

Ministry of Justice
Dispute Resolution in England and Wales: Call for Evidence
<mailto:disputeresolution.enquiries.evidence@justice.gov.uk>

28th October 2021

To whom it may concern,

RE: Dispute Resolution in England and Wales: Call for Evidence

As the professional body for aspiring and practising Chartered Legal Executive lawyers across England and Wales, the Chartered Institute of Legal Executives (CILEX) would like to take this opportunity to respond to the Ministry of Justice's call for evidence on '*Dispute Resolution in England and Wales*', launched 3rd August 2021.

It is without a doubt that the events of the last 18 months have created access to justice deficits across the country as the impacts of COVID-19 see court backlogs exacerbated, and delays are witnessed across all three jurisdictions in finding legal resolutions. CILEX therefore recognises the potential of alternative dispute resolution in ensuring that there is more than one way in which those in need may access the justice that they deserve. For many, the courts will still have a primary role to play within this process, and we welcome recognition of this in your commitment to ensure that they "*always remain as an option open to everyone.*"¹

However, there is much that can be improved upon, and learnt, from the court experience. With delays and case backlogs symptomatic of underfunding and under-resourcing in the justice system, it is imperative that any new dispute resolution mechanisms are properly resourced to function sustainably. This includes both maintaining a supply of qualified legal professionals to support and implement these processes², and also seeking user input in interrogating new systems, platforms and portals to ensure that they deliver the intended objectives of widening access and delivering on justice outcomes.

For example, developments such as the Whiplash Reform Portal (referenced within the call for evidence) may have paved the way for early resolution in some cases, but anecdotal evidence illustrates to CILEX that there are still issues of visibility for consumers in raising awareness of the portal, issues of access where dispute resolution platforms are digital in nature, and notably, issues of complexity for claimants attempting to navigate the system. With 74% of road traffic accident claims to the Official Injury Claims portal having been processed by law firms,³ the ongoing need for new processes to be supported by, and supportive of, the legal profession remains clear.

In and amongst this lies the practical need for new processes to integrate with in-house case management software and remain accessible to all service providers irrespective of size with

¹ Ministry of Justice, "*Dispute Resolution in England and Wales: Call for Evidence*," (2021) Introduction, p.6.

² It may be useful to note that existing regulatory Codes of Conduct and training for CILEX practitioners already consider alternative dispute resolution mechanisms and promote awareness of these tools in best supporting client needs.

³ Accessible here: <https://www.officialinjuryclaim.org.uk/media/1222/oic-data-publication-document-211021-final.pdf>



proportionate investment. Crucially, ongoing discourse with practitioners as part of transitional efforts will no doubt be commonplace in making these solutions workable. As noted in the previous example for instance, less than 1% of claims submitted to the Official Injury Claims portal have settled since the launch of the service, making it clear that dispute resolution mechanisms take time to embed and need ongoing dialogue and input from end users to get right.

Indeed, we welcome the government's commitment to securing justice, and its focus on dispute resolution in bolstering the channels available to resolving legal disputes, offering alternative options for parties seeking redress and opportunities for matters to be settled outside of court-based litigation. However, we reiterate that these aims shall not be achievable all at once; rather they will require proper exploration of how best to develop alternative pathways, effectively stimulate and finance growth, and ensure that any new models supplement, complement, and add to the existing dispute resolution models available to consumers.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Simon Garrod', with a stylized flourish at the end.

Simon Garrod
Director of Policy & Governance
Chartered Institute of Legal Executives