

Legal Services Board

LSB Business Plan consultation

A response by
CILEx Regulation

25 February 2019

Introduction

This response represents the views of CILEx Regulation, the regulatory body for Chartered Legal Executives, CILEx Practitioners and legal entities. Chartered Legal Executives (Fellows) are members of the Chartered Institute of Legal Executives (CILEx). CILEx Practitioners are authorised by CILEx Regulation to provide reserved legal activities. CILEx is the professional body representing 20,000 qualified and trainee Fellows and is an Approved Regulator under the Legal Services Act 2007 (LSA). Fellows and CILEx Practitioners are authorised persons under the LSA. CILEx Regulation regulates all grades of CILEx members.

CILEx Regulation is also a regulator of entities through which legal services are provided. It authorises entities based upon the reserved and regulated activities.

CILEx Regulation and CILEx provide an alternative route to legal qualification and practice rights allowing members and practitioners, who do not come from the traditional legal route to qualify as lawyers and own their own legal practice.

Proposed LSB Business Plan - consultation response.

Response to the LSB consultation

1. Our responses to the questions are as follows.

Questions

Q1 – Have we identified the most relevant developments in our external operating environment?

2. The only suggestion relates to technology: The market analysis on page 6 concludes “the levels of innovation are unchanged overall compared to three years ago”.
3. CILEx Regulation hosted a technology conference in the autumn of 2018 where leading legal technology pioneers and experts predicted technology will play an increasingly important role in legal services with examples of online legal services already starting.
4. Looking at how online services are transforming retail with the dramatic growth of online retailers and resultant demise of traditional successful high street retailers, it may be prudent to anticipate significant market changes in how legal services are provided over the next 15 years once the technology develops to provide legal solutions online, particularly as Artificial Intelligence develops.
5. There is the risk of a lack of regulatory oversight of legal technology being delivered by non-regulated providers, including from outside of the jurisdiction and relied upon by unwary consumers.
6. Equally, there is a significant opportunity given the English and Welsh legal systems reputation to provide services internationally.

Q2 – What are your views on our proposed five-year policy objectives?

7. Innovation focuses on services and providers. A key regulatory skill in the future is likely to be the ability to effectively regulate providers utilising technology to deliver legal services. Is there the knowledge and skills across regulators to be able to do this and would a co-ordinated approach help? There is the risk that the technology is rolled out by providers without the ability of regulators to effectively regulate automatic or AI legal advice. Will the traditional model of conduct focusing on dishonesty work for legal technology or does conduct need to evolve more into a fitness to practice focus? There is another risk here in relation to vulnerable consumers and their ability to access legal technology solutions and whether it will address the unmet need.

8. For key markers and the LSB being perceived as being at the forefront of enhancing public legal education, we endorse the benefits of work on ongoing competence and welcome the thematic review. Underpinning work has started to meet this requirement at CILEx Regulation. However, the other crucial marker of success is consumers' ability to access quality legal services, including increasing understanding about the different levels of consumer protection available between regulated and unregulated legal providers.

Q3 – Do you have any comments on our proposed business plan and work for 2019/20? Are there any workstreams that you disagree with? Is there any work that you think we should pursue that is not currently included?

9. In relation to Strategic Objective 2, we welcome the focus on increasing consumer transparency. However, whilst the supporting wording states “we also identified the need for further work to help consumers compare the quality of providers and to make progress on assessing the feasibility of a single digital register of providers”, is encouraging, is there the opportunity to give more prominence (such as being a separate work package) to develop access to quality legal services in addition to the excellent work on cost transparency?

10. We could envisage the CMA choosing to investigate legal services further if they are not confident there are sufficient changes happening to develop meaningful ways for consumers to compare the quality of providers beyond cost transparency.

11. In relation to Strategic Objective 3, the use of regulatory sandboxes is a positive example of horizon-scanning for regulation of emerging technologies and we would strongly support this flexible approach.

12. The previous comments in relation to technology apply here in relation to what could be included. Technology is potentially an iceberg for legal services which, if we start preparing now, we can navigate around.

Q4 – Please identify any elements of our business plan that you think present an opportunity for more detailed dialogue and/or joint working between your organisation and the LSB.

13. Regulation of emerging legal services technology.

14. Discussion in relation to unregulated legal practitioners.

15. Addressing unmet legal need.

16. Regulatory performance being proportionate.

Q5 – Please provide comments regarding equality issues which, in your view/experience, may arise from our proposed business plan for 2019/20.

17. No issues identified.

18. Any questions relating to this consultation response can be directed to Stuart Dalton, Director of Policy and Enforcement (stuart.dalton@cilexregulation.org.uk).