



**The Legal Services Board
Consultation: Draft Business Plan
2022/23**

A response by
The Chartered Institute of Legal Executives (CILEX)

4th February 2022

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0. Introduction

- 0.1. The Chartered Institute of Legal Executives (CILEX) is the professional association and governing body for Chartered Legal Executive lawyers (also known as 'CILEX Lawyers'), other legal practitioners and paralegals. As the Approved Regulator under the Legal Services Act 2007, CILEX delegates these regulatory powers to the independent regulator CILEX Regulation Ltd.
- 0.2. CILEX welcomes the opportunity to comment on the Legal Services Board's (LSB) for the Draft Business Plan 2022/23 and is gratified that much of its content aligns with CILEX's strategic priorities.

1. Question 1 – Do you agree with our proposed workstreams for the 2022/23 business plan?

- 1.1. CILEX supports the LSB's general pattern of continual work towards the strategic aims set out within the '[Reshaping Legal Services](#)' strategy. Through the five new workstreams identified in the LSB's Draft Business Plan 2022/23¹, CILEX acknowledges the LSB's further realisation of the "needs of consumers, society and the legal services sector"². Continued focus on the unregulated sector, technology and innovation, diversity, and inclusion as well as analysis of case studies involving vulnerable individuals accessing legal services, further indicates support for the consumer whilst supporting a diverse and technologically forward-thinking legal sector.
- 1.2. However, whilst CILEX appreciates the LSB's focus on continual as well as five new workstreams, we emphasise the real potential from the previous year's strategy, which looked towards aligning efforts across the sector to address fragmentation and disjointed anomalous restrictions with service provision. As a legal professional body, legal education provider and awarding body, CILEX is confident that we can contribute to these strategic themes and hope that we can add our perspective on balancing sensitivity to any associated time and costs factors against subsequent impacts on the sustainability of a market that the LSB acknowledges has had much to contend with in recent times.
- 1.3. Whilst CILEX may have complementary or nuanced views on the timing of some of these objectives against the backdrop of the current challenging climate in the legal services market, we are broadly in agreement with the ambitious workstreams identified by the LSB for their 2022/23 Business Plan. As outlined above, a number of these core objectives, particularly those focused on diversity and inclusion, technology and regulatory reform, are issues of key interest to CILEX and we hope to engage constructively with the LSB about all of the proposed workstreams.
- 1.4. CILEX is glad to see that the workstream 'Rule of law and regulation', newly added by the LSB's Draft Business Plan 2022/23, will see outside contributors involved in defining the role of legal services regulation in protecting the rule of law³. External input will be vital because, as the LSB is aware, judgments about constitutional principles are not something it is appropriate for any single non-parliamentary body to make. This workstream also aligns to a key priority of CILEX, particularly around the need to ensure legal professionals meet the high ethical standards that society expects of them⁴ (key content designed into the CILEX Professional Qualification [CPQ]).

¹ Para 14 of [Consultation Paper on LSB's Draft Business Plan 2022/23](#)

² Para 15 of [Consultation Paper on LSB's Draft Business Plan 2022/23](#)

³ Para 14 of [Consultation Paper on LSB's Draft Business Plan 2022/23](#)

⁴ Ibid

2. Question 2 – Are there any areas missing from our proposed business plan 2022/23 that you believe should be included?

- 2.1. Our 2021/22 response indicated a further requirement regarding the LSB’s focus on ‘simple legal products’. We stated that it would be helpful to better understand which specific areas of legal service provision would be considered for developing these types of products; how ownership and/or licensing of the products/badge would operate; and, whether these products would be envisaged in line with the need for greater innovation in the sector and therefore the growth of ‘legal tech’ solutions.
- 2.2. CILEX appreciates that the focus of the LSB’s Draft Business Plan 2022/23 predominantly focuses on an equal approach towards consumer, societal and legal sector needs. However, we still have interest in further understanding the proposal for simple legal products and hope that the LSB explores this topic in either future business drafts or their 2022/23 proposed research.
- 2.3. In our 2021/22 response, CILEX noted that to cultivate market liberalisation, an overhaul of the regulatory framework to an activity-based model would be key to overcoming any outstanding barriers of entry, whilst simultaneously providing parameters that can be trusted for the consumer and assurance for tech providers as to the parameters within which they should operate.

3. Question 3 – Do you agree with our view that 2022/23 is not the right time to undertake a statutory review of the reserved legal activities?

- 3.1. CILEX very much agrees with the LSB that the undertaking of a statutory review of the reserved legal activities is ‘worthwhile’⁵.
- 3.2. Whilst we appreciate that the LSB wishes to focus its immediate resources on where it can have the most impact and therefore is not intending to undertake its statutory review of the reserved legal activities during the lifetime of this draft business plan⁶, CILEX encourages some consideration of how ‘activity-based regulation’ could be included as an appropriate workstream on the basis that we believe this has the potential to unlock a variety of regulatory improvements for the consumer in future.
- 3.3. In addition, the LSB’s Draft Business Plan 2021/22 recognised the impacts of COVID-19 as being a catalyst for the transformation of legal service provision and regulation. However, COVID-19 is not the only impetus for change, ‘legal tech’ and the failure of current reserved legal activities regulation⁷ are all important reasons to review reserved legal activities.
- 3.4. It remains CILEX’s view that increasingly outdated statutory definitions of reserved legal activity risk trailing behind developments in the legal market. This compromises the sector’s ability to ensure adequate consumer protection, whilst also reducing unmet legal needs by promoting healthy competition.
- 3.5. With the inclusion of five new workstreams in the new plan, CILEX is surprised such a review is not included due to it being seen as *“a significant undertaking, demanding stakeholder attention and considerable LSB resource”*⁸.

⁵ Ibid

⁶ Para 17 of [Consultation Paper on LSB’s Draft Business Plan 2022/23](#)

⁷ As noted within Professor Stephen Mayson’s report, [‘Reforming Legal Services: Regulation beyond the echo chambers’](#) – for example within Sections 3.4, 3.10, 4.1

⁸ Para 17 of [Consultation Paper on LSB’s Draft Business Plan 2022/23](#)

- 3.6. It is our view that the reserved legal activities, and their relevance to the landscape of legal service provision, should, ideally, be examined in the shorter term, if possible.
- 3.7. However, CILEX does acknowledge that some wider factors, such as the ongoing pandemic and, as the LSB identifies⁹, the hardening professional indemnity insurance market, could be seen as more pressing existential threats to the legal community.
- 3.8. Notwithstanding the above, CILEX reiterates its desire to see a statutory review of reserved legal activities, even if initially this is a smaller adjunct to an existing workstream, to get momentum building on this important subject.

4. Question 4 – Do you have any views on developments in litigation funding?

- 4.1. CILEX does not hold any views on developments within litigation funding. However, CILEX agrees that work surrounding consumer protection in this area is essential¹⁰.

5. Question 5 – Do you have any comments on our proposed market intelligence work? Is there anything missing that you think we should focus on?

- 5.1. CILEX welcomes the LSB's continued focus on utilising Public Panels within their intelligence work. CILEX understands the benefit of such resources in providing real evidence when investigating vulnerable legal service users as well as the impact of technology.
- 5.2. However, consumer-led insight does not always predict consumer behaviour on a larger scale – for example, increased availability of information about the pricing of legal services has not resulted in more people 'shopping around' for legal services¹¹. CILEX, therefore, cautions the LSB against excessive reliance on market intelligence derived from consumers or consumer interest groups.
- 5.3. CILEX also notes that the LSB's Draft Business Plan 2022/23 is to focus upon the "*needs of consumers, society and the legal services sector*". Neutrality needs to be carried through the LSB's work, ensuring that *both* consumers and a regulator's community are equally recognised within future workstreams.
- 5.4. Bearing in mind the above, CILEX is pleased to the LSB's Draft Business Plan 2022/23 include proposals to supplement consumer views with other types of market intelligence, such as data and bespoke research¹².

6. Question 6 – Do you agree with our proposed budget for 2022/23?

- 6.1. CILEX understands that the 2022/23 budget sits at 11% (£543,000) under the budget of 2015/16 and that the overall rise from the 2021/22 budget of £4,098,000 is 4.6% (£189,000), mainly driven by inflation.
- 6.2. If, as the consultation document states¹³, this would add £1 onto practising certificate fees, then this budget uplift would be acceptable to CILEX.

⁹ Para 17 of [Consultation Paper on LSB's Draft Business Plan 2022/23](#)

¹⁰ Para 18 of [Consultation Paper on LSB's Draft Business Plan 2022/23](#)

¹¹ LSB/CMA recommendations from 2016 saw an increase in legal service providers displaying pricing information. However, this only correlated to an increase of 3% from 2017–2020/21 in consumers shopping around, indicating that more information did not alter consumer behaviour. See Para 20 of the LSB's '[Empowering Consumers](#)' consultation from Dec 2021.

¹² Para 19 of [Consultation Paper on LSB's Draft Business Plan 2022/23](#)

¹³ Para 22 of [Consultation Paper on LSB's Draft Business Plan 2022/23](#)

6.3. Despite being a modest rise to practising certificate fees, it does come a time of economic uncertainty for many practitioners, caused by increasing inflation and the ongoing pandemic. So, CILEX would call for further explanation of the increased areas of spending to reassure the market about the increase both now and in relation to future increases (i.e. that ambition is complemented by realistic husbandry of resources against the acknowledged reality of the difficulties everyone in the sector is likely to be working with for some time).

7. Question 7 – Do you have any comments regarding equality issues which, in your view/ experience, may arise from our proposed business plan for 2022/23?

7.1. CILEX does not have any comments concerning any equality issues caused by the proposed business plan for 2022/23.

8. Question 8 – Are there any wider equality issues and interventions that you wish to make us aware of?

8.1. CILEX does not have any comments on any wider equality issues.

Further details

Should you require any further information, please contact:

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