



# **SPECIALIST REGULATION FOR THE FUTURE OF AN INDEPENDENT PROFESSION**

**A consultation by CILEx Regulation Limited**

**May 2023**

**Consultation ends  
5.00pm 26 June 2023**

# **SPECIALIST REGULATION FOR THE FUTURE OF AN INDEPENDENT PROFESSION**

## **Welcome**

I am delighted to introduce CRL's consultation on regulatory arrangements. It is aimed not just at those we regulate: we also actively welcome views from interested parties across the legal community and the public.

Our aim is an improved regulatory system which:

- Makes the most of independent regulation in the public interest tailored to the unique contribution our practitioners provide to the legal system;
- Improves the value of regulation for our regulated community; and
- Leads to more competition and a better deal for consumers of legal services generally.

Following the conclusion of the recent investigation by our oversight regulator, the Legal Services Board, the CRL Board now wants to encourage an evidence-based discussion of how we can make the present system work better for consumers, the regulated community, and the wider public. So, we want your views on the following key issues:

- Do you support the present system of independent regulation for CILEX professionals?
- What you think of our proposals to change the way we regulate?

The people we regulate are unique. They work alongside solicitors and barristers, argue cases in court, and advise on specialist areas of the law. Having come into the law from diverse backgrounds, they are known for their ability and experience, but it has not always been easy for their needs to be understood, their status to be recognised, and their voice to be heard.

CRL's role, as an independent specialist regulatory body, is to protect consumers' interests and the wider public interest, promote high professional standards and encourage a diverse and effective legal profession. While we are proud of the high standards that we maintain, we strive continuously for improvement to ensure that our regulatory activities remain effective and fit for purpose.

Much has changed in the 15 years since we were established. Consumers are more cost conscious, more diverse, and they rightly have increased expectations of legal professionals. Technology offers huge opportunities to improve services and streamline regulation. The market continues to change fast, and regulatory arrangements need to adapt accordingly.

Equally we need to preserve what has worked well: independent regulation informed by the contribution of CILEX professionals as one of CRL's stakeholders, a regulatory system that recognises the distinctive and specialist contribution CILEX professionals make, a broad scope embracing people at different stages of professional development, and a system that encourages diversity of supply by companies and individuals offering legal services.

In sharing this consultation, we welcome all views on how we should continue to move forward and build on what has already been achieved by our work and the profession we regulate.

In this consultation we are particularly seeking views on a number of key issues:

- Whether you support the present system of independent regulation for CILEX professionals;
- Whether you support our plans to put proposals to CILEX to reshape the way the PCF is calculated, which should enable us to look to reduce costs for Fellows whilst others we currently regulate bear their share of the costs of regulation;
- Whether you support our plans to modernise the relationship between CILEX and CRL to give CRL more operational independence, and enable us to provide a better service;
- Whether you support our plans to simplify the way people can start a law firm - “CRL Law Firm in a Box”- which will help more CILEX professionals and others set up a business;
- Whether you support our plans to ensure education requirements reflect the specialist needs of CILEX practitioners; and
- Whether you support the increased efforts to champion the importance of CILEX professionals.

We welcome comments from all on these issues and will in addition to this consultation document be holding a series of events over the coming weeks to ensure all voices are heard. We believe the only sensible way forward is through open engagement with all interested parties. This consultation will therefore run for 6 weeks and close on 26 June 2023.

**Jonathan Rees**  
**Chair of CILEx Regulation**  
**May 2023**

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## Executive Summary

1. In our three-year strategy published in November 2021 we set out our plans to uphold standards whilst pursuing innovative models to improve access and minimise the regulatory burden.
2. However, we recognise that the world around us is changing fast, and we are determined to look for ways to improve the way we regulate individual legal professionals and law firms. We have therefore set in train a programme to modernise the way legal professionals qualify, how law firms interact with consumers, and above all to champion equality and diversity with our first ever EDI Strategy published last year.
3. At the same time, the CILEX Board has initiated consideration of a separate process on whether it could or should change which regulatory body oversees CILEX members. CRL has engaged with CILEX during the development of this consultation with the purpose of ensuring a shared understanding of the issues affecting CRL's regulated community, which will provide a comprehensive evidence base from which to develop positive proposals for change.
4. This CRL consultation considers the interests of CRL regulated individuals and firms, the Regulatory Objectives of the Legal Services Act 2007, and the wider public interest. It covers how the current scheme of regulation of our diverse regulated community may be improved, by:
  - Ensuring continuity of regulation of CILEX professionals as a discrete profession with its own regulator, to preserve the unique contribution they make to legal services,
  - Continuing to address the artificial barriers that exist for CILEX professionals and reviewing how best this can be achieved,
  - Ensuring cost-effective regulation by:
    - Looking at whether all those who we regulate (both authorised and non-authorised individuals) should contribute to paying the cost of regulation, and as a consequence potentially reducing the PCF charged to Fellows whilst at the same time preserving the current high levels of consumer protection for non-authorised CILEX members, or
    - Reforming regulation of non-authorised CILEX professionals to a simpler system of registration and redress, or
    - Ceasing to regulate non-authorised persons,
  - Improving the cost-effectiveness of the present system to reduce financial risks to CILEX as the Approved Regulator,
  - Reforming our regulatory model by making it easier to set up a business with benefits to competition and consumers, and
  - Enhancing our education standards, building on our knowledge and experience of specialist regulation.
5. Following this consultation, we will work with CILEX to bring forward firm proposals for change. We will also, if necessary, clarify before the Courts where responsibility for changing regulatory boundaries lies.
6. To ensure that we secure a wide range of responses from our stakeholders, we have divided the consultation questions into two parts. The first group of

questions are set out below and can be answered [here](#) without reference to the entire consultation document.

7. There are additional optional questions included within the body of the consultation.

- Q1. Do you consider it to be a priority to change the current regulatory system?**  
Yes/No  
  
Please give reasons for your answer
- Q2. Do you believe that the CILEX profession is enhanced by having its own regulator focused on the profession's unique place in the delivery of legal services?**  
Yes/No  
  
Please give reasons for your answer
- Q3. Do you think that there are benefits in making it easier to set up a regulated law firm?**  
Yes/No
- Q4. If so, do you think making it easier to set up a regulated law firm will bring benefits to the consumer?**  
Yes/No  
  
Please give reasons for your answer
- Q5. Would you support CRL increasing its emphasis on championing the work of CILEX professionals?**  
Yes/No  
  
Please give reasons for your answer
- Q6. If you had to choose just one, what would be your greatest priority that CRL should use as a focus for its work for the next three years?**  
  
Please give reasons for your answer.

## Introduction

8. Under the Legal Services Act 2007 (the Act), Approved Regulators of legal services were required to separate formally their representative and regulatory functions to ensure that the exercise of regulatory functions is carried out independently and not prejudiced by representative interests, for the benefit of the public interest and to support the rule of law.
9. In 2008, CILEX, to achieve the separation of functions required by the Legal Services Act, delegated its regulatory functions to CRL. Since 1 October 2008, CRL has been a separate legal entity.
10. As an independent specialist delegated regulatory body, CRL authorises and regulates individual legal professionals and law firms in order to protect consumer interests, promote high professional standards, provide competition in legal services and encourage a diverse and effective legal profession.
11. The LSB's Internal Governance Rules 2019 (which are delegated legislation) set out the key requirements of a regulatory body:

### **REGULATORY AUTONOMY**

- (1) The regulatory body must independently determine the most appropriate and effective way of discharging its functions in a way which is compatible with the regulatory objectives and having regard to the better regulation principles.
- (2) In particular, the regulatory body must determine:
  - a. its own governance, structure, priorities and strategy; and
  - b. whether any amendment to the regulatory arrangements is necessary and, if so, what form that amendment should take.
- (3) The approved regulator with a residual role:
  - a. may only seek to influence these determinations in the exercise of its representative functions; and
  - b. must not prejudice the independent judgement of the regulatory body"

12. This consultation is part of the discharge of CRL's responsibility to consider and decide whether any amendments to the regulatory arrangements are necessary.
13. In addition, any changes to regulatory arrangements must be approved by the Legal Services Board in accordance with the regulatory objectives and better regulation principles, these are set out in the Appendix to this consultation document, and any proposals for change must be reviewed against these requirements before they can be approved.

## Assessing CRL's performance

14. CRL's status and operation as a specialist independent regulator, with a focus on its discrete regulated community, brings with it many benefits. These include allowing CRL to create a more focused, effective regulatory model adapted to the people CRL regulates. We are also able to make use of the expertise of CILEX professionals at every stage of our work while preserving regulatory independence.
15. CRL has sought to take an holistic approach to the public interest. Its cost base and affordability must always be balanced in the independent consideration of the public interest. CRL seeks to ensure that it is efficient and effective but also that the cost of the actions it takes is proportionate to the public interest benefit for which it is striving.
16. Recent examples of CRL's work where the public interest benefit was achieved at proportionate cost include:
  - Championing fair access for all in the legal market through our Equality, Diversity and Inclusion Strategy published last year, and preserving the alternative route to qualification;
  - Securing rights for CILEX members to practise in reserved and regulated areas of legal activity without supervision;
  - Supporting CILEX members to set up their own law firms or establish Alternative Business Structures (ABS) through individual, tailored support;
  - Working with employers and others to re-develop the chartered legal executive apprenticeships, ensuring regulatory alignment with CRL's education standards to enhance routes into the profession;
  - Introducing a new assessment route for Chartered Legal Executives to be authorised for independent practice rights;
  - Taking over from ACCA regulatory responsibility for individuals and firms offering probate services; and
  - Working with other regulators and stakeholders in a variety of areas including anti-money laundering and sanctions which also demonstrates CRL's agility and responsiveness to fast-changing situations; and
  - Contributing to changes in the legal sector including claims management activities, the land registry and high street banks.
17. Current CRL projects include:
  - Securing Higher Rights of Audience for CILEX members to allow them to appear in all courts;
  - Becoming a Designated Professional Body seeking final approval from HM Treasury for CILEX law firms to offer ancillary insurance products and funeral plans without the need for FCA authorisation;



- Making things simpler for both those CILEX members setting up new law firms and those with existing entities who have limited resources to spend on administration and business planning;
- Reviewing the operation of our investigation and enforcement functions to ensure that outcomes are fair to both consumers and the regulated community;
- Working with other legal regulators on the development of the Legal Choices website, which provides comprehensive information to consumers about all legal services providers;
- Continuing to press for improved recognition of those we regulate by third party financial institutions; and
- Raising further the profile of its regulated members in the legal sector.

18. The LSB, as oversight regulator for legal services, is responsible for *inter alia*:

- a. assessing the performance of all regulators against its regulatory performance framework, and
- b. assuring consumers that all practitioners authorised by CRL and the other independent regulators operate at an equivalent standard.

#### Opportunities to improve the status quo

19. CILEX and CRL are committed to work together to understand the current regulatory regime and to identify opportunities to improve regulation as it applies to CRL's regulated community to protect and promote the regulatory objectives in accordance with the better regulation principles.

20. As the dedicated regulator for CILEX professionals and CRL law firms, CRL has a unique understanding of the contribution made by our regulated community in the delivery of legal services for the benefit of consumers.

21. CRL has, however, identified three broad areas for improvement:

- Ensuring the system of regulation for CRL's regulated community is as cost- effective as possible whilst maintaining high standards of regulation,
- Introducing regulatory enhancements and reform of our current regulatory model to improve access to legal services, and
- Improving the regulatory model (both structurally and operationally) to ensure that the scheme of regulation applied to CRL's regulated community delivers for consumers in the public interest.

22. To that end, CRL is seeking your views on our proposals for change on the following matters:

- Looking to reduce the PCF and potentially spreading the cost of regulation more fairly across all parts of the regulated community, or altering regulatory oversight of non-authorised individuals,
- Improving accountability to our regulated community whilst becoming more independent from CILEX,
- Making it easier to set up a business, and

- Enhancing our education standards, building on our knowledge and experience of specialist regulation.

## PROPOSALS FOR CHANGE

### Cost-effective regulation and the practising certificate fee

23. The purpose of this section of the consultation is to explore the ways in which CRL may be able to reduce the PCF payable by Chartered Legal Executives through growth and by spreading the cost of regulation more fairly across our regulated community.

#### Growth at CRL

24. CRL is confident that it has sufficient scale to continue to deliver efficient and effective regulation at an affordable price. Since 2017, CRL has seen an increase in its regulated community year on year:

- The number of practising Fellows we regulate has increased by 8% since 2017.
- Increasing the range of routes into the profession (through, for example, the new qualification routes emerging through [alternative providers](#)) is expected to increase our regulated community even further.
- Our new University of Law route is already increasing the number of Chartered Legal Executives with practice rights and each session has increased numbers of registrations and successful candidates (the number of practitioners has increased by 46% in the last 12 months<sup>1</sup>).
- Our strategic partnership with the ACCA to regulate their members for probate activities has expanded our regulation of both practitioners and firms.
- We anticipate that CRL's Law Firm in a Box proposal will also expand CRL's regulated community (see paragraphs 52-54).

#### Reforming the PCF: who pays, and what for?

25. The PCF applied to CRL's regulated community is set each year following a consultation process. It has remained stable in recent years.

2017	£364
2018	£364
2019	£364
2020	£364
2021	£364
2022	£367
2023	£367

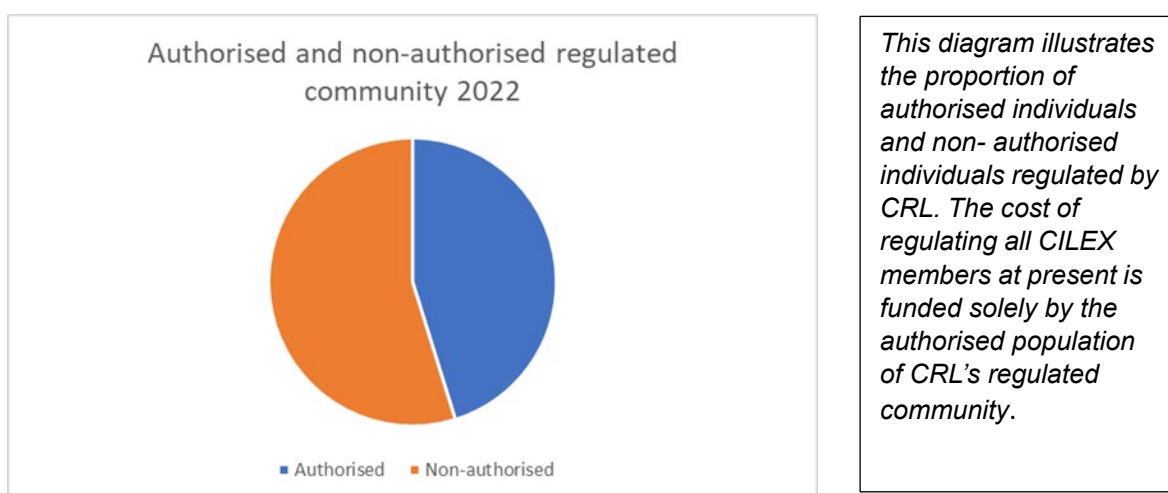
26. In effect this represents a £73 reduction in real terms in PCF fees over the last seven years. At the same time, we have been able to strengthen our financial resilience and have reserves to operate as a going concern for the foreseeable future. Moreover, unlike many legal services regulators, CRL regulates both authorised persons (e.g., Chartered Legal Executives) and non-authorised grades of CILEX membership (e.g., CILEX Paralegals). This improves the levels of confidence consumers can have in all CILEX members, since they are all subject

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<sup>1</sup> From 112 practitioners in March 2022 to 164 practitioners in March 2023.

to strong independent regulation. CRL believes this is in the public interest.

27. For a small proportion (0.4%) of CRL's regulated community this can create an element of dual regulation. CRL recognises that this can create anxiety and stress for affected individuals and has incorporated this issue into its enforcement review currently taking place.
28. The cost of regulation at CRL is, as is the case for the other legal services regulators, largely funded by the PCF, an annual charge payable by law firms and individual practitioners to enable them to practise for the following 12 months.
29. At present there is only a limited number of firms regulated by CRL<sup>2</sup> and so the individual fee is by far the most significant source of the revenue from PCFs. This is similar to the position of barristers but different from the position of solicitors, whose firms tend to meet both the firm-based and individual charges. This makes the division between firm-based and individual levels of charge academic in many cases.
30. The cost of regulation at CRL is borne only by authorised persons, that is, Chartered Legal Executives, CILEX Practitioners and CRL regulated law firms. This is allowable under section 51 of the Legal Services Act, which provides that the PCF may be used for regulation of those seeking to become authorised persons as well as those already authorised. This means that some of the PCF at CRL covers regulatory activities (notably supervision and enforcement) for non-authorised CILEX members, even though these are funded only by the authorised community such as Chartered Legal Executives<sup>3</sup>.
31. At the end of 2022, there were 7,676 authorised individuals as opposed to 9,307 non-authorised individuals, and 66 regulated firms. At the same time, for example, at the close of the 2021 CPD year, CRL dealt with over 3,600 non-compliers, of which well over half did not contribute to the cost of regulation.



<sup>2</sup> There are presently 58 firms regulated by CRL.

<sup>3</sup> The Legal Services Act does not extend to charging non-authorised persons for regulation and therefore we will need to agree with CILEX any future arrangements to rebalance the cost of regulation.

32. In 2023, CRL intends to put proposals to CILEX to create a fairer balance between the cost of regulation and those who pay for it. This is particularly important with CILEX's acquisition of the Institute of Paralegals.
33. Through this consultation, CRL is seeking views on whether it should continue to regulate non-authorised CILEX members and, if it does continue, how the associated costs of that regulation should be apportioned.

<p><b>Q7. Do you support independent regulation of all CILEX professionals serving the public?</b></p> <p>Yes/No</p> <p><b>Q8. Do you think that CRL should seek to engage with CILEX on reform of regulation for non-authorised CILEX members</b></p> <p>Yes/No</p> <p><b>Q9. If yes, which would be your preferred option:</b></p> <ul style="list-style-type: none"><li>• <b>Rebalancing the fee between authorised and non-authorised individuals,</b></li><li>• <b>Reforming regulation for non-authorised members, or</b></li><li>• <b>Ceasing to regulate non-authorised members.</b></li></ul> <p>Please give reasons for your answer</p>
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#### Options for PCF reduction

34. Following the outcome of the LSB's investigation into the financial disagreement between CILEX and CRL, CRL will, in future, be able to hold its own contingent reserves and should, each year, receive its full share of the PCF paid by its regulated community.
35. These changes, together with the review of who pays for regulation, planned by CILEX and CRL in the summer, and the other proposals for change outlined in this consultation will enable CRL to review its annual PCF budget and to consider a reduction in the PCF paid by its authorised regulated community.

### Accountability

#### Understanding those we regulate

36. Having regulated CILEX members since the inception of the Legal Services Act 2007, CRL is uniquely placed to understand and recognise the value and contribution of our regulated community.
37. We do this through the provision of regulation, which is tailored to legal specialists, offering a risk-based approach which is designed to regulate in a proportionate and targeted way. This applies to the whole of our regulated community whether they work in regulated law firms, in-house or in other settings.
38. We also appreciate the challenges faced by our regulated community in relation

to recognition in the sector as qualified lawyers. We continue to champion the important part CILEX professionals play in the delivery of legal services and as part of our proposals for change we intend to recruit a new post dedicated to promoting the value of our regulated community to the sector.

39. We take advice from the profession in shaping our regulatory approach. We have 2 professional members on our Board, professional members on our panels, and we consult widely on all proposed changes to regulation for the CRL regulated community.
40. We are also close to our regulated community and as such we are able to identify and understand their individual needs. A recent example would be CRL's work to address the limitations of regulation by reserved activity for specialist lawyers and the proposal through our 2023 business plan to begin to tackle this through the development of regulation by role rather than activity (see paragraph 60).
41. We are already working to increase the transparency of our decision-making through the introduction of greater [Board transparency](#) and, using an independent reviewer, we plan to consult with all our stakeholders including the regulatory community and consumers on how we are doing.

**Q10. What do you see as the benefits and risks of having a regulator focused on regulation of the CILEX profession?**

Please give reasons for your answer

**Identity: changing the name of the regulator**

42. A recurrent theme in perception of the current arrangements is a lack of recognition and understanding within the legal community and the wider public of our identity as the independent regulator of CILEX professionals, in two ways:
- Of the distinct identity of CRL as the regulatory body as opposed to CILEX as the membership body and approved regulator named in the Legal Services Act; and,
  - Between the CRL regulated community and other lawyers, for example, solicitors.

**Q11. Should CRL consult on changing its name, with a view to improving recognition of the distinct roles of CRL and CILEX, and the distinctive professionals it regulates?**

Yes/No

Please give reasons for your answer

## Becoming more independent from CILEX

43. The LSB takes the view that increasing structural and operational independence, cultural autonomy, and consumer focus are desirable objectives for regulators:

The Legal Services Act was designed to improve public confidence by bringing an end to a system of regulation of lawyers by lawyers.

Following the introduction by LSB in 2020 of revised Internal Governance Rules, the public can be confident that the regulatory bodies are more operationally independent of approved regulators. It is welcome that almost every part of the sector has gone beyond these minimum requirements to voluntarily establish greater institutional separation between the regulatory bodies and approved regulators.

However, without primary legislation, full independence that would deliver maximum public confidence in the independence of regulation cannot be achieved. Further, while there is now more structural independence, time will tell if structural independence will translate into more cultural autonomy and greater consumer focus.

*The State of Legal Services Narrative Volume (LSB 2020),p.36*

44. CILEX has previously supported complete structural separation for CRL as the independent regulator in its area. It announced in 2019 its intention to give its regulatory body complete structural independence, referring to:

“CILEX’s overarching objective of achieving full structural independence in the long term and, in the medium term, achieving the greatest degree of independence as can be achieved under the current regulatory framework”.

CILEX’s Chair stated: *“We believe that complete independence is a desirable end-goal so as to provide public confidence that legal regulators have no distraction from their core responsibility of serving the public interest.”*

[https://www.cilex.org.uk/media/media\\_releases/cilex\\_to\\_seek\\_complete\\_independence\\_for\\_regulator](https://www.cilex.org.uk/media/media_releases/cilex_to_seek_complete_independence_for_regulator)

45. In his recent report to CILEX, Chris Kenny notes that CRL’s current degree of financial and service dependency on CILEX is not desirable. We agree.

## Reallocation of shared functions

46. The arrangements for delegation currently give CILEX responsibility for a number of non-regulatory functions; for example, invoicing for and collecting the PCF, issuing practising certificates and lobbying work. CRL, with a complete focus on its regulatory and public interest functions, could undertake more of these functions directly and it is considered unlikely that they would increase CRL’s costs by more than a small proportion of the present cost and, at the same time would reduce the costs of the work currently completed by CILEX. Hence the overall cost to the regulated community should be reduced.

47. CRL may be able to achieve efficiency gains by handling more of its own administrative functions so that, for example, it might expect to tailor the services more closely to its exclusively regulatory needs and/or have income presently administratively collected by CILEX accounted for more promptly.

#### Reviewing shared services

48. In addition to the regulatory functions which are currently shared between CRL and CILEX, there are also arrangements in place relating to back-office systems which CRL currently shares with CILEX but which we believe could be run more efficiently and cost-effectively through CRL purchasing its own services.
49. Part of the LSB's investigation looked at the arrangements for CILEX and CRL sharing services and how these might be improved in the future.

#### Efficiency

50. A significant issue for CRL has been accessing functionality on the shared Customer Relationship Management system (CRM) which should have been available to it when the system went live in August 2019. Notably, the use of an online portfolio system for submission of authorisation applications (such as work-based learning), a digital directory for its law firms, and online applications, similar to those available when individuals seek to join CILEX.

#### Cost-effectiveness

51. A recent example of such a cost-savings review is the imminent replacement of the outsourced HR shared service for CRL with CILEX to a fully outsourced solution, which will save CRL approximately 50% of its budget allocated to HR services.

**Q12. Should CRL undertake a feasibility study into the costs and benefits of assuming all or more of the functions ancillary to its work, with a view to changing its operational arrangements with CILEX, potentially to increase its operational independence and secure cost savings?**

Yes/No

Please give reasons for your answer

**Q13. Are there any reasons or objections in principle to CRL undertaking all/more of its own operational functions?**

Please give reasons for your answer

**Q14. Do you consider that increasing operational separation is a desirable goal?**

Yes/No

Please give reasons for your answer



**Q15. What benefits do you see in the present arrangements which you believe should be preserved?**

Please give reasons for your answer

**Q16. Do you believe that there are opportunities for improvement in operational processes as they are currently delivered?**

Please give reasons for your answer

### **Making it easier to set up a law firm.**

52. The CRL strategy for 2022-24 is aimed at delivering major reforms to the current approach to regulation at CRL.

53. One example of our strategic vision is a different offer for law firms regulated by CRL. Our proposal is designed to increase the number of firms offering services directly to consumers thereby providing choice cost-effectively, at a time when the number of smaller firms through which consumer-facing legal services are delivered across the legal profession is reducing.

54. CRL recently commissioned research into its “CRL Law Firm in A Box” proposals to amend its offer to the law firms it regulates. The aim of the proposals is to make things simpler for start-up law firms and sole practitioners with limited resources and budgets to satisfy compliance and regulatory requirements. The research consisted of interviews carried out with 86 legal professionals who owned their own firm and was completed between May and July 2022. The outcomes from the research can be summarised as follows:

- There is clear interest in the proposals as a general concept, particularly from recently set up law firms and those considering launching a firm or becoming a freelancer, and
- Just over half (56%) of those interviewed think that the proposals would be useful, increasing to nine out of 10 (90%) of those considering setting up a firm, and over six out of 10 (62%) of those recently establishing a law firm. The respondents indicated that they would be willing to pay an enhanced application fee to access these services.

**Q17. Do you support CRL's proposals to make it easier for individuals to set up a law firm?**

Yes/No

Please give reasons for your answer

## **The future of education and training for the CRL regulated community**

### **How our education and training requirements meet the needs of the CILEX profession**

55. CRL's regulated community are specialists from the outset of their careers. Unlike solicitors and barristers, who are authorised for all areas of practice, irrespective of later specialisation, CRL's approach to education and training means that we understand the diverse and unique needs of working in different environments and specialising in different areas of law. This is beneficial to both the regulated community and to consumers of legal services because competence is signalled through specialist title, for example, Chartered Legal Executive (conveyancing) or CILEX Practitioner (probate).
56. We can demonstrate our understanding of these differences and requirements through our work to enhance education and training in recent years, some examples are set out below.

### **Our revised education standards**

57. Approved in 2021, CRL's revised education standards, which incorporated becoming a Chartered Legal Executive with the right to practise in their area of specialism, provided CRL with an opportunity to streamline the education requirements for Chartered Legal Executives, and therefore increase the number of regulated individuals.
58. Under these revised standards, CRL has recently accredited another training provider to deliver the knowledge requirements for becoming authorised, which represents the first step in providing more choice to individuals who are seeking to become Chartered Legal Executives. Over time, it is expected that more alternative training providers will become accredited by CRL and therefore more choice and opportunity will become available to aspiring Chartered Legal Executives.

### **Creating alternative authorisation options for Chartered Legal Executives seeking practice rights.**

59. The training and assessment requirements that CRL has introduced in partnership with the University of Law are already delivering new CILEX Practitioners who are authorised to deliver reserved legal activities without the need for supervision from other legal professionals. Results are excellent so far.



Feedback from the University of Law on our Chartered Legal Executive candidates includes:

*'We have been particularly impressed with the dedication shown by extremely high calibre delegates who have produced such good work.'*

## Next steps

60. Because we are also close to our regulated community, we are able to identify and understand individual needs. A recent example would be CRL's work to address the limitations of regulation by reserved activity for specialist lawyers and the proposal through our [2023 business plan](#) to begin to address this through the development of regulation by role rather than activity.
61. We are also working to implement the [LSB's statement of policy](#) in relation to the future of ongoing competence for legal professionals. Our understanding of the profession means CRL is uniquely placed to implement the LSB's requirements in accordance with the distinct profile of our regulated community.
62. And, in response to calls to diversify Higher Rights Advocates and (in time) the judiciary, CRL is working with stakeholders to create a route for competent Chartered Legal Executives to obtain Higher Rights of Audience.

**Q18. Do you agree that a tailored approach to the regulation of a unique profession by its own regulator is beneficial?**

Yes/No

Please give reasons for your answer

**Q19. Are there other initiatives or improvements that CRL could introduce to enhance its regulation of legal professionals and firms?**

Please give reasons for your answer

**Q20. Do you have any other comments or suggestions?**

## Conclusion

63. The next 12 months is an important period for the regulation of CRL's regulated community. CILEX published its case for change last summer which suggested that there might be merits in another regulator taking on the responsibility currently carried out by CRL.

64. The purpose of this consultation is to consider the evidence base for change and set out how we can build on what has already been achieved by CRL for its regulated community in an open and transparent way.
65. Once we have had an opportunity to consider the results of this consultation, we will seek to work with CILEX to agree what is the solution most likely to meet the interests of consumers, improve the tailored and independent approach to regulation of CRL's regulated community, and provide true value added for all.

## APPENDIX

### The current landscape

#### Foundations: The Legal Services Act 2007

The Legal Services Act 2007 represented a major change from the previous system of regulation. The government's vision was for "a legal services market where excellence continues to be delivered; and a market that is responsive, flexible, and puts the consumer first."

Key elements of the reforms included a simpler regulatory system, which would be more independent of the legal profession; the creation of a single, independent complaints handling service; and removal of restrictions on competition to allow new ways of delivering services for consumers.<sup>4</sup>

In 2020, reviewing the progress and challenges from a decade of the new regulatory landscape, the LSB noted successful advances in consumer choice, a better experience for consumers, economic success, and innovation.<sup>5</sup>

The LSB's 2020 assessment identified nine critical challenges for future progress, organised broadly in three themes:

- Tackling unfairness that harms the public and the profession in both unmet need and barriers to a more diverse and inclusive profession at all levels;
- Building public and professional confidence on strong foundations in the quality of services and professional ethics, closing gaps in consumer protection, and
- Better services through empowering consumers, fostering innovation, and supporting responsible use of technology that commands public trust.

Key in the LSB's assessment was the need to reform the justice system and redraw the regulatory landscape.

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<sup>4</sup> *The State of Legal Services*: Narrative Volume, LSB, 2020, p.17

<sup>5</sup> *The State of Legal Services*: Narrative Volume LSB, 2020

## The Regulatory Objectives

The task of regulation is set out in the Regulatory Objectives of the Legal Services Act 2007:

(1) In this Act a reference to “the regulatory objectives” is a reference to the objectives of—

- (a) protecting and promoting the public interest;
- (b) supporting the constitutional principle of the rule of law;
- (c) improving access to justice;
- (d) protecting and promoting the interests of consumers;
- (e) promoting competition in the provision of services within subsection (2);
- (f) encouraging an independent, strong, diverse and effective legal profession;
- (g) increasing public understanding of the citizen's legal rights and duties;
- (h) promoting and maintaining adherence to the professional principles.

The “professional principles” are—

- (a) that authorised persons should act with independence and integrity,
- (b) that authorised persons should maintain proper standards of work,
- (c) that authorised persons should act in the best interests of their clients,
- (d) that persons who exercise before any court a right of audience, or conduct litigation in relation to proceedings in any court, by virtue of being authorised persons should comply with their duty to the court to act with independence in the interests of justice, and
- (e) that the affairs of clients should be kept confidential.

## Better Regulation Principles

These are supported by the Better Regulation Principles as outlined in section 28 of the Legal Services Act 2007:

**Transparent:** Regulators should be open and keep regulations simple and user-friendly

**Accountable:** Regulator must be able to justify decisions and be subject to public scrutiny

**Proportionate:** Regulators should only intervene when necessary, remedies should be appropriate to the risks posed and costs identified and minimised

**Consistent:** Rules and standards must be joined up and implemented fairly

**Targeted:** Regulation should be focused on the problem and minimise side-effects

In addition to these principles adopted by the Legal Services Act in 2007, regulators in other sectors have added a sixth regulatory principle:

**Agile:** Regulation must look forward and be able to adapt to anticipate change.

CRL agrees that this principle should be added to the foundation for thinking on regulatory policy in the legal sector.

## How to respond

You can respond to our consultation by completing the [online form](#).

Or, by sending your response by email to [consultations@cilexregulation.org.uk](mailto:consultations@cilexregulation.org.uk).

## Publication of responses

We would like to know who you are in order to understand your responses better. If you are happy for your full response to be published, you will be asked to indicate this within the consultation survey.

## Submission deadline

Please respond by **5pm on 26 June 2023**.



## List of questions

### Group 1

**Q1. Do you consider it to be a priority to change the current regulatory system?**

Yes/No

Please give reasons for your answer

**Q2. Do you believe that the CILEX profession is enhanced by having its own regulator focused on the profession's unique place in the delivery of legal services?**

Yes/No

Please give reasons for your answer

**Q3. Do you think that there are benefits in making it easier to set up a regulated law firm?**

Yes/No

**Q4. If so, do you think making it easier to set up a regulated law firm will bring benefits to the consumer?**

Yes/No

Please give reasons for your answer

**Q5. Would you support CRL increasing its emphasis on championing the work of CILEX professionals?**

Yes/No

Please give reasons for your answer

**Q6. If you had to choose just one, what would be your greatest priority that CRL should use as a focus for its work for the next three years?**

Please give reasons for your answer.

### Group 2

**Q7. Do you support independent regulation of all CILEX professionals serving the public?**

Yes/No

**Q8. Do you think that CRL should seek to engage with CILEX on reform of regulation for non-authorised CILEX members**

Yes/No

**Q9. If yes, which would be your preferred option:**

- **Rebalancing the fee between authorised and non-authorised individuals,**
- **Reforming regulation for non-authorised members, or**
- **Ceasing to regulate non-authorised members.**

Please give reasons for your answer

**Q10. What do you see as the benefits and risks of having a regulator focused on regulation of the CILEX profession?**

Please give reasons for your answer

**Q11. Should CRL consult on changing its name, with a view to improving recognition of the distinct roles of CRL and CILEX, and the distinctive professionals it regulates?**

Yes/No

Please give reasons for your answer

**Q12. Should CRL undertake a feasibility study into the costs and benefits of assuming all or more of the functions ancillary to its work, with a view to changing its operational arrangements with CILEX, potentially to increase its operational independence and secure cost savings?**

Yes/No

Please give reasons for your answer

**Q13. Are there any reasons or objections in principle to CRL undertaking all/more of its own operational functions?**

Please give reasons for your answer

**Q14. Do you consider that increasing operational separation is a desirable goal?**

Yes/No

Please give reasons for your answer

**Q15. What benefits do you see in the present arrangements which you believe should be preserved?**

Please give reasons for your answer

**Q16. Do you believe that there are opportunities for improvement in operational processes as they are currently delivered?**

Please give reasons for your answer

**Q17. Do you support CRL's proposals to make it easier for individuals to set up a law firm?**

Yes/No

Please give reasons for your answer

**Q18. Do you agree that a tailored approach to the regulation of a unique profession by its own regulator is beneficial?**

Yes/No

Please give reasons for your answer

**Q19. Are there other initiatives or improvements that CRL could introduce to enhance its regulation of legal professionals and firms?**

Please give reasons for your answer

**Q20. Do you have any other comments or suggestions?**