

Responses to the Consultation on the proposed amendments to the Transparency Rules and the Transparency Requirements at Regulation 16 of the CILEx Regulation-ACCA Handbook 2021

The breakdown of the total of 25 responses was as follows:

Respondent	Number
CILEX Authorised Entity	4
Regulated individual	14
Legal Services Consumer Panel	1
Council for Licensed Conveyancers	1
Organisation (not specified)	1
Other	4
Total	25

The response from the Legal Services Consumer Panel (LSCP) is broadly supportive of the proposed amendments to the Transparency Rules and Regulation 16 of the CILEx Regulation-ACCA Handbook 2021, while highlighting additional recommendations for work in this area. “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.”

The LSCP “supports CILEx Regulation’s expansion of its transparency rules and requirements to the remaining areas of law.” Suggestions are made to expand the Consumer Information Leaflet to firms with a website. The requirement for the leaflet is a pragmatic approach to enabling consumers to obtain transparency information without having to approach the firm directly. We acknowledge the LSCP’s points in relation to effectiveness, quality and engaging with the Legal Ombudsman and we are continuing work in the this area with iterative developments to improve information for consumers. The LSCP’s full response is at Annex 10.

We set out the other responses in the table below and summarised CLC’s response, CLC’s full response is at Annex 11.

The responses to our proposals were generally positive. More than 80% of respondents did not foresee an issue with the interpretation of the amendments to the requirements, save for mix of staff that deliver the services, where the figure was 71%. It was a similar picture for implementation of the amendments.

All the responses from our firms supported the extension of the Rules to all legal services provided to consumers and did not foresee any issues with interpretation, the Consumer Information leaflet and publication of a link to the Legal Ombudsman decision data page.

Three out of the four respondent firms supported the addition of “publish prominently in a clear and accessible format”. One firm provided some views and we have acknowledged these in our response and we have added information into our guidance as a result of this feedback. The same firm made identical points in response to the stylistic change.

While two firms supported the addition of the mix of staff that deliver the services requirement, two raised points which we have taken into account and provided supportive information in our guidance.

All firm respondents supported the amendment to require firms to publish a link to Legal Ombudsman decision data website page. The CLC raised the potential of perpetuation of information asymmetry between digitally excluded consumers and those that are not. We acknowledge that online information is not directly available to people who are digitally excluded. We are collaborating on research to gain a better understanding of digital exclusion. This will feed into iterative development of our work to improve provision of information for consumers.

CLC pointed to a possible disincentive for firms with higher number of Legal Ombudsman decisions to comply and that the Legal Ombudsman data does not necessarily provide sufficient or comprehensive contextual information. We are providing suggestions for wording in our guidance. We will monitor any reports of issues from firms.

Rule change

	Foresee an issue with interpretation?		Foresee an issue with implementation?		CRL response
	NO	YES	NO	YES	
extension of the Rules to all legal services provided to consumers	20 4 CILEX firms (all) 1 regulator 11 regulated individuals 1 organisation 3 other	4 3 regulated individuals 1 other	19 4 CILEX firms (all) 10 regulated individuals 1 organisation 4 other	5 1 regulator 4 regulated individuals	
comment	seem sensible (Regulated individual) CLC – ends differential treatment of consumers - all can access 'regulatory information'.	Why bothering – CILEX issues to resolve (Regulated individual)		CLC: consumers viewing firm without website need to request information - assumes awareness of information / entitlement to request it. Differential with viewers of firm with website. Query if equal information access could be achieved if firms without websites were required to provide information to consumers without them having to request it.	There is the Consumer information leaflet directory publication requirement. Our guidance indicates other ways to make information publicly visible and accessible. For future iterations, we are interested to explore with CLC how it achieves this.
publish prominently in a clear and	20 3 CILEX firms 1 regulator	4 1 CILEX firm 3 regulated individuals	20 3 CILEX firm 1 regulator	4 1 CILEX firm 3 regulated individuals	

accessible format	11 regulated individuals 1 organisation 4 other		11 regulated individuals 1 organisation 4 other		
comment	“transparency over fees / fee earners / complaints / etc. is sensible and at the forefront of client care.” (Regulated individual)	Should define "home page" Not clear if link in menu accessible from the landing page, the rule is satisfied. Where more than one service, rule should allow price and services information page for each service. (firm)		Some websites may use a smaller standard font size. Minimum should be 11px as per most default business software used. (firm)	We will consider adding the usual definition of Home page to our guidance. Our guidance encourages use of a consumer page and the Rule is “On, or via a link from, the home page” We have taken this into account in our final draft requirements.
Consumer Information Leaflet	19 4 CILEX firms (all) 1 regulator 9 regulated individuals 1 organisation 4 other	5 5 regulated individuals	18 4 CILEX firms (all) 9 regulated individuals 1 organisation 4 other	6 1 regulator 5 regulated individuals	
Comment		Not everyone can read English (regulated individual)		It's published only in English.(regulated individual) CLC: should be a proactive duty on firms to provide information to better serve consumers and advance consumer education and protection.	We have made suggestions about use of languages in our guidance. Access to the leaflet online via a link from a firm's entry on the directory will allow online translation. Rules require firms to publish information leaflet. Our guidance suggests ways to publish information. For future iterations, we are interested to explore with CLC how it achieves this.
stylistic change	20 3 CILEX firms 1 regulator 11 reg individuals 1 organisation 4 other	4 1 CILEX firms 3 reg individuals	19 3 CILEX firms 11 reg individuals 1 organisation 4 other	5 1 CILEX firms 1 regulator 3 reg individuals	

Comment				CLC – not addressed provision of clear information about charge out rate of non-qualified staff versus authorised persons. For blended rates important clear explanation of proportion or specific work respective individuals will do.	Full transparency of all relevant information that will assist consumer understanding is encouraged in our guidance.
mix of staff	17 2 CILEX firms 10 regulated individuals 1 organisation 4 other	7 2 CILEX firms 1 regulator 4 regulated individuals	17 2 CILEX firms 10 regulated individuals 1 organisation 4 other	7 2 CILEX firms 1 regulator 4 regulated individuals	
Comment		<p>CLC - important to be clear who authorised (or not) person with overall responsibility for case is. Term 'qualifications' unclear.</p> <p>With most websites listing the personnel, is the mix really needed. (Firm)</p> <p>No definitions are given. The word "mix" could relate to any number of different forms of categorisation. (Firm)</p>		<p>CLC - potential disbenefits to requiring publication of exact qualifications for all staff. Potentially onerous and firms may not fully comply. May perpetuate incorrect perceptions that professionals with well recognised qualifications are more capable than those with less traditional ones. Important for consumer to understand who the regulated individual(s) with carriage of their case is(are).</p> <p>Discloses size of team. Most CILEx firms are small and many SRA regulated competitors are much larger. Could make our firms less attractive in the marketplace. (firm)</p>	<p>The Rule and Regulation change is in line with the LSB expectations.</p> <p>We have taken this into account. We will proceed with Rule and Regulation alterations that meet LSB statement of policy expectations.</p> <p>Our guidance provides indications and suggested wording which addresses the points raised.</p>

link to Legal
Ombudsman
decision data
website page

Comment

<p>21 4 CILEX firms (all) 1 regulator 11 regulated individuals 1 organisation 4 other</p>	<p>3 3 regulated individuals</p>	<p>19 4 CILEX firms (all) 10 regulated individuals 1 organisation 4 other</p>	<p>5 1 regulator 4 regulated individuals</p>	
<p>CLC- will this result in differential provision of information to consumers digitally excluded or not, and inadvertently perpetuate information asymmetry.</p> <p>Clients may complain somewhat easily to avoid paying invoices. Need to consider client confidentiality as well in respect of what may be published. (Regulated individual)</p>			<p>Ombudsman has not got sufficient staff. (Regulated individual)</p> <p>CLC - possible disincentive for firms with higher number of Legal Ombudsman decisions to comply. Legal Ombudsman data does not necessarily provide sufficient or comprehensive contextual information.</p>	<p>Evidence points to a digital divide amongst members of the public. Online information is not directly available to people who are digitally excluded. We are collaborating on research to gain a better understanding of digital exclusion. This will feed into iterative development of our work to improve provision of information for consumers.</p> <p>The information which will be required to be linked to is already published by the Legal Ombudsman.</p> <p>We provide suggestions for wording in our guidance. We will be engaging with the Legal Ombudsman and would welcome cross sector engagement with the Legal Ombudsman to improve published information.</p> <p>We will monitor any reports of issues from firms.</p>