

Justice Select Committee: COVID-19 Impact on CILEx Professionals



Since 6th April, CILEx has been continually engaging with members to better understand the impacts of the coronavirus on practitioners and their respective industries.

Evidence collated from 480 CILEx practitioners have highlighted concerns across the legal profession regarding financial health and sustainability of firms as volumes of caseloads and income are directly affected. These findings are reinforced by anecdotal data obtained from CILEx Specialist Advisers and is a shared concern across the profession as noted at various stakeholder working groups.¹

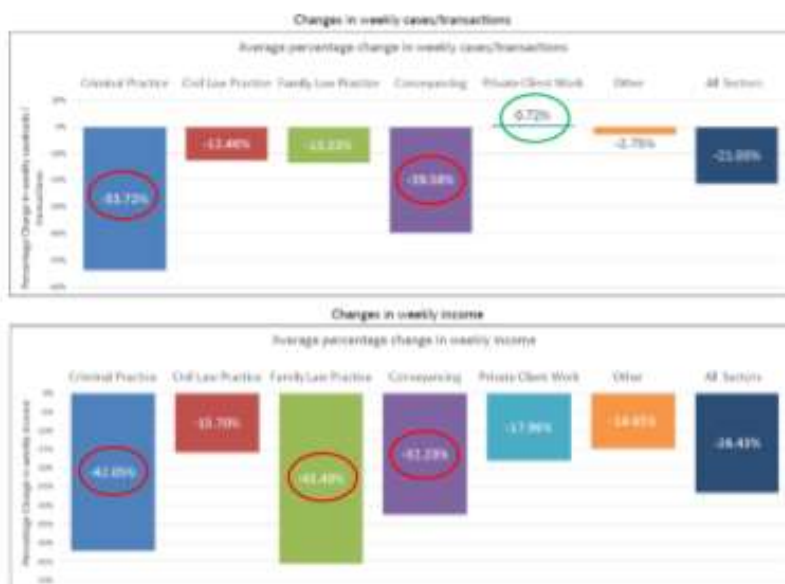


Figure 1

As evidenced by Figure 1, high-risk areas have been identified as the criminal justice, conveyancing and family justice sectors.

Criminal Justice Sector

Key areas of concern include:

- Legal aid funding: Need for greater financial assistance to maintain healthy cashflow, including earlier access to compensation for work done (billing currently operates in retrospect upon case conclusion);
- Compliance: Need for a reduction in ongoing administrative requirements and the relaxation of regulatory obligations (particularly with respect to legal aid work) to allow for greater practical engagement with those activities essential to the justice system;
- Police Stations and Prisons: inconsistent compliance with national guidance and protocols on police station/prisons during COVID-19 which has continued to require physical presence of legal professionals in environments with inadequate safety protection measures;
- Barriers to resourcing: relaxation needed of requirements under the Criminal Litigation Accreditation Scheme under current circumstances, as this is having knock on impacts on the ability for firms to secure legal aid contracts/fill necessary duty slots to effectively deploy resources.

Conveyancing Sector

Key areas of concerns include:

¹ Including: the MoJ Criminal, Civil and Family Practitioner Working Groups respectively, the Criminal Legal Aid Review working groups, Industry working groups/initiatives in conveyancing and the Legal & Advice Sector Roundtable.

- Funding: Need for government support for transition to a model of 'billing in stages' as the national 'pause' on completions has disrupted firms' ability to bill clients;
- Managing consumer expectations: need for additional/updated guidance to help manage expectations of buyers and sellers in light of mixed messaging within press coverage on house moves during coronavirus;
- Barriers to resourcing: likely to see a lawyer supply issue post COVID-19 (as with the 2007/08 recession), with many conveyancers now furloughed alongside a rise in redundancies. Long-term sustainability of the sector will depend on changes to lending practices (e.g.: there is a real risk of seeing consumers 'trapped' in unaffordable mortgages) and sustained efforts shall be necessary to safeguard healthy competition and consumer choice in the sector.

Family Justice Sector

Key areas of concerns include:

- Legal Aid Funding: Need for greater financial assistance to maintain healthy cashflow and solutions to address practical difficulties around billing (e.g.: raising costs bills to courts for assessment);
- Court communication: poor communication with courts is creating logistical issues and confusion, notably where hearings are adjourned with little advance notice given.

As further evidenced by Figure 1, the only sector to be facing an increase in workload as a direct result of COVID-19 is the private client sector, due to increased efforts by consumers to get their affairs in order. It is imperative that this sector is provided with necessary support to handle the increase in workload notwithstanding that many firms are likely to be operating with depleted staff resources and are facing reductions in income. This is further essential given the vulnerable client base within private client work.

Key areas of concern include:

- Key Worker Classification: extends to '*solicitors acting in connection with the execution of wills*' overlooking the wider cohort of legal professional capable of undertaking this role, such as CILEx practitioners, as well as the support of practitioners essential to the *preparation of wills*;
- Barriers to resourcing: need to overcome legislative anomalies such as the Powers of Attorney Act 1971 s3, which unreasonably limits the pool of practitioners capable of undertaking private client work placing further strain on the lawyer supply issue;
- Execution of documents: practical difficulties in the executions of wills and other documents due to legislative requirements for physical presence.

Survey findings further indicate (Figure 2) that existing government support measures have been largely unhelpful or have not been accessed by practitioners. Key reasons for this include: ineligibility for financial support measures for newly employed/self-employed individuals; furlough measures operating on a 'voluntary' basis; ambiguity within government updates and guidance; and the delays in establishing government support measures.

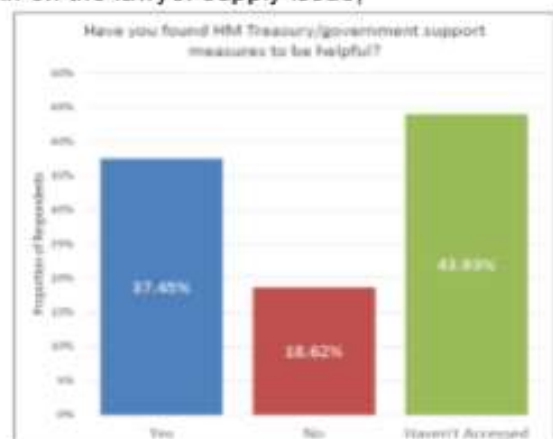


Figure 2