

# RESPONSES TO THE CONSULTATIONS CARRIED OUT TO INFORM THE LICENSING APPLICATION

## Engagement 2016

1. CILEx Regulation issued a consultation on 8 December 2015 to 18 March 2016 to seek views on proceeding with an application to become a licensing authority.
2. The consultation set out that CILEx Regulation was seeking to extend its regulatory services to respond to a positive demand from applicants seeking to become licensed. At that time CILEx Regulation wished to respond to this demand and be able to contribute to increasing consumer choice and innovative delivery of legal services.
3. CILEx Regulation also believed that the introduction of new Licensed Bodies would promote competition in the provision of services as it would enable new providers to enter the market, leading to consumer benefits such as provision of clearer information about legal services, improved access to service and wider choice.
4. The consultation posed two questions:
  - i) Do you agree that CILEx Regulation make an application for CILEx to become a Licensing Authority?
  - ii) Do you agree that CILEx Regulation will continue to deliver the Regulatory Objectives and Better Regulation Principles by CILEx becoming a Licensing Authority?
5. This consultation was promoted to all CILEx members through both the CILEx member's newsletter and the CILEx Regulation News. In addition it was promoted through other news sources such as the Solicitors Journal.
6. Whilst there were limited comments on this consultation, there were no objections raised to us proceeding with an application on behalf of CILEx.
7. During the same period, CILEx Regulation consulted over a 10 week period on the draft licensing rules and associated changes to its related rules from 7 January 2016 to 18 March 2016. This was promoted to all CILEx members through the CILEx member's newsletter and the CILEx Regulation News. We received no comments in relation to the proposed licensing rules.
8. The work on Licensing was then put on hold until late 2016 when the decision was made to continue with the application for designation.
9. We will be looking to publish a formal consultation response prior to submission.

## **Engagement 2017**

### **CILEx Research work**

10. In January 2017 CILEx commissioned a variety of pieces of research work to understand better how it could support those members looking to set up their own firms regulated by CILEx Regulation. This work covered existing unregulated firms, firms regulated by other regulators and existing SRA regulated ABS firms. This was shared with CILEx Regulation as part of ongoing work into our regulated community and the process of becoming a regulated entity.

11. The key areas that were identified that would have significance for us were:

- that firms opted for their own regulator due to familiarity, habit and a perception of risk;
- the application process needed to be proportionate for a firm's size;
- small firms need as much personal support and guidance; and
- applicants are open to other regulators if they deliver better perceived value.

12. This information will be used to help shape further our current entity authorisation process, the ABS application process and the type of support that is provided by both CILEx and CILEx Regulation, maintaining appropriate separation of responsibilities.

13. We have provided the summary results from each piece of research below. As responders details are included in the body of the research, for data protection reasons the full research is not included in our application but can be made available on request from the Legal Services Board.

### **ABS Quantitative Survey results**

- Quantitative research amongst ABS firms confirms universal awareness of SRA for entity regulation and all are firms regulated by the SRA. The SRA is seen as the first and natural choice for entity regulation and is perceived as the only choice for solicitors
- The majority of interviewees did not consider another regulator. Three conveyancing organisations considered alternatives (CLC) but opted for SRA
- Reasons for opting for SRA are familiarity, habit and a perception of risk to the businesses in terms of access to lending and insurance cover
- There is a mixed response on length of time, complexity and experience of the entity regulation process. Most felt the process was labour intensive,

especially for smaller firms who felt the process was at times inappropriate for businesses of their size

- The majority of interviewees reported a proactive approach from SRA for the regulation process by a dedicated advisor. The single contact, information, webinars and proactive guidance through the process were found helpful. Two respondents reported a very positive experience. Smaller businesses reported not have had personal support and found this lacking
- There is low awareness of ongoing services and support provided by the SRA. Web support is mentioned specifically as valued, as are the email updates and the contact centre. 50% of respondents report using the website vs. 50% who report that they don't use it
- A range of costs and renewal fees are mentioned as well by some respondents who are unaware of the costs. The majority reported that they did not perceive value for money, especially for ongoing fees but approx. 25% reported an acceptance of the ongoing fees
- Feedback on perceptions of SRA, what they do well and what they should improve are mainly luke-warm or negative about them and the law society. Suggestions for improvements focus on communication improvements, making them less complex and improving the website. Small firms report that the SRA does not work well for them
- CILEx is known by all respondents:
  - The majority are either members, have employed members or students. Reasons for not employing CILEx members are given as small company size or being solicitor firms
  - 6 of 13 of interviewees respond that they are aware of CILEx's regulatory arm, vs. 7 who respond that they are not. Despite answers above for choosing SRA, most respondents reply that they are open to considering CILEx for entity regulation (10 of 13) especially if it delivers better value. CILEx member interviewees are most keen to consider CILEx as an alternative
  - Of the 2 who would not consider CILEx, it is clear that the question is answered for personal rather than entity regulation, but risks regarding insurance and services is also mentioned

### **New Business Qualitative Survey Results**

- Qualitative research was carried out amongst 12 new firms working in probate (expanding accountants), legal practices, NGO's and an immigration service.
- 10 of the 12 required entity regulation for regulated legal services.

- Interviewees reported a mix of regulators. Most chose regulators that were the “natural” choice for their profession.
- The majority of interviewees did not consider another regulator.
- Reasons for opting for regulators are familiarity and habit, as well as some who report that they saw the choice as their natural or even only choice. Expanding businesses tended to use regulators that they were already a member of.
- Most interviewees felt that the regulation process was relatively straightforward. Two interviewees both regulated by the SRA reported dissatisfaction. 1 interviewee reported that it could have been a more appropriate process for smaller firms. 1 Interviewee was dissatisfied about the need for the process when the merging business was just continuing what they did before and found the length of time and support for the process frustrating.
- Interviewees reported dedicated advisor and telephone support as valuable. Those expanding services report support for training and qualifications as valuable, linking need for qualifications to choice of regulator.
- There is low awareness of ongoing services and communications. Web support and appreciation for online monthly tests for CPD were mentioned unprompted.
- A range of costs and renewal fees are mentioned. Most interviewees accepted the fees and linked it to standards in the industry.
- 8 of 12 interviewees were aware of CILEx and of those most see the organisation as progressive and supportive.
- 5 of 8 interviewees were not aware of CILEx’s regulatory arm vs. 3 who were.
- Of the 2 who would not consider CILEx, it is clear that the question is answered for personal rather than entity regulation.
- 5 interviewees would consider being regulated by CILEx plus might but like to find out more. 3 report not to consider it and see it as not appropriate to their business.

### **Self Employed CILEx members**

- 12 self-employed individuals were interviewed; randomly selected from the CILEx database.
- Most self-employed do not require regulation for their unreserved/unregulated services or because they work through a regulated entity

- Those that did find alternative regulators for a variety of reasons; some don't meet the CILEx requirements, some have achieved a different status (notary) and choose a "natural" regulator for the profession
- Regulation is seen as unnecessary, problematic and cumbersome
- Some answer the questions assuming personal regulation.
  - There is widespread confusion about personal and entity regulation.
  - There is limited understanding of what entity regulation is and when it is needed.
- Regulation, affordable PI insurance and supporting education are valued
- Duplication of effort and fees for expanding services is resented
- SRA regulation is judged as expensive and unsupportive
- The personal service from a smaller organisation is what is valued and no further improvements are needed
- Unprompted negative feedback on the complexity of SRA regulation process and lack of support is volunteered and seen and key areas for improvement by regulators
- CILEx is seen as flexible and supportive. Chartered status is seen as important
- There is disappointment with on the rigidity of qualifying employment / supervision for work experience and the clarity of the requirements for it up front. This was linked to a requirement for CILEx to understand that members operating in small businesses have their own circumstances and needs for support.

### **CILEX Members Interested in Regulation**

#### Sample

A wide range of individuals are interested in entity regulation. Current roles include:

- One proprietor (property), 2 partners (property + PI), 2 local government (property), 2 case handlers (PI + deputyship), 1 in-house legal, 1 locum, 1 unregulated conveyancing.
- 2 interviewees have practice rights, 2 are in progress and the remainder are considering practice rights.

- 6 out of the 10 interviewees are seriously considering pursuing entity regulation.
- Most interviewees (5/6) plan to set up on their own to start with, then take on employees after the after 2 to 3 years.

### Drivers and Ambitions

The main drivers are to achieve autonomy, rewards, work-life balance and personal development. The interviewee who currently runs an employment law practice plans to increase the range of services offered.

- Types of new organisation set up would be: General law (3), Conveyancing (2), Inspecting schools and local authorities (1), Deputyship & probate (1), In-house law (1).
  - There is strong loyalty to CILEx amongst CILEx members. 100% of interviewees would consider becoming regulated by CILEx.
  - 3 interviewees would also consider the regulation by the SRA
  - One interviewee would investigate regulation by the FSA to offer financial advice
  - Perceptions about SRA are negative

### CILEx Regulation - Recommendations

Positive and negative comments about CILEx Regulation:

- CILEx has a clear code of conduct and publishes details about how they treat breaches
  - ILEx [sic] gives confidence to people that ILEx professionals are well trained (with codes of conduct and disciplines).
  - Past dealings with the administration team have been very positive
  - You have to research their website in detail to find what is covered and 'if you miss it you miss it'
  - As a Fellow, I can't certify for lasting powers of attorney (this is a lasting issue that CILEx are aware of)
  - My practice rights application is next going to be reviewed at a committee meeting in March (I am quite anxious to have to wait).
- 3 of the interviewees mentioned that insurance was a major concern

- One interviewee would benefit from advice about accountancy and one would benefit from advice about marketing.
- One interviewee suggested a CILEx membership / training discount for newly formed entities.

14. We spoke with the Legal Services Board in early January to discuss how we proceed with our stakeholder engagement and the key areas we should focus on. They advised that they believed that the original consultation had dealt with whether there were any objections to us proceeding with a Licensing application. As there had been limited comments and none against, then we could proceed to the next stage of consultation.

### **CILEx Regulation ABS Survey**

15. This part of our consultation work was to inform how we would deal with the practical differences with an ABS application and the processes that we would use to gain the additional information that we would require to address the additional risks that ABS might pose. The 2015 research had gathered details of CILEx members who might consider an ABS as a business model and these were considered important for us to engage with as part of this work.

16. We contacted 194 members who previously indicated interest in considering the ABS route over a 6 week period closing on 9 June 2017. We asked how we may:

- best deliver an ABS application process;
- understand the ownership structure of a proposed ABS;
- be clear at the outset on who needs to be approved;
- communicate rules and risks to owners, managers and employees

17. We received 44 responses to our survey, which will be used to inform and develop further both our ABS risk assessment and our ABS application processes. The key points are summarised below:

- a structured format for applicants to supply key ownership information, enabling us to understand risk at an early stage;
- applicants wanting to understand the key roles in an ABS and the qualifications required for those roles;
- the professional indemnity insurance requirements for ABS;
- dedicated support during initial enquires and then the application process from CILEx and CILEx Regulation; and

- support managing risk for ABS staff with understanding regulation and how it applies to them.

18. The responses also captured information that can assist CILEx on developing future training requirements, particularly around practice management and accounts management. This will help prepare those CILEx members seeking to run their own law firm.

19. Full details of the survey is as follows:

## PRE APPLICATION SUPPORT AND GUIDANCE

**Q1. We believe that understanding the structure of the ABS and being clear at the outset on who needs to be approved is key in delivering a quick, simple and efficient authorisation process.**

**How would it be easiest for you to provide this information?**

	Not easy at all	Not very easy	Quite easy	Very easy	Total
Dedicated helpline	9.76% 4	21.95% 9	51.22% 21	17.07% 7	41
One page precis via a dedicated email	5.00% 2	20.00% 8	50.00% 20	25.00% 10	40
Pre-defined online questions	4.76% 2	26.19% 11	47.62% 20	21.43% 9	42
Submitting your own document such as a business plan	9.76% 4	34.15% 14	36.59% 15	19.51% 8	41

**Q2. How useful would the following information be for a prospective ABS?**

	Not useful at all	Not very useful	Quite useful	Very useful	Total
Guidance on what an ABS is and whether it is suited to your needs	0.00% 0	2.33% 1	27.91% 12	69.77% 30	43
Understanding of the key roles in an ABS and the qualifications required	0.00% 0	2.33% 1	16.28% 7	81.40% 35	43
Structure, including examples of ABS	0.00% 0	0.00% 0	32.56% 14	67.44% 29	43
Ownership and who that includes	0.00% 0	2.33% 1	30.23% 13	67.44% 29	43
What regulation means	0.00% 0	9.30% 4	25.58% 11	65.12% 28	43
Advice on the application process from successful applicants	0.00% 0	4.65% 2	34.88% 15	60.47% 26	43
Professional Indemnity Insurance requirements	0.00% 0	0.00% 0	16.28% 7	83.72% 36	43
Accounts Management (HoFA) requirements	0.00% 0	0.00% 0	25.58% 11	74.42% 32	43
Practice Management (HoLP) requirements	0.00% 0	0.00% 0	25.58% 11	74.42% 32	43
Anti-money laundering requirements	2.33% 1	2.33% 1	27.91% 12	67.44% 29	43
Other legislation to consider	0.00% 0	4.65% 2	37.21% 16	58.14% 25	43



**Q3. Where would it be easiest for you to find information?**

	Not easy at all	Not very easy	Quite easy	Very easy	Total
CILEx website	2.33% 1	2.33% 1	46.51% 20	48.84% 21	43
CILEx Regulation website	0.00% 0	9.52% 4	45.24% 19	45.24% 19	42
Via Social Media channels	27.50% 11	35.00% 14	35.00% 14	2.50% 1	40
Telephone	7.32% 3	31.71% 13	39.02% 16	21.95% 9	43
Face to Face	21.43% 9	26.19% 11	35.71% 15	16.67% 7	43
Printed booklets / handbooks	2.44% 1	9.76% 4	51.22% 21	36.59% 15	43

**APPLICATION PROCESS / INFORMATION REQUIRED**

**Q4. We intend that our application process ensures that you have all the correct processes, procedures and client care information in place on day one to start your ABS and enable you to meet the requirements of the Code of Conduct. To assist you in your licensing application, we will provide you with a checklist of the information required.**

**What type of support would be useful during the application process?**

	Not useful at all	Not very useful	Quite useful	Very useful	Total
Online application that tracks completion progress	0.00% 0	2.33% 1	34.88% 15	62.79% 27	43
A handbook that covers all aspects of the application	0.00% 0	2.33% 1	39.53% 17	58.14% 25	43
Frequently Asked Questions section on the website	0.00% 0	6.98% 3	58.14% 25	34.88% 15	43
Dedicated email address for ABS application related questions	0.00% 0	0.00% 0	39.53% 17	60.47% 26	43
Dedicated telephone number for ABS application related questions	0.00% 0	2.33% 1	55.81% 24	41.86% 18	43
A dedicated adviser for ABS application related questions	0.00% 0	0.00% 0	47.73% 21	52.27% 23	44

**Q5. Understanding the business model and ownership for an ABS at the outset is important in making the application process as straightforward as possible. How would it be easiest for you to supply this information?**

	Not easy at all	Not very easy	Quite easy	Very easy	Total
A separate organogram explaining the structure	0.00% 0	38.10% 16	52.38% 22	9.52% 4	42
Companies House information (if appropriate)	2.33% 1	28.57% 12	50.00% 21	19.05% 8	42
As part of your Business Plan	0.00% 0	18.60% 8	67.44% 29	13.95% 6	43
As part of the application Form	0.00% 0	4.76% 2	57.14% 24	38.10% 16	42

**Q6. A vital area for us is making sure that every employee in all types of ABS understands how regulation applies to the. We are proposing the following to help you with this.**

**Please indicate those that are a good idea and suggest any other ways we could assist.**

	<b>Responses</b>
Enhanced guidance section covering: <ul style="list-style-type: none"> <li>• Practice management requirements</li> <li>• Accounts Management and Rules</li> <li>• Professional Indemnity Insurance requirements</li> </ul>	<b>97.73%</b> 43
Enhanced guidance section covering: <ul style="list-style-type: none"> <li>• Client Care</li> <li>• Consumer Law requirements</li> </ul>	<b>84.09%</b> 37
Enhanced guidance section covering: <ul style="list-style-type: none"> <li>• Anti-money laundering requirements</li> <li>• Data Protection and confidentiality requirements</li> <li>• Health and Safety requirements</li> <li>• Cyber-crime prevention</li> </ul>	<b>88.64%</b> 39
The provision of accredited courses covering: <ul style="list-style-type: none"> <li>• Practice management</li> <li>• Accounts Management</li> </ul>	<b>86.36%</b> 38
The provision of accredited courses covering: <ul style="list-style-type: none"> <li>• Client Care</li> <li>• Consumer Law</li> </ul>	<b>63.64%</b> 28
The provision of accredited courses covering: <ul style="list-style-type: none"> <li>• Anti-Money Laundering requirements</li> <li>• Cyber-crime prevention</li> </ul>	<b>70.45%</b> 31
A list of links directing readers to other websites where relevant information can be found	<b>70.45%</b> 31
Other: <ol style="list-style-type: none"> <li>1. Great, hope it takes off ASAP!</li> <li>2. None</li> <li>3. Anything to simplify the model, save admin time and improve client service efficiency.</li> <li>4. I think all of these proposals are helpful. I am sure any support which can be offered would be appreciated by those members who wish to set up an ABS and I think most valuable would be an accessible helpline to assist with queries as they arose.</li> <li>5. If available, examples of how existing legal organisations set up as an ABS have approached the topics in the three suggested guidance sections.</li> </ol>	<b>11.36%</b> 5

## COMMUNICATION

**Q7. As part of the application process you will be looked after by a dedicated Relationship Officer, who will support you through the licensing process. We will only review your application once it contains all the required information. What is the easiest way for us to communicate with you during this time?**

	Not easy at all	Not very easy	Quite easy	Very easy	Total
Dedicated email address for ABS applicants	0.00% 0	2.44% 1	36.59% 15	60.98% 25	41
Text updates on application process	10.26% 4	28.21% 11	48.72% 19	12.82% 5	39
Being able to see online how your application is progressing	0.00% 0	4.88% 2	31.71% 13	63.41% 28	41
Written responses	5.00% 2	22.50% 9	52.50% 21	20.00% 8	40
1. by telephone					

**Q8. One of the key areas in licensing a firm is that our existing rules will extend to managers, owners and designated officers in the ABS. How useful would the following be in ensuring that all non-lawyers, owners and managers understand our rules?**

	Not useful at all	Not very useful	Quite useful	Very useful	Total
Specific targeted information on our websites	2.44% 1	7.32% 3	48.78% 20	41.46% 17	41
Webinars	0.00% 0	17.07% 7	48.78% 20	34.15% 14	41
Designed information that can be shared with staff	0.00% 0	4.76% 2	42.86% 18	52.38% 22	42
1. possibly local training courses.					

## AFTER BEING LICENSED

**Q9. We will provide you with a Relationship Officer to support your ABS and provide regular updates on risk information. How would it be most useful to receive this information?**

	Not useful at all	Not very useful	Quite useful	Very useful	Total
A risk review visit after 6 months	0.00% 0	9.76% 4	43.90% 18	46.34% 19	41
Email updates	0.00% 0	7.14% 3	50.00% 21	42.86% 18	42
Social media	23.08% 0	53.85% 21	20.51% 8	2.56% 1	39
Dedicated areas for ABS on the website and social media	0.00% 0	12.20% 5	46.34% 19	35.59% 15	41