



Attention: Sue Chandler
CILEx Regulation
Kempston Manor
Kempston, Bedford
MK42 7AB

Sent by email only to consultations@cilexregulation.org.uk

4 July 2024

Dear Ms Chandler,

RE: Consultation on amendments to transparency rules and requirements

The Legal Services Consumer Panel (Panel) welcomes the opportunity to comment on CILEx Regulation's proposed amendments to its transparency rules and requirements. As you know, the Panel has been keen to ensure that appropriate action is taken to improve transparency on price, service and quality in the legal services market.

The proposed amendments demonstrate that CILEx Regulation is taking this area seriously and the Panel welcomes this direction of travel. There is still room for further progress. With this in mind, below is a summary of the Panel's key points:

- **Scope** - The Panel supports CILEx Regulation's expansion of its transparency rules and requirements to the remaining areas of law.
- **Information provision (including leaflets)** - CILEx Regulation has proposed that any firm without a website should supply the regulator with an annual copy of a consumer leaflet with all the relevant information to be published in their firm directories. The Panel has some additional suggestions:
 - All firms – not just those without a website – should provide this information to be included on the firm directories with an obligation to update it as appropriate.
 - In addition to websites and leaflets, this information should be collated in one place in readiness for the planned Regulatory Information Service (RIS).
 - CILEx Regulation should consider where else leaflets can be made available - other than the firm's offices - to maximise reach to relevant consumers.
 - CILEx Regulation should engage the Legal Ombudsman on how information about its decisions is best presented to ensure that it is useful to consumers.
- **Effectiveness** - Merely extending the transparency rules may not significantly improve consumers' ability to obtain the information they need to make an informed choice of provider. CILEx Regulation's own evaluation has also indicated that further prescription is needed and therefore standardised language should be seriously considered.

- **Quality** - The Panel would like to see some acknowledgement that CILEx Regulation is considering new policy interventions to improve information about the quality of legal services for consumers.

Again, this is a really important first step forward in improving the status quo. The Panel looks forward to supporting CILEx Regulation with its amendments and beyond.

Proposed Changes

The Panel has long supported expanding the application of transparency requirements beyond the initial areas of law where they were first introduced. Legal services consumers should be able to access clear and comparable information on regulation, price, service and quality from all legal services providers. Therefore, the Panel supports CILEx Regulation's expansion of its transparency rules and requirements relating to regulation, price and service to the remaining areas of law provided to consumers and SMEs that were not subject to these requirements previously. It is noted that this change will only bring an additional 10 firms within these rules as 46 firms were already covered.

As the Panel stated in its 2020 consultation response to CILEx Regulation's expansion of the transparency requirements to immigration law, it did not understand the rationale for excluding certain immigration services such as claims for asylum from the transparency requirements. It is a positive development that providers will now be mandated to make accessible information available to all individual consumers and SMEs, including the mix of staff within the law firm.

For clarification, the Panel understands that non-contentious probate is the only type of probate that CILEx Regulation-ACCA Probate firms can offer and if they were to obtain authorisation to conduct non-contentious probate, they would then be subject to the general CILEx Regulation Transparency rules. If this is not the case, the Panel notes that the CILEx Regulation's own evaluation found that some firms providing litigation services were publishing price information even though they had not yet been required to.¹

The consultation document references the CMA's emphasis on the need for consumers to be able to access information on a firm's services without having to get in touch with them or having to provide their own details. CILEx Regulation has consequently proposed that any firm without a website should supply the regulator with a copy of a consumer leaflet with all the information they should have listed on their website. This information will be provided annually and published in their firm directories (one for CILEx authorised firms and one for CILEx Regulation-ACCA Probate firms). The Panel would suggest that all firms be required to provide this information to CILEx Regulation to be included on the firm directories with an obligation to update it as appropriate. In addition to the information being provided on websites and leaflets, it would be helpful to have this information collected in one place to allow CILEx Regulation to have it ready for the planned Regulatory Information Service (RIS). In fact, for this type of directory to make a difference to consumers, it must be provided on a larger scale such as the RIS to make it useful to consumers rather than requiring them to check several smaller registries.

Requiring the firms who do not have a website (nearly half) to have physical consumer leaflets ready with all the information that would have been provided on a website, could help ensure consumers are easily provided with the information if they ask for it. Having it in the law firm's office though will only likely be useful to people who walk into the law firm, something many

¹ See paragraph 22 of CILEx Regulation 2024 amendments to transparency rules and requirements consultation document.

consumers may feel intimidated doing. It may be helpful to think about where else this leaflet or the information on it could also be made available (other than CILEx Regulation's online registers). The ongoing digital exclusion research that CILEx Regulation is involved in may provide ideas on how to make such information available offline.

The Panel thinks that requiring firms to provide a link to the Legal Ombudsman's decision page on their website or consumer leaflets is a step in the right direction. The same is true for suggesting wording for providers to use to contextualise this information. Such information about considering the size of the firm and the outcome of the complaint is already listed on the Legal Ombudsman page with the decision information but the table of firms is at the very bottom of a long page. The table shows how many decisions were produced for each of the listed firms in the last year and clicking on a firm will show summaries of any remedy awarded in 8 to 20 words. CILEx Regulation (and other regulators) may want to engage with the Legal Ombudsman on how this information is presented to ensure that it is useful to consumers and set out in a suitably user-friendly way.

Monitoring and Evaluation

The Panel found it helpful when the consultation document referred to some findings of the CILEx Regulation evaluation of the transparency rules and requirements that have been in force since 2019 (with immigration added in 2022). It would have been even more useful to outline how the evaluation was conducted and the full findings to inform stakeholders' consultation responses. The CILEx Regulation transparency evaluation findings that were referenced solely related to how firms were implementing the rules and requirements as opposed to the actual impact that consumers were experiencing. Noting the limited resources of CILEx Regulation, the Panel found it helpful for CILEx Regulation to provide further context from the SRA's three years evaluation of their similar transparency rules. The Panel also understands that CILEx Regulation appreciates that according to the Tracker Survey, increasing numbers of consumers appear to want to shop around and are looking for information about legal services before they decide on which provider to engage.

While the Panel appreciates CILEx Regulation reviewing this information, the key metrics for evaluating a policy aimed at improving consumer outcomes should be consumer focused metrics. The SRA's three years transparency evaluation does provide some information on what consumers got out of their transparency rules and notably about a fifth of consumers still found it difficult to compare providers. The most often cited reasons for consumers feeling this way were that prices were presented differently, services were described differently and that consumers found it hard to compare quality.² Moreover, the SRA evaluation also found that there was no significant difference in ease of comparison between consumers whose legal issue was covered by the transparency rules versus those whose issue was not. Therefore, merely extending the rules will not improve consumers' ability to obtain the information they need to make an informed choice of provider.

The SRA evaluation went on to recommend that the SRA consider looking into the pricing of standard cases. Another way of addressing these issues could be mandating that providers use standardised language. Although the Panel appreciates that CILEx Regulation has proposed mandating font size, placing information prominently and in one place, standardising the actual language used to convey information about pricing or services could address the difficulty consumers have comparing information from different firms. CILEx Regulation's own evaluation has also indicated that further prescription is needed and has plans to provide

² See page 8 of the SRA three year transparency evaluation found at <https://www.sra.org.uk/globalassets/documents/sra/research/year-three-evaluation-of-the-sra-transparency-rules.pdf?version=4aa6e3>.

guidance on how the mix of staff is communicated. This is another area that could benefit from having all providers use standardised language.

Consumer testing would be ideal to ensure that the specific rules about how information is communicated or specifying the language to be used can be linked to increasing consumer understanding. The Panel acknowledges such testing can be costly but suggests regulators collaborate on such projects given that all regulators are attempting to meet the same expectations set out in the LSB's Consumer Empowerment Statement of Policy.

The Panel produced a paper in 2022 on best practice in monitoring and evaluation in legal services³ as part of its work to prompt regulators to think about monitoring and evaluation at all stages of policy development. It would be very useful to have monitoring and evaluation plans published along with proposed policies or policy changes. The Panel's research report into consumer-focused regulation in legal services⁴ also highlights the importance of using consumer focused metrics to evaluate policies.

Quality

The Panel has noted that while this consultation takes explicit notice of the CMA's reports on how information about legal services is deficient for consumers and cites the SRA's three years transparency rules evaluation which notes the problems consumers have with assessing quality, no mention was made of how to help consumers obtain reliable information about a firm's quality. Furthermore, CILEx Regulation states it has performed a gap analysis against the LSB's Consumer Empowerment Statement of Policy. Considering this analysis, the Panel would like to see some acknowledgement that CILEx Regulation is considering new policy interventions to improve information about the quality of legal services for consumers. Again, this would be a good area to collaborate on with other legal services regulators given that they are all grappling with the same challenges regarding quality indicators for consumers.

We hope the CILEx Regulation finds the Panel's comments useful. Should you have any questions pertaining to this consultation response, please contact Heidi Evelyn, Consumer Panel Associate at Heidi.Evelyn@legalservicesconsumerpanel.org.uk, with any enquiries.

Yours sincerely,



Tom Hayhoe
Chair
Legal Services Consumer Panel

³ <https://www.legalservicesconsumerpanel.org.uk/wp-content/uploads/2022/06/22.06.30-Monitoring-and-Evaluation-in-Legal-Services.pdf>

⁴ <https://www.legalservicesconsumerpanel.org.uk/wp-content/uploads/2023/06/Consumer-focused-regulation-report-FINAL.pdf>