

Final Regulatory Impact Assessment: Our Proposals for Regulatory Arrangements for CILEX Members

1. A Summary of our Impact Assessment Process

Scope

Draft regulatory assessments were incorporated into our previous consultations on authorised and non-authorised CILEX members. These focused on our proposals for regulatory arrangements in the event of regulatory standards and functions being redelegated by CILEX from CILEX Regulation (CRL) to us.

Our assessments for the purposes of our consultations drew on:

- Comparisons between existing regulatory arrangements for CILEX members and SRA regulated individuals and firms.
- Relevant data and research findings available from the SRA, CRL and other legal services regulators, which we could access.
- Comments from those who responded to the consultation and engagement we delivered.

As a legal services regulator, this regulatory impact assessment gives specific consideration to our Statutory Objectives under the Legal Services Act. These are:

- protecting and promoting the public interest
- supporting the constitutional principle of the rule of law
- improving access to justice
- protecting and promoting the interests of consumers
- promoting competition in the provision of services such as are provided by authorised persons
- encouraging an independent, strong, diverse and effective legal profession
- increasing public understanding of the citizen's legal rights and duties
- promoting and maintaining adherence to the professional principles
- promoting the prevention and detection of economic crime.

As a regulator working to the objectives of the Legal Services Act, we are particularly focused on outcomes for consumers and the wider public, including outcomes for consumers arising from impacts on individual practitioners and entities.

We understand that legal services form a complex market and have considered positive and negative impacts from the perspective of different groups who could potentially be impacted by our proposals including:

- a) Consumers of legal services
- b) CILEX members:
 - CILEX authorised members, including those with differing practising rights (see below for CILEX's revised titles for this group*). This includes:
 - Chartered Legal Executives, all of whom are authorised to administer oaths

- CILEX members who have authorised additional practising rights in one or more areas of law – these include CILEX Conveyancing Practitioners, CILEX Probate Practitioners, CILEX Immigration Practitioners, and CILEX Practitioners with Litigation rights in civil, criminal and/or family law
 - CILEX-ACCA Probate Practitioners
 - Crown Prosecution Service (CPS) Associate Prosecutors
 - CILEX non-authorised members, including:
 - Chartered Paralegals
 - CILEX Paralegals and
 - CILEX students.
 - CILEX members working inside SRA regulated firms (authorised and non-authorised members)
 - CILEX members working outside SRA regulated firms (authorised and non-authorised members).
 - CILEX entities (authorised)
 - CILEX-ACCA Probate entities.
- c) Solicitors
- d) SRA regulated firms (which can include solicitors, CILEX members and other employees who are neither solicitors nor CILEX members).
- e) Other stakeholders, including the wider public.

Summary of Impacts

Regulatory principles, standards and functions themselves would not be significantly changed through our proposals. Both the SRA and CRL are independent regulatory bodies, with the same legislative objectives under the Legal Services Act 2007 and are overseen by the Legal Service Board. The regulatory standards we are proposing for authorised CILEX members are closely aligned to the core principles and standards in the current CILEX Code of Conduct. In addition to this, according to figures supplied to us by CILEX from their latest membership data, 75% of all CILEX members already work in SRA-regulated firms. Around 87% of non-authorised CILEX members either work in those firms or in those authorised by CILEX or are supervised by solicitors or authorised CILEX members.

We expect our proposed changes to regulatory arrangements to reduce duplication and overlapping regulation which can confuse consumers and add costs. Our proposals would help consumers understand where solicitors and authorised CILEX members have equivalent practice rights in delivering reserved legal services, and where they do not. Our proposals also maintain a distinct entry route to authorisation as a legal professional for CILEX members, and a separate Code of Conduct as our basis for regulating those members. The existing pathway into the solicitors' profession – the Solicitors Qualifying Examination – and our Principles and Codes of Conduct for solicitors and SRA firms would remain separate from those for authorised CILEX members.

Those CILEX members who are already authorised would not need to seek reauthorisation. Our proposals stated we would not authorise non-authorised CILEX members, and we would have the limited role of regulating their conduct on behalf of CILEX.

Under existing arrangements authorised CILEX members' practice fees fund the regulatory costs of non-authorised members. Our proposals do not change these arrangements although we will keep this under review to ensure that the regulation of CILEX members remains financially sustainable.

In the main, therefore, there would be a transfer of regulatory functions for CILEX members to us and these would then be integrated into our own functions and related processes.

This final RIA highlights how we have considered possible negative or positive impacts relating to detailed changes that are expected in relation to specific, themed, proposals. It should be noted that our proposals cover our current intentions and circumstances. All regulators regularly review their regulatory arrangements. Our consultations and responses to feedback from respondents recognised that we may further review arrangements in the future, including in relation to changes in circumstances. At such times there would be considerations of possible impacts from any further change.

2. Impact Assessment by Regulatory Themes

We set out how our proposals would interact with our statutory objectives in our consultations. This included pages 6-9 in our [consultation on authorised CILEX members](#) and pages 8-11 in our [consultation on non-authorised members](#). Throughout both consultations we identified what might change in the regulatory arrangements of CILEX members and how we could reduce the impacts of change unless these were likely to have specific positive implications for those we regulated or their clients. We also included draft RIAs and EIAs with both consultations and have carefully considered any responses received. In this final RIA we have drawn together the above information and grouped our assessment of impacts under the same themes that are found across our consultation documents.

Generally, we recognise that we would need to provide focused support to CILEX members and clients of legal services throughout a transition process. This would include through:

- Making sure that CILEX members are aware of our expectations in respect of conduct and have access to the relevant guidance. We have already provided draft updated guidance on our approach to enforcement and confirmed the position on the publication of regulatory decisions.
- Our communications with the solicitors' profession and their clients, CILEX members and their clients, and other stakeholders, including members of the public.
- Our evaluations of the consequential changes to our regulatory arrangements. These would gather and analyse evidence of the actual impact of our arrangements on affected stakeholders including consumers, CILEX members and solicitors. We would publish the outcome of our evaluations, and report on any changes we have made to our work as a result of the findings.

We have also stated that we will work with other regulators and stakeholders where appropriate, to enable transition processes. In the event of redelegation, we would, for example, seek to work with CRL to agree appropriate arrangements for transition of authorisation applications, investigation and disciplinary proceedings and other case work.

2.1 Governance

Summary of Changes

We would put governance arrangements in place with CILEX that would meet the appropriate IGRs and ensure independent regulation.

Impact Assessment

We do not anticipate any significant impacts from the changes to governance arrangements that we would need to make if CILEX redelegates regulation of its members to us. The delegation would be based on the existing scope of delegation of regulatory functions as specified in CILEX's Scheme of Delegation as amended from time to time.

The SRA Board would exercise the regulatory functions relating to authorised CILEX members and entities that are currently exercised by the CRL Board as specified within CILEX's Scheme of Delegation, as amended from time to time.

We would put in place appropriate engagement and oversight mechanisms to ensure that our Board and our organisation are well aware of the issues and risks facing authorised CILEX lawyers, and to enable open communication between us, CILEX itself and the CILEX regulated community.

We would ensure financial controls and reporting in place to ensure each profession appropriately funds the costs of its regulation

Our arrangements would also support clear branding and messaging about the status of authorised CILEX lawyers as distinct legal professionals.

The governance arrangements would be supported by an appropriate formal protocol between CILEX and the SRA setting out both parties' roles and responsibilities under the LSB's Internal Governance Rules (IGRs). This would include dispute resolution and information sharing arrangements. An annual review process would be established to allow both parties to declare ongoing compliance with the IGRs.

Concerns have been raised on consultation as to how we would make decisions if conflicts arise between the interests of CILEX members and solicitors relating to our regulatory arrangements or changes to them. However, we are already required to take into account the various regulatory objectives under the Legal Services Act when making any decisions and we are already used to balancing the needs of different stakeholder groups including the profession, the public and consumers. The regulatory objectives include encouraging an independent, strong, diverse and effective legal profession and this would be given appropriate weight alongside the other objectives when decision making.

Conclusion: We would expect neutral impacts as a result of the changes proposed. Our governance arrangements are decided by the Legal Services Act and the LSB's Internal Governance Rules (IGRs), as is the case for CRL.

2.2 The Prior Conduct Tests

Summary of Changes

We would introduce limited changes to existing CRL Prior Conduct processes by aligning them with our current Character and Suitability Test.

We have reviewed the current arrangements, and we are confident that our Character and Suitability rules would capture all information that would have been asked for through CRL's fit and proper tests (for role holders) and 'Prior Conduct' questions (for admissions to CILEX membership)

However, our Character and Suitability Rules specifically require the disclosure of health conditions in the context of asking for any relevant information which may indicate the individual is unfit to meet regulatory obligations (or to be subject to regulatory investigations or proceedings). This would be unless the individual was already appropriately addressing any conditions. The CRL's Prior Conduct test does not specifically ask for health conditions to be disclosed.

In addition, we would not have a separate health committee for appeals of decisions on a members' fitness to practice due to medical grounds, as CRL currently does.

Impact Assessment

As the above changes apply to CILEX members, we would expect any impacts to be focused on them and/or their clients. We, therefore, have considered the data on CILEX Prior Conduct issues that was publicly available. We have then identified the following potential impacts.

The Professions

We consider that the impact of the different approach in relation to health issues, is likely to have very limited impacts on CILEX members for the following reasons:

- under the Health Committee rules of CRL, information received about a relevant person or applicant that raises questions of their fitness to practise on the grounds of health can lead to them being required to disclose medical reports relating to fitness to practise, at any time.
- we do not require regulated individuals to tell us about a health condition where they are satisfied that they are taking appropriate steps to address the condition and mitigate any regulatory risks it poses.
- If we decided to refuse authorisation or to impose practising conditions for reasons relating to health, the applicant would have rights of review and appeal.

Following recent consultations (2022) and [impact assessments](#) on changes to our health and well-being rules, we concluded that our current approach to health issues should reduce delay, uncertainty and stress that can be generated for everyone involved where a health concern affects the progress of a case. The SDT encouraged us to consider making procedures in respect of fitness to practise on health grounds following a 2019 consultation on its procedural rule. We felt that our existing procedures, with the changes introduced to our rules allow us to take prompt, constructive and proportionate action where a health issue

affects a solicitor's ability to practice, as well as encouraging those whose health issues may affect their fitness to practise, including those with a disability, to be proactive in managing any issues.

We also [concluded](#), following our 2022 consultation on our approach to health issues that setting up separate formal processes for fitness to practice concerns relating to health, in a similar way to other regulators (including CRL) would not add any benefit and could add to delays and stress for the individual involved. We expected the rules changes to have a direct impact on a relatively small number of cases, and we considered that those cases would be needed to manage a significant regulatory risk and would be a proportionate response. The same could apply to CILEX members, although we have had no access to CILEX data on the numbers of cases presented by CILEX members that involve health issues.

We would also work with CILEX to ensure that information on CILEX membership clarifies that declaring a health condition through our Character and Suitability test is for consumers' benefit. We already provide [guidance](#) on our approach to health issues and medical evidence. This includes clarifying that where there are health issues, these can be addressed through the individual taking appropriate steps, and any decisions about fitness to practice that we make on the basis of medical declarations would be open to review and appeal.

Consumers and the Public

As the above sets out there should be limited impacts on CILEX members from our proposed changes, and therefore these should not result in negative impacts for their clients in terms of access or choice.

Following recent consultations (2022) and impact assessment on changes to our health and well-being rules, we concluded that our current approach would promote public confidence in the profession and benefit consumers of legal services.

Conclusion: As made clear above, the requirement to declare to the SRA health conditions that impact on fitness to practice at point of application does not mean that an individual would not be allowed to practise in legal services. Instead, this requirement focuses on identifying and addressing any risks to consumers and supports regulated individuals to proactively manage any relevant issues. We therefore expect our proposals would result in positive impacts on consumers, and that the process of dealing with any declarations of health impacts would mitigate any potential negative impacts on CILEX members.

2.3 Regulatory Standards: General

Summary of Changes

We proposed changes to our regulatory model to bring non-authorised CILEX members within the scope of SRA regulation.

Impact Assessment

The Professions

Overall, the changes would mainly be a transfer of existing regulatory principles, functions and processes across regulators operating to the same statutory objectives and oversight. CRL already regulates non-authorised individuals, and so redelegation of such regulation to

us would not be a fundamental change in current arrangements for the legal services sector. We are expecting that proposals would have minimal impacts on solicitors and others working in our regulated firms who are not CILEX members as we are not proposing to change their regulatory arrangements.

We are also expecting that our proposals would simplify the position of SRA regulated firms that employ CILEX members, as they would need only to report issues relating to those members to one regulator. As employers they would also be confident that their solicitors and CILEX members were being regulated to consistent standards.

Several organisations, including the Law Society and CILEX Regulation, however, have disagreed with our proposals on the basis of possible impacts on professionals, non-authorised persons and consumers. Both CILEX regulation and the Law Society continue to object to the redelegation of regulation of all or any CILEX members in principle. The Law Society criticisms focus on what it perceives to be the risk of potential increased consumer confusion due to us regulating both solicitors and CILEX members. The Law Society has also raised concerns over the potential for increased costs for solicitors and CILEX members. The Legal Services Consumer Panel (LSCP), whilst agreeing in principle that the SRA regulating both authorised and non-authorised CILEX members is the right idea, has stated that there is insufficient evidence to support the proposed redelegation.

We, however, think that our proposals clearly set out how we would seek to reduce consumer confusion (see section below on impacts on consumers) and inefficiencies from duplicate regulation. Our view at this stage is also that ongoing costs from regulation are unlikely to be higher for CILEX members (or indeed for solicitors) as a result of our proposed changes (see section on "Funding the Costs of Regulation "below).

Consumers and the Public

Our proposals would potentially benefit consumers including:

- simplifying the complex regulatory landscape and making it easier for consumers to navigate
- bringing more consistent levels of protection and information for consumers.

Our online survey of 1,000 consumers in December 2023 suggested that consumers had limited knowledge of the complexities of legal services regulation and might benefit from the consolidation of legal services regulators. For example:

- 90% agreed that having one regulator providing information on the two types of authorised members is likely to make it easier to compare the legal services providers they regulate.
- 86% thought having one regulator covering both legal professionals is better than separate ones.

As part of CILEX's engagement process during its 2023 consultation it found that consumers taking part in its roundtables were concerned to learn of the existing, separate regulatory arrangements for solicitors and CILEX authorised members, of which they were unaware, expressing support for changes that would see both groups regulated in the same way and provide uniform protection and consistency.

There has been consistent support in previous consumer engagement conducted by the SRA and others for the propositions that:

1. Consumers know little about the current regulatory landscape (and are therefore, by implication, currently unlikely to have an understanding of CILEX regulation that would be disrupted by the change or to make consumer choices based on who regulates a legal professional) but assume that everyone is regulated - see for example our [consumer segmentation research](#) 2023, points 4.2.12, 5.1 and 6 our [evaluation of the SRA Transparency Rules \(2023\)](#) point 6D conducted with Economic Insight, the Law Society and Legal Services Board's [Legal needs of individuals in E&W report \(2019\)](#) section 6.7.
2. Once informed of the position consumers would welcome a less complicated regulatory landscape and would favour moves towards a single regulator – see for example the Legal Services Consumer Panel's [Standardisation of Consumer Information in Legal Services](#) (2022) pages 3 and 4, and the Legal Services Board's [The state of legal services report 2020](#) page 38. The same conclusion was reached by our (unpublished) work with consumer focus groups on claims management issues in 2023.

We also have assisted CILEX to hold a further focus group on the changes in June 2024 which was also supportive of the proposals overall:

- it felt it very important that protections such as compensation funds and insurance are similar for similar areas of work – for example conveyancing delivered by different professionals,
- it agreed that the proposals would reduce the potential for consumer confusion when finding information to choose between legal professionals,
- a small number stressed that under the proposals, the regulator should make sure it had capacity to deal with any extra work and that it needed to have the right expertise to deal with any niche areas.

We consider that on current evidence, there is clear potential for consumers and the public to benefit from these proposals in terms of simplification.

It is likely that the current regime also adds costs through duplicated governance, staff and services. This potentially increases the cost of legal services for consumers. In addition, those consumers who deal with the 75% of CILEX members that work in SRA regulated firms will now only have one regulator to complain to instead of two, and processes can be made simpler accordingly.

We also believe that a more consistent and joined-up regulatory framework for solicitors, authorised CILEX lawyers and the authorised firms in which they work will provide a sound basis for the management of new and emerging risks and issues for consumers and the economy, for instance relating to AML and the use of technology.

Conclusion: The above sets out our general position that there would be neutral or positive benefits from our proposals, from the perspective of our regulatory objectives. Potential impacts (both for professionals and consumers) relating to specific proposals are addressed in other sections of this RIA.

2.4 The CILEX Code of Conduct

Summary of Changes

The Core Principles in the existing CILEX Code of Conduct are already closely aligned with the SRA Principles for solicitors and firms.

We undertook a comparison of the differences between the existing CILEX Code of Conduct and the SRA Code of Conduct for individuals. In the main the two codes of conduct were very similar. We recognised in our consultation for authorised members that the proposed new SRA-CILEX Principles and Code needed to maintain some specific regulatory requirements for CILEX members. This included provisions that reflect the fact that the practice rights of CILEX Lawyers are restricted in terms of areas of law. The provisions require CILEX members to assist consumers and clients to access justice and the full range of legal services. Our draft SRA CILEX Code of Conduct also clarifies the importance of public interest in a way that is not explicit in the current CILEX Code of Conduct.

Impact Assessment

The Professions

Respondents to our consultation's questions on maintaining a separate SRA-CILEX Code of Conduct generally supported our proposals, if the redelegation took place.

A separate SRA-CILEX Code of Conduct which included authorised and non-authorised CILEX members would maintain distinct and separate identities for solicitors and CILEX members.

Consumers and the Public

Aligning the content of the two codes in terms of core standards would then ensure that the same level of standards are followed by all those we regulate, which we believe would support consumer understanding and protection.

Conclusion: We therefore expect our proposals would result in neutral or positive impacts from the perspective of our regulatory objectives.

2.5. CILEX Entities and CILEX-ACCA Probate Entities

Summary of Changes

Our proposals for CILEX entities take account of their structural differences. We propose to reauthorise CILEX firms as SRA firms or as authorised CILEX bodies, dependent on who owns and manages them. There are currently 20 authorised CILEX entities. We propose to passport six of these over as SRA-regulated firms as they are already eligible for authorisation as such. The remaining firms would be authorised and regulated by us as "authorised CILEX bodies" and need to remain under transitional compensation fund arrangements with CILEX pending any changes to legislation to allow them to come within the SRA Compensation Fund.

All CILEX entities (save for CILEX ACCA firms) would be under our Code of Conduct for Firms. This Code of Conduct is similar to the CILEX Code of Conduct and regulatory requirements that CILEX entities currently adhere to. There, however, are some differences, including in relation to (1) PII, (2) transparency, (3) accounts and (4) financial services rules.

CILEX ACCA firms are a separate group governed by the rules in the CILEX ACCA –Probate Handbook. We would keep changes to this regime to the minimum necessary to recognise the change in regulator.

Impact Assessment

The Professions

Some respondents to our consultation suggested that our proposals would increase regulatory burdens on CILEX entities and deter CILEX members from starting their own firms.

We recognise that there would be some differences in arrangements for the 20 CILEX entities that are not CILEX ACCA-Probate entities, but in the main we are not expecting these to have negative impacts (see sections on funding the costs of regulation, client protection, client information and other regulatory issues below).

ACCA's response to our consultation on authorised CILEX members stated that it welcomed the proposals from CILEX and the SRA to implement a model of regulation that would maintain and promote the distinct identity of authorised ACCA practitioners. It also stated that a change in regulatory delegation to the SRA would give ACCA practitioners access to market opportunities and the resulting commercial benefits, including support for professional development and the potential to obtain other legal services recognitions.

Firms owned and managed by authorised CILEX lawyers and authorised by us will be able to carry on regulated financial services activities under the scope of our regulation unless we identify concerns which require us to impose conditions to prevent this. This could potentially offer a positive benefit to those CILEX entities.

Consumers and the Public

As set out above our proposals only relate to a small number of firms. We, therefore, expect limited impacts on clients and other legal service consumers.

Conclusion: There would be some differences in arrangements for the 20 CILEX entities that are not CILEX ACCA-Probate entities. In the main we are not expecting these to have negative impacts from the perspective of our regulatory objectives but see sections on funding the costs of regulation, client protection, client information and other regulatory issues below, for further details.

2.6 Individual Authorisation, Education and Qualifying Experience

Summary of Changes

We have produced new draft rules for the authorisation of individual CILEX members. We noted in our consultation on authorised CILEX members that the current CILEX and CRL arrangements for education and authorisation provide many routes to authorisation, underpinned by a variety of rules, regulations, handbooks and guidance. In our draft rules we have sought to consolidate the rules and documentation relating to these routes as far as possible, to clarify the options available without changing the underlying authorisation requirements. Annex 2.3 of our consultation on authorised CILEX members included a comparison of rules and arrangements, which supported this process.

Our approach seeks to keep impacts on individuals to a minimum where this is appropriate to our objectives and the situation. Individuals, for example, who are currently authorised by CRL to provide reserved legal services or immigration services without supervision will not need to apply to us for re-authorisation and will be transferred to our new register of authorised CILEX lawyers.

If redelegation proceeds, we propose to maintain a clear separate route to becoming an authorised legal professional for CILEX members in accordance with the provisions of the CILEX Charter.

We would work with CILEX to ensure that appropriate routes exist to allow Chartered Legal Executives who qualified under the legacy route without practice rights to obtain them. We would also work with CILEX, over time, to consider any case for amending these arrangements. In addition, we would establish a suitable framework for the accreditation and quality assurance of any new qualifications leading to authorisation as a Chartered Legal Executive or CILEX Practitioner, including Apprenticeships.

We would make some relatively small changes to the regulation of CILEX qualifying experience. This includes that we would:

- Not treat participation in an SQE preparatory course as part of qualifying experience as these courses are not regulated by us. CRL's authorisation rules, however, state that time spent on a Legal Practice Course (LPC) in connection with training as a solicitor will be treated as qualifying experience. The LPC is now a legacy training route to qualification as a solicitor and is being replaced by the SQE, so we consider it unnecessary to maintain this rule.
- Not retain current CRL requirements for evidence of certain practice management skills as part of the approval process. We believe this would have a limited impact as we require individuals we regulate to maintain their competence and have the requisite knowledge and skills for the role they carry out.
- Consider sign-off of qualifying experience by an authorised person, held to standards of integrity by a legal regulator, to be an important safeguard. We recognise, however, that our proposed changes to sign-off of qualifying experience could have impacts on those already working towards authorisation.

Impact Assessment:

Since CILEX members do not qualify and practise in the same way as solicitors, we would need to set up appropriate processes to manage the differences.

As stated in our consultation we would:

- consider the interface between solicitor training and qualifying experience for authorisation as an authorised CILEX lawyer as part of our future consideration of the education requirements for authorised CILEX lawyers.
- require all individuals we regulate to maintain their competence, and have the requisite knowledge and skills, for the role they carry out. We will keep this issue under review as part of our wider work on continuing competence and business skills.
- make transitional arrangements if necessary to ensure that people currently working towards authorisation as an authorised CILEX lawyer are not unfairly disadvantaged by our proposed removal of the discretion (including in CRL's rules) to allow sign-off by anyone who supervises or employs a candidate. For the future, our waiver rules provide us with an avenue to consider any case where sign-off by an authorised person is not possible and there is an acceptable alternative way of signing off qualifying experience.
- we consider the fact the Legal Practice Course has been replaced by the SQE will mean that removing it from the list of qualifying experience is proportionate,

Conclusion: Our proposals support the diversity of legal services through recognising differences in solicitor and CILEX routes to qualification. We have stated that we would set up appropriate processes to manage the differences. Where we have had to propose changes to arrangements for qualifying experience, we have also identified how we would mitigate the impact on CILEX members while retaining our approach to supporting client and public protection. We, therefore, expect limited impacts from the above proposals from the perspective of our regulatory objectives.

2.7 Continuing Competency

Summary of Changes

We proposed not to take on the CRL mechanism for routine auditing of CPD records on an annual basis.

CILEX, however, would share any information with us from its annual CPD checks that raised regulatory issues.

Impact Assessment: for the Professions and Consumers

We do not consider that there will be adverse impacts (either on CILEX members or consumers) through the proposed changes to competence assessment.

We do not currently routinely audit training records, portfolios etc for solicitors. We have an [action plan](#) for continuing competence It covers:

- how we set standards of competence
- how we identify areas where competence may need to be improved through proactive regulatory work, which includes checks on a sample basis
- how we respond to concerns about standards of competence across the profession, in relation to individuals or on a thematic basis.

We have stated that we will evolve this to include CILEX members who would continue to have the support of CILEX when considering how to maintain their competence.

We have also stated that we will engage with CILEX on the impact on their membership CPD requirements to ensure regulatory concerns identified by CILEX are appropriately reported to us.

Conclusion: Although our proposals would result in changes to current CPD arrangements for CILEX members we consider the above proposals will have neutral impacts on our regulatory objectives.

2.8 Registers

Summary of Changes

The register for CILEX authorised members would include details of any regulatory action that we have taken in relation to authorised CILEX lawyers, such as placing conditions on a practising certificate or disciplinary action.

We have stated that we will explore with CILEX the scope to present the register for CILEX authorised members to the public alongside the Solicitors Register in a way that supports improved consumer understanding and choice as to those authorised to provide legal services.

Disciplinary findings against non-authorized CILEX members would be recorded with our other findings against non-authorized persons under our jurisdiction (such as former employees of SRA regulated firms subject to orders under s43 of the Solicitors Act 1974 preventing them from being employed by solicitors in the future).

CILEX entities reauthorized as SRA firms or authorized CILEX bodies would be listed as such in our Solicitors Register. Where relevant this would show the scope of firms' authorisation in line with the practising rights of the authorized CILEX lawyers who own and manage them.

We would also take on ownership and publication of the separate register of CILEX-ACCA Probate entities currently published by CRL.

We would liaise with the CPS on future arrangements for publishing information about CPS Associate Prosecutors.

CILEX would retain the Professional Paralegal Register and their membership register.

Impact Assessment

The Professions

We would not expect the above changes to impact on solicitors or CILEX members as arrangements for their registers would mainly remain the same.

Consumers and the Public

We consider that consumers or the public would not be impacted significantly by the changes.,

Conclusion: We, therefore, expect our proposals to have neutral impacts from the perspective of our regulatory objectives.

2.9 Investigation and Enforcement

Summary of Changes

We proposed to take on CRL's disciplinary powers and apply the same process for reports about solicitors and other individuals and firms that we currently regulate to all CILEX members. We, however, identified that there were some differences between processes through a comparison between CRL's investigation and enforcement approach and our own.

Differences between our proposed approach and CRL's approach would include:

- we would make some changes to terminology, although it should be noted that the CRL use similar terminology
- CRL Enforcement Rules 16.1 and 16.2 set out that a report of misconduct may be rejected by an investigator where the time which has elapsed since the events (or knowledge of those events, if later) giving rise to the allegation exceeds 12 months. We do not apply a time bar, as we consider this presents a barrier to taking action which might be needed in the interests of the public
- some differences in our sanctions and controls.
- where health issues are identified during the course of an investigation, we would refer to our guidance on our approach to health issues, rather than to a separate Health Committee
- our 2023 consultation set out our approach to first instance enforcement decisions, rights of review and rights of internal appeal for authorized CILEX

members. We would adopt the same approach for non-authorized CILEX members

- we would work with CILEX to seek a statutory instrument which could give all CILEX members the same external rights of appeal to the SDT as solicitors and SRA-regulated firms.
- complaints by consumers would only need to go through one regulator.

Impact Assessment

The Professions

Some stakeholders emphasised the need to recognise the diversity of CILEX membership, including through specific training of investigation and enforcement personnel but also suggested that this could potentially create additional costs. There was also concern that our proposals would result in a form of dual jurisdiction in relation to non-authorized CILEX members working in our regulated firms.

Our proposals (as set out in our consultations) recognised the diversity of CILEX members. We, for example, already have guidance on our approach to regulating non-authorized persons working for our regulated entities. We recognise that the roles of non-authorized members may vary significantly. This could, for example, include a senior paralegal who may be a manager in a firm handling their own cases or a student carrying out only limited tasks as delegated work. The particular role and responsibilities of CILEX non-authorized members would be taken into account in deciding on enforcement action.

We have undertaken initial assessment of the potential costs of enforcement for CILEX members. The results of this are summarised in a section on “funding the costs of regulation” (below). This sets out that we are not expecting negative impacts from our proposed changes.

We explained in our consultation that a dual jurisdiction (between CRL and the SRA) already exists for non-authorized CILEX members working in SRA authorized firms, and that this would actually be much simpler to manage if they were under one regulator. In the exceptional circumstances where we were considering an order under s43 of the Solicitors Act 1974 (or its equivalent under s99 Legal Services Act 2007) preventing the non-authorized CILEX member from being employed in a solicitor's firm, those proceedings may include action against the individual as a CILEX member which may result in termination of their CILEX membership and other disciplinary measures. The SRA would be able to deal with both issues as one streamlined set of proceedings, which would not be possible under the current arrangements.

Our proposal would enable cases that would have otherwise involved both the SRA and CRL to be dealt with more efficiently. This could benefit CILEX members who might otherwise be likely to go through more complex and time-consuming processes.

In terms of differences between the enforcement regimes of CRL and SRA (as highlighted above):

- We do not expect our changes to terminology to have any significant impacts on professionals or consumers. We would ensure appropriate guidance and communication for CILEX members was available as they transitioned into SRA regulation.

- We would not apply a time bar, as we consider this presents a barrier to taking action which might be needed in the interests of the public. We, however, recognise that we have limited data to undertake a detailed impact assessment of the removal of the time bar on CILEX members. We specifically address this point in our EIA.
- In the case of sanctions against individual practitioners, our regime includes fixed penalties which are not used by CRL. We consider that these can have benefits, for solicitors, including reducing stress, cost and time and that these benefits should also be applicable to CILEX members. Our approach to health issues is set out in the section on “Prior Conduct”, above.
- Our proposals for rights of review and appeal for all CILEX members will give them equivalent rights to those that they currently have under the CRL. These will include an appeal or review to an independent adjudicator or adjudicator panel. Our proposals for seeking a statutory instrument which could ultimately give CILEX members the same external rights of appeal as solicitors and SRA firms could result in positive impacts for them. This should help address concerns from some stakeholders that cases involving CILEX members would not be subject to scrutiny by the SDT in the same way as cases involving solicitors were.

Consumers and the Public

Under our proposals consumers would only need to deal with one regulator and this could potentially provide simpler and more consistent public and consumer protection.

Conclusion: Although the above proposals introduce some changes for CILEX members, in the main the arrangements are similar to those already in place for them. To support the transition of CILEX members and client and public protection, we have set out how we would make alterations to our arrangements and ensure access to guidance. We believe that having one set of standards (with appropriate differences of context) for all those we regulated would potentially strengthen public and consumer protection. We, therefore, expect neutral or positive benefits from the perspective of our regulatory objectives.

2.10 Funding the Costs of Regulation

Summary of Changes

Under existing arrangements authorised CILEX members’ practice fees fund the regulatory costs of non-authorised members. Our proposals do not initially change these arrangements, although it should be recognised that fee structures can be reviewed and changed over time.

Impact Assessment

The Professions

Some respondents to our consultations, particularly from the solicitors’ profession, were concerned over the potential for increased costs for solicitors and cross-subsidy between solicitors and CILEX membership.

There were also concerns that current arrangements did not appropriately assign the costs of regulation to those who would benefit from such regulation. There were suggestions that if non-authorised members were to contribute to their regulatory costs, this would provide opportunities to reduce the practising certificate costs for authorised member

- No Cross Subsidising

If redelegation proceeds we would maintain financial transparency to ensure that each profession appropriately funds the costs of its regulation.

CILEX has confirmed that it is paying the SRA's development costs of these proposals (whether or not the redelegation proceeds) and any implementation and transitional costs. There is already an accounting process in place with CILEX for it to pay those development costs.

Ongoing regulatory costs would be met by fees from CILEX members. As set out in our response to the second consultation we would initially intend to adopt the current CILEX policy of recouping the costs of regulation of all CILEX members (authorised and non-authorised) from the practising fees charged to authorised CILEX members.

- Initial Calculations of Regulatory Costs

During development of our proposals, our initial calculations were that in terms of investigation, enforcement and authorisation costs, there could be savings in relation, for example, to the cost of panels and staff due to the fact that the SRA has an existing infrastructure which could be able to absorb CRL's wider functions at a lower cost.

Overall, our current calculation is that, given these synergies that should be available when absorbing CRL's current workload into a larger organisation, we expect that the ongoing cost of the regulation element of the practising certificate fees to authorised CILEX members would not be higher than its present level in real terms. Based on the percentage figure in the last CILEX application for a Funding Order, the regulation element of the annual fee for CILEX Authorised members is currently £221 compared to the SRA share of £162 for a solicitor's practising certificate.

This does not include transitional costs which would be paid by CILEX.

However, we are not able to forecast with confidence the 'steady state' future cost of regulation without access to more detailed information held by CRL, which currently it is not providing.

CILEX members' fees would remain subject to annual approval from the LSB.

We are aware that CILEX has ambitions to expand its non-authorised membership, for example it acquired the Institute of Paralegals Register in 2022. In its 2022 Annual Report, CRL stated that the largest number of complaints and misconduct that it had received involved non-authorised members. We have also noted that CILEX has sought permission from the Privy Council to remove the current prohibition in its Charter against charging non-authorised members the cost of regulation.

If redelegation proceeds, the issue of whether to charge non-authorised members for regulation after the first year of SRA regulation should remain under review (with CILEX). This would mean that changes could be made, if necessary, in the future so that we can continue to ensure that the regulation of CILEX members is self-funding.

- Contributions to the Compensation Fund

We have also considered the impact on the SRA Compensation Fund and on the former CILEX firms who would join the fund should redelegation proceed.

In terms of any risks to the fund presented by CILEX regulated firms that would join the SRA fund, there are currently 20 authorised firms on the CILEX register. Six of these (who have solicitor managers or qualify as ABS's) would be passported to become SRA regulated firms

and the SRA Compensation Fund would apply to their clients. The remaining firms would need to remain under the CILEX compensation fund (guaranteed by CILEX) pending any changes to legislation to allow them to come within the SRA fund.

There is no evidence that:

- (a) the small number of CILEX entities (initially only six that would immediately join the Compensation Fund) or
- (b) the remaining CILEX entities and CILEX authorised members who practise as self-employed practitioners delivering unreserved legal services outside of authorised firms, who could join the fund in the future if legislation were amended

represent a higher level of risk to the Compensation Fund than current SRA authorised firms and freelancers. We understand that there has never been a claim on the CILEX compensation fund nor an intervention relating to a CILEX entity.

CILEX has expressed concerns that the current demands on the SRA Compensation Fund arising from the Axiom Ince case could have an impact on the costs, scope or operation of the SRA's Compensation Fund and the future contributions of CILEX members

We have launched a [discussion paper](#) on our consumer protection arrangements to help ensure the future sustainability of the Compensation Fund.

Any immediate impact in relation to CILEX members would be limited to the six firms who would be moving to the SRA Compensation Fund. We have proposed an increase of firm contributions from £660 to £2220 in our draft business plan for 2024-25. If implemented there could be an increased cost to these firms from the current CILEX compensation fund rates depending on the firm's size, the categories of law they offer and whether they hold client money.

- PII

CILEX entities currently obtain insurance through open market arrangements similar to our own, and insurers price each firm's premium based on their assessment of risk irrespective of who authorises the firm. Our PII arrangements require a higher level of cover than CRL's. [Research](#) conducted jointly by the SRA and Legal Services Board indicates that the size of firm and type of services offered have the biggest impact on the level of PII premium, rather than the level of cover required. The research did find that CILEX-regulated law firms pay 12% lower PII premium rates on average than SRA-regulated but acknowledged that further work would be needed (given the small CILEX sample size) to examine whether differences in average premium rates are related to differences in the MTCs. Therefore, an increase of a similar level to premiums of the small number of CILEX firms (20) that would be moving over to SRA regulation cannot be ruled out at this stage, although clearly there would be potentially individual factors at play.

Consumers and the Public

The above sets out that we do not expect our proposals to result in additional costs for either solicitors or CILEX members, and therefore for consumers save for the limited issue of compensation fund contributions for a very small number of firms. In relation to PII, analysis of the (albeit limited) data from the research mentioned above does not imply a sizeable increase in costs which might be passed on to consumers.

Conclusion: Overall, our risk assessment has identified a potential cost to a small number of CILEX firms in relation to compensation fund contributions, but we believe that these are justified in terms of the wider coverage provided by the SRA Compensation Fund. As indicated above, we do not believe that any increase in PII premiums for potentially up to 20 firms will result in significant extra costs being passed on to consumers. For those 75% of CILEX members working in solicitors' firms, and for the firms that employ them, moving to a single regulator would bring a simpler landscape.

2.11 Client Protection

Summary of Changes

Clients of CILEX entities (other than CILEX-ACCA Probate) would have access the SRA Compensation Fund where it is eligible to become a recognised body or a licensed body. This category includes six out of the current 20 CILEX authorised bodies.

In the longer term, we also have plans to work towards bringing clients of other authorised CILEX bodies (and clients of self-employed authorised CILEX members that provide non reserved legal services) into the scope of the Compensation Fund through pursuing a statutory instrument. We would work with CILEX to arrange appropriate transitional arrangements until the necessary statutory instrument is in place. This would include CILEX underwriting the arrangements by maintaining access to the current compensation arrangements for clients of the affected former CILEX entities until we can provide access to the SRA Compensation Fund. We set out possible alternative approaches in our consultation for regulatory arrangements for authorised CILEX members. If appropriate transitional arrangements cannot be put in place, an alternative option would be to impose restrictions on the handling of client money by these entities, to reduce the risk of loss to consumers

In relation to PII, current minimum PII requirements are 2m for CILEX entities compared to our £2m for traditional partnership and sole practitioners and £3m for incorporated firms.

Impact Assessment

The Professions

Our impact assessment is set out in the section on the costs of funding regulation (above).

Consumers and the Public

The scope of the SRA Compensation Fund is wider than the CILEX fund, and clients would benefit from the increased coverage. As stated above we do not believe that any increase in PII premiums for potentially up to 20 firms will result in significant extra costs being passed on to consumer

Conclusion: There are some limited impacts on the small number of CILEX entities in relation to the costs of the Compensation Fund and PII. We do not expect our proposals to have a negative impact on solicitors or CILEX members generally and consumers could benefit from reauthorised CILEX entities clients being able to access the SRA Compensation Fund.

2.12 Consumer information

Summary of Changes

There would be changes to Transparency Rules that apply to CILEX entities and freelancers delivering non reserved services:

- All CILEX authorised bodies offering services in conveyancing, non-contested probate, immigration applications and appeals, employment Tribunal Claims for unfair or wrongful dismissal and summary road traffic offences (in the case of individuals), and claims for unfair or wrongful dismissal, debt recovery up to £100,000 and licensing applications (in the case of businesses) would need to publish specific cost information according to the SRA Transparency Rules. Currently detailed costs provisions in the CRL Transparency Rules only apply to firms offering conveyancing, probate and immigration
- All CILEX firms that became SRA regulated firms would need:
 - to provide information on complaints and regulatory status (already a requirement under the CRL rules), and
 - include the SRA clickable logo in a prominent place on their website to replace the current CRL logo
- any regulated firm offering any of the services falling within the scope of our costs requirements would have to publish costs information about those services
- individual authorised CILEX lawyers providing unreserved legal services outside an authorised firm would have to publish information about their regulatory status, their complaints procedures, and their costs and services in any areas of law they offer that are covered by our costs requirements.

Impact Assessment: for the Professions and Consumers

Respondents to our consultations generally supported this change, should redelegation take place. The Law Society, however, raised the possibility that it could pose challenges to businesses not previously required to publish such details. They also suggested that there could be potential consumer confusion between CILEX firms and solicitor firms, particularly with the use of the SRA clickable logo.

We recognise that the changes create some additional regulatory requirements but have evidence that our proposals would offer consumer benefits. Our [year three evaluation](#) of our Transparency Rules had found that they were having a positive impact from a consumer perspective. The evidence suggested they supported consumers to make informed decisions and help firms attract new business.

It should also be noted that CRL developed their Transparency Rules with reference to the areas of law covered in the Transparency Rules of other regulators. They did this to create a consistent approach and offer clarity to consumers using firms across the regulated legal services community. They have also stated that they would extend the Transparency Rules to other areas of law, over time (CRL, 2019).

We would look to amend SRA clickable logo as appropriate for CILEX entities so as to avoid any potential consumer confusion.

Conclusion: We recognise that in this case our proposals would create some limited, additional requirements for some CILEX entities and members, but these may have also been introduced under the CRL regime, over time. Our approach to consumer information draws on evidence of risk, is targeted and proportionate, and to the benefit of consumers. We have developed, evaluated and reviewed our Transparency Rules over a number of years and will continue to develop them in response to further information. We therefore expect neutral or positive impacts from the perspective of our statutory objectives.

2.13 Communications

Summary of Changes

Our public facing communications would reference all those we regulate and distinguish between solicitors, authorised and non-authorised CILEX members.

Impact Assessment

The Professions

We have not identified any impacts for any professional groups from the above proposals.

Consumers and the Public

Some stakeholders, particularly from the solicitors' profession, were concerned that our proposals would result in consumers becoming confused about the differences between solicitors and CILEX members. There was also a concern as expressed by the Law Society, that CILEX members would somehow benefit from the solicitor brand by being regulated by the SRA, and that consumers would "falsely" assume that services offered by CILEX members are equivalent to those offered by solicitors.

We have said we would develop our approach to branding in a way that supports the separate identities of solicitors and CILEX members, while retaining a focus on enhancing consumers understanding and choice of legal services.

We agree that is very important that consumers are made aware of the precise scope of the practising rights of the provider that they are instructing, as this scope reflects not only the formal legal position but the nature of the providers' qualifications and expertise. It is equally important of course that providers do not stray beyond that expertise, and that clients are referred on to the appropriate service where appropriate. We have, therefore, set out provisions in the proposed CILEX-SRA Principles and Code of Conduct that clearly set out such boundaries.

Conclusion: Our approach to communications specifically seeks to support diversity in the profession and consumer choice and access. We therefore expect our proposals to have neutral or positive benefits from the perspective of our statutory objectives.

2.14 Other Regulatory Issues

Summary of Changes

We would apply all of our Accounts Rules to CILEX entities and authorised individuals. As a result, we would not retain CRL's requirement for an authorised CILEX member to be authorised separately in relation to "official appointments".

In addition, we would apply the same approach to Third-Party Managed Accounts (TPMA's) and allowing entities to carry on regulated financial services as for current SRA-regulated firms.

We would make some changes to the handbook for CILEX- ACCA Probate Entities, although we would seek to keep these to the minimum necessary to recognise the changes in regulator.

Impact Assessment

The Professions

In relation to our Accounts Rules and official appointments our approach to CILEX members would align with our existing requirements for solicitors. We do not require solicitors or others working in an SRA authorised firm to obtain prior authorisation from us if they intend to act in any of the official capacities mentioned above, as any official appointments carry their own regulatory requirements which are not set by legal services regulators.

If an authorised CILEX lawyer working in an SRA firm or a CILEX authorised body obtains an official appointment that requires handling client money (either via a client account or by operating the client's own account), they would be subject to the relevant SRA rules. These would include the SRA-CILEX Principles and Code of Conduct, and our Accounts Rules. Consequently, we do not think it is necessary to retain a requirement for authorised CILEX lawyers to be separately authorised to take up an official appointment. As with solicitors, if there are concerns about an individual's suitability to hold an official appointment, this can be managed through conditions on how they practise.

We are aware of the [2022 CRL consultation seeking](#) views on CRL's proposals to remove the ability for CRL regulated firms to hold client money and replace the existing CRL overseen 'client account' arrangements with a TPMA supplied by Shield Pay. We are also aware of the CRL guidance on using a third-party managed account (escrow arrangement) to hold client money. If there was redelegation, we would integrate considerations of such issues into our Consumer Protection Review (if the timing allowed for this), which includes considerations of future arrangements for the holding of client money and the use of TPMA's.

We recently checked CILEX entities on the public registers held by Financial Conduct Authority. This resulted in limited evidence that these entities are currently carrying out regulated financial services.

Any revisions to the handbook for CILEX-ACCA Probate Entities will be confined to those necessary for the redelegation.

Consumers and the Public

Aligning standards across all we regulated would, however, support consumer understanding and protection.

Conclusion: We, therefore, expect neutral or positive impacts from the perspective of our statutory objectives.

3. Overall conclusion

The above sets out our detailed assessment of our proposals.

Overall, we identified that the impacts arising from the changes were likely to be neutral or positive from the perspective of our regulatory objectives.

If redelegation went ahead, we would undertake evaluations of the consequential changes to our regulatory arrangements. These would gather and analyse evidence of the actual impact of our arrangements on affected stakeholders including consumers, CILEX members and solicitors. We would publish the outcome of our evaluations, and report on any changes we have made to our work as a result of the findings.