



**Family Procedure Rules: new draft  
25.5A, changes to 25.2 ad practice  
directions 25B and 25C**

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

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## Introduction

- 0.1. CILEX would like to take the opportunity to respond to the Family Procedure Rule Committee's consultation to the new draft rules. CILEX represents a substantial number of legal professionals across private and public family law who specialise in children matters. As part of this response, CILEX surveyed members working in family and local authority law.
- 0.2. The Chartered Institute of Legal Executives (CILEX) is the professional association and governing body for Chartered Legal Executive lawyers (commonly known as 'CILEX Lawyers'), other legal practitioners and paralegals. Under the Legal Services Act 2007, CILEX acts as the Approved Regulator (AR) and delegates these regulatory powers to the independent regulator, CILEx Regulation Ltd (CRL).
- 0.3. CILEX represents over 17,500 members of which 77% of the membership are female, 17% of members are from an ethnic minority background, 4% are LGBTQA+ and 6.2% have a disability. Additionally, in terms of social mobility, 64% of CILEX members attended a state-run or state-funded school and 49% have an undergraduate university degree. 15% of members come from households which received free school meals.

### **1. Question 1: Are there any experts not accounted for in the current draft of the amendments who you feel should be considered? If yes, why do you think they should be considered?**

- 1.1. CILEX believes that overall, most experts have been accounted for in the current draft of amendments. CILEX acknowledges that there may be instances where new experts are required that do not necessarily 'fit' within the drafted amendments, but CILEX believes this will be extremely exceptional in circumstances and can be managed on a case-by-case basis by the Judiciary.

### **2. Question 2: Do you have any feedback on Rule 25.5A and the amendments to PD's relating to the standard of experts, as currently drafted?**

- 2.1. CILEX supports the overall proposal of using regulated experts only (with exceptions) following the case of *Re C*<sup>1</sup>. CILEX understands the importance of being able to rely upon expert evidence, and verify the source of expert information, particularly in cases such as parental alienation and domestic abuse. CILEX welcomes the Family Procedure Rule Committee's efforts to clarify this area of law.
- 2.2. Firstly, CILEX asked members how easy they believe it is to know whether an expert is regulated or not. Members noted it was 'extremely difficult' without subsequent research, which can create an additional expense to the client. Therefore, a majority of CILEX members were 'unsure' as to whether they have instructed an unregulated expert previously. CILEX welcomes the proposals of clarifying the

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<sup>1</sup> *Re C ('Parental Alienation'; Instruction of Expert) [2023] EWHC 345 Fam.*

regulations in the expert's curriculum vitae at the point of enquiry to resolve this ambiguity.

- 2.3. CILEX members noted that the drafting and definition of 'regulated expert' as identified in Rule 25.5A is clear and easy to understand. 90% of members believed that Rule 25.5A as drafted could be applied with ease, even in particularly complex cases. CILEX furthermore agrees with the proposed Practice Directions (PD) amendments, and believes that the changes are clear and easy to understand.
- 2.4. CILEX agrees with the proposed exceptions to using a regulated expert and the method in which an exception should be applied for. Several members felt neutral in how easily they could prove the need for an unregulated expert, with 20% of members noting that 'it depends on the complexity of the case'. CILEX believes that where there is uncertainty, direction from the Judiciary should be provided based on the available evidence. CILEX does not believe that this will occur often enough to create an administrative burden on the Family Courts.
- 2.5. CILEX asked members further questions in relation to the cost and workload associated with the proposed additions/amendments. CILEX members felt neutral in respect of costs and time spent for the client, noting that the initial enquiries would not change substantially. In reference to workload, CILEX members stipulated that whilst their workload may increase at first, once the right experts have been identified, it should even out.

### **3. Question 3: Are there any other comments you would wish to make regarding the instruction of unregulated experts?**

- 3.1. CILEX does not wish to raise any other comments at this stage.

### **4. Conclusion**

- 4.1. CILEX welcomes the work of the Family Procedure Rule Committee in protecting the interests of all parties to children's proceedings, by mandating the use of regulated experts. CILEX looks forward to the anticipated proposals to financial remedy and other family proceedings as outlined in the consultation.