



CILEx proposals to the new Government 2015-2020

800 years after Magna Carta, the justice system in England and Wales faces imposing challenges. How do we ensure legal support is sufficiently available for all who need it? How can we protect and guarantee people's rights when there are those who seek to undermine them? How are we to retain the best aspects of our system in the face of economic and social pressures? How can we sustainably support a competitive legal market that has a workforce with the right skills?

The new Government has a role in answering these challenges, and CILEx believes Government should implement the following proposals:

Operation of the Courts

- Maintain the public function of the courts and desist in privatising court functions.

Human Rights

- Regardless of the General Election outcome, and any subsequent changes to Human Rights law; the Human Rights of all UK residents should be fully enforceable within both domestic and international structures, and the actions of public bodies must be fully accountable and consistent with the rule of law.

Availability of Legal Advice

- Develop a strategy for the delivery of free legal advice to support charitable organisations offering such services and avoid the creation of advice deserts, based on the recommendations of the Low Commission.

Access to Justice

- The Government should confirm it will not increase the small claims limit for personal injury claims, following its earlier admission that to do so may have an adverse effect on genuine victims.
- The Government must ensure that genuine and viable funding options remain open to each individual Claimant for genuine personal injury claims. There should be no expectation on all individuals to have 'before the event' (BTE) insurance should it not be appropriate or affordable for them.
- Review the changes to funding for civil litigation following the Jackson reforms.

Judicial Review

- Ensure the permission stage of judicial review applications are funded, and cost restrictions on oral permission hearings are lifted.
- Review of Part 4 of the Criminal Justice and Court Bill, in particular clause 64 (which requires the court to dismiss an application where it considers the conduct complained of would be highly likely not to have resulted in a substantially different outcome for the applicant). CILEx is not persuaded that there needs to be any change to the way in which the court currently exercises its discretion to consider, at both the permission and the remedy stage, whether a procedural flaw in decision making would have made any substantive difference to the outcome.

Legal Services Regulation

- In 2017, a decade after the Legal Services Act 2007, review the legal regulatory landscape, including proposals for a single legal regulator, and the system of reserved, regulated and unregulated legal activities to ensure parity between the professions and fair competition.
- If, following robust consultation, a single regulator is created it must include specialists from all regulated communities, and some consideration should be given to the new body being based outside of London.
- Include Chartered Legal Executive pursuant to the EU Directive 98/5/EC to allow a Chartered Legal Executive lawyer who is qualified in England and Wales to practice on a permanent basis under their own title in another EU member state.
- Amend s3 of the Powers of Attorney Act 1971 to enable Chartered Legal Executives to certify copies of EPA/LPA.



Support judges and courts in working with litigants in person

- Ensure consumers and litigants in person are protected from unauthorised, unregulated, and uninsured 'fee paying' McKenzie Friends representing them in court.

Enable more people to undertake vocational and apprenticeship learning

- The Legal Education and Training Review (LETR) highlighted a need for a quarter of a million jobs in the legal sector by 2020. CILEx believes many of these will be paralegal roles. In order to maintain the UK's competitive position in the global law market, ensuring paralegals have access to professional education is essential.
- Funding for apprenticeships in England is non-existent for over 24s. The age restriction on the availability of 50% apprenticeship funding should be lifted and available to employers of all adult apprentices.
- Further development of apprenticeships, particularly at levels 2 and 4 to complement the Level 3 apprenticeship already on offer.
- Ensure any changes to funding for apprenticeship or vocational learning acknowledge the challenges faced by small businesses, with particular consideration to the burden on PAYE and administrative systems.
- As legal services apprenticeships develop, ensure they all lead to nationally recognised qualifications, and do not culminate in a variety of assessment outcomes which lead to reduced credibility of assessment and what it means in relation to learner recognition.
- Apprenticeships should include appropriate interim recognition to facilitate transferability between apprenticeship outcomes, and optimise the use of the qualification.
- Funding for all qualifications should be linked to regulatory requirements, and Government should encourage closer working between the Skills Funding Agency (SFA) and the Office of Qualifications and Examinations Regulation (OFQUAL).

Surveillance

- Ensure a robust national debate ahead of the expiry of the DRIP Act in 2016, and guarantee any replacement legislation is not rushed through.
- In future, any use of data gathered for intelligence purposes should be subject to robust judicial oversight to protect the rights of citizens to lead lives without intrusive oversight from Government.

Legal Aid

- Conduct an immediate review of changes to civil and family legal aid under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 and a wholesale review of the impact of changes to criminal legal aid.
- The public believe they can no longer seek legal aid in areas where it remains available, leading to unmet need. Government must educate the public on what legal aid is still available to ensure vulnerable people who are able to access it know they can.
- Amend the threshold for exceptional funding under s10 of LASPO to ensure vulnerable people have sufficient access to legal support. Just 4% of requests for exceptional funding have been granted; the majority of these for inquests. The threshold needs to be lowered, so that the test to satisfy to obtain exceptional funding should not be unduly restrictive, and funding reintroduced for completing the application forms.

Judicial Diversity

- Open all judicial posts to lawyers regardless of professional title; ensuring appointment is on merit only.
- Judicial Appointments Commission should adopt 'blind CV' best practice, including not revealing which educational establishment the candidate attended when short listing.

Introduction to CILEx

The Chartered Institute of Legal Executives (CILEx) is the professional association representing over 20,000 Chartered Legal Executives, paralegals and legal professionals.

For further details

Richard Doughty
Public Affairs Officer
rdoughty@cilex.org.uk
01234 845710