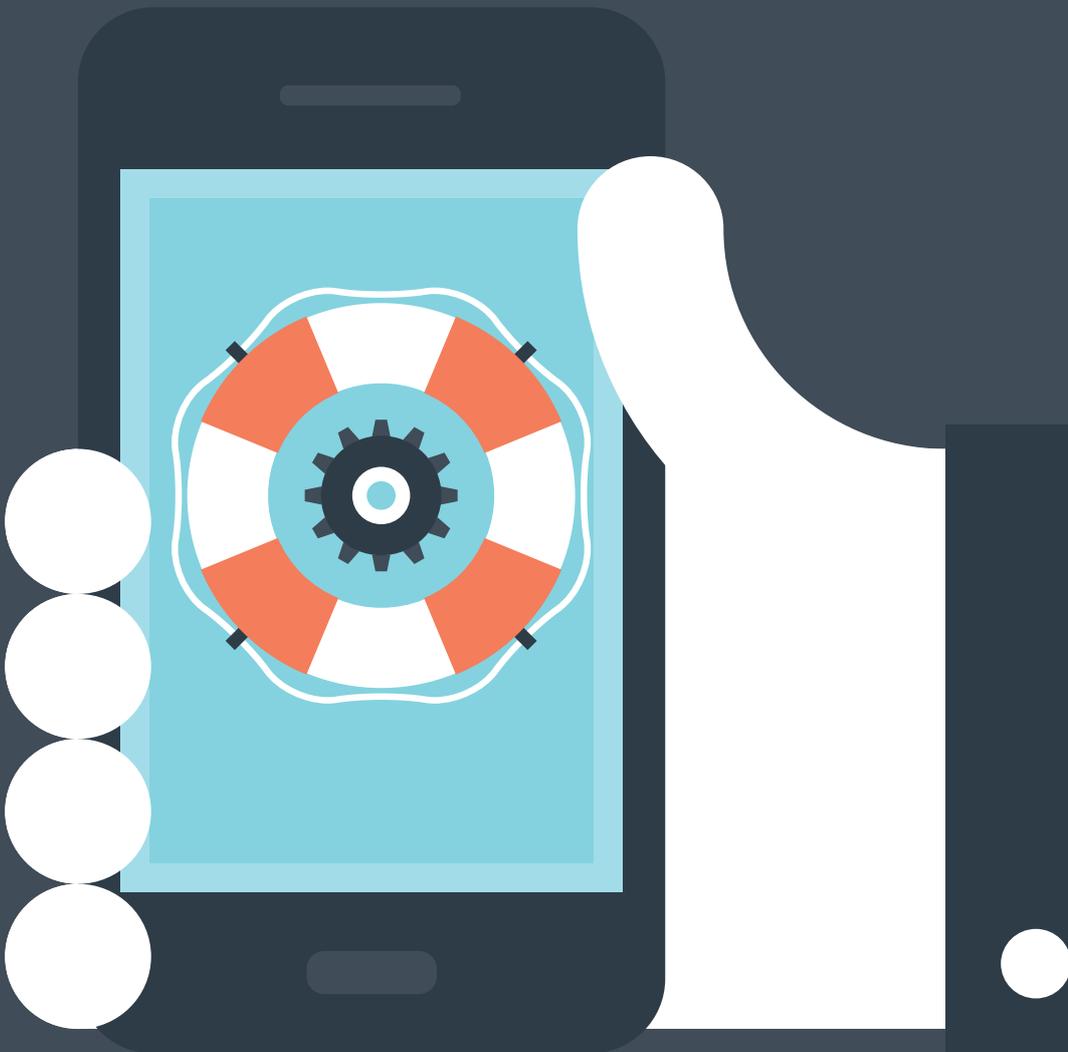
In Wales, the Welsh Government provides business support via Business Wales

www.business.wales.gov.uk. Help is provided in a number of ways; from helping you decide if working for yourself is right for you, developing your business idea, learning new business skills and improving existing skills and meeting with a business adviser. Business Wales can also help with advice on protecting your business idea, marketing and raising finance.

The Chamber of Commerce www.britishchambers.org.uk and The Federation of Small Businesses www.fsb.org.uk are organisations that might be useful to make contact with.

The Companies House website will give you guidance on your obligations if you set up as a limited company or limited liability partnership www.companieshouse.gov.uk.

Finally, other professional advisers will be a source of advice, and potentially business, such as Accountants and Business Bank Managers. Most banks produce information guides on setting up a business and many will have dedicated professional services managers who will look after legal firms.



SUMMARY

The key points are:

1. Get it right at the start
2. Plan your idea, considering the negatives as well as the positives
3. Make sure you have the skills you need to succeed
4. Find out how CILEx and CILEx Regulation can help
5. Don't feel you are on your own!

....AND FINALLY

We realise that it can be a big decision so please do not hesitate to speak to the teams at CILEx and CILEx Regulation.

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