

CONSULTATION ON PROPOSAL TO BECOME A LICENSING AUTHORITY FOR ALTERNATIVE BUSINESS STRUCTURES (ABS)

1. CILEx Regulation is the independent regulator of specialist lawyers and was established as a regulatory body by The Chartered Institute of Legal Executives (CILEx), an approved regulator under the Legal Services Act 2007 (the Act). CILEx Regulation is making an application for CILEx to become a Licensing Authority and seeks your views on its proposals.
2. CILEx Regulation awards practice rights, by specialism, in all the reserved and regulated areas and already regulates legal practices, referred to as entities.
3. CILEx Regulation takes an outcomes focused approach to regulation. The Code of Conduct comprises nine Principles, supported by Outcomes, which form the basis of regulation. Practice rights are awarded where practitioners demonstrate their competence in the knowledge, skills and experience outcomes for the specialist practice area. CILEx Regulation authorises and supervises entities through assessing the risks to delivery of the Principles and Outcomes in the Code of Conduct. CILEx Regulation proposes to apply the same regulatory approach to Licensed Body applicants, as it does to non-Licensed Bodies.
4. The consultation is open until **18 March 2016**.

INTRODUCTION

1. CILEx Regulation awards practice rights and regulates entities whose owners and managers comprise authorised persons. CILEx Regulation seeks to regulate entities whose owners and managers comprise lawyers and non-lawyers. These entities are referred to as Licensed Bodies and are also known as alternative business structures (ABS).
2. The Act enables regulators to become Licensing Authorities and to regulate Licensed Bodies. The application to become a Licensing Authority will be made to the Legal Services Board (LSB) under the Act.

THE MARKET

3. The Act sought to introduce innovative methods for the delivery of legal services with the objective of improving consumer choice, access to justice and promoting competition in the provision of services. The approach to regulation and ability to license bodies has delivered these objectives.
4. It enabled legal services to be delivered through new business structures, with the benefit of external investment; non-lawyer owners and managers; the expansion of businesses to include the provision of legal services; and floated companies. CILEx Regulation receives enquiries regularly from organisations seeking to be licensed by it as a Licensed Body.
5. CILEx Regulation seeks to extend its regulatory services to respond to a positive demand from applicants seeking to become licensed. The present position in which CILEx Regulation finds itself limits growth, consumer choice and innovative delivery of legal services.

THE REGULATORY MODEL

6. CILEx Regulation takes an outcomes focused approach to regulation. Its Code of Conduct comprises nine Principles supported by Outcomes. The Principles set out the required standards of conduct expected of the regulated community.

7. CILEx Regulation awards practice rights in the reserved and regulated legal activities by specialism. Applicants must demonstrate their competence in their specialist area of practice. There is a competence framework for each reserved and regulated area which sets out the knowledge, skills and experience that applicants must demonstrate.
8. This specialist approach to authorisation also features in the authorisation of entities. Entities are authorised for the specialist area in which their approved managers are authorised. There must be at least one approved manager for each practice area. In determining the authorisation of an entity and carrying out its supervision CILEx Regulation takes a risk based approach, assessing the risks to the delivery of the Principles and Outcomes in the Code of Conduct.

THE REGULATORY OBJECTIVES AND BETTER REGULATION PRINCIPLES

9. CILEx Regulation believes that its application for CILEx to become a Licensing Authority supports the Regulatory Objectives under the Act and Better Regulation Principles.
10. CILEx Regulation protects and promotes the public interest through its independent regulatory approach which enables the public to maintain confidence in its regulated community. It is directly responsible for all regulatory activity and that same independence and objectivity in approach to regulation will apply to Licensed Bodies.
11. The availability of Licensed Bodies authorised by specialism improves access to justice, increasing the public's access to advice about their understanding of their legal rights and duties. Consumers will be able to seek legal advice from new forms of business that have been authorised for areas in which the managers are competent.
12. New regulatory models will facilitate growth in the legal services market; enable entities to expand through introducing external capital and individuals into management and ownership structures, with skills necessary to support good business practice and functions. These opportunities also enable new technological developments to be embraced for the benefit of legal consumers.
13. The ability for a legal practice to become a Licensed Body will enable it to gain access to funds to develop new innovative channels for delivering legal services and therefore improving access to justice and provision of services. The demographic of the community

regulated by CILEx Regulation includes a high proportion of females, ethnic minorities and those from less advantaged socio-economic backgrounds, potentially increasing the market for consumers who may seek legal advice from those closer to their own demographic.

14. CILEx Regulation also believes that the introduction of new Licensed Bodies will promote competition in the provision of services as it will enable new providers to enter the market, leading to consumer benefits such as provision of clearer information about legal services, improved access to service and wider choice.
15. CILEx Regulation has in place client protection arrangements for entities which protect and promote the interests of consumers and the public. The arrangements comprise a professional indemnity insurance scheme, compensation fund and complaints handling procedures. The same level of protection will therefore be available to bodies licensed by CILEx Regulation.
16. CILEx Regulation encourages an independent, strong, diverse and effective legal profession. Its approach to regulation and its Code of Conduct ensures those it regulates are independent and free from influence from any source, therefore ensuring clients receive appropriate service and advice. The competence based approach to authorisation ensures that Licensed Bodies comprise individuals with the appropriate knowledge to advise and represent clients.
17. CILEx Regulation supports the Better Regulation Objectives. Its risk based and outcomes focused approach to regulation enables it to take a proportionate approach that is targeted at risk. Accountability and consistency is achieved through the governance arrangements, oversight of decisions and policies and guidance to decision makers. All decisions made by CILEx Regulation include reasons and, where appropriate, are published, delivering transparency.

CONSULTATION QUESTIONS

Question 1

Do you agree that CILEx Regulation make an application for CILEx to become a Licensing Authority?

Yes/No

Question 2

Do you agree that CILEx Regulation will continue to deliver the Regulatory Objectives and Better Regulation Principles by CILEx becoming a Licensing Authority?

Yes/No

HOW TO RESPOND

Please send your response to this consultation to CILEx Regulation through one of the following methods:

- By email to consultations@cilexregulation.org.uk. Mark it for the attention of Baljeet Basra.
- By post to CILEx Regulation Ltd, Kempston Manor, Kempston, Bedford MK42 7AB.
- By DX to CILEx Regulation, DX 124780 Kempston 2.

SUBMISSION DEADLINE

The deadline for the submission of responses is **18 March**

2016.