

We welcome responses from our regulated entities, consumers of legal services, organisations which represent the interests of consumers and other stakeholders including members of our regulated community, other frontline regulators, and other interested parties.

Consultation: to make interim amendments to the CILEX Compensation Arrangements Rules.

1. CILEx Regulation is the independent regulator for Chartered Legal Executives, other grades of CILEX membership, CILEX Practitioners and firms. We take a risk based and outcomes focused approach to regulation, by working constructively with our regulated community to ensure that they deliver the best outcomes for clients. We have set clear principles within our Code of Conduct and inform the public of the standards they can expect. We believe this provides a balanced approach.
2. The purpose of this consultation is to set out our proposal to amend the CILEX Compensation Arrangements Rules following the decision of our insurer to end cover with effect from 2 September 2021.

Summary of proposed interim changes

	Current arrangements	Actuary recommendation	CILEx Regulation proposal for change
Individual limit	£500,000	£250,000 (probate and conveyancing claims) £10,000 (all other areas of practice)	£500,000
Firm aggregate	£2m	£250,000	£500,000
Total fund	£6m	£250,000	£500,000

- We are proposing to keep the maximum individual discretionary grant at £500,000.
 - This maintains the current maximum for an individual claim and therefore provides continuity for the consumer.
 - We have reduced the aggregate limits to cover one claim during the interim period. This is supported by the risk assessment provided in the actuarial report (see Annex 2).
3. This consultation will run for **4 weeks, from 16 July 2021, closing at 5pm on 13 August 2021.**
 4. We appreciate that this is a short timeframe to consult on these changes. However, in order to ensure that there is effective, continuous compensation cover for the clients of those firms that we regulate, together with the short notice period provided by the insurer, we have chosen to reduce the window in which the consultation is open. We will actively seek the views of both the Legal Services Consumer Panel and the Competition and Markets Authority to ensure that their views are represented in the consultation responses.

CILEx Regulation Limited

Kempston Manor, Kempston, Bedford. MK42 7AB
T 44 (0)1234 845770 | **F** +44 (0)1234 840989 | **DX** 124780 Kempston 2
E info@cilexregulation.org.uk | www.cilexregulation.org.uk

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Background: why are we proposing to amend these rules?

5. The CILEX Compensation Arrangements Rules have been in force since 2017 and offer discretionary consumer protection of last resort in situations where there has been dishonest misappropriation or dishonest failure to account of client funds by a CILEx Regulation regulated firm or where there is civil liability beyond negligence which is not covered by a firm's professional indemnity insurance (PII). Full details of the cover can be found at rules 6 and 9.
6. The scheme is fully insurance-backed and currently provides the following cover:
 - Up to £500,000 per individual, and
 - Up to £2m per firm
7. The insurance policy provided a total aggregate cover of £6m per year.
8. On 28 May 2021, CILEx Regulation was informed that the insurer for the compensation arrangements was ending cover with effect from the policy renewal (4 July 2021). The insurers have subsequently agreed to extend the cover by 60 days to 2 September 2021.
9. Despite having sought alternative cover on the same or similar terms, CILEx Regulation has been unable to source an alternative insurance policy. As a result, CILEx Regulation has had to consider alternative forms of consumer protection. We have looked at the action we can take in the short- and longer-term.
10. To review the short-term position, we have engaged an actuary to calculate revised levels of cover that would be the most appropriate to continue to provide protection to the consumer based on the profile of our firms.
11. The actuary concluded that the minimum requirements for the CILEX compensation arrangements to be viable were:
 - Up to £250,000 per individual for probate and conveyancing claims, £10,000 per individual for claims in all other areas of practice
 - £250,000 per firm
12. Our insurance policy covered a total of £6m claims in one year. The actuary has calculated that based on CILEx Regulation's claims history and the profile of our firms that the total fund size for the next 12 months should be £250,000.
13. Whilst the actuary provided minimum levels at £250,000, to ensure that there is minimal disruption to consumer protection for individuals using CILEx Regulation regulated firms, we are proposing to amend our rules to the following:
 - Up to £500,000 per individual
 - £500,000 per firm
 - A £500,000 Fund
14. Once our interim arrangements have been agreed, we will then look to make longer-term changes

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to the compensation arrangements. We will consult on these changes in the coming months.

Our proposals

15. We are proposing to amend the CILEX Compensation Arrangement Rules as follows:
 - a. At rule 3(2), we have reversed the order from which discretionary grants will be paid to reflect that in the short-term no insurance contract will be in place.
 - b. Clarification throughout the rules that grants are discretionary.
 - c. At rule 6(1) to confirm that discretionary grants will be made from the Fund.
 - d. At rule 6(1)(a) to confirm that claims can only be made by Eligible Persons
 - e. At 6(3)(a) to remove the possibility of an insurance policy covering interim payments, which may instead be made from the Fund.
 - f. To remove 6(4)(d) from the rules
 - g. To amend rule 9 in relation to the maximum discretionary grants available from the Fund to reflect the revised arrangements set out at paragraph 13 of this consultation document.
16. These proposals provide an interim measure to ensure that we are able to provide continued consumer protection which is proportionate for the next 12 months once the current insurance policy expires on 2 September 2021.
17. CILEX Regulation is intending to undertake a full review of the compensation arrangements in operation over the next 12 months and will consult on longer term changes next year.

The CILEX Compensation Arrangements Rules

18. The proposed revisions to the CILEX Compensation Arrangements Rules are attached to this consultation at **Annex 1**. Although there will be no insurance policy in the immediate term, some references to a policy have been retained within the rules in case of future access to a policy.
19. A letter from the Actuary confirming his recommendation for the changes set out in this consultation is attached at **Annex 2**.

Consultation Questions

Q1. Do you agree with the approach that CILEx Regulation has taken to ensure there is ongoing consumer protection for the clients of firms regulated by CILEx Regulation?

Yes/No? Please provide comments:

Q2. CILEx Regulation has set out this approach to cover the next 12 months, do you have any views on the longer-term approach that CILEx Regulation may take to ensuring the protection of clients of CILEx Regulation firms?

Yes/No? Please provide comments:

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How to respond

Please send your response to CILEx Regulation by email to consultations@cilexregulation.org.uk. Please mark it for the attention of Vicky Purtil.

Our office is closed until further notice because of the government requirements due to the corona virus and we can only receive responses via email. Please check on our website for information to find out if this situation changes before the consultation closes on 13 August 2021.

Submission deadline

Please respond by **5pm on 13 August 2021**.

Ends

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