

Sent by email only to Callum.Armstrong@legalservicesboard.org.uk

21 November 2017



Dear Callum

CILEx Regulation Licensing Authority Application consultation.

The Legal Services Consumer Panel (Panel) welcomes the opportunity to comment on CILEx Regulation's application to become a licensing authority for Alternative Business Structures (ABS). The Panel supports the application and has made some specific comments below to strengthen the proposals.

Meeting demand

CILEx Regulation has made a convincing case for the role ABS can play in promoting and enhancing diversity and innovation. It has also demonstrated, through its own research, an appetite amongst its regulated community for establishing and using ABS's to deliver legal services. We agree that ABS entities can be a vehicle for widening access, diversity and efficient services.

Risks associated with ABS

The Panel welcomes the requirement for authorised entities, such as ABS's, to have in place Professional Indemnity Insurance and to pay into the Compensation Fund. This would ensure that consumers obtain the same level of protection as they would if they were using a CILEx regulated member.

We also welcome CILEx Regulation's updated risk framework. We support the recommendation to add two additional criteria; the importance of the regulator understanding the ownership of the business and the danger of undue influence. The consultation raised concerns that external funding might lead to undue influence, money laundering and might fail to protect the consumer interest. We acknowledge these concerns, but support CILEx Regulation proposal to encourage external funded and investment, as long as consumers have the necessary protection in place while using ABS licensed bodies.

Complaints handling

We agree that licensed bodies should comply with the Competition and Markets Authority's (CMA) requirements for the provision of information to consumers on complaints handling.

The Panel is supportive of the proposal to gather information about trends in conduct and service matters from licensed bodies. This has the potential to inform CILEx Regulation's risk register, good practice guides, and ultimately improve practitioners' service to consumers. The Panel believes that CILEx Regulation should go one step further and publish complaints data in a contextualised and meaningful way. The publication of complaints data has the potential to improve market transparency and to aid consumers in making informed decisions. In our Open Data report,¹ the Panel also noted that information publically provided can be used by consumer representatives and other stakeholders who may be in a better position to interpret or refine the data for wider use. For example, complaints data has been used by consumer groups to create league tables to help consumers make better informed decisions.

Promoting the regulatory objectives

With regards to promoting competition as a regulatory objective, we note the findings of the CMA's market study that competition is not working well for consumers in the legal services market. Thus, the Panel would emphasise the importance of implementing the CMA's recommendations around the provision of information on price and quality . The Panel firmly believes that price transparency and information on quality is necessary to improve competition that delivers good consumer outcomes.

Please contact Lau Ciocan for further queries at lau.ciocan@legalservicesconsumerpanel.org.uk.

Yours sincerely

Dr Jane Martin
Chair

¹ Opening up data in legal services, Legal Services Consumer Panel, 2016.