

Legal Services Board

Draft Business Plan 2016/17

A response by
CILEx Regulation

19 February 2016

Introduction

1. This response represents the views of CILEx Regulation, the regulatory body for Chartered Legal Executives, CILEx Practitioners and legal entities. Chartered Legal Executives (Fellows) are members of the Chartered Institute of Legal Executives (CILEx). CILEx Practitioners are authorised by CILEx Regulation to provide reserved legal activities. CILEx is the professional body representing 22,000 qualified and trainee Fellows and is an Approved Regulator under the Legal Services Act 2007 (LSA). Fellows and CILEx Practitioners are authorised persons under the LSA. CILEx Regulation regulates all grades of CILEx members.
2. As an Approved Regulator CILEx is able to award practice rights in litigation, conveyancing and probate. It regulates immigration and advocacy services. CILEx Regulation is also a regulator of entities through which legal services are provided. This means that CILEx Regulation can authorise members of CILEx and conveyancing and probate practitioners to provide legal services through entities regulated by CILEx Regulation.
3. CILEx Regulation and CILEx provide an alternative route to legal qualification and practice rights allowing members and practitioners, who do not come from the traditional legal route to qualify as lawyers and own their own legal practice. With the implementation of the practice and entity rights, CILEx Regulation has demonstrated its emphasis on economic growth, as it aims to capture a wider range of individuals and entities within its regulatory remit.
4. CILEx Regulation would like to take this opportunity to welcome Neil Buckley as the new Chief Executive of the Legal Services Board (LSB). CILEx Regulation has worked closely with the LSB and has successfully obtained and implemented practice rights and entity regulation and looks forward to maintaining a close working relationship with the LSB in the future.

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5. We welcome the opportunity to comment on the LSB's draft Business Plan 2016/17. We hope our observations will be of value.

LSB Question 1 - Do you have any comments on our proposed work plan? Breaking down the regulatory barriers to competition, innovation and growth

6. We are pleased to see the LSB continue its work on year two of its three year strategy. This will allow for continuity in the LSB's work programme and will positively impact all regulators covered under the Legal Services Act, in terms of continued progress.
7. The LSB's work programme will ensure that regulators are held to account for their performance and maintain their current level of independence from their associated membership body. CILEx Regulation has completed the self-assessment which the LSB issued in 2015. The assessment explored the regulatory arrangements of CILEx Regulation, to which we have provided a detailed response and arranged for independent scrutiny of the document, to corroborate our evidence base.
8. Another of the LSB's core work streams is to drive reform of regulation so that the legal services sector can better meet the needs of consumers, citizens and practitioners. CILEx Regulation has successfully obtained practice rights and entity regulation for CILEx members and CILEx Practitioners. The innovative work carried out by CILEx Regulation has allowed CILEx members and CILEx Practitioners to apply for practice rights, which will entitle individuals to practice in their area of specialism without supervision by another 'authorised person' and to set up their own entities if they wish. This will create competition in the legal sector and positively drive down costs for consumers.

9. CILEx Regulation invites the LSB as part of its work on breaking down regulatory barriers to engage with regulators to facilitate changes to regulatory arrangements on run-off cover. CILEx Regulation would welcome LSB leadership on discontinuation by regulators of requirements for run-off cover upon moving to another regulator, in order to drive down regulatory costs and support legal service provider choice of regulator.

10. CILEx Regulation's innovative work on practice rights and entity regulation aligns with the LSB's strategy of breaking down regulatory barriers to competition, innovation and growth. Practice rights and entity regulation have opened up competition and growth in the legal sector. We note that in 2016/17, the LSB will scrutinise regulatory costs and identify opportunities for savings, we welcome the LSB to review CILEx Regulation's regulatory costs and identify any potential savings which the organisation could make.

11. The LSB has stated in its consultation that it will require regulators to publish details about their costs and will ask regulators to improve the quality and transparency of data. CILEx Regulation has commenced a governance review, which will help to identify better ways for the organisation to become more transparent to consumers of legal services. The review would look to set out how the organisation can make more information accessible on the CILEx Regulation website for consumers and practitioners.

Enabling the need for legal services to be met more effectively

12. CILEx Regulation has published data about the individuals and entities it regulates for use by comparison websites. We have made data available on authorised individuals who have consented to the release of their data; and data about our authorised entities. Comparison websites are able to access this information on the CILEx Regulation website and re-produce it to assist consumers to effectively compare the different legal services offered and make an informed choice.

13. We are pleased to see that the LSB has begun mapping the unregulated sector and may potentially develop voluntary arrangements with unregulated providers or work with the Legal Ombudsman. We believe that consumers who use unregulated providers for legal services are left with limited scope for redress, should things go wrong. Therefore it is in the interests of consumer protection for the LSB to review the benefits and risks of unregulated services.

14. CILEx Regulation is a risk based regulator and we regularly review our supervision and enforcement teams' work to identify emerging risks. Both teams engage with other regulators and organisations to exchange best practice and to keep abreast of new developments in the sector.

Performance, evaluation and oversight

15. The LSB will continue to hold regulators accountable for their performance and ensure that regulation is undertaken independently from representative interests. CILEx Regulation regularly monitors and updates its Key Performance Indicators (KPIs) in relation to complaints received against those within its regulated community.

16. CILEx Regulation regulates a diverse range of CILEx members. CILEx is currently the only route to qualification as a lawyer which does not require a university degree. On average, 75% of CILEx members are women, and around 13% of all CILEx members are black or of an ethnic minority (compared to 7.9% for the UK population as a whole).

LSB Question 2 - Do you have any comments on the research we have proposed?

17. We are pleased to see that the LSB has clearly detailed the research it will carry out during 2016/17. We are particularly interested in the vulnerable consumers

and emerging market risks research. These studies will help us to make necessary changes to our regulatory regime which will ensure that consumers are further protected.

LSB Question 3 - Do you have any comments on the commission we propose for the Legal Services Consumer Panel?

18. We welcome the proposal to seek advice on the effectiveness of current information remedies and would welcome the opportunity to engage with the Panel on this.

LSB Question 4 - Do you have any comments on the LSB's budget?

19. CILEx Regulation commends the LSB on its continued budget reduction. The current drive across the public sector to reduce costs has placed added pressure on publicly accountable organisations to continue to fulfil their role with limited funding. Although CILEx Regulation supports the LSB on budget reduction, it would request the LSB to carefully consider whether it can meet its activities as an oversight regulator with a budget cut.