



## **Enhancing Consumer Trust & Confidence**

**Consultation on reforms to our  
governance, membership structure  
& regulatory delegation.**

### **SUMMARY OF RESPONSES**

January 2024

## **INTRODUCTION**

Our consultation, 'Enhancing Consumer Trust and Confidence', was published for a 12-week period from 14 August 2023 to 5 November 2023.

The purpose of the consultation was to seek views on proposed reforms to our governance, membership structure and regulatory delegation.

The consultation consisted of three sections covering:

- Changes to widen participation in the Institute's governance through:
  - Extending voting rights and professional board representation for all member grades; and
  - Expanding the eligible pool for appointment as CILEX President to include all Chartered members.
- A revised membership structure providing career ladders for three distinct professional groups:
  - Legal Technologists;
  - Paralegals – to include a new status of Chartered Paralegal for those with over five years' experience; and
  - Lawyers – to include a new suite of Chartered Lawyer titles.
- A change in delegation of the regulation of CILEX professionals, specifically the public interest benefits that could be achieved from a transfer of delegation to the Solicitors Regulation Authority (SRA).

A total of 1,211 individuals contributed responses through a combination of an online questionnaire, in-person roadshows, webinars, employer roundtables and stakeholder meetings. (See below for a detailed breakdown.)

At its meeting on 15 November 2023, the CILEX Regulatory Compliance Board reviewed response rates, the mix of members and stakeholders who responded/participated and the outcome data, and was satisfied that all possible efforts to attract maximum engagement had been made.

At its meeting on 29 November 2023, the CILEX Board considered the consultation outcomes and impact assessments and, based on the responses received, determined revisions to some aspects of its proposals along with impact measures and areas where additional detail was required.

## **THE CONSULTATION PROCESS**

The consultation document and questionnaire were published on the CILEX website, launched via a press release and direct communication to the regulated community and CILEX membership. We promoted engagement through email, social media posts, our member e-newsletter and journal throughout the consultation period.

We issued a press release and promoted the consultation on social media, in the member newsletter and via direct email.

We held 18 events, consisting of in-person member roadshows in eight locations across England and Wales and online webinars.

We hosted eight employer and two independently facilitated consumer roundtables. We met with key stakeholders and invited organisational responses by email.

Respondents were invited to submit their responses online via the questionnaire or by email.

## **EXECUTIVE SUMMARY – KEY OUTCOMES**

Overall, the consultation outcomes support the reforms proposed by CILEX. The level of support varied by respondent group, with consumers and employer organisations most strongly in support of the proposals.

The strength of support from the CILEX regulated community was very high (82-90%) in respect of the proposed extension of voting rights and governance reforms, a strong 67% in respect of the proposals related to Chartered titles, and an encouraging range from 60-78% in respect of the proposals regarding our model of delegated regulation, with all questions achieving at least a 60% positive response.

Supportive stakeholder responses were received from ACCA on behalf of its members regulated by CILEX, Professor Stephen Mayson and the Legal Services Consumer Panel. The panel supported the public interest outcomes sought by CILEX and identified areas where it wanted to see further work with regard to measuring outcomes and assessing cost, benefit and impact.

Responses from CILEX Regulation, the Bar Council and Law Society contained some misunderstanding of both the status quo and future proposals, which we will use to inform our future communications and the publication of additional material to address any confusion.

### **Proposals to reform CILEX's governance and constitution**

All groups that responded to this part of the consultation were supportive with response rates as follows:

- 82% of respondents supported the extension of voting rights and eligibility for professional board appointment to apply to all CILEX member grades; and
- 90% supported the eligible pool from which the CILEX President is appointed to include both Chartered Lawyer and Chartered Paralegal members.

### **Proposals to revise membership structure and introduce Chartered Paralegal status**

The proposal to establish a distinct career pathway and Chartered status for paralegals was universally supported by providers of legal services and the paralegal community. Two-thirds (67%) of CILEX member respondents also supported the proposal.

All stakeholder groups highlighted the importance of being able to distinguish between those delivering legal services who are regulated and qualified and those who are not.

It was, however, evident from both individual responses from legal professionals and some stakeholders, that a lack of awareness exists regarding the significant body (12,000) of existing CILEX paralegal members who hold legal qualifications (including law degrees and apprenticeships), who have been assessed against national competency standards and are already subject to independent regulation including conduct and practice standards and a requirement to undertake CPD. Those who did appreciate this welcomed the addition of a publicly facing register to allow employers and consumers to identify those who hold this professional status.

### **Proposals to revise the Chartered titles awarded to CILEX Lawyers on qualification**

Consumer research, together with the feedback from those who participated in the two consumer roundtable events, highlighted the ongoing need for greater public education about Chartered Legal Executives.

Consumers were unanimous in their view that the current 'Chartered Legal Executive' title is ineffective in supporting consumers to correctly identify and understand the role and authorised nature of CILEX Lawyers and the fact they have followed a specialist education route to qualification.

Consumers therefore strongly supported proposals to introduce 'Chartered Lawyer' titles including reference to their specialism, reporting that it would assist them in correctly identifying CILEX professionals as fully qualified lawyers who have a practising certificate in a particular area of law and have specialised in that field during their qualification.

CILEX professionals also supported the change, with 67% agreeing that the inclusion of their specialism in the title and more explicit reference to their status as 'Chartered Lawyers' better reflects their equal status as fully qualified lawyers authorised to practise alongside solicitors and barristers in their specialist area of law.

Other branches of the legal profession, as represented by the Bar Council and Law Society, were less supportive, articulating concerns that the ability to distinguish between solicitors, barristers and CILEX Lawyers would be diminished resulting in confusion. Responses from these stakeholders demonstrated a lack of awareness of the current titles in use (including CILEX Lawyer and CILEX Litigator and Advocate) and the impact of previous changes to the CILEX qualification and granting of additional rights that now enable CILEX Lawyers (Chartered Legal Executives with independent practice rights) to practise alongside solicitors and barristers with equal status.

All respondents agreed effective communication of any new titles will be essential to avoid market confusion.

## **Proposals to delegate regulation of CILEX professionals to the SRA**

### Consumers

The consumers who took part in the roundtables were concerned to learn that separate regulatory regimes currently exist for CILEX professionals and other branches of the legal profession (in particular solicitors), despite both professions undertaking the same legal work and practising in the same workplace environments. All consumer participants expressed support for the changes proposed, specifically:

- A unified regulatory body overseeing both solicitors and Chartered Legal Executives, ensuring consistent conduct, practice standards and complaints processes;
- Uniform consumer protection across legal professionals delivering the same services, with consistency instilling greater confidence in the choice of legal professional; and
- An online register facilitating the comparison of legal professionals based on scope of authorisation and enabling searches for solicitors and CILEX lawyers in one place would enhance consumer choice and improve transparency of options available when seeking legal services.

### Employers

Employers also expressed strong support for the proposals, with all employer respondents agreeing that increasing the independence of our regulatory model through delegation to a body that is structurally, financially and operationally independent of CILEX will enhance public trust and confidence in regulation;

They also agreed unanimously that regulation of CILEX members and entities by the SRA will provide opportunity to:

- deliver a consistency of approach and therefore an increased confidence amongst consumers, that CILEX Lawyers and solicitors delivering the same services are required to operate to the same high standards of conduct and practice;
- establish a consistency of approach and therefore increased confidence amongst consumers, that firms – whether solicitor-led or CILEX Lawyer-led – that deliver the same services are required to operate to the same high standards; and
- deliver enhanced consumer protection through consistent levels of professional indemnity insurance (PII), Compensation Fund scope and transparency obligations.

82% of employers agreed that the proposed re-delegation to the SRA would help establish and maintain consumer confidence that lawyers, regardless of whether via the CILEX route or the solicitor route, enter the profession through robust processes and are required to meet and maintain high standards of competence.

71% agreed that, through SRA publication of the Register of Authorised Persons for both solicitors and CILEX Lawyers, there is opportunity to explain the equivalence and distinction of these two professions, therefore assisting consumers to better understand and compare the choice of lawyer able to service their legal need.

### Regulated community

Encouragingly, 70% of respondents agreed that the SRA's publication of the register of both CILEX Lawyers and solicitors provides opportunity to explain the equivalence and distinction of these two professions.

68% of respondents agreed that increasing the independence of our regulatory model through delegation to a body that is structurally, financially and operationally independent from CILEX will enhance public trust and confidence in regulation.

67% agreed that regulation by the SRA provides opportunity to:

- establish and maintain consumer confidence that lawyers, regardless of whether via the CILEX route or the solicitor route, enter the profession through robust processes and are required to meet and maintain high standards of competence;
- deliver a consistency of approach and therefore an increased confidence amongst consumers, that CILEX Lawyers and solicitors delivering the same services are required to operate to the same high standards of conduct and practice. This increased to 68% in respect of firms;
- improve consumer protection through standardised levels of PII cover, compensation fund scope and transparency obligations across CILEX, ACCA and solicitor-led entities.

## **FULL ANALYSIS OF RESPONSES TO THE CONSULTATION**

Overall, the consultation generated 1,211 contributions (representing approx. 7% of the CILEX regulated community).

This breaks down into 581 individuals who responded via the online questionnaire, 378 who participated in webinars, 99 who attended an in-person consultation event and a further 114 who engaged via paralegal roadshows & online events.

In addition, 39 employer organisations participated in roundtable discussion sessions and seven stakeholders provided written responses (Appendix 2 & 3).

Two roundtables with 14 participants were facilitated by an independent agency to obtain feedback from consumers, together with interviews with agencies who represent consumer perspectives including those from vulnerable groups. A further 2,237 members of the public participated in a poll conducted by IPSOS<sup>1</sup>.

Written responses were received from seven stakeholders:

- ACCA
- Professor Stephen Mayson
- Legal Services Consumer Panel
- Bar Council
- Law Society
- CILEX Regulation Limited
- Bloomsbury Institute, an accredited training provider,

### **Section 1 – Widening participation**

In this part of the consultation, we consulted on proposed reforms to our constitution as specified in our Charter and byelaws to widen participation in the Institute's governance, specifically:

- the extension of voting rights & eligibility for appointment to the Professional Board to all grades of CILEX member
- that the CILEX President be appointed from an eligible pool comprising of Chartered members.

#### Member responses

The response to Section 1 was overwhelmingly positive, with 82% of respondents supporting the extension of voting rights and enabling of representation from all member grades to sit on the Professional Board.

90% of respondents supported widening the eligible pool for appointment as President to include Chartered Paralegals as well as Chartered Lawyers.

<sup>1</sup> IPSOS surveyed a nationally representative quota sample of 2,237 adults in the UK aged 18-75 using its omnibus survey between 8-11th December 2023. The survey data has been weighted to the known national population proportions of this audience for age within gender, government office region, working status, ethnicity and social grade.

Of those who did not support the changes, comments related to concerns that it could devalue the status of CILEX Fellows, aggravating the misconception that Chartered Legal Executives are unqualified or part-qualified and therefore the same as paralegals. Some respondents had not understood that all CILEX members, including paralegals, are already regulated under the current structure and have been assessed against competency and ethical standards in order to achieve CILEX paralegal membership, incorrectly referring to them as unqualified and unregulated.

A small minority of respondents suggested that students and those in non-Fellow member grades lack sufficient experience and insight to meaningfully cast a vote or contribute to the Institute's governance effectively.

### Other stakeholders

Employers, consumers and other stakeholders did not express views on this part of the consultation considering that these elements of the proposals did not directly impact them.

### CILEX response to consultation feedback

Given the positive response, CILEX has not identified any amendments required to its proposals in Section 1.

Based on some of the comments captured, however, CILEX will, as part of implementation, consider what additional support and induction it can provide to those appointed to a role in the CILEX governance structure so that they diligently and competently discharge their roles and responsibilities. CILEX will also keep under review the competencies for the role of President and the ability of paralegal members to fulfill the criteria and requirements of the role, together with an analysis of trends following each appointment process.

In reflecting on the lack of awareness and understanding exhibited in the consultation responses with regard to CILEX Paralegals, CILEX will, as part of its proposals considered in Section 2 below, reflect on how it can increase appreciation of the high standards of its paralegals' competence and conduct and the mechanisms in place to assess and uphold those standards.

## **Section 2 – Membership framework & Chartered titles**

We sought feedback on proposed changes to our membership structure and the professional titles associated with each grade. Specifically:

- To establish distinct progression pathways for CILEX Lawyers, CILEX Paralegals and CILEX Legal Technologists;
- Grant Chartered Paralegal status for those who are assessed as having at least five years' experience and who meet the competency and conduct standards;
- Publication of a Register of CILEX Paralegals allowing both providers and consumers of legal services to identify those paralegals who are qualified and regulated;
- Revise Chartered titles awarded to CILEX Lawyers on qualification to include practice specialism.

### Member responses

70% agreed that the new membership structure provides a simpler, clearer framework to Chartered status and 71% believe that establishing a career ladder and framework for paralegals will enhance public trust and confidence.

The 114 individuals who attended the paralegal roadshows were unanimously supportive; many reported that the proposals would enable them to fulfill their career ambitions as paralegals rather than feeling their only progression option was to seek qualification as a lawyer. Respondents who used the online questionnaire said the same.

Comments from those who were not supportive displayed a misunderstanding that CILEX Paralegals are unqualified and unregulated, with many failing to appreciate that all current CILEX Paralegals are qualified to at least Level 3 and have validated professional experience. These respondents had also often not

understood that CILEX paralegals are currently and will continue to be regulated under any revised model of delegation.

Amongst the small number of CILEX Fellows who did not support 'Chartered Paralegal', the main objection was a fear it would 'water down' the status of existing Chartered Legal Executives, especially those without practice rights who are sometimes mis-characterised as paralegals by ill-informed employers or other branches of the legal profession.

In response to the proposal to introduce a new set of Chartered Lawyer titles, 69% of respondents agreed that they would assist legal professionals, employers and the public to better understand the status and specialist nature of CILEX lawyers.

Of those who did not agree, the comments suggest this is linked to confusion around practice rights, eligibility to use 'CILEX Lawyer' title under the current structure, and an incorrect assumption that either Chartered Legal Executive is being removed or that CILEX is creating a two-tier profession – those who have practice rights and those who don't.

During the roadshows and webinars, once it was explained that these two groups already exist, with practice rights having been available since 2014, views changed, with concern shifting to barriers to additional practice rights – a matter within the delegated jurisdiction of the regulator and therefore outside of the scope of this consultation.

In response to the question seeking to capture the specialisms in which our lawyer members work, Fellows identified the following non-reserved practice specialisms in addition to those reserved areas in which practice rights are held:

In-house	Commercial	Contract	Public
Court of Protection	Employment	Data Protection	Intellectual Property
Personal Injury	Banking & Finance	Trust	Regulatory
Mediation	Local Government	Mental Health	Medical
Coronial	Aviation	Construction	Shipping
Environmental	Planning		

Members expressed a keen desire to refer to their specialism in their title and to retain their FCILEX postnominals.

Discussions at the roadshows reiterated the views expressed in the 2022 member survey that the majority of existing Fellows do not use their Chartered Legal Executive title within the workplace. The majority welcomed titles that made it clearer to their employers and to other branches of the legal profession their equal status as fully qualified and authorised lawyers.

### Stakeholder responses

Both the Bar Council and Professor Stephen Mayson highlighted the importance and benefit of retaining 'CILEX' within the title to allow identification and distinction of CILEX-qualified lawyers from other types of lawyers and to maintain their professional identity.

The Bar Council and Legal Services Consumer Panel both stressed the importance of keeping titles as simple as possible and the need for effective communications and messaging to ensure understanding of the range of titles and specialisms. These views are mirrored in some of the responses received from individual professionals.

A consistent theme across the majority of stakeholder responses was the need to protect against aggravating confusion and to maintain the distinct identity of each branch of the legal profession.

Most stakeholders had not appreciated the number and variation of titles currently in place under the existing model, with showed a lack of understanding of the difference between Chartered Legal Executives who work under supervision in reserved areas, those who work in unreserved areas and don't require supervision and those CILEX Lawyers with practice rights (including CILEX Litigators and Advocates) who can practice fully independently with the same authorisation as a solicitor in their specified area of law.

## Employer Responses

Employers were overwhelmingly supportive of the Section 2 proposals. Participants in the employer roundtables recognised the value they could add to their recruitment and retention strategies, and the additional layer of assurance to clients as to the competence and regulated status of the paralegals handling their work.

Employers also welcomed the inclusion of a Legal Technologist member grade to allow professional status for the growing numbers of people working in their tech and innovation teams.

As with professional body stakeholders, some employers were confused about the professional titles currently used by CILEX members. Employers welcomed a simpler and streamlined title structure that would provide greater clarity on the authorised status and qualified specialism of CILEX Lawyers.

Most employers agreed use of Chartered in the title (for both lawyers and paralegals) was helpful, given consumer feedback as to its importance in providing confidence as to the credibility of those delivering legal services.

## Consumer perspective

Consumers lack familiarity with Chartered Legal Executives, with the majority (85%) of participants encountering the job role for the first time during the focus groups. Only 12% of those interviewed declared any understanding of the role and nature of Chartered Legal Executives.

When asked for views on the title 'Chartered Legal Executive', consumers had mixed reactions. A small minority mistakenly perceived 'Legal Executive' to be a senior role, whilst the majority said the title suggested a junior position, akin to a legal secretary or paralegal. None correctly identified the role as that of a 'fully qualified specialist lawyer authorised to conduct the same legal activities as a solicitor in a specified area of law'.

When shown the proposed new 'Chartered Lawyer' titles, consumers consistently considered them to be clearer about the fully qualified lawyer status and specialist nature of their training. In particular, consumers emphasised the importance of integrating the individual specialisation into the job title as it is a crucial detail to enable them to identify the relevant Chartered Legal Executive for their specific legal need.

However, consumers found that having 'CILEX' in the proposed job titles introduced a layer of confusion, as the acronym is not well-known to them. Some mistakenly interpreted it as the name of a law firm. Focus group participants suggested adding 'CILEX' at the end of the job title within brackets, signalling that it represents a qualification similar to other professional designations would be preferable to embedding it within the title itself.

Consumers consistently agreed that the term 'Chartered' carries positive connotations, associated with the holding of a professional qualification and should therefore be retained in the title.

## CILEX response to consultation feedback

CILEX has reflected on the case for retaining CILEX within the title structure. Preserving the CILEX identity is clearly important to both the CILEX profession itself and to the wider legal community. However, it is equally important that it does not confuse consumers or undermine the effectiveness of the title.

Given the importance placed on referring to specialism while not having too many title constructs, CILEX has revised its proposals to focus on a title framework based on the six reserved areas in which specialist practice rights are granted. For those working in unreserved areas, a single title will apply with guidance on inclusion of unreserved specialisms in brackets.

The revised proposed titles are as follows:

<b>Contentious</b>	<b>Non-contentious</b>	<b>Unreserved</b>
CILEX Chartered Litigator & Advocate	CILEX Chartered Property Lawyer	CILEX Chartered Lawyer (In-house / Commercial / Public, etc)
CILEX Chartered Litigator & Advocate	CILEX Chartered Probate Lawyer	
CILEX Chartered Litigator & Advocate	CILEX Chartered Immigration Lawyer	



## Section 3 – Change in regulatory delegation

### What we consulted on

A change in delegation from CILEX Regulation Limited to the SRA delivering the following public interest outcomes:

For consumers:

- Improved ability to access and understand information on the choice of lawyer authorised to provide legal services and access details of both CILEX lawyers and solicitors through a searchable register that allows comparison based on area of law;
- Increased trust and confidence through:
  - Clarity of equivalence in level of qualification and therefore comparable ability of CILEX Lawyers and solicitors to deliver the same service by practice specialism; and
  - Consistency of standards of conduct and practice applied to both CILEX Lawyers and solicitors;
- Standardised consumer protection and redress regardless of which professional (CILEX Lawyer or solicitor) or regulated provider (SRA licensed body, recognised body, sole practice or CILEX entity) delivers the service;
- Simplified navigation of complaint handling where a case involves a CILEX professional working in a solicitors' firm, by removing the need to engage with two separate regulators' investigation and enforcement processes and the resulting confusion and delays; and
- Increased access to justice through choice of either solicitor-led or CILEX Lawyer-led firm regulated by same regulator and to same standard.

For CILEX members:

- Improved recognition amongst consumers and providers of legal services that CILEX lawyers have parity with solicitors to practice independently in their specialist area of authorisation;
- Increased brand profile for Chartered Legal Executives as Chartered Lawyers, resulting in improved consumer and employer understanding of status and ability to offer specialist legal services;
- Increased recognition and enhanced career development for paralegals as a distinct professional group within the Institute, with the opportunity to obtain Chartered status;
- Equality of voting rights and opportunity to participate in CILEX governance for all CILEX members regardless of membership grade; and
- Ability to establish their own entity with the same access to lender panels, insurance, referral contracts, regulatory quality mark and compensation fund as existing SRA-regulated firms.

For providers of legal services:

- Removing duplication, confusion and regulatory overlap from having two different regulators with jurisdiction over employees in SRA firms through:
  - Aligned standards of conduct and practice for CILEX Lawyers and solicitors; and
  - Standardised processes relating to authorisation, CPD, complaint handling, enforcement and consumer protection for all those working in regulated firms;
- Clarity on the equal status and scope of authorisation to practice of CILEX Lawyers and solicitors;
- Entitlement to the same recognition and access to market opportunities regardless of whether a solicitor-led or CILEX Lawyer-led business; and
- Ability to support career progression and retention of paralegals through professional development and recognition as Chartered professionals and the resulting commercial benefits.

The proposals commit to retain the following elements in any revised regulatory model:

- The distinct identity of CILEX-qualified Lawyers, Paralegals and CILEX-led entities;
- Separate CILEX route into law supporting social mobility and improving diversity;
- The specialist nature of the CILEX qualification and scope of authorisation based on practice specialism;
- The requirement for CILEX membership to be eligible to use the Chartered title;
- The existing rights of CILEX members:
  - Fellows' authorised status as Chartered Legal Executives, and eligibility for a practising certificate and specialist practice rights;
  - Membership of CILEX and associated right to use post-nominals; and
  - Career opportunities arising from the CILEX qualification, including eligibility for judicial appointment, ability to establish their own firm or become a partner in an existing firm.

#### Responses from members of the regulated community

All questions received a positive majority response, with respondents agreeing that a change of delegation to the SRA has the ability to achieve improved public interest outcomes as identified in the consultation document and supporting 'Case for Change' material.

68% of respondents agreed that increasing the independence of our regulatory model through delegation to a body that is structurally, financially and operationally independent from CILEX will enhance public trust and confidence in regulation.

67% agreed that regulation by the SRA provides opportunity to establish and maintain consumer confidence that lawyers, regardless of whether through the CILEX route or the solicitor route, enter the profession through robust processes and are required to meet and maintain high standards of competence.

67% also agreed that regulation by the SRA provides opportunity to deliver a consistency of approach and therefore an increased confidence amongst consumers, that CILEX Lawyers and solicitors delivering the same services are required to operate to the same high standards of conduct and practice. This increased to 68% in respect of firms.

In considering consumer protection, 67% of respondents recognised the opportunity to standardise levels of PII cover, Compensation Fund scope and transparency obligations across CILEX, ACCA and solicitor-led entities. The same proportion also agreed that the proposals would have no adverse impact on providers of legal services.

Encouragingly 70% of respondents saw that the SRA's publication of the register of both CILEX Lawyers and solicitors provides opportunity to explain the equivalence and distinction of these two professions, therefore assisting consumers to better understand and compare their choice of lawyer.

78% of respondents did not identify any adverse impact of the proposals on consumers, rising to 80% in respect of vulnerable consumers.

There were only four questions in which rates dropped below a two-thirds positive majority response, although they were still above 60%:

- 64% agreed regulation by the SRA provides opportunity to better empower consumers to make informed choices as to which regulated provider (individual lawyer or firm) can best meet their need.

In analysing the responses to this question, the majority of those who did not agree, including in the organisational responses received, articulated a view that individual consumers do not choose which provider to use and that this will not change regardless of the information available to them.

This view is at odds with consumer research in the evidence base, which identifies availability of information and ability to compare providers/services as key factors in assisting consumer choice.

- 63% agreed regulation by the SRA will support the equal treatment and recognition of legal professionals regardless of route to qualification and provide equality of opportunity for individual practitioners and entities.

The data shows a spike in negative responses to this question directly following comments made by the SRA CEO being misreported in the legal press. The comments which were made during a conference Q&A session and related to the cost of regulating CILEX members and its impact on

solicitors were misrepresented as suggesting CILEX Lawyers are 'insignificant'. In fact, he was explaining that the number of CILEX Lawyers did not add greatly to its existing regulatory caseload.

Other comments provided in response to this question suggest that an (incorrect) perception exists that the Law Society has influence/control over the SRA (or in some cases is misunderstood to be the SRA) and therefore the prejudice against CILEX professionals expressed in the Law Society public comments are attributed to the SRA.

Feedback from the roadshows and webinars suggested that a positive public commitment from the SRA to change its name to something more neutral or to be more explicit in how its views differ from those held by the Law Society would be effective in reassuring those who responded with scepticism to this question.

- 60% consider there to be no risk or detrimental effect arising from the proposed transfer of CILEX and ACCA Probate firms to the SRA.

Of the 40% who did consider there to be a risk, the majority were CILEX-led entities. Conversely, ACCA entities (as confirmed in the formal response received from ACCA) are supportive of the proposed change. These represent three-quarters of the firms CRL currently regulates.

The responses from CILEX-entity owners suggest a lack of understanding of the SRA's approach, in particular that the SRA is proposing to change its rules to recognise CILEX-led entities equally but distinct from its existing categories of solicitor-led firms and alternative business structures.

A second contributing factor to negative responses was the press coverage related to Axiom Ince. The timeline of when negative responses were received (both online and during in person events and webinars) correlates to the announcement that the SRA may need to raise fees or collect an exceptional fee from its regulated community to finance the multi-million pound compensation claims anticipated. When answering this question and the question below re adverse impact on legal professionals, respondents expressed a fear that CILEX members would be required to contribute to the cost.

However, the SRA has previously made a public commitment that there will be no cross-subsidy between professional groups. Furthermore, if agreed, the transfer from CRL to SRA will not take place before January 2025, which would be after any additional charges would have been apportioned.

- 60% consider there to be no adverse impact of the proposals on legal professionals.

In addition to the financial concern identified above, respondents who identified adverse impacts referenced the loss of distinct professional identity and influence, fearing CILEX professionals will be 'swallowed up' and 'be forgotten' amongst the much larger solicitor cohort.

Mitigation could include further assurance from the SRA as to how its governance would operate and its mechanisms for recognising and preserving the distinct identities of each profession and protecting against any profession being favourably treated or having greater influence.

The responses received via the online questionnaire reflect similar views to those expressed at roadshows and on webinars. There is a lack of understanding regarding the existing regulatory model, the role of each party (CILEX/CRL), the extent to which CRL is independent and the existing requirement for CILEX to prioritise the public interest and not allow member interest to influence or prejudice its decision-making. In particular, there was a lack of appreciation that the 2007 Legal Services Act and the Internal Governance Rules put in place by the Legal Services Board remove the profession's ability to determine how and by whom they are regulated.

## Employers

Employers responding to the consultation were unanimous in their agreement that:

- increasing the independence of our regulatory model through delegation to a body that is structurally, financially and operationally independent from CILEX will enhance public trust and confidence in regulation;

and that regulation of CILEX members and entities by the SRA will provide opportunity to:

- deliver a consistency of approach and therefore an increased confidence amongst consumers, that CILEX Lawyers and Solicitors delivering the same services are required to operate to the same high standards of conduct and practice;
- establish a consistency of approach and therefore an increased confidence amongst consumers, that firms whether solicitor-led or CILEX Lawyer-led, who deliver the same services are required to operate to the same high standards;
- deliver enhanced consumer protection through consistent levels of PII, Compensation Fund scope and transparency obligations.

82% of employers agreed that the proposed re-delegation to the SRA provides opportunity to establish and maintain consumer confidence that lawyers, regardless of whether through the CILEX route or the solicitor route, enter the profession through robust processes and are required to meet and maintain high standards of competence.

71% expressed agreement that through SRA publication of the Register of Authorised Persons for both solicitors and CILEX Lawyers, there is opportunity to explain the equivalence and distinction of these two professions, therefore assisting consumers to better understand and compare the choice of lawyer able to service their legal need.

67% supported the opportunity the proposals create to better empower consumers to make informed choices as to which regulated provider (individual lawyer or firm) can best meet their need. Those who disagreed noted that other factors such as recommendation and price were more influential in determining consumer choice. Others commented on the role of referral schemes.

67% also believed that having the same regulator for CILEX members and solicitors will support the equal treatment and recognition of legal professionals regardless of route to qualification and provide equality of opportunity for individual practitioners and entities. Employers were mixed in their views as to the extent to which this is currently the case, with the consensus that it can vary dependent on the firm.

Employers did not identify any adverse impact arising from the proposals on any of the groups identified and did not consider the proposals to generate barriers to competition. Some employers thought they could generate increased competition in the market by levelling the playing field for CILEX and solicitor-led firms.

### Consumers

Based on both the consumer roundtable participants and the IPSOS poll, solicitors are the default choice for consumers due to limited awareness of alternatives, including Chartered Legal Executives. This lack of awareness results in consumers relying on familiar routes with solicitors known to friends and family, limiting the exploration of other available options when looking for legal service providers.

While the use of online directories is currently low among consumers, those who have used them reported finding them helpful in consolidating information in one place. This suggests untapped potential for increased use, search functionality to aid comparison, and opportunity to support improved consumer awareness of different legal professionals.

Details such as qualifications, practising certificates, and regulatory status are generally overlooked by consumers when seeking legal services, due to the common assumption that individuals working in a law firm are automatically qualified and regulated. Consumers' lack of understanding regarding possible qualifications and career paths for lawyers prevents them from making informed enquiries.

Consumers also assume there is a uniform regulatory framework for solicitors and Chartered Legal Executives, given their parallel professional responsibilities. They were surprised by the revelation of the existing disparity in regulatory bodies. Consumers consistently expressed a strong preference for a unified regulatory body overseeing both solicitors and Chartered Legal Executives, aiming to establish clearer standards and streamline the complaints process. Their feedback suggests that maintaining distinct professional bodies has the potential to reinforce the perception that Chartered Legal Executives are subordinate to solicitors.

When it comes to filing complaints against lawyers, consumers are confused about the proper channels. While some correctly identified the SRA, others mistakenly believed the Law Society was the body responsible.

Consumers saw transparency and consistency in consumer protection and standards as essential to providing legitimacy, trust and reassurance, particularly given the limited familiarity with Chartered Legal Executives.

Finally, when asked about the benefit of a single online register encompassing both solicitors and Chartered Legal Executives, consumers agreed it would provide a more user-friendly and streamlined resource to find legal representation. In particular, the ability to search based on specialism was deemed important, alongside level of experience, consumer protection and location.

### Other stakeholders

ACCA, which represents the approx. 50 entities currently regulated by CRL, did not consider there to be an adverse impact of the proposals on this group and supported the change.

Legal Services Consumer Panel (LSCP) - the LSCP confirmed its support for the public interest outcomes CILEX is seeking to achieve, but deferred judgement on re-delegation until it has seen more detail on how CILEX will measure the impact and achievement of those public interest outcomes. The LSCP also wanted more visibility and analysis on cost.

Professor Stephen Mayson – In expressing his support for the proposals Professor Mayson highlighted the importance of perception of that separation and independence that can be achieved through delegation to a body that is structurally independent from the professional institute. Cautioning against a one size fits all approach, he emphasised the need to preserve the distinct elements of the two professions including authorisation based on specialism that applies to CILEX Lawyers, alongside creating greater consistency in standards, consumer redress and gaining the benefits of amalgamation.

Bar Council – In its response the Bar Council provided detail of its approach to independent regulation as a comparator, advocating for the benefits of bespoke regulation. It highlighted the importance of regulation that is tailored to the professional group to which it applies and the importance of the regulator understanding the nature of practice and the risks and opportunities of innovation relevant to those it regulates.

CILEx Regulation Limited (CRL) – CRL suggested both the CILEX and SRA consultations lacked the information they believed was needed to allow effective consideration of what was proposed:

- Governance structures - to ensure that CILEX members continue to benefit from the focused, informed regulatory oversight they currently do;
- Whether paralegals would lose access to independent regulation;
- Cost and risk analysis – to assess the financial and risk implications of the changes;
- How the public interest would be served;
- How the other seven regulatory objectives set out in the Legal Services Act 2007 would be met and the benefit to consumers;
- Legal authority – questioning whether CILEX has the necessary powers to make these changes unilaterally.

The Law Society –the Law Society questions the evidence base underpinning CILEX's Case for Change and includes statements in respect of the status, competence and specialist nature of both the CILEX qualification and practising certificate that are contrary to the equal recognition and status granted to CILEX Lawyers under the Legal Services Act and by government in its recognition of the CILEX qualification as an equally valid alternative to the solicitor routes to fully qualify as a lawyer.

### Qualitative comments

The online questionnaire allowed respondents to provide free text comments on each question. This generated over 4,800 anonymous comments which have been analysed and are contained at Appendix 5.

Recurring comments/themes included:

- The importance of clarity regarding those who are qualified and regulated;
- A strong sense of the importance of preserving the distinct identity of CILEX professionals;

- A fear that the CILEX route to qualification could be lost;
- Continuing frustration that CILEX professionals are not universally acknowledged as having the same skills, expertise and status as other lawyers, solicitors in particular;
- Confusion regarding the respective roles of CILEX and CRL and in particular the independence that currently exists;
- Confusion regarding the relationship between the Law Society and the SRA and the incorrect understanding that the Law Society has influence or power over how the SRA would treat CILEX members; and
- Concern that the cost of the Axiom Ince compensation claims would be passed on to CILEX members.

Other themes that consistently featured across all of the consultation channels were:

- Disappointment and embarrassment regarding the public disagreement between CILEX and CRL;
- Confusion regarding the requirement to obtain practice rights to work independently in reserved areas (and clarity what the reserved activities are);
- Frustration that CILEX cannot intervene on matters relating to practice rights routes, the lack of availability of advocacy training and the slow speed of progress in securing higher rights – these are the jurisdiction of the regulator.

#### CILEX response to consultation feedback

CILEX has been encouraged by the range of parties who have engaged with the consultation.

The feedback from consumers and employers has been consistently supportive, with these groups identifying clear benefits arising from the proposals, re-affirming the public interest outcomes identified by CILEX in developing its Case for Change.

Responses from the Legal Services Consumer Panel and Professor Stephen Mayson have provided useful challenge around messaging, measuring impact and the value of simplification, consistency and standardisation that will aid CILEX in further strengthening its proposals.

The responses received from members of the regulated community and wider membership have provided essential insight into both the strength of pride in and desire to preserve the distinct identity and CILEX route to qualification which aligns to the principles established by the CILEX Board in embarking on its review of its regulatory delegation.

Whilst the vast majority of member views have been positive, the comments of those who are less supportive have helped clarify the nature of concerns and fears regarding the proposed changes, enabling CILEX to develop targeted communications and messaging around these issues and provide the reassurance needed.

In particular, the lack of existing understanding of the requirements of independent regulation, the respective roles of the Approved Regulator, Delegated Regulatory Body and Legal Services Board, and the willingness and ability of the SRA to regulate all 20,000 CILEX professionals on a fair and equal basis alongside the much larger solicitor profession have been key themes amongst those who were uncertain about the change. Some members feared a loss of control by CILEX, not appreciating the level of restriction on the relationship between CILEX and its regulator under the existing arrangement.

The impact of issues that emerged during the consultation period – including the Axiom Ince case, articles in the press and online containing prejudiced views expressed by other members of the legal profession and mis-statements made by third parties, such as the suggestion paralegals would not be independently regulated – are evident through the various comments and discussions.

CILEX has offered all stakeholders who responded to the consultation follow-up meetings to address misunderstandings contained within their responses and to discuss the changes CILEX intends to make to its reform proposals as a result of the consultation.

CILEX recognises the value of increasing visibility around its evidence base and impact assessments as it moves forward in its decision-making and will continue to offer multiple opportunities for both the

regulated community and wider stakeholders to engage as CILEX progresses with its reform agenda. Based on the overall consultation outcomes, CILEX is satisfied that the proposed change in delegation can deliver the public interest outcomes identified and no risks or adverse impacts have been identified that would be cause for the changes not to be pursued.

**Impact analysis**

The impact assessments are provided at Appendix 6. The assessments show that there is no adverse impact identified for consumers, including those who are vulnerable. As articulated in more detail at Appendix 4, there are instead significant benefits to consumers arising from the proposals.

In considering the impact on legal services providers, there are conflicting positions articulated through the responses received. Where individual responses suggested adverse impact (33% did), this reflected an incorrect understanding of the changes proposed (for example, that the SRA will have influence over CILEX or its route to qualification). Furthermore, the responses received from legal services providers who attended the employer roundtables was overwhelming positive.

The CILEX Board is therefore satisfied based on the response provided by ACCA and the employer data that providers will not be adversely impacted.

The final group considered is the regulatory community. Of the 40% who felt that legal professionals would be adversely affected, in most cases the reasons given were consistently related to:

- A fear that the identity of CILEX professionals will be lost or diluted;
- The prejudice and derogatory views held by some solicitors (or the Law Society) and a misconception that these views are held by or will influence the SRA;
- An existing perception of the SRA based on comments online/in the press;
- A lack of understanding of the requirements of independent regulation and governance and that no regulatory body (including CRL and SRA) is permitted to represent a particular profession; rather, they have a duty to act in the interests of the public/consumers;
- A worry/incorrect assumption that the SRA will not recognise or support the CILEX route;
- Uncertainty regarding cost;
- Misunderstanding the proposals, including incorrect suggestions that paralegals will not be subject to independent regulation or that CILEX firms will be required to change their governance in order to become SRA regulated entities.

CILEX is satisfied that all of these issues are addressed within the SRA's proposals and the FAQs published on the CILEX website. However, further consideration will be given to obtaining and publishing additional assurance from the SRA around these issues to support the regulated community and stakeholders in better understanding the impact of the change proposed.

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## NEXT STEPS

Based on the analysis of the consultation outcomes CILEX has identified the following actions and adjustments to its proposals arising from consideration of the feedback and responses received:

1. Amending the chartered titles proposed to include 'CILEX', thereby retaining the link to CILEX qualification and distinct professional identity as "CILEX Chartered Lawyer";
2. Further clarification and assurance from the SRA in respect of:
  - a. How it will regulate CILEX Paralegals and other non-authorized person categories of CILEX members;
  - b. Independence from the Law Society, despite being a wholly owned subsidiary and confirmation as to how the governance arrangements will provide an equal voice for the CILEX and solicitor professions and will prevent undue influence from those who hold prejudicial and discriminatory attitudes;
  - c. Assurance regarding the cost of regulation and the principle of no cross-subsidy, in light of the Axiom Ince case;
  - d. How it will fulfil its commitment to preserve the distinct identities and routes into the law of solicitors and CILEX Lawyers; and
  - e. Consideration of how SRA branding can be adapted to better reflect its jurisdiction regulating a range of legal professionals;

and confirmation of its continued commitment to regulate CILEX professionals having considered the outcomes of its own consultation.

3. Publication of additional FAQs alongside the consultation outcomes to correct misunderstanding and confusion evident through the free text comments received;
4. Meetings with those stakeholders who provided organisational responses to discuss issues raised and correct areas of misunderstanding.

To implement the reforms an application must be made to the Privy Council to amend CILEX's Charter and byelaws followed by an application to the Legal Services Board to redelegate its regulatory functions to the SRA.

## **APPENDICES**

1. Analysis of individual responses to questionnaire
2. Analysis of employer feedback
3. Consumer feedback
4. Organisational Responses
5. Free Text Comments
6. Impact Assessments