

# **LSB: Revised guidance for regulators on encouraging a diverse profession**

**A response by  
The Chartered Institute of Legal Executives**

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## **1. Introduction**

- 1.1. The Chartered Institute of Legal Executives (CILEx) is the professional association and governing body for Chartered Legal Executive lawyers, other legal practitioners and paralegals. CILEx represents around 20,000 members, which includes approximately 7,500 fully qualified Chartered Legal Executive lawyers.
- 1.2. CILEx continually engages in the process of policy and law reform. At the heart of this engagement is public interest, as well as that of the profession. Given the unique role played by Chartered Legal Executives, CILEx considers itself uniquely placed to inform policy and law reform.
- 1.3. As it contributes to policy and law reform, CILEx endeavours to ensure relevant regard is given to equality and human rights, and the need to ensure justice is accessible for those who seek it.

## **2. Is the proposal to switch the focus of the guidance to outcomes beneficial to encouraging the diversity of the profession?**

- 2.1. We support the switch in focus towards achieving outcomes that have a consistent evidential basis to encourage diversity. Addressing the diversity deficit in the legal sector requires a cohesive effort from all organisations, and the role that regulators can play to improve diversity and social mobility is an important one.
- 2.2. There will be specific issues that fall within the purview of regulators that they should have the freedom and motivation to tackle, and these efforts should complement initiatives underway by other organisations and groups to ensure duplication of effort is minimised.

## **3. Will the proposed guidance allow regulators the opportunity to develop their own approaches to addressing diversity issues in the legal services profession?**

- 3.1. Overall the revised guidance does have the potential to refocus regulatory efforts from 'check-list' evidence-gathering towards evidence-based initiatives that meaningfully encourage equality, diversity and social mobility.
- 3.2. However, whilst the flexibility to 'develop their own approaches' presents opportunities for tailored programmes for each regulated community – it could lead to some regulators being selective as to which issues or groups receive attention. For example, less 'quantifiable' issues such as improving social mobility may be de-prioritised compared to other more easily measured issues, such as improving the entry or progress of a particular under-represented group.
- 3.3. Critical to ensuring this does not happen is that data on all aspects of diversity, including but not limited to protected characteristics and socio-economic and educational background from all parts of the legal workforce, continue to be collected, analysed and published. Whilst the consultation document states that 'any changes should not make the previous five years of data collection redundant by formally changing suggested areas of data collection' (para 14), we are not necessarily persuaded by the need to remove this minimum criteria from the revised guidance.

- 3.4. Maintaining the current data collection criteria in the revised guidance should go alongside an explicit statement that regulators can and should collect additional data if deemed appropriate.
- 3.5. It is also important to note that some diversity issues that have a regulatory component are not within an individual's regulator's power to resolve alone. For example, a majority of CILEx members work in SRA regulated firms, but despite often receiving support from their employer for undertaking qualifications, they report to us that they experience barriers to progression and advancement. Whilst the individuals are regulated by CILEx Regulation, their progression is dependent upon the practices of SRA regulated entities.
- 3.6. To capture such issues we strongly recommend that the revised guidance continues the 2011 focus on 'workforce' rather than reverting to 'profession' alone. As stated by the LSB Chair at the time *"...to deliver the regulatory objectives in the Legal Services Act 2007 requires a diverse workforce (not just a diverse profession) which reflects the society that it serves – a workforce that understands and can respond to the diverse needs of a diverse range of clients."*<sup>1</sup>

#### **4. To what extent are regulators already demonstrating achievement of the outcomes? If they are not, why do you think is this?**

- 4.1. CILEx Regulation already meets the outcomes in several ways, most notably in the way their regulatory rules have developed over time to reflect CILEx's diverse members. CILEx Regulation oversees the authorisation process for legal professionals and lawyers who have qualified through a more accessible and affordable route than other traditional pathways, and have taken welcome steps to make this process less bureaucratic.
- 4.2. Whilst this is the case, regulators have not necessarily been demonstrating these outcomes in an easily digested format. For CILEx Regulation, this may be because, like CILEx, their products and services are fundamentally more accessible and affordable, and are therefore less reliant on stand-alone initiatives or mitigative action to encourage diversity.<sup>2</sup>
- 4.3. The revised guidelines therefore do present opportunities for regulators to articulate their efforts through the prism of encouraging a more diverse workforce, although we do hope they encourage systemic solutions over temporary initiatives.

#### **5. How can the LSB ensure that the data the regulators collect continues to be comparable?**

- 5.1. As stated in 3.2. – 3.4. we feel the current data collection criteria should be carried over into the new guidelines. This would ensure long-term comparability without precluding regulators from collecting additional data.

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<sup>1</sup> David Edmonds forward to 'Increasing diversity and social mobility in the legal workforce: transparency and evidence', July 2011

<sup>2</sup> For further information, please consider our submission to the All Part Parliamentary Group on Social Mobility inquiry on Access to the Leading Professions (Sections 2.1. and 2.2.)  
[http://www.cilex.org.uk/about\\_cilex/consultations/consultation-responses/access\\_to\\_the\\_leading\\_professions](http://www.cilex.org.uk/about_cilex/consultations/consultation-responses/access_to_the_leading_professions)

**6. Given the LSB’s proposal to assess regulator performance in this area, what would be the most effective way to carry this out? How long should we allow regulators to implement changes before any potential future performance assessment?**

6.1. We agree with the consultation’s proposed 18 month time period after publication of the new guidance before commencing assessments, and we would support an annual assessment on progress against outcomes from that point onwards.

**7. Will the proposed guidance:**

**a. deliver better services for consumers?**

7.1. Provided that regulatory action is able to lead to improved diversity and social mobility in the legal workforce, particularly at the senior end, then we believe it will deliver better services for consumers. A diverse legal sector is an indicator that talent has been retained and progressed regardless of irrelevant distinctions such as background or characteristics.

**b. support innovation in legal services?**

7.2. Provided that regulatory action is able to lead to improved diversity and social mobility in the legal workforce, particularly at the senior end, then we believe it will support innovation in legal services. The development of new and innovative services will be enhanced when contributed to by people from diverse backgrounds and characteristics.

**c. allow regulators to encourage business-led diversity initiatives?**

7.3. We hope the revised guidance will enable regulators to work together with businesses, professional bodies and others to complement the work already underway, and to minimise unnecessary duplication of effort.

**d. encourage a more diverse profession?**

7.4. As identified in 2.1. – 2.2., the revised guidance has the potential to encourage a more diverse profession, and we look forward to working with our regulator and others in the development of this work.

CILEx is happy to discuss the contents of this submission further. Please contact the official below with any further queries.

**For further details**

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