Firm authorisation: how to prevent unintended loss

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Introduction

Solicitors Regulation Authority

Importance of authorisation

Authorisation lets firms legally provide reserved legal activities in England and Wales, ensuring compliance and legitimacy.

Consequences of losing authorisation

Losing authorisation stops firms from being able to provide legal services, which can harm their reputation and operations.

Legal regulations

The Legal Services Act 2007 defines automatic loss conditions, with no discretion allowed by us.

Maintaining compliance

Understanding triggers and timelines helps firms avoid unintended loss of authorisation.

Definitions

A firm's authorisation status can be affected by changes to its managers or interest holders.

Manager

- A director of a company
- A member of a UK LLP
- A partner of a partnership that is not a body corporate
- For any other body, a member of its governing body

Interest holder

- Someone who holds shares in a body, or
- Someone who is entitled to exercise, or control the exercise of, voting rights in a body

The Legal Services Act 2007

Section 18 of the Legal Services Act 2007

Recognised bodies

- A recognised body must have only legally qualified managers and interest holders.
- If it acquires a non-legally qualified manager or interest holder, it becomes licensable.
- If it remains licensable for 90 days, it automatically ceases to be authorised under section 18(3) of the LSA.

The Legal Services Act 2007

Licensed bodies

- A licensed body must have:
  - at least one manager or interest holder who is a non-authorised person, or
  - a manager or interest holder that is an authorised body, in which non-authorised persons hold 10% or more of the voting rights.
- If it ceases to meet either of these conditions, it is no longer licensable.
- If it remains non-licensable for 90 days, it automatically loses authorisation under section 18(6) of the LSA.

Scenarios

Scenario 1 – Recognised body

- Sue, Grabbit & Co appoint a non-authorised person as a 'salaried partner'.
- Their COLP considers this is okay as he is not an equity partner and decide they do not need to take any action.
- Sue, Grabbit & Co loses authorisation, and this is only discovered three years later when an unrelated application is considered by our Authorisation team.

Why was authorisation lost?

It does not matter whether a partner is salaried or equity, they are a manager and therefore will make the firm licensable.

Scenarios

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Scenario 2 – Recognised body

- The Lone Litigator Limited is a company with a sole solicitor director and shareholder.
- On the advice of his accountant, the solicitor transfers his shares to his wholly owned holding company for tax purposes.
- As far as the solicitor is concerned, his firm remains wholly managed and controlled by him.

Why was authorisation lost?

The holding company is a non-authorised person and its holding of the shares in The Lone Litigator Limited makes it licensable.

Scenarios

Scenario 3 – Licensed body

- Legal Intent LLP was licensed because it wished to make its office manager, a non-authorised person, a member (and therefore a manager). She was the only non-authorised member of Legal Intent LLP.
- She is on the CILEX pathway to qualification and is subsequently admitted as a chartered legal executive and given a practising certificate.
- She becomes an authorised person.

Why was authorisation lost?

Legal Intent LLP has no non-authorised managers or interest holders and ceases to be licensable. It took no actions itself which led to this result, so it does not realise the implications to its own authorisation of the office manager becoming an authorised person.

Scenarios

Solicitors Regulation Authority

Scenario 4 – Licensed body

- Clause for Concern Limited, a ,company with a sole solicitor director and owner is licensed because she is giving a 5% shareholding to her husband (a non-authorised person). He is not an owner and has no practical involvement in the firm.
- The business is then sold to another solicitor, with all shares transferring to him.

Why was authorisation lost?

As Clause for Concern Limited, on the face of it, appeared to be a single solicitor business, it does not occur to the new solicitor that there is any regulatory impact of him becoming the sole director and shareholder. However, the firm has lost its only non-authorised interest holder and therefore has ceased to be licensable.