

Robert Morris
Interim CEO
CILEX Regulation Limited
BY EMAIL ONLY



21 July 2023

Dear Robert,

Review of Delegated Regulation – Consideration of the CRL Response to the CILEX Case for Change

I am writing to you formally to thank you for CRLs response to the CILEX Case for Change and to notify you of the outcome of our consideration of your submission.

The CILEX Regulatory Compliance Board, further to CILEX's Approved Regulator role, met on 13 July 2023, to consider whether the submission received from CRL provides sufficient assurance that the 'Case for Change for Considering a Revised Model of Delegated Regulation' ("the Criteria") can be met within the existing delegation or whether there is an ongoing need to explore alternative delegation.

The outcome of their assessment was a recommendation to the CILEX Board that the response did not provide sufficient assurance on the basis of the following conclusions:

1. CRL provided insufficient evidence to address the regulatory objective criteria and no evidence to address the Charter and Governance requirements criteria.
2. The CRL submission with regard to the Case for Change criteria lacks:
 - I. Sufficient evidence to underpin the assumptions and assertions stated including demonstration of impact (or reference to how impact will be measured);
 - II. Financial modelling and data to demonstrate the time period, level of investment and uptake volumes needed for the proposed initiatives (in particular 'law firm in a box and 'insurance backed compensation scheme') to achieve the intended outcome and therefore materially impact on the Case for Change criteria;
 - III. Solutions to improve consumer awareness, understanding and comparison of choice of authorised persons beyond continuation of the current provision of information and participation in the consumer choices website;
 - IV. Guarantee of alternative arrangements to replace the current temporary compensation fund underwritten by CILEX or any proposals to offer equivalent levels of protection and indemnity to that available when the same legal services are delivered by other legal professionals;
 - V. Recognition of the importance of and public assurance gained from consistency of approach, standardisation of processes, level and scope of consumer protection and compensation and its impact on providing increased public trust and confidence in favour instead of a discreet and bespoke approach to regulating CILEX members;
 - VI. Specificity in respect of the proposal to redistribute the balance of activities between CRL and CILEX and the financial or service standard implications of doing so;
 - VII. Proposed changes or initiatives designed to increase understanding amongst the public, profession and employers as to the role, responsibilities and credibility of CRL and therefore ensuring equal treatment for authorised persons regardless of which regulator provides authorisation;
 - VIII. Solutions to remaining barriers identified by CRL-regulated entities adversely affecting competition and consumer choice;
 - IX. Clarity as to how the introduction of a Head of Public Affairs will positively impact on the lack of employer, stakeholder and public recognition of CILEX Lawyers and entities and address the discrimination arising as result and over what time period impact would be achieved;

- X. Recognition that there is no provision within the legislative framework or CRL Articles to enable CRL to charge non-authorised CILEX members for the cost of regulation.
3. The response relies heavily on the existing CRL model having been assessed as adequate through the LSB Performance Review process and an associated assumption that this is sufficient to satisfy CILEX as to the ongoing suitability of the delegation to meet the Case for Change. However, this stance fails to demonstrate an appreciation of the need and opportunity for regulation to evolve to respond to consumer (and consumer body) feedback in respect of the need for enhanced and standardised levels of consumer protection and compensation, reduced complexity and mechanisms that further support consumer understanding and choice beyond what has been achieved through legal choices and existing materials to meet the LSB performance review standards.
 4. No consideration is given in the response to the ability to respond to increasing demands and pressure on regulators (e.g. the new financial crime regulatory objective, EDI, social mobility and access to justice initiatives, increased transparency, data collection and reporting obligations etc) in the context of sustainability and reach.
 5. The submission focuses on increasing choice and competition through increasing the number of entities providing legal services without having explored interventions targeted at increasing the choice of legal professional.
 6. The submission contained inaccurate financial references and failed to recognise the level of subsidy previously (in financing the establishment of entity and ABS regulation and settling CRLs deficit budgets), and currently provided by CILEX by way of the £700k regulatory reserve funded from CILEX's non-regulatory revenue streams, the benefit of economy-of-scale discounts achieved through shared services with CILEX (e.g. IT system procurement and licensing costs, equipment, insurance, training and shared personnel costs), reduced permitted purposes PCF claims due to offset of other CILEX revenue, absorption of inflationary increases and the provision of under-writing for Compensation Fund. The submission offered no financial strategy or business case demonstrating how the stated ambition of 'financial independence' from CILEX would be achieved or the basis for confidence in the short, medium and long term sustainability of CRL's model without financial support from CILEX.

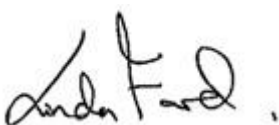
The Regulatory Compliance Board considered these issues to be fundamental and therefore concluded that the CRL submission failed to provide sufficient assurance that the Case for Change can be met within the existing delegation.

The CILEX board, at its meeting on 19 July 2023, having considered the CRL documents together with the Regulatory Compliance Board assessment agreed with this conclusion, and resolved that it should therefore consider a response from the SRA to the Case for Change, using the same process and criteria as applied to the CRL submission.

A copy of the SRA response received by the CILEX Board has been shared with you on a confidential basis in accordance with the agreed Undertakings and associated action plan.

I will be in touch next week to confirm the outcome of the Board's consideration of the SRA response and next steps with regard to consultation.

Yours sincerely,



Linda Ford
CILEX Chief Executive Officer