

CILEx Regulation regulatory standards action plan

CILEx Regulation actions	Final update June 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 held to address work from Forum & CMA report.</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. A series of three articles on the 8 key principles were published in the March – May Journal. These are being repeated in the June – July Regulation Matters online publication. We are</p>

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	<p>considering further work on general good practice in client care letters. We are referencing the principles for other communications within articles to raise understanding of the Code in Regulation Matters.</p> <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. This work is now being rolled into the CMA work. 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 for Legal Choices to support the website's 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</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 held to address work from Forum & CMA report.</p> <p>It remains part of our action plan to introduce impact assessments as part of our rule changes</p>

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<p>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><i>4. 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>*as above</p>
Risk	
<p><i>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:</i></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</p>

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	<p>compliance in areas such as data protection, provision of services, AML and consumer contracts. Around 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> <p>Paper prepared on issue of members in unregulated firms and Anti Money Laundering supervision and discussed with Treasury & Legal Sector Supervisors Group. Will specifically target this group with introduction of new Money Laundering Regulations.</p> <p>Paper on self-employed activities prepared including flowchart for assessment process.</p> <p>We intend to extend the remit of the Strategic Risk Committee to advise on the development of a strategy to deliver pro-active supervision of individuals regulated by us. We will consider how the existing individual supervision requirements can be better targeted at those individuals who pose the greatest risk.</p>
<p>6. <i>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>Work commenced with CILEx on how to communicate changes across all the regulated community following introduction of Money Laundering Regulations 2017.</p>
<p>7. <i>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</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. This work is now being taken forward as part of the CMA implementation work.</p>

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<p>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><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. Next meeting arranged for June.</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 & licensing entities. We intend to extend the remit of the SRC to advise on the development of a strategy to deliver pro-active supervision of individuals regulated by us.</p>
Supervision	
<p><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>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>Discussed issues with CILEx that self-input of information presents in identifying practitioners, managing risk and the costs of enforcement.</p>

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	<p>These are ongoing and will be developed alongside work required for changes to Anti-money laundering supervision.</p> <p>Paper on self-employed activities prepared including flowchart for assessment process.</p>
Capability and capacity	
<p><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>We will continue to monitor our approach to assess whether it is achieving the outcomes consumers expect.</p>	<p>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>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> <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>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, these KPIs were revisited by the April Board as part of their</p>

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<p>We will report annually to the Board on performance on supervision, including indicators on effectiveness, proportionality and value for money.</p>	<p>discussions to avoid the executive having two differing sets of measures. These are being adapted for the new regulatory performance assessment framework.</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 due to the additional costs that this process requires and will be looking to engage with the relevant bodies on future solutions.</p> <p>In May we updated the directory to provide better information on client protection offered by firms and make it easier to identify the reserved activities a firm is authorised to provide.</p>
<p><i>13. We asked CILEx Regulation to consider publication of Board papers. CILEx Regulation's response:</i></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 for exclusion from publication discussed at December Board and agreed for use from 2017. The agenda and papers for the first 2017 Board meeting on 8 February have been published with reference to a newly introduced Transparency of Governance Policy. Future Board agenda and papers will continue to be published.</p>