

Annual Report 2016



Chair's Foreword

For me – as for my Chief Executive – 2016 was my first full year in CILEx Regulation. If I was proud to be appointed to the Chair role, after a full year's experience I am yet more convinced of the importance of what I have taken on. Excellent, cost-effective regulation is vital to the profession itself, to the consumer and to the public interest. The CILEx route into legal services already provides unparalleled access to the profession for a diverse range of people, serving the consumer and public interest by producing lawyers fully and appropriately qualified to provide the services consumers require.

The ability of CILEx Regulation now to grant full practice rights and to authorise law firms established by CILEx members, as well as – hopefully by 2018 – to authorise Alternative Business Structures (ABS) brings the promise of an increasingly central role for CILEx lawyers and other practitioners in the legal services landscape in years to come.

Playing our role in giving CILEx's ambitions the best possible following wind is where our efforts are focused. In 2016, that meant developing a strategy to put the consumer at the heart of our regulation – a commitment further strengthened by the Competition and Markets Authority (CMA) legal services market study published towards the end of the year.

It required us also to put a relentless focus on controlling and where possible reducing both the costs and the non-financial burdens of regulation to the regulated community without compromising standards and quality. It meant also supporting CILEx in promoting the value to its members of pursuing practice rights and the regulation of firms; and working hard to ensure that we would be in a position to make a persuasive application in 2017 for the right to authorise ABSs.

I would like to take this opportunity – on behalf of the Board – to thank the executive for their professionalism and commitment throughout 2016. As a result of their efforts, we finished 2016 in an immeasurably stronger financial position than we entered it, with a clear path to leaner and more cost-effective regulation and to an ABS application, and with a much more firmly embedded culture of putting the consumer at the heart of all our work.

I would also like to thank colleagues at CILEx for their commitment to fostering a collaborative and positive relationship while at the same time respecting the operational independence of the regulator and engaging with us in ensuring that we are ready for whatever government may decide in future on the formal independence of legal services regulators from the professional bodies.



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I would like to thank our independent members on the Professional Conduct Panel, Disciplinary Tribunal and Appeals Panel for the important work they do to ensure the protection of the integrity and reputation of our regulated community. Although there is little predictable pattern to their work, I have been struck by their commitment, including their engaged participation in training and the best-practice ideas they share with us. I would also like to thank the Admissions and Licensing Committee and the Strategic Risk Committee for the insight, guidance and commitment that they bring to their work, which ensures that our authorisation and supervision processes provide effective and consistent decision-making both for the practitioner and entity functions.

Finally, I would like to thank my Board for their steadfast support, commitment and constructive challenge through the year to me and to the executive. In particular, I would like to thank our longest-standing Board member – Patrick Bligh-Cheesman – who stepped down early in 2017 at the end of his maximum term. He made an outstanding contribution to CILEx Regulation over a number of years, including a spell as interim Chair in 2015, and he will be missed by all of us.

I was privileged to attend and speak at the annual CILEx Graduation ceremony in Milton Keynes in October 2016. It was an optimistic, heart-warming occasion that reflected everything CILEx represents in terms of access, diversity and opportunity. I look forward to driving our shared agenda forward in 2017 with the aim of ensuring that CILEx lawyers take their rightful future place at the heart of the legal services sector.



Sam Younger CBE



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Our approach to regulation

Since we started regulating the CILEx community in 2008 we have aspired to treat the people and businesses in our regulated community fairly and proportionately without imposing chapter and verse on them about how they go about delivering legal services. We prefer our community to operate with a sense of flexibility when they practise the law and we complement that by ensuring we have the most appropriate standards and safeguards in place, not only for them but importantly for the people and businesses they come into contact with.

So how do we know if we are getting it right?

There are only so many surveys we can run and people we can speak to. We look at other professional service sectors to see what we can learn from them, weighing up the impact of any changes to our policies and procedures. We talk to and work with other legal services regulators, seeing where we might collaborate to bring about change which makes a real difference. Always in the forefront of our mind and plans are consumers.

How can what we do make a difference to consumers?

The pace of change seems to be accelerating all the time, and not always in a straight line. Government and regulatory initiatives come and go. The market does its utmost to meet reforms head on. As one of several legal services regulators, our focus remains firmly on delivering activities under the strategic wing of our Board and watchful eye of our oversight regulator that contribute to the market's success in protecting and serving those consumers. The consumer is central to our thinking.

Authorising and supervising individuals

This was our first full year of assessing applications from individuals seeking authorisation for practice rights in conveyancing, litigation and probate. These additional rights offer exciting opportunities to those wishing to practise independently without supervision. The prospect of being able to set up, run and own legal businesses is appealing, not only to those who have already qualified but also to those who are starting their CILEx journey.



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After its first three years in operation, we reviewed the requirements of our work-based learning scheme where a number of the 27 learning outcomes each required three pieces of evidence to be submitted for assessment by us. Following a formal proposal from the executive, the Board approved changes to reduce from three pieces of evidence to two per learning outcome. Our Rule change application was submitted and approved by our oversight regulator, the Legal Services Board (LSB) in November and changes were implemented.

We worked closely with CILEx to assist them in developing guidance and support for their members resulting in a number of new webinars and social media communications being made available. We refreshed our online work-based learning Handbook, giving it the 'plain English' treatment and received lots of encouraging feedback from many end-users, particularly for the real examples we published showing how to demonstrate that a learning outcome has been met.

Website traffic to our online work-based learning resource area averaged at 5,000 visitors per month and we saw a significant improvement in the quality of the applications being submitted to us for assessment. At the end of the year we began a review of the authorisation process and have committed to move to online portfolio submission.

Our continuing professional development (CPD) scheme entered its third year. This saw Graduate members move to an outcomes-based model requiring them to plan activities to help them to achieve a number of learning outcomes related to the knowledge and skills they need to remain competent and confident. As the new scheme bedded in for Fellows, the number of non-compliers continued to fall compared to the first year.

Authorising and supervising businesses

We continued to develop regulation of law firms in year two of what is a new venture for us as a regulator of entities. We identified a number of barriers which in our view, hampered progress in being able to offer a viable, cost-effective alternative to other more established regulators.

Access to lender panels for conveyancing businesses was slow to secure and issues surrounding run-off insurance for businesses wanting to switch regulators continue as recurring themes. Having flagged these issues with the LSB and through the Regulators' Forum, we saw a positive move later in the year with the SRA consulting on changes to its run-off insurance requirements. We began to see a trend in CILEx Fellows wanting to set up their own litigation practices.



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Our Strategic Risk Committee continued to oversee our risk work which saw us develop the support we provide to our members and entities. We launched a dedicated area on our website with guidance covering a wide range of risks that a firm or individual may face. Our entities now receive regular risk alerts to ensure they are kept up to date on best practice and legislative changes that may affect them.

We provided our first annual return as an Anti-Money Laundering (AML) supervisor and play an active role in the AML Legal Sector affinity group.

Partly triggered by the government's focus on the possibility of regulators becoming fully independent of the professional representative bodies, we commenced a detailed review of our client protection arrangements, in particular those relating to compensation. Our current model relies partly on financial backing from CILEx the professional body in the form of a loan facility. Having sought advice from a number of specialists, our Board approved proposals to consult on an alternative model which will be largely insurance backed, and sustainable if regulatory separation happens. Our primary focus is to ensure that the level of consumer protection remains appropriate and accessible under the alternative model.

We also continued to develop our plans to become a licensing authority in order to regulate alternative business structures (ABS).

Enforcement

We took the opportunity to review the guidance to our disciplinary panels on the imposition of sanctions and made improvements to drafting and some additions. The new guidance was adopted by our Board in May. We delivered training to our enforcement committees on these changes as well as bringing them up to date with new case law.

We participated in a cross regulator Disciplinary Tribunal working group alongside the Bar Standards Board (BSB) and Solicitors Regulation Authority (SRA) which resulted in the following work streams:

- ensuring memoranda of understanding (MoUs) and operational protocols are in place and operating effectively for the sharing of relevant disciplinary information;
- scoping existing levels of delegation for internal decision making at the end of the investigation stage, with a view to achieving greater consistency where appropriate; and
- scoping existing publication requirements/powers in relation to disciplinary investigations/findings, with a view to achieving greater consistency where appropriate.

We will continue to contribute to this collaborative work in 2017.



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In order to emphasise the importance of our Code of Conduct for individuals joining CILEx as members for the first time, we improved reference to regulation being part and parcel of membership on the relevant registration and renewal forms. Raising awareness of regulation at this early stage will ensure that those individuals particularly working in consumer-facing roles, are clear about their obligations to comply with the Code and that it applies to them upon becoming a member of CILEx and not just when they qualify as a Chartered Legal Executive.

How we govern ourselves

Following a review by our Board of corporate policies and its own rules, known as standing orders, we introduced new policies for anti-bribery and whistleblowing. Our standing orders were improved to allow us to introduce briefing teleconferences in between face to face Board meetings, as well as introducing an urgent decision-making protocol. Our Board agreed to increase transparency by publishing its agendas and papers. Our travel and subsistence expenses policy was reviewed and a number of changes approved by the Board following stakeholder consultation, to help us control costs better across all our committees.

Using technology to improve how we work

At the end of the year we moved to an Office 365 cloud based platform. This includes a range of collaborative tools, such as SharePoint and allows us to share documents electronically with our Board and other external stakeholders. This has enabled our Board to work paper free. We are looking to introduce this more efficient way of working to other committees and working groups. Not only does this save us time and print costs, it reduces our carbon footprint and enables us to publish more timely information.

All our teams are reviewing their paper-based processes and we have a number of development projects in the pipeline for 2017 to move to online processes which we expect to deliver similar positive results.

Our consumer focus

The LSB initiated a CEO led forum in the autumn of 2015. Having taken the lead on one of three collaborative work-streams focusing on consumer engagement and research, through a number of exploratory discussions with other regulators we narrowed down our research focus to client care letters and what good practice looks like.



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We received invaluable support from the Legal Services Consumer Panel (LSCP) in commissioning and co-funding with other legal services regulators, external expert research. This enabled us to publish eight key principles for client care letters as follows:

Make it Easy

1. Show a clear purpose
2. Keep it concise
3. Put it in Plain English
4. Prioritise information

Make it Attractive

5. Personalise information
6. Highlight key information
7. Make it easy to read

Make it Timely

8. Consider additional opportunities to engage

We have committed to ensuring our regulated businesses and those who are self-employed are aware of these principles and to monitoring this as closely as possible.

The LSCP delivered training to our staff and Board members on consumer principles, with a particular focus on consumer vulnerability. We have been busy embedding the learning into our working practices as well as our Consumer Strategy. There is a clear direction of travel that we need to work more closely with our regulated community to help improve the level of information available to consumers at the point at which they need it.

The very informative Open Data report and recommendations published by the LSCP in February looked at opening up data in legal services and set out a direction of travel. The report made us think about our online practitioner directory and how we could make it more consumer- friendly. This led to us initiating an IT development project to enhance our practitioner directory.

External drivers

The year started with us meeting the vast majority of Chairs and Chief Executives of the other legal services regulators as well as senior officials in government. It was helpful to share insights into the changes we were starting to see, particularly the rise of the litigant in person and self-lawyering. The impact of changes to public funding are still to be fully realised, and a number of educational changes are on the cards across the sector which will see more flexible routes open up for the legal profession.



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A number of political developments have been bubbling away in the background, in particular the government's proposed consultation on regulatory separation. We are already a separate limited company, with the Chartered Institute of Legal Executives (the professional body), in corporate terms being our parent body.

At our Board's strategy planning day in December 2015, we openly discussed options for the future regulatory landscape with senior figures from CILEx and how we might gear ourselves for what may follow. Both organisations gave a commitment to work together in their approach to bring about greater separation, which, ultimately is to deliver greater public and consumer confidence.

Our sponsor department, the Ministry of Justice, appointed Liz Truss MP as the new Lord Chancellor in July. Prison and court reform and judicial diversity were at the top of her agenda. Into the mix came Brexit and the rather substantial work required by government departments to deliver it.

The LSB published a vision for legislative reform of the regulatory framework for legal services in England and Wales in September. This included the LSB's view on how the future of reserved legal activities should be determined. All the regulatory Chairs met with the LSB in November to explore these themes further.

This coincided with the work of the CMA to deliver its legal services market study recommendations. We were pleased to contribute to the thinking behind the recommendations on transparency of price and service information by legal service providers at a series of roundtable discussions.

Measures of success

We submitted a self-assessment of regulatory performance to the LSB in October 2015 ahead of the LSB's 2015/16 regulatory standards assessment cycle. For the first time we invited an independent scrutineer to assess our performance as part of the self-assessment phase. Our scrutineer made a number of helpful suggestions about the balance of our activities and how we might shift the focus in some areas to become increasingly consumer facing.

The LSB's assessment matched our own in four out of the five standards (outcomes focussed regulation, risk assessment, supervision, enforcement, capacity and capability). This gave a pleasing reinforcement of our confidence in our strengths and our awareness of where we have room for improvement.

We responded with an action plan drawing together areas which require further development or improvement. Our action plan was approved by the LSB and we are working to deliver the actions required to either improve our regulatory performance or continue to meet the standards required.



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Managing our performance

Having historically reported very detailed operational performance to every meeting, the Board asked us to develop new corporate performance indicators which could be monitored quarterly. Detailed analysis was undertaken across all business functions to develop indicators which would be both meaningful and measurable across a number of functional areas as well as for corporate areas of:

- finance;
- people;
- customer service;
- business development;
- policy and profile; and
- communications.

The Board approved the new corporate indicators at its December meeting and our new reporting will commence from quarter one 2017.

Having submitted our self-assessment of regulatory performance to our oversight regulator, the LSB, pleasingly our enforcement function received the highest level of achievement compared to our peers. We are working to deliver against an Action Plan to either improve our regulatory performance or continue to meet the standards required.

Financial performance

The CILEx Regulation Board decided that 2016 would be a year to consolidate and build on the things we have been doing well, sharpening our pencil on costs and focusing on the areas which are relatively new to us and still need refining as they bed in.

Following the introduction of a number of operational improvements to our financial management and control systems, we delivered significant improvements against our 2015 outturn. Although we incurred a slower-than-expected start to practice rights and entity regulation, our income of £1,233,857 is £244,803 better than 2015. This is due, in part, to the increase in the agreed regulatory proportion of the Practising Certificate Fee (PCF) income. Our direct expenditure of £344,248 is £135,769 better than 2015, with the majority of activities achieving a lower spend. We recognised that we were spending a sizeable proportion of our budget on policy and governance activity, and so we have worked hard to drive down these costs, achieving £104,326 reduced spend, as well as introducing more streamlined and efficient processes to deliver these services.



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Our total overheads of £968,563 are £55,384 better than 2015. This is mainly due to a slight reduction in staff costs and an increase in administration costs, which is largely due to restructuring.

As part of our annual PCF setting exercise, which is the fee that is charged to authorised persons for regulatory costs, other regulatory activity known as permitted purposes and levies for the oversight regulatory framework, we have been undertaking further work to determine the true cost of regulation.

At present, we are supported under a number of service level agreements by CILEx Group Services for HR, Finance, IT, Marketing and Communications, Facilities and Procurement. In order to better reflect the cost of these shared services, we are including a Group re-charge in our 2017 budget. Further work will continue in 2017 to undertake unit and activity costing so that we can more accurately determine the true cost of regulation.

Looking ahead, our Chair and Board asked us to find 8% savings from the 2017 draft budget, which we delivered in our final budget. We expect to see improvements in our income lines arising from our authorisation schemes. Costs will continue to be closely monitored and improved upon through a continued review of our operational processes and arrangements.

Our 2016 Annual Accounts can be viewed on our website [here](#).

Being transparent about the cost of regulation

Alongside the other legal services regulators, we were asked by the LSB to participate in a costs transparency exercise. As a result of this we have committed to increased transparency of regulatory cost and will in future publish annual statements of regulatory costs.



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Our people

At the start of the year, all staff collaborated in a number of workshops to develop what we believe to be our corporate values. The outcome from that exercise is shown below and is threaded through our work plans.

Our Core Values
Promote our independence and responsibility to protect and empower the public
Provide robust, proportional and impartial regulation
Champion consumers' views and needs
Pioneer innovation, drive leadership and develop growth
Maintain the highest levels of integrity, ethics and professional standards
Engage fairly and transparently with consumers
Challenge all that we do, exercise best practice and strive for continuous improvement
Encourage and value diversity, inclusivity and respect for all



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Staff turnover for the year was higher than average, largely due to a number of small restructurings to realign our functions with our future activity. We introduced a more formal and regular structure for middle management meetings and increased the frequency of our all staff meetings to improve awareness of Board activity and operational performance. Our new structure enabled us to bring in new expertise in corporate performance and management accounting as well as a third senior role for authorisation and supervision.

The company continued to invest in corporate and individual learning plans for its staff to include training on vulnerable consumers, customer service and data protection. A number of staff are funded by us to study CILEx qualifications.

We commissioned an external agency to carry out a number of staff focus groups at the end of the year to provide feedback on what staff think of the company. We were particularly pleased to be viewed as a friendly place to work, with a strong team ethos and supportive colleagues. Our next step will be to consult with staff on an action plan that asks how we can maintain and improve upon this position.



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What's in store?

The commitment and team spirit of our staff and Board has enabled us to adapt and respond favourably to a challenging 12 months. We have reflected on the proportionality of our approach and the balance that needs to be struck to meet the regulatory objectives through effective and proportionate regulation.

We plan to engage more with our regulated community and improve the way in which we communicate with them and other stakeholders. Reflecting on the CMA report and recommendations, we will be engaging with our peers to deliver a programme of work to bring about improvements and change to the way in which consumers access and use legal services.

Operationally, there will be a push towards enhancing our use of technology to achieve business efficiencies and improve end-user experience. A number of exciting concepts will come to fruition during the next financial year and we look forward to building on the progress made this year.



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