

Sent by email only to approvedregulator@cilex.org.uk

6 November 2023

Dear Sir/Madam,

The Legal Services Consumer Panel (Panel) welcomes the opportunity to respond to the CILEX consultation on Enhancing Consumer Trust and Confidence.

We have grouped our response in the manner CILEX has laid out in the consultation.

Reflections on the Consultation Questions

Section 1

The Panel has no objections to the changes CILEX proposes to make to its Governance and Constitution. We agree that it has the potential to enhance its effectiveness.

Section 2

The Panel notes that there is a high risk that consumers may not comprehend the change in titles or comprehend what the various permutations mean. Therefore, consumer research and insight around branding should inform this change. There should also be a communication plan, as well as monitoring and evaluation to ensure that the changes deliver the desired outcomes.

Section 3

The Panel has no objection in principle to the re-delegation of regulatory responsibility to another regulator, if this delivers effective regulation for the benefit of consumers, the public and the profession. The Panel has had productive meetings with key and affected stakeholders on this matter, specifically, CILEX, CILEX Regulation and the Solicitors Regulation Authority. The finer details of how this might happen, including the evidence threshold required, are matters for the Legal Services Board (LSB). Should CILEX proposals lead to a rule change application to the LSB, the Panel will have a further opportunity to feed into the process in accordance with our statutory responsibility.

The Panel wants to note that it unequivocally agrees with the outcomes that CILEX is seeking to achieve with re-delegation.

The Panel considers that consolidation of regulators may be a good thing, if it is designed to achieve the pulling together of knowledge, lessons, consumer research and engagement. Much of this could be achieved within the existing framework

through effective collaboration between regulators, without formally merging the regulators, but the Panel has been disappointed by the quality and depth of collaboration that has been achieved to date. We agree that regulators should operate at sufficient scale to deliver efficient and effective regulation. The Panel itself has raised numerous concerns about the thinness of resources of some of the smaller regulators and the difficulties this poses for delivering basic regulatory functions and in particular for commissioning consumer research.

Modern regulators must be ready to address, strategise and react to new challenges which require agility and adequate resources. Regulators with limited resources will increasingly struggle to meet these demands, and in turn struggle to respond to consumers' needs. Nevertheless, proposals for merging regulators must take care to ensure that the smaller professional communities are not ignored in favour of the larger ones. We have not seen evidence of how this risk would be mitigated.

The Panel also agrees that the current regulatory framework is overly complex, requiring a level of knowledge that is unrealistic for consumers to have or comprehend, even after it has been explained to them. Consolidation of regulators could well deliver better consumer understanding.

While the Panel agrees with the outcomes described above, and with the scale of the challenges that consumers currently face when navigating this fragmented and complex sector, we are not in a position to decide whether we can support these proposals because the evidence threshold and analysis to help us make an informed decision has not been met.

CILEX have assured us that considerable evidence sits behind the consultation document, and that this evidence has been independently verified by Chris Kenny's review of the case for change, which is published alongside the consultation document. Nevertheless, we believe the evidence that sits behind Chris Kenny's assessment should be set out on the face of the consultation document, or published alongside the document, so that stakeholders can assess and interrogate it for themselves. From what we have seen to date, Mr Kenny's review addressed the process to date but did not assess any evidence of the consumer impact, indeed he has suggested that there was a need for specific research into the consumer impact. If this research has been done, it is extraordinary that it has not been put into the public domain so that it can be effectively scrutinized.

The Panel notes and welcomes the consumer research and engagement that we are told CILEX is conducting. We note that CILEX plans to host a consumer roundtable and a consumer engagement event. We fully support these activities, but we must emphasise that the findings from these activities, along with in-depth consumer research about perceived problems with the existing framework and what could improve their experience ought to have been compiled and analyzed ahead of the consultation. Such evidence would have helped us to arrive at a clear conclusion.

A seismic shift in regulatory arrangements warrants a detailed and thorough summation of all the available evidence. There are considerable gaps around how the proposed changes will benefit consumers, including the costs of this significant change which will no doubt be passed on to consumers. The Panel also notes that there needs to be a detailed risk assessment and equality impact assessment

included in the consultation document as well as a clear plan for monitoring and evaluation.

Before we can decide whether to support this proposal, we will need to see the evidence that CILEX assures us is being gathered. We look forward to further engagement and dialogue on this important issue.

Should you have any questions pertaining to this response, please contact Lola Bello, Consumer Panel Manager (lola.bello@legalservicesconsumerpanel.org.uk)

Yours sincerely,

A handwritten signature in black ink, appearing to read 'S Chambers', written in a cursive style.

Sarah Chambers
Chair
Legal Services Consumer Panel.