



Anna Bradley  
Chair  
Solicitors Regulation Authority

7 May 2024

Dear Anna,

### **Proposed Arrangements for Regulating Non-Authorised CILEX Members**

I am writing to set out CILEx Regulation's (CRL) views in response to the Solicitors Regulation Authority's (SRA) consultation on the proposed arrangements for the regulation of those CILEX members who are not authorised to carry out any reserved legal activities, should CILEX seek to re-delegate regulatory responsibility from CRL to the SRA.

In short, we have serious reservations about these proposals since they would not match the current levels of consumer protection currently provided by CILEx Regulation. They also fail properly to assign the costs of regulation on those who benefit from that regulation. For the record, I should also repeat our view that CILEX's proposals to redelegate responsibility to the SRA are unlawful, a view mirrored by the recent Justice Select Committee letter to the Lord Chancellor.

CRL currently provides independent regulation for about 9000 paralegals and other unauthorised legal professionals. This improves the levels of confidence consumers can have in all CILEX members, since they are all subject to the same strong independent regulation, in the public interest. Whilst we welcome the SRA's decision to consult on these proposals, we remain concerned about the merits of consulting currently, while the fundamental question as to the lawfulness of CILEX's proposals to re-delegate regulation remains unanswered. It is a matter of public record that CRL considers the changes proposed by CILEX to be unlawful. CRL's invitation to the LSB and CILEX to seek clarification through the courts remains open.

Turning to the specifics of the SRA's proposed arrangements for regulating non-authorised CILEX members, we note that consideration of such arrangements was not included in the proposals SRA consulted on in 2023. This was a significant omission and something CRL highlighted in its comments at the time. While we welcome the fact that the SRA has listened to and recognised the legitimate need to address this aspect of the proposal properly, it is regrettable that this is only being addressed now. This gives the impression that the regulation of the non-authorised CILEX members has been an afterthought, and not part of a comprehensive, rational and well-thought-through proposal from the beginning.

Whilst we do not wish to make detailed comments on the specific 8 questions being asked through the consultation, we should like to make the following points.

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## Scope of regulation

The consultation states that 75% of CILEX members currently work in SRA-regulated firms. Under the proposed arrangements, CILEX members would be regulated under the SRA/CILEX Principles and Code. The consultation suggests this would be simpler for consumers as they will only deal with one regulator and for firms that need to report an employee, they will only need to do so the SRA, rather than CRL and the SRA as is currently the case. However, we do not feel the proposals adequately address how the 25% of non-authorized CILEX members who do not work in SRA regulated firms will be regulated, or address the risk that the proposed arrangements may dilute the coverage and rigour of the existing CRL regulatory arrangements and could result in consumer confusion regarding those members who do not work in SRA regulated firms.

## Costs and fees

The costs of regulating non-authorized CILEX members are not currently charged to those members but are incorporated in the practising fees charged to authorized CILEX members. We note that the SRA intend to maintain this arrangement. The SRA also indicate that they expect the ongoing cost of the regulation element of the practising fees to CILEX authorized members will not be higher than its present level. We believe this is a missed opportunity to ensure those who benefit from regulation contribute towards the cost.

CRL has held the Practising Certificate Fee steady for a number of years and have offered proposals for future reductions through considering whether all those who are regulated (both authorized and non-authorized individuals) should contribute to paying for the cost of regulation. Our view for some time is that the costs of regulation should be borne by those who benefit from it. Charging the cost of regulation to unauthorized CILEX members is currently prohibited under the CILEX bye-laws.

There needs to be greater transparency on the funding of the regulation of the unauthorized CILEX members. This reflects the LSB's comment in its decision notice on the CILEX/CRL 2024 PCF application where they stated:

*"..we require improved clarity and transparency from CILEX and CRL about the extent to which the practising fee collected from authorised persons is used to fund costs relating to the regulation of non fee-payers."*

## Continuing professional development

We note that SRA do not propose to take on CRL's existing mechanisms for routinely auditing CPD records on an annual basis. We believe this represents a significant dilution of the current regulatory arrangements which ensures the public can have confidence in the ongoing competence of those who are regulated.

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Furthermore, there is no detail in the consultation proposals of how the SRA would enable these practitioners to continue to thrive. In its own proposals for change, CRL identified ways in which we would champion the interests, role and profile of all practitioners within the CILEX family and continue to support these practitioners' professional development and progression within their chosen career.

We continue to take the view that absorbing these practitioners within the SRA, with your myriad of other priorities, would harm the development of an important group of legal professionals to their detriment, consumer detriment and would not be in the public interest.

In summary, CRL cannot support the proposals set out in the consultation due to our continuing concerns regarding the legality and legitimacy of CILEX's overarching proposals. We do not believe the public interest will be served and remain of the view that regulation by a specialist regulator, best serves the public interest and that of regulated professionals.

A copy this consultation response will be published on CRL's website.

Your sincerely,

A handwritten signature in black ink that reads "Jonathan Rees". Below the signature is a horizontal line.

Jonathan Rees  
Chair  
**CILEx Regulation Ltd**

c.c. Paul Philip @ SRA

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