

CILEx Regulation regulatory standards action plan

CILEx Regulation actions	Update March 2017
Outcomes-focused regulation	
<p>1. <i>LSB asked all regulators to consider what activities they could undertake to contribute to this requirement. CILEx Regulation’s response:</i></p> <p>We will work collaboratively with other regulators to develop activities to deliver this requirement.</p>	<p>All regulators have participated in a teleconference to discuss actions. Draft actions were prepared and agreed at the Regulators Forum in September and November. Meetings have been planned to May 2017 to address work from Forum & CMA report. All regulators action plan attached*</p>
<p>2. <i>LSB asked CILEx Regulation to consider how it can ensure that all staff members consider the consumer in their day to day work. CILEx Regulation’s response:</i></p> <p>Building on the training provided to all our staff by the LSCP in April 2016 on Consumer Principles and Vulnerability we will develop, implement and monitor team action plans for embedding consumer awareness in all operational areas.</p> <p>We will develop our guidance to our regulated community through the CILEx Journal and communications channels, to raise awareness of best practice in relation to vulnerability and practical approaches to understanding how it may occur.</p> <p>We will contact consumer/disability charities and ask for their input on guidance we should give our regulated community.</p> <p>We will amend our on-line consumer survey to develop our understanding of consumer choice.</p>	<p>Staff Meeting training sessions held & monitoring on-going. LSCP training for Board held in December.</p> <p>Investigation Team have imbedded training across all forms of contact with complainants. Training will be extended to Panels and Tribunals including impact of unconscious bias.</p> <p>Team action plans in place covering all the teams in the office and subject to regular review.</p> <p>Information about vulnerability added as a Risk Management paper on CILEx Regulation website.</p> <p>Client Care Letter (CCL) research includes vulnerable clients, Research report published 2 November with press release covered in 3 legal publications, Journal & newsletter. E-shot in December to launch 2017 actions. Guidance paper on the 8 key principles added as a Risk Management paper on CILEx Regulation website. This has been promoted directly via our risk management updates to our entities and to the membership in an e-shot on the 7 March. The first of a series of articles on the 8 key principles was published in the March Journal. We are considering further work on general good practice in client care letters.</p>

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	<p>The ECO group completed a mapping exercise to identify current areas of interest and those that consumer groups may be prepared to engage with us on. We engaged with Citizens Advice (CA) and identified the need for tips for consumers seeking legal help in advance of a court hearing. We developed 10 top tips and following a meeting in Feb, this is being considered from a consumer's perspective by the CA. We provided input to a report that CA are currently producing and gained their commitment to provide website analytics to support our further work around areas of law that consumers are interested in. It remains a challenge to gain engagement with these consumer groups.</p> <p>Our office action plan has incorporated the use of plain language for communications (evidenced through rewrites of our consumer pages), having regard to possible vulnerability, as well as 'consumers' being on the agenda of monthly staff meetings. We have incorporated this work into our online consumer survey.</p> <p>We have seen regular 20-60 webpage visits/month to the risk management papers which in the context of our current entity numbers has shown their value to our entities and members. We continue to promote them regularly within our communications.</p>
<p><i>3. LSB asked all regulators to consider best practice from other regulatory regimes to find a mechanism to demonstrate that regulation is delivering the outcomes consumers expected and rules are having the desired impact. CILEx Regulation's response:</i></p> <p>We will work collaboratively with other regulators to develop activities to deliver this requirement.</p> <p>We will consider best practice from other regulatory regimes in gathering evidence that regulation is delivering the outcomes consumers expect and assess any lessons from other regulatory regimes that we can adapt for our use.</p> <p>We will introduce impact evaluations following rule changes.</p>	<p>All regulators have participated in a teleconference to discuss actions. Draft actions were prepared and agreed at the Regulators Forum in September and November. Meetings have been planned to May 2017 to address work from Forum & CMA report. All regulators action plan attached*</p> <p>It remains part of our action plan to introduce impact assessments after rule changes</p>

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<p>4. LSB asked all regulators to consider what activities they could undertake to contribute to this requirement. CILEx Regulation’s response:</p> <p>We will work collaboratively with other regulators to develop activities to deliver this requirement.</p>	<p>*as above</p>
Risk	
<p>5. LSB asked CILEx Regulation to consider how individual practitioners can be risk assessed in an evidence-based and proactive manner. CILEx Regulation’s response:</p> <p>We will review our processes for identifying individual practitioners who are self-employed (in unreserved activities, locum/consultant capacity etc.). We will review our risk assessment framework and publish an evidence based supervision policy incorporating a range of supervisory tools.</p>	<p>Since 2014 we have identified those members acting self-employed in their own firms carrying out unreserved activities, working as a locum /consultant or working self employed outside of legal services. This information has been taken from the CILEx membership database, but as this information is self-input, we are aware that it has limitations.</p> <p>We update our information monthly to ensure we quickly capture new firms as they are set up. All self employed members are subject to an annual review which covers the areas of work, disciplinary, website, and a review of their client care and complaint handling documentation. We risk review each member, providing support and guidance to improve standards, or referral to our Investigations Team where serious breaches of the Code are identified.</p> <p>We have recognised the importance of this work because members are working outside a firm’s regulatory environment and there is the risk that they will be working in areas of law for which they are not qualified or regulated.</p> <p>Discussed issues with CILEx that self-input of information presents in identifying practitioners, managing risk and the costs of enforcement and these discussions are on-going. CILEx recognises that these types of firms offer an opportunity to be progressed to authorised entity status for those that are suitable. However, some of these firms may have issues with compliance in areas such as data protection, provision of services, AML and consumer contracts. Probably 12/18 months ago we identified a particular issue with firms offering immigration services where a number of cases were referred to the OISC.</p>

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	<p>Paper prepared on issue of members in unregulated firms and Anti Money Laundering supervision and raised with Treasury & Legal Sector Supervisors Group.</p> <p>Paper on self-employed activities prepared including flowchart for assessment process.</p>
<p><i>6. LSB asked CILEx Regulation to consider how more information on risks can be disseminated to the regulated community. CILEx Regulation's response:</i></p> <p>We will develop a formal strategy for communication with our regulated community, including the dissemination of information on risk and how this is shared depending on who the risk might affect.</p>	<p>13 new Risk Management papers published on CR website in Oct & communicated via November CILEx Journal article.</p> <p>Risk Management emails being sent to Entities weekly with updates.</p> <p>Joint strategy on communicating survey results & identified risks between Consumer & Entity Team.</p> <p>Further paper released on Client Care Letters – Key Principles with supporting promotion in Journal and via e-shots.</p>
<p><i>7. LSB asked CILEx Regulation to build on the good work done so far to further inform evidence base on risk to consumers. CILEx Regulation's response:</i></p> <p>We will continue to engage with consumer organisations and to lead the collaborative work stream to engage with consumer organisations at a national level, to inform the evidence base on risks faced by consumers using regulated legal services.</p>	<p>The regulators' working group is building on work identified through the Regulators' Forum and developing information which it has been suggested may be of interest to a particular consumer organisation.</p>
<p><i>8. LSB asked all regulators to develop a way to monitor and assess whether risk-based approach is working in practice and achieving the expected outcomes. CILEx Regulation's response:</i></p> <p>We will work collaboratively with other regulators to develop activities to deliver this requirement.</p> <p>We will continue to monitor and refine our approach to risk-based regulation of entities via our Strategic Risk Committee (SRC), proportionate to the growth of entity regulation.</p>	<p>Discussed at Regulators Forum. Arranging the sharing of contacts that are responsible for managing risk, understanding how we use risk to regulate now and in the future, and what are our common market risks. Attended first meeting of cross-regulator risk forum. Now agreeing specific market risks to focus on and how to develop our approach to future risks.</p> <p>The SRC continue to feed into practical application of risk framework, making suggestions for changes as needed.</p> <p>We are continuing our work on the Terms of Reference as part of our licensing application to focus on risks associated with authorisation &</p>

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	licensing entities.
Supervision	
<p data-bbox="58 304 985 400"><i>9. LSB asked CILEx Regulation to consider how individual practitioners can be supervised in an evidence-based and proactive manner. CILEx Regulation's response:</i></p> <p data-bbox="58 440 981 600">We will review our processes for identifying individual practitioners who are self-employed (in unreserved activities, locum/consultant capacity etc.). We will review our risk assessment framework and publish an evidence based supervision policy incorporating a range of supervisory tools.</p>	<p data-bbox="1032 304 2007 464">Since 2014 we have identified those members acting self-employed in their own firms carrying out unreserved activities, working as a locum /consultant or working self employed outside of legal services. This information has been taken from the CILEx membership database, but as this information is self-input, we are aware that it has limitations.</p> <p data-bbox="1032 504 2007 735">We update our information monthly to ensure we quickly capture new firms as they are set up. All self employed members are subject to an annual review which covers the areas of work, disciplinary, website, and a review of their client care and complaint handling documentation. We risk review each member, providing support and guidance to improve standards, or referral to our Investigations Team where serious breaches of the Code are identified.</p> <p data-bbox="1032 775 1928 871">Discussed issues with CILEx that self-input of information presents in identifying practitioners, managing risk and the costs of enforcement. These are ongoing.</p> <p data-bbox="1032 911 1883 975">Paper on self-employed activities prepared including flowchart for assessment process.</p>
Capability and capacity	
<p data-bbox="58 1062 985 1158"><i>10. LSB asked CILEx Regulation to monitor its approach to supervision to assess whether it is achieving the correct outcomes for consumers. CILEx Regulation's response:</i></p> <p data-bbox="58 1198 887 1262">We will continue to monitor our approach to assess whether it is achieving the outcomes consumers expect.</p>	<p data-bbox="1032 1062 1995 1158">All office to continue to monitor and address issues raised by stakeholders directly or via reports. Communicated via Journal, e-shots and risk management channels.</p> <p data-bbox="1032 1198 2007 1430">As an example we recognised through the work that we do with our self employed that there are issues with the standard of client care letters. Particularly this is around issues relating to lack of communication covering costs, regulation, accessibility, clarity and simplicity avoiding the use of legalise. Whilst the feedback we provide immediately raises standards, as evidenced by the reduction in changes needed in the following year, there remained the issue of poor standards at the outset.</p>

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	<p>This was supported by research carried out by the LSCP and LSB and feedback from the Regulators Forum and LeO. We were then leading the joint initiative to research and test current client care information, culminating in the publishing of the key principles.</p> <p>These have now been published and guidance issued to members and entities. We incorporate this guidance in the feedback we provide to the self employed members to further raise awareness of the issues consumers face.</p>
<p><i>11. We asked CILEx Regulation's Board to consider how it can demonstrate how it holds the executive to account for performance of its supervision function, for example, by reporting on the effectiveness, proportionality and value for money of supervision approaches. CILEx Regulation's response:</i></p> <p>We will report annually to the Board on performance on supervision, including indicators on effectiveness, proportionality and value for money.</p>	<p>Proposals considered at December Board Meeting and were revisited at February Board meeting where the Board were presented with proposed KPI's for the coming year.</p> <p>In the light of the measures within the proposed Regulatory Performance Assessments, then these KPIs will need to be revisited by the Board at the April Board meeting as part of their discussions to avoid the executive having two differing sets of measures.</p>
<p><i>12. We asked CILEx Regulation to continue to monitor and publicly report on progress and performance in authorising entities and the challenges of regulating new areas. CILEx Regulation's response:</i></p> <p>We will monitor and publicly report on progress and performance in authorising entities and the challenges of regulating new areas.</p>	<p>We will provide appropriate information whilst ensuring we maintain confidentiality due to small numbers. Our directory has been updated regularly, showing diversity across the firms authorised.</p> <p>We have raised the barriers to entry that a regulator faces in moving into entity regulation. These have included a paper to the LSB on run-off, the difficulties in enabling firms to gain the status necessary to access lender panels and accessing the PII market.</p> <p>Issues have been raised with Treasury as an AML supervisor around the delays in gaining approval of AML guidance and dealing with AML supervision of unregulated firms.</p> <p>We are currently dealing with the limitations to current and prospective litigation firms of us not holding FCA Designated Professional Body status</p>

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	due to the additional costs that this process requires and will be looking to engage with the relevant bodies on future solutions.
<p>13. We asked CILEx Regulation to consider publication of Board papers. CILEx Regulation's response:</p> <p>We will benchmark our approach against other regulators and invite our Board to consider options for publication of Board papers, or executive summaries, possibly using a pilot approach with review.</p>	<p>Pilot proposals agreed at October Board. Criteria discussed at December Board. The February Board papers have been produced in the new format and will be published shortly (<i>published 12 April 2017</i>).</p>