

Annex 4: Correspondence with CILEX

STRICTLY CONFIDENTIAL
Paul Phillip
Chief Executive Officer
Solicitors Regulation Authority



BY EMAIL ONLY: paul.phillip@sra.org.uk

7 December 2023

Dear Paul,

Re: Outcomes of CILEX Consultation related to the potential re-delegation of regulation of CILEX professionals to the SRA

I am writing to inform you that the CILEX Board met on Wednesday 29 November 2023 to consider the outcomes of our consultation “Enhancing Consumer Trust & Confidence: Consultation on reforms to our governance, membership structure & regulatory delegation.”

The CILEX Board, in its capacity as the Approved Regulator of CILEX Authorised Persons designated under the legal services Act 2007, considered the responses received to the online questionnaire, the feedback provided by those who participated in both the in-person engagement events and online webinars and the written responses received from seven organisational stakeholders. These included both CILEX Regulation Limited and The Law Society.

The Board also reviewed the resulting impact assessments and executive proposals as to how the identified public interest outcomes will be measured.

The Board, were satisfied that, on the basis of the the proposals submitted by the SRA and the consultation outcomes, the public interest benefits and regulatory objectives can be best achieved through regulation of CILEX Professionals by the SRA.

The Board was also satisfied that the impact assessments did not identify any adverse impact on particular groups or to the public interest.

On this basis, the Board concluded that a formal change in regulatory delegation should be pursued and that the SRA be invited to confirm its continued willingness to regulate CILEX professionals, following its own consultation process.

The CILEX Board provided delegated authority to the executive to progress the necessary work to prepare applications to the both the Privy Council and Legal Services Board under the governance oversight of the CILEX Regulatory Compliance Board. This includes working with the SRA to address some areas of confusion and concern that arose as themes within the consultation responses, specifically:

- Misunderstanding amongst the regulated community (both CILEX professionals and Solicitors) as to the relationship between the SRA and the Law Society and the separation and independence of both policy and decision-making that exists between them and how that relationship will operate alongside that which the SRA will also hold with CILEX, following re-delegation;
- The SRA’s willingness (and approach) to providing regulation of non-authorized CILEX members;

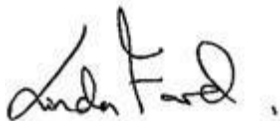
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- Any potential impact on the transition of CILEX Lawyers / entities into the SRA Compensation Fund or anticipated changes to the cost, scope or operation of the fund more generally in light of the outcomes of the Axiom Ince case;
- How the SRA would propose to manage and keep under review its branding (and specifically name) to reflect the further expansion of the non-Solicitor regulated persons it has within its remit, in taking on all CILEX professionals.

I therefore formally invite you to confirm the Solicitors Regulation Authority (SRA) remains willing to take on the regulation of CILEX professionals and to therefore hold further discussions on the areas identified above, in order that both parties can finalise the details needed to submit an application to the LSB to seek approval for a change in delegation from CILEX Regulation Limited to the SRA.

I look forward to hearing from you.

Yours sincerely,

A handwritten signature in black ink that reads "Linda Ford". The signature is written in a cursive style with a small flourish at the end.

Linda Ford
CILEX Chief Executive Officer

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From the Chief Executive

Ms Linda Ford
Chief Executive Officer
The Chartered Institute of Legal Executives
Manor Drive
Kempston
Bedford, MK42 7AB

Sent by email only to: linda.ford@cilex.org.uk

2 February 2024

Dear Linda

Thank you for your letter of 7 December 2023.

As you know, our board considered the outcome of our consultation on the proposal to regulate CILEX members when it met on 23 January. It also reflected on the questions set out in your letter.

At the outset, let me say that our Board agreed that we remain interested in regulating CILEX members.

Our Board considered the responses to our consultation on the regulatory arrangements that we would put in place were we to progress this initiative. It is fair to say they are mixed. 26 of the 31 individual solicitor respondents, and all three of the law firms who responded, used the consultation to express their opposition to the idea of the SRA regulating CILEX members. Although there were few detailed responses the consultation did provide some concern about potential risk of consumer confusion and assimilation of the professions. As you are aware, we have set out our commitment to maintain clear and separate identities and pathways for solicitors and authorised CILEX lawyers, and we remain of the view that there are potential consumer benefits.

Therefore, we remain committed to working with you and other stakeholders to do the further work in those areas which is required before final decisions can be taken. In particular, given that CILEX has now confirmed its new framework for paralegals following its own consultation, we have now agreed to develop and consult on arrangements to regulate CILEX paralegals and students. This will also afford some time to consider how best to deliver the consumer benefits of regulatory simplification and avoid any potential consumer confusion.

In relation to the questions set out in your letter our position is as follows:

The relationship between the SRA and The Law Society

The position is, of course, set out in law and is governed by regulatory rules established under the Legal services Act. I should say we think that a strong representative body is important for a profession, and although we carry out the regulatory function under delegated authority from The Law Society, we are a

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separate corporate entity and independent from a strategy, policy and operational perspective from The Law Society. While we continue to work with The Law Society in a constructive way, our public record of acting independently from The Law Society speaks for itself. Were we to regulate CILEX members we would, of course, expect our position on regulatory policy to be independently arrived at but in a consultative way with both CILEX and your members.

The SRA's willingness (and approach) to providing regulation of non-authorised CILEX members.

At the meeting on 23 January, our Board agreed to take forward the work to explore the regulation of non-authorised CILEX members, from the outset. This will require further regulatory rules and further consultation before any submission is made to the Legal Services Board on the regulatory arrangements.

Compensation Fund implications further to the closure of Axiom Ince Ltd.

The cost of running the Compensation Fund (which falls on those regulated) goes up or down year on year depending on operational activity. For instance, for most of the last six years the cost has gone down. And although I suspect next year it may go up, whether that trend continues is very much an unknown. I should also say at that point that we are about to announce a review of our Client Protection arrangements – a piece of work which will take 18 months to two years to complete. This will look at the cost and proportionality of the arrangement going forward and have an impact on the arrangements that will apply to CILEX members if regulated by the SRA. Whatever the outcome of that review, we will be mindful of the key aim of consistent standards and levels of consumer protection across the two professions. We will, of course, keep you up to date with this as it develops. I expect this initiative to be announced shortly.

Branding

In relation to the potential expansion of our role, we have been clear from the outset that we would aim to ensure distinct identities for CILEX members and the solicitors profession. We have not discussed, at Board level, the idea of changing the name of the organisation and while we would be happy to have further discussions with you on this, one point to consider is the fact that the SRA, as a brand, is arguably, the most well-known regulator in the sector.

In conclusion, the discussion at our Board was a positive one. Because of the outstanding matter of our approach to regulating non-authorised individuals we intend to proceed to develop and consult on further regulatory arrangements before making a formal decision.

We would be very happy to discuss, as always and look forward to working with CILEX to complete this work in the coming months.

Yours sincerely



Paul Philip
Chief Executive
Solicitors Regulation Authority