

CILEx Regulation **Annual Report 2020**



Chair's Foreword

Sam Younger, Chair of the Board, CILEx Regulation

With the onset of COVID in 2020, the focus needed to be on ensuring that our core regulatory functions were effectively delivered whilst still aiming to progress on our broader strategic objectives. It is a testament to the dedication and excellent work of the staff, Board and independent people who sit on our panels and committees. Despite the challenges COVID brought, the Legal Services Board's 2020 end of year regulatory performance assessment concluded, "Overall, CILEx Regulation continues to perform strongly against the [performance assessment] outcomes."

We welcomed our new CEO, Carilyn Burman in February 2020. Carilyn was previously Director of Membership at the Chartered Institution of Building Services Engineers. Within a month of her arrival, we went into lockdown.

In March 2020, CILEx Regulation moved to a remote-working arrangement in line with the government's COVID lockdown requirements. Staff continued to work on this basis for the remainder of 2020. Whilst challenging, we have developed new ways of working, such as remote panel hearings and the electronic submissions of applications to ensure our core activities of upholding standards and protecting the public continued effectively.

We have a committed staff group who have adapted admirably to these new ways of working and the Board were particularly pleased that despite the impact of COVID, the overwhelming majority of staff would still recommend CILEx Regulation are a great place to work.

By the end of 2020, we were two thirds of the way through the period of our current strategy. This report sets out the progress we are making towards delivering our strategic objectives and in 2021 we are working on the development of our next three-year strategy beginning in 2022.

In July 2020, enhanced Legal Services Board rules to improve the independence of legal services regulators from their membership bodies came into force. In December 2020, we were assessed by the LSB against these new Internal Governance Rules (IGR) and were deemed to be compliant. We continue to work with our membership body, CILEX, to embed the principles of greater independence as a regulator, while at the same time seeking to ensure a positive and collaborative relationship with CILEx and to provide value for money regulation to its members.

At the end of 2020, as we have done in previous years, we published an annual statement of what it costs us to regulate. This is so that we can be transparent for the benefit of legal services providers and firms, who fund these costs by paying regulatory and other fees, and so that we can be transparent for the benefit of consumers and the public.

At the end of 2020 Luisa Fulci stepped down after serving the maximum six years as a lay Board member. I would like to take this opportunity to thank her for her significant and tireless contribution. In September 2021 I will reach the end of my own maximum six-year term as Chair and therefore this is the last annual report I will have the privilege of introducing. Jonathan Rees will take over from me. I wish him well and I am pleased that he will inherit an organisation in a healthy financial position that continues to deliver its regulatory duties effectively.

Looking back over my six years as Chair, I have been delighted to see the steadily growing standing of our regulated community and the clearer recognition of its professionalism and role as a central part of the legal services landscape. There is still some way to go and challenges remain. However, I am more than ever convinced that the opportunities CILEX provides to enhance the diversity of legal services providers - especially those from non-traditional backgrounds - must be a central component of the legal services of the future if the needs of consumers are to be effectively served. I am proud of the contribution CILEx Regulation has made in this endeavour and am confident we are in good shape for the next phase in enhancing the diversity of legal services provision and its accessibility to consumers.



Who we are

We are the independent regulator of the Chartered Institute of Legal Executives – the professional association that represents chartered legal executives, paralegals and other legal practitioners.

CILEx Regulation offers a forward-thinking, constructive approach to regulation. We regulate members of CILEx, law firms, and the legal professionals we have authorised with practice rights in specialist areas of law.

We are responsible for regulatory matters affecting all those in our regulated community. In addition, we oversee the education, qualification and practice standards of CILEx members. We are the External Quality Assurer (EQA) for the Chartered Legal Executive Apprenticeship authorized by the Institute for Apprenticeships to provide external quality assurance for the Chartered Legal Executive Apprenticeship. Reports on these functions are appended to this report. CILEx delegates to us the regulatory aspects of its role as a Money Laundering Supervisory Authority a separate report will be published later in the year on our activities on anti-money laundering.

2020 Progression against Strategic Objectives

01

Protecting consumers and improving consumer experience

- Ensuring that the legal service providers we regulate are clear and honest in the way they work with clients
- Understanding consumer needs and focusing our decision making on the consumer
- Creating a corporate website which helps consumers access justice
- Working with other regulators to build the Legal Choices website

02

Strengthening diversity within the legal profession and accessibility to legal services

- Identifying ways to enhance a diverse workforce whilst achieving high standards
- Identifying opportunities to support and increase diversity within the legal profession
- Delivering ABS licensing to the market
- Promoting supportive, safe, proportionate regulation

03

Promoting high standards

- Reviewing legal education standards
- Supporting new technologies for legal services
- Using risk-based approach to investigation to ensure regulator resources are used most effectively to uphold standards
- Dealing with conduct complaints and enforcement fairly and promptly

01 Protecting consumers and improving consumer experience by:

a. Ensuring that the legal service providers we regulate are clear and honest in the way that they work with clients

From 16 March 2020 we moved to totally desk based supervision for our existing firms, with the temporary suspension of our visits to newly authorised firms. We maintained close regular contact with all firms to help us understand both the challenges that they faced and any new and emerging risks. We sought to provide additional information on changes to working arrangements across the legal sector as well as government support packages. Under the LSB scheme, we were able to make some temporary changes to our regulatory arrangements to aid them through this difficult period. The end of 2020 saw all firms having completed all the necessary regulatory requirements for the year.

We continued to work with other anti-money laundering supervisors in raising standards and sharing best practice in combating criminal activity, contributing to the work on the new guidance which was published in January 2021. With OPBAS (the Office for Professional Body Anti-Money Laundering Supervision) we completed our work against the agreed Action Plan and were subject to our second supervisory assessment. The year saw other activities related to the Economic Crime Plan require additional focus.

As first highlighted last year, we continued our work connected to financial services markets including areas such as claims management activity, the setting of future fee caps, and provision of ancillary insurance by our firms. It has been beneficial to develop these links with the FCA, especially as the scope of our regulatory activities increases. Unfortunately, alongside the FCA, we were unable to progress the application in 2020 to become a Designated Professional Body. However, this work commenced positively in early 2021.

The scheduling of work on the new CRM system in 2020 meant that work only progressed slowly on our planned additional data collection to enhance our understanding of our regulated community and how we assess risk, so we were unable to integrate this new functionality in 2020 as planned. The initial data gathering exercise has now been completed and these are now being undertaken in 2021.

b. Understanding consumer needs and focusing our decision-making on the consumer

This year we commissioned external qualitative consumer research to explore the consumer experience of legal services and reasons for choices made in more depth. The findings were presented and discussed at a stakeholder roundtable event and referenced by the CMA in their review of the legal service market published in December 2020. We have used them in our work on improving transparency. They have been applied to our work, from early 2020, on quality indicators, which led to collaboration with other regulators ahead of the CMA review December 2020 and are continuing in 2021.

We have also expanded our knowledge and taken account of a wide range of views about consumer requirements and opinions through collaborative meetings with other regulators, LSB and LSCP, and learning from published consumer research. We have been cognisant of the pandemic’s impact on consumer behaviour, with the substantial move online to look for and use services. The increase in consumer confidence and normalisation of online services and online searching for information about legal services, including reviews and comparison site services, started to be picked up in research and we will continue to develop our understanding of this and its impact on both consumers and our own decision-making.

Following the successful implementation of our Transparency Rules in January 2019, we continued to support our firms in their publishing of information to help consumers make choices about legal services. We progressed our work to expand the Transparency Rules into immigration law, engaging with our firms, stakeholders, and ran a four-month consultation. Our proposals were supported and,

c. Improving website accessibility

Our speech, translation and reading support tool (Browsealoud), introduced on the new corporate website in 2019, continues to have a good uptake. Usage averaged 2,000 in 2019 with an increase to 5,000 in 2020. There was a significant increase from March 2020 onwards, as many in the community were restricted to getting information online due to COVID. We have trialled an add-on tool (Reachdeck), which aims to identify and fix website reading barriers and accessibility issues.

d. Working with other regulators to build the Legal Choices website

We have continued our work with other legal regulators to fund and support the development of Legal Choices. 2020 saw the end of a three-year programme to refresh the website, scale up marketing, and develop four new products. The target visitor numbers of two to three million, were exceeded with the site achieving 3.1 million visitors. Work continues in 2021 to develop the site with new content and products, including further development of the disciplinary records search product.

02 Strengthening diversity within the legal profession and accessibility to legal services by:

a. Identifying ways to enhance a diverse workforce whilst achieving high standards

CILEx Regulation assesses applications for authorisation as Chartered Legal Executives, CILEx Practitioners and CILEx Authorised Entities. Each of these processes sets standards which ensure that only those competent to practice are authorised, in order to protect the public interest and consumers. At the same time CILEx Regulation has created assessment mechanisms which provide a flexible approach to enable those who aspire to practise in law an accessible route to authorisation, thereby contributing to the diversity of the profession.

We keep these processes under constant review and where there is evidence of potential barriers to authorisation, these are investigated and addressed.

In 2020, we benefited from the support that CILEx provided, engaging with other stakeholders to begin to break down unnecessary barriers, especially around access to lender panels. Whilst the application to become a Designated Professional Body did not progress as anticipated in 2020, we continued to seek alternative Professional Indemnity Insurance providers and work with other stakeholders, such as HM Land Registry, on raising the profile and status of our members and firms.

Following some external research on a perceived differential outcome for BAME applicants seeking approval of their work experience as qualifying employment, we have taken steps to anonymise applications of information that may indicate the ethnicity of the applicant prior to it being referred to the Admissions and Licensing Committee so that it cannot have any influence on decision making.

b. Identifying opportunities to support and increase diversity within the legal profession

In 2020, we continued to work on revised education standards which will enable applicants seeking authorisation as a Chartered Legal Executive to also gain the right to practice independently as an authorised person for their specialist area of practice, where competent and appropriate. Owing to the flexibility and accessibility that the CILEX route already offers, it is anticipated that this will further enhance the diversity of the legal profession, which is in the public interest and of benefit to the consumer. We will be submitting our application to the Legal Services Board for rule change approval to incorporate these changes in 2021.

We finalised the analysis of the data from our second all-member diversity data collection carried out in 2019 and published a report on our website. For the first time our data collection provided the opportunity for members to provide feedback on their working life experiences and this information was valuable alongside the data. The findings from the analysis formed part of the 2020 deep dive diversity paper considered by our Board as they expand their focus on improving the diversity of the legal sector. We shared the findings with CILEX as part of our ongoing collaboration to increase understanding of diversity linked issues and work to address barriers for regulated members.

We finalised the process for collecting diversity data through the new CRM database. The first collection through the CRM will take place in January 2021 and provide us with fuller and more comprehensive data to understand the diversity of our regulated workforce and monitor the outcomes of initiatives over time.

We have collaborated with other legal regulators through the equality, diversity and inclusion sub-group of the Legal Regulators' Forum, which CILEx Regulation are chairing for 2020/2021. The sharing of information between members and the bringing in of external speakers has enabled us to increase our understanding of this fast-moving area and develop our thinking.

c. Delivering ABS licensing to the market

On 6 April 2020 we received the final Parliamentary Order in connection with our powers as a licensing authority, which provided applicants with access to a final appeal to the First Tier Tribunal. Because of interim arrangements agreed with the Legal Services Board, we had been able to offer firms the opportunity to work as an ABS from September 2019.

d. Providing supportive, safe and proportionate regulation

In addition to the high standards applied to those seeking authorisation with CILEx Regulation, we supervise the regulated community through a combination of continuing professional development, supervision and enforcement.

Under the LSB scheme, we were able to make some temporary changes to our regulatory arrangements to aid both members and firms through this difficult period. These covered areas such as the timescale for compliance with continuing professional development regulations, payment of fees and the submission of accountant's reports.

We had anticipated that the development of enhanced data capture about our practitioners, which would enable us to adopt a targeted, risk-based approach to the supervision of individuals, would be implemented during 2020. This would also include risk assessment of the CILEx membership in relation to the Money Laundering Regulations. However, the scheduling of work on the new CRM system in 2020 meant that this was not completed and is due 2021.

03 Promoting high standards by:

a. Reviewing legal education standards

Following consultations in 2019, we worked on revised education standards and an alternative route for Fellows with at least 5 years' qualifying employment, to apply for independent practice rights. We submitted two applications to the Legal Services Board relating to this work in 2020 and will be submitting further applications for rule change approval to incorporate these changes during 2021.

b. Supporting new technologies for legal services

In 2020 we built some of the foundations necessary to enable CILEx Regulation to support the uptake of technology and innovation in the sector. This included implementing a new waiver policy that allows our regulated community to apply for rule waivers in the event that our rules are causing unforeseen barriers to innovation. We also set up a dedicated technology and innovation webpage on the CILEx Regulation website which outlines our approach to technology-use in the sector and invites direct engagement from those providers within our regulated community that are looking to innovate.

We also held a single-day design sprint for the conveyancing sector as part of CILEx Regulation's role on the advisory board for the 'NextGen Professional Services Firms' project. This project was established under the Government's Industrial Strategy Challenge Fund and the 'grand challenge' relating to AI. We are looking into the ways in which the outcomes of the event could form the basis for a bid to the 'Regulator Pioneers Fund'. CILEx Regulation also participated in a lawtech sandbox pilot, run jointly by the Ministry of Justice and Tech Nation. This required the offering of direct support and regulatory advice to technology providers seeking to enter the legal services sector over a fixed period.

c. Using a risk-based approach to investigation to ensure regulator resources are used most effectively to uphold standards

Discussions have continued with the Board around a risk-based approach to enforcement which will build upon the risk-based supervision currently being developed. Once the risk-based supervision is implemented and embedded consultations will begin to move to risk-based enforcement.

d. Dealing with conduct complaints and enforcement fairly and promptly

An enforcement user feedback survey began in 2020, to provide a further mechanism for feedback and accountability, in addition to the existing measures such as existing KPIs, the service complaints process and the enforcement annual report. The feedback survey is continuing to be used in 2021 and the data will be analysed and reported on when sufficient responses have been received.

No appeals were upheld by the independent appeals panel during 2020 and nor were any service complaints upheld, indicating fair processes.

Corporate Complaints

CILEx Regulation has a Service Complaints Policy for accountability and to improve internal standards as well as providing commitment to an open and transparent culture. Complaints' data is reported to the Board quarterly and to the Legal Services Board as part of the LSB Regulatory Assessment.

There were three stage 1 complaints in 2020, compared to two stage 1 complaints in 2019. It is positive to report no complaints escalated to stage 2, but that the right to proceed to stage 2 and how to do so was clearly set out at the end of the complaint responses.

One complaint related to service failure and two related to a lack of response.

Learning

1. The complaint upheld related to balancing additional workload caused by CRM demands. The team reassessed time management and improved communication of workload.
2. Additionally, we will make the Service Complaints Policy clearer about the correct avenues for seeking a review or appealing under the Enforcement Rules instead of a right of complaint under the Service Complaints Policy.

Our Values

CILEx Regulation Values

Our Values guide everything we do



Efficient

We keep things simple, timely and cost effective.



Firm

We uphold high standards to protect consumers. We take responsibility for our decisions and have the courage of our convictions.



Fair

We deal with people fairly, considering how what we say and do could be perceived.



Flexible

We're positive, proactive and we look for solutions. We aim to innovate and offer a personal service, not a one-size-fits-all.



Focused

The needs of our regulated community, colleagues and stakeholders guide everything we do.