CLC's Property and Law Round Up
August 2016

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Research and Reports

Brexit Britain: First Impressions

Brexit is unlikely to have much effect on real estate law in England and Wales. It was always quite distinct from property law on the Continent and has never really been an area in which Brussels has felt a need to intervene. Although some related sectors (such as environmental and planning law) are more directly influenced by legislation emanating from Brussels, there are unlikely to be any substantial changes in the short term. However, administrative and economic turmoil may mean that the government's plans to review the framework of regulation and revisit the separation of representation and regulation may be shelved.

The immediate concern for the property sector should be less focused on legal or regulatory changes, and more on how the decision to leave the EU could throw up new barriers to investment.

Real estate markets flourish in stable, steadily growing economies, so the real question is, how quickly can the UK recover from its current state of self-inflicted turmoil?

The economy has already taken a tumble, with the financial sector particularly badly affected. This instability has to spread to commercial property investment, with most of the large commercial property portfolios now having been suspended. The UK has been regarded as the top choice for commercial property investment in Europe, but the Brexit vote will most likely lead investors to consider alternatives. Indeed, there is likely to be something of a pause in the market for commercial property too, with businesses waiting to see the results of any new trade agreements before they commit capital to acquiring any new properties. The IMF has revised its expectations downwards. In April they predicted annual growth of 1.9% for 2016, but this is now 1.7%. They are less optimistic for British prospects in 2017, revising their forecast from 2.2% down to 1.3%. However, this is still better than their outlook for France or Germany.

In a survey conducted by the CBRE, just prior to the vote, respondents expressed fears that Brexit would increase the difficulties of cross-border trade and make lenders more cautious. However, a rise in the historic low basic rate of interest, which some had expected later in the year due to the bedding in of the economic recovery, now seems highly unlikely and it may yet be lowered further.

All of this will have a knock on effect throughout the rest of the property sector. If retail is struggling, then that will drive down demand for sheds, estates and places on the high street. A weaker pound will result in higher prices for basic goods, causing consumers to cut back on discretionary spending, which will undermine a leisure industry that was finally enjoying a recovery from the global financial crisis, while the apparent up-tick in anti-immigrant sentiment and related policy proposals, coupled with the likely loss in funding for research and scholarships and a decline in British involvement with the wider academic community will all contribute to a slackening of demand for student accommodation.

The private rental sector, which was already facing challenges, thanks to the newly introduced stamp duty rules affecting buy-to-rent properties, is likely to face further difficulties, with a decline in demand as fewer people move between the UK and the EU. With a shift back to a buyers' market, there may be increasingly robust negotiations on prices, taking more money out of the sector. In these circumstances many would-be sellers may postpone transactions in hope of receiving a better price some months down the line. This could in turn result in a short- to medium-term reduction in the availability of housing stock. Housebuilders have been particularly hard hit with shares in the UK’s two biggest builders Barratt and Persimmon falling by a huge 21% and 24% by 11am on the day the results were announced.

Despite surveys suggesting that a majority of home owners expected the value of their properties to rise regardless of the outcome of the vote, Credit Suisse are predicting an initial fall in house prices, as incomes and purchasing power take a dip. They think this will be followed by a decline in demand in the medium-term, as immigration slows, and London loses its status as Europe's preeminent financial hub.

Regional differences still matter however, and the London market, could actually receive a short-term boost in property purchases, as the anaemic pound attracts foreign investors looking for bargains. On the other hand, they may wish to stay back until the economic and political outlook becomes less murky.

It is not desolation and despondency however, a there is widespread anecdotal evidence of positivity, although this has been tempered somewhat by the unavoidable realities. These views are reflected in some of the comments from surveyors included in the June edition of RICS UK Residential Market Survey, for instance this:

> Uncertainty continues after the EU referendum and the various commentators spreading doom and gloom are not helping. Demand is still there but with some caution, while supply is reducing as vendors take stock of the immediate future.

RICS: June Report

The headline findings from the June edition of RICS UK Residential Market Survey are that:

- Buyer enquiries fall for third consecutive month
- Agreed sales fall sharply with activity expected to remain subdued in the coming months
- Medium term price expectations slip, but remain positive, with rent expectations still firm

Across the country as a whole, they found there was a 36% reduction in new buyer enquiries. This was a third consecutive month of negative growth, and the lowest result since mid-2008 and the depths of the financial crisis. The more southern parts of England, which traditionally outperform the rest of the property market, suffered the biggest fall in demand.

The decline in the availability of properties was the sharpest recorded, down from a net balance of-31% in May, and their 12-month sales expectations have turned negative for the first time in 4 years, meaning that a majority of their respondents believe that transactions will fall, rather than increase over the coming year.

You can read the full report here:
http://www.rics.org/Global/6._WEB_%20June_2016_RICS_UK_Residential_Market_Survey_ri.pdf

Meet the New Boss: Justice Secretary Liz Truss

New Prime Minister Theresa May wasted no time stamping her own mark on government, with a wide-ranging Cabinet reshuffle. This included the appointment of Liz Truss as Justice Secretary and Lord Chancellor. Forty-years-old and regarded as a rising star within the Tory Party, Truss becomes the first woman to hold the post. From 2014 she served as Cameron's Secretary of State for Environment, Food and Rural Affairs. Previously, she was a member of the Justice Select Committee and a junior minister in the Department for Education. A strong advocate of the single market who campaigned for Britain to stay in the EU during the referendum campaign, Truss has little prior experience relevant to her new portfolio.

Truss' appointment as Lord Chancellor has not been greeted with great enthusiasm by those working in the legal sector. Many were hoping for a lawyer in the role, and were surprised when May did not appoint former Attorney-General Dominic Grieve. Lord Faulks, who in 2013 became a Justice minister leading on human rights, has resigned from the government in response. He served under non-lawyers Chris Grayling and Michael Gove, but believes that Truss' complete lack of legal experience could be damaging, and he doubts her ability to stand up for judges and the rule of law in Cabinet, without fear of damaging her career prospects. Former Lord Chancellor Lord Falconer seems to share these sentiments, saying that Truss lacked experience and gravitas, "and gives every impression of only wanting to climb the greasy pole." Relatively few voices within the legal professions have expressed support for her appointment, and those that have have mostly spoken in favour of the appointment of a woman to the role, rather than specifically in support of Truss.

Having grown up in a liberal family, the self-proclaimed "practical Yorkshire girl" proudly informed her 2014 party conference that she rebelled by becoming a Conservative. She studied Philosophy, Politics and Economics at the University of Oxford, before spending a decade as commercial manager and economics director in the energy and telecommunications industries. She worked as the deputy director of the right-leaning think tank Reform before becoming the MP for South West Norfolk in 2010.

PII Renewal 2016: Initial Review

Introduction

Following changes to the CLC's PII arrangements, including a move away from a Master Policy Scheme to an open market managed through a Participating Insurers Agreement and the addition of automatic run-off cover at no cost at the point of closure of a firm, the CLC carried out a survey of practices' experience of the professional indemnity insurance (PII) renewal process.

We wanted to understand how CLC-regulated firms had found the renewal process and their views of the impact of the changes. In addition, we have analysed information provided by the insurers themselves, much of which must remain confidential for commercial reasons but some of which is reported here.

Our insight into the 2016 renewal round will inform our work with the profession and insurers to continue to make improvements for the benefit of consumers and to foster innovation, competition and growth in the legal sector.

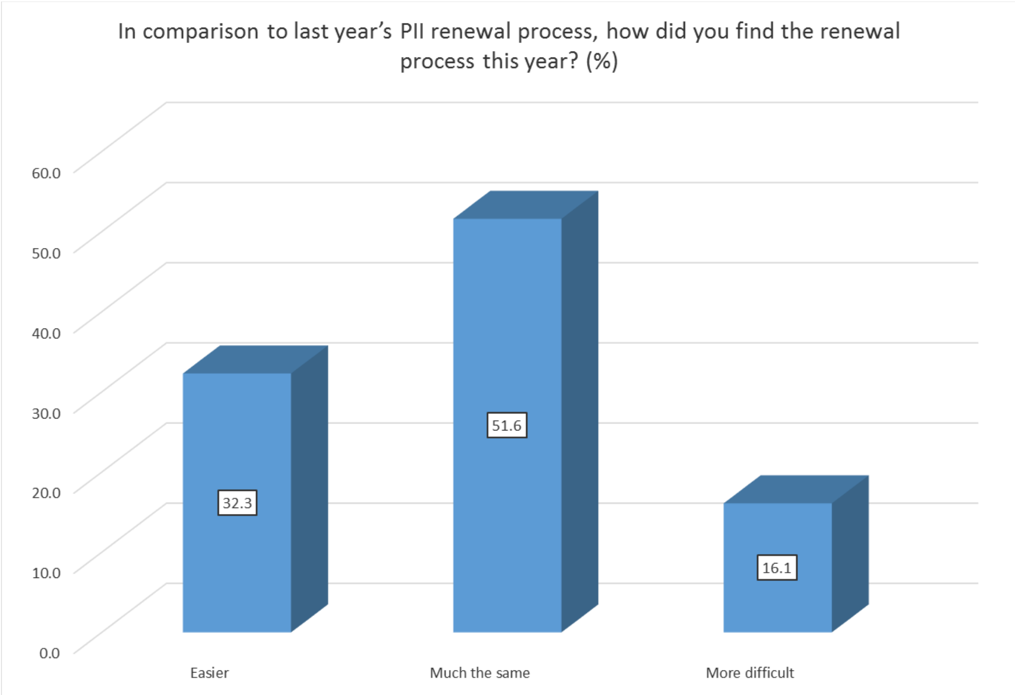
Methodology

The survey was carried out at the end of the 2016 PII renewal round, over a four-day period, between 4th and 7th July 2016. CLC practices were invited to respond to an online survey using SurveyMonkey by e-mail and by a notice in the CLC's regular newsletter. In all, 63 out of 235 practices (or 26.8% of all CLC-regulated entities) responded to the invitation.

Comparative Ease of the New PII Renewal Process

We asked respondents how they found the new PII process in comparison to the old system, which was in place last year. 16% of respondents found the new process more difficult, compared to 32.3% who found it easier (figure 1 overleaf).

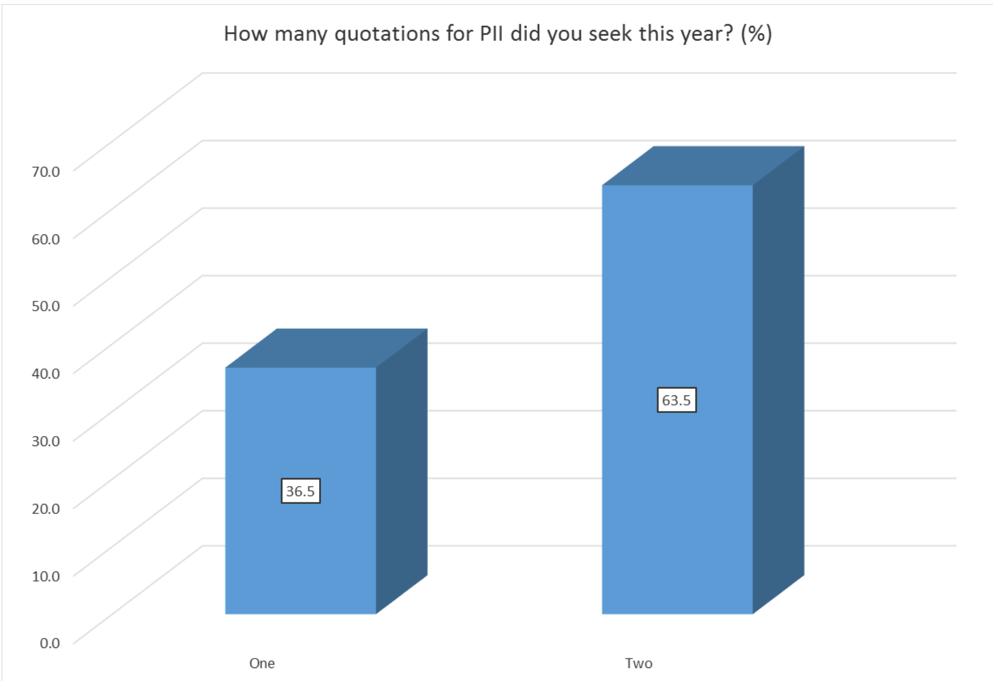
Figure 1



Number of Quotes Sought

Under the new PII arrangements, practices are able to apply for coverage by one or other of two firms; Howden or Willis/Miller. Figure 2 reveals that just over a third of respondent practices (36.5%) only sought a single quotation, but the majority (63.5%) requested quotes from both providers.

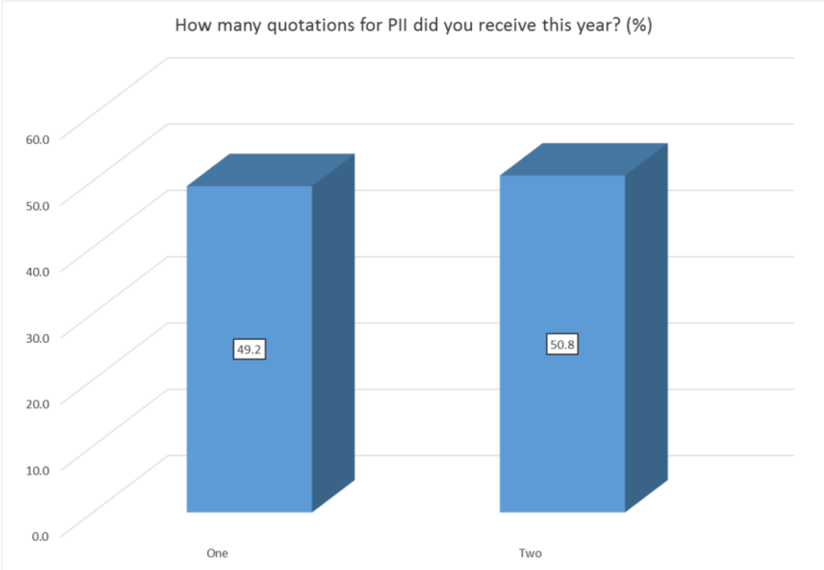
Figure 2



Number of Quotes Received

Figure 3 shows that 49% practices received one quotation compared to 51% practices that received two.

Figure 3

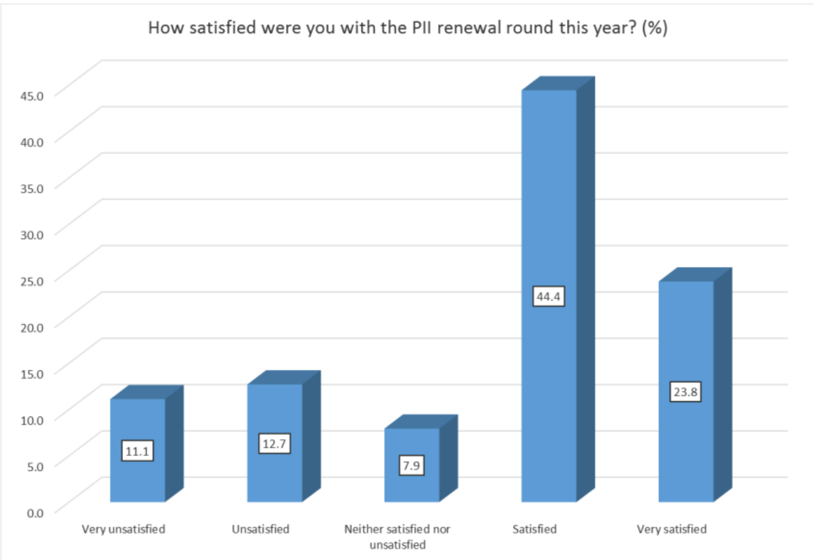


Closer analysis reveals that 19% of all respondent practices requested two quotes, but only received one. However, there was no significant difference in the proportion of these practices that went on to be covered by either PII provider.

Satisfaction with the New PII Arrangements

More than two-thirds of respondents say that they are either satisfied or very satisfied with the new PII arrangements. In figure 4 you can see that this includes almost a quarter who identify as very satisfied, compared to just over one-in-ten respondents who say that they are very unsatisfied with this year's PII renewal round.

Figure 4



One factor that could negatively affect satisfaction is to ask for a quote, but not receive one. Nevertheless, our findings show that respondents who asked for two quotes, but only received one were almost as likely to be satisfied or very satisfied with the new arrangements (67%) as all respondents (68%). However, they were more likely to be unsatisfied or very unsatisfied; 33%, compared to 24%.

Something that definitely does have a substantial impact on satisfaction is the ease or difficulty of the process, and the highest rates of dissatisfaction are to be found among those respondents who said that the new PII process was more difficult than last year's; 70% of those said that they were unsatisfied or very unsatisfied with this year's renewal round, (20% still said they are satisfied with the process overall).

Possible Improvements

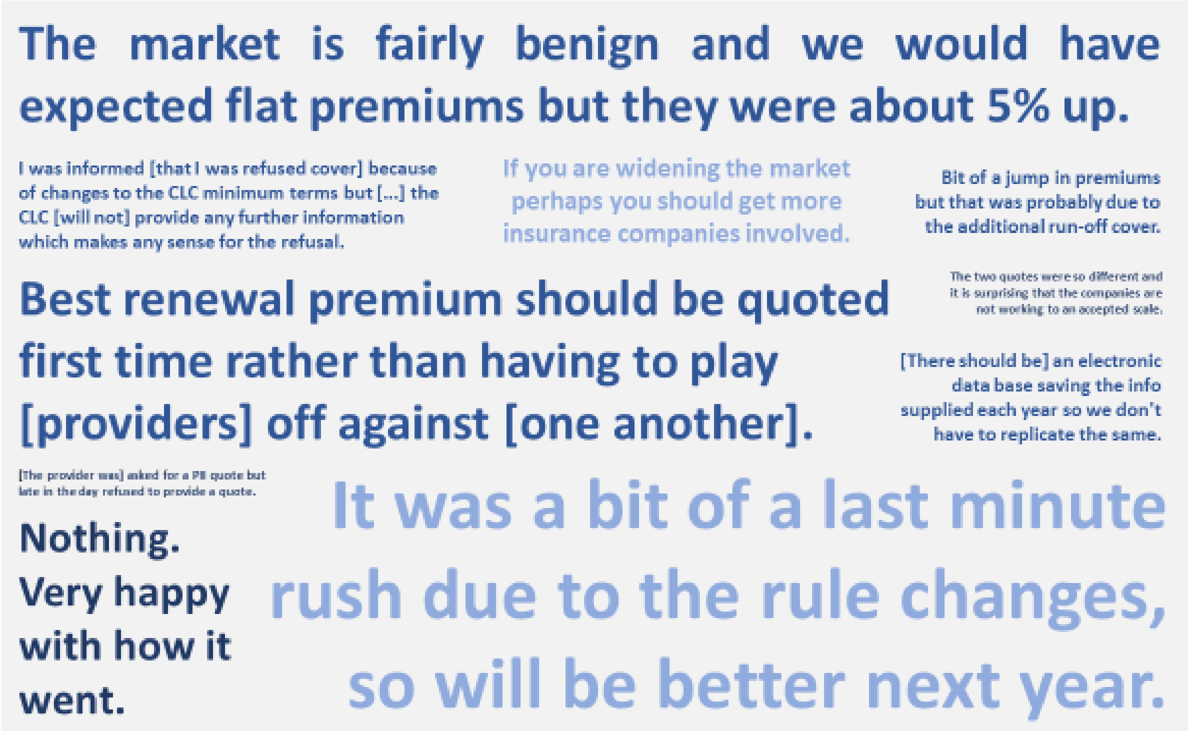
We asked respondents what could be done to improve the PII renewal process. 32 of them provided an answer. Their answers were then broken down to their basic suggestions, and the proportion of respondents making each of these basic observations has been recorded in table 1.

Table 1

Problem	Percentage of respondents mentioning problem (%)
The process was rushed/forms should be sent out earlier	34.4
Prices have increased too much	25.0
Need for better communication with providers	25.0
Nothing/Not much	21.9
There should be more providers to ensure a competitive market	12.5
Providers should pre-populate forms with responses from last year to save time filling them in	6.3
Changes in run-off cover have increased costs	6.3
Need for better communication with the CLC	6.3
Providers should provide quotes when requested	3.1
Quotes from different providers were radically different	3.1

Figure 5 (overleaf) exhibits sample comments from respondents, with the font-size corresponding to the proportion that mentioned the issue (as set out in table 1). There are some useful suggestions here. The renewal process did take place over a shorter period than would have been ideal, but as the most prominent comment in figure 5 correctly observes, this was due to rule changes, and we too expect that there will be a longer window in which to make PII arrangements by the time of next year's renewal process. We welcome competition in PII provision and will keep the market under review as it continues to evolve.

Figure 5



Other Views on the New PII Arrangements

There was also a final invitation for respondents to tell us about any other views they might have on the CLC's PII arrangements. This was a prompt for a wider range of responses, and a little over a third of all respondents (22 out of 63) spoke up (see figure 6 overleaf).

Figure 6

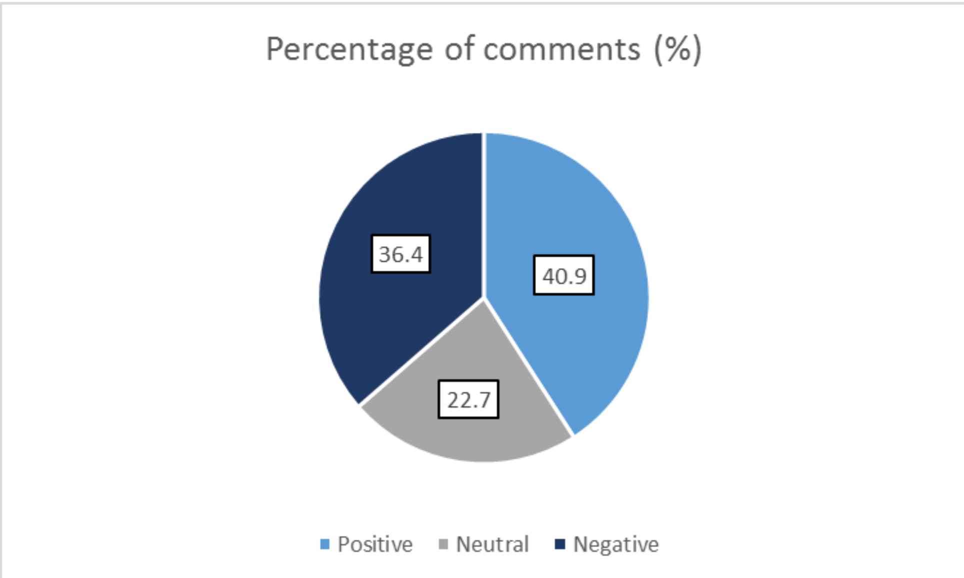


Figure 7 (overleaf) presents some of the comments, illustrating the range of issues covered in the responses. They have been anonymised and references to particular providers, whether they were positive or negative, have been removed.

Figure 7

Positive	Negative
+ Totally happy with how it went this year. Well done to the CLC for responding to the need for change.	- Need to make this process much slicker and quicker.
+ We have saved over £38,000 on the premium this year which we are over the moon with. We just wish we had switched [providers] last year rather than paying such a high amount unnecessarily.	- We would like to see other insurance firms quote for us as solicitors have to choose from 13 and if we were spread across a wide spectrum then we would not be hit with large increases due to other firms' mistakes[.] Interesting discussions to have in this regard as insurance should be available from all PII insurance [providers,] if as is stated the CLC are now closing the master policy terms.
+ We are delighted that you have had the foresight to negotiate in the free run off. Many of my solicitor friends are insanely jealous of this.	- [One of the providers was] very forceful trying to get us to take their quote despite the fact it was 2.5 times higher than the other quote obtained. They then said that if we did not take insurance with them they would not insure us again in the future. They also attempted to undermine the other insurance offered. This was not in our view the appropriate way to deal with this.
+ This is my first renewal and I thought it would be considerably harder. I am very impressed with how it has been handled.	

Conclusion

Obviously a survey like this one, conducted immediately after the event, only captures first impressions. It is clear that some practices have found the new PII arrangements to be less than ideal, but the majority appear to be happy with the changes to those arrangements and to have been satisfied with the process for obtaining PII. Given the scope of the changes and the short time in which they were implemented, this is a considerable accomplishment. And while we recognise that this created tight deadlines which posed difficulties for a significant minority of practices, with the new arrangements now bedded-in, we do not expect such problems to recur.

Information provided by insurers shows that overall, premium rates are low by historic standards and so competition between insurers seems to be serving the regulated community well. Past experience tells us of course that these rates can vary significantly in response to changing risks in the market place. The major risk we face at the moment is cybercrime and the profession will need to take every possible step to protect itself and its clients from such crime.

The addition of run-off cover free at the point of closure of an insured entity has not led to an increase in premium rates as some had feared. It has also greatly enhanced consumer protection, reduced the potential exposure of the Compensation Fund and removed what has been a barrier to orderly closure of some types of practices in the past.

Conveyancing and Property News

Nationwide House Price Index: June 2016

Nationwide's latest House Price Index shows that UK annual house price growth increased to 5.1% in June, up a little from 4.7% the previous month.

Their Chief Economist, Robert Gardner, says:

> It has become difficult to gauge the underlying pace of demand in recent months, due to the surge in house purchase activity in March ahead of the introduction of Stamp Duty on second homes on 1 April. It will therefore be difficult to assess how much of the likely fall back in transactions in the quarters ahead is because buyers brought forward purchases to avoid additional Stamp Duty liabilities, and how much is due to increased economic uncertainty following the referendum result.

This contrasts with the pre-Brexit forecast in their May report, which foresaw a steady increase in housing market activity once stamp duty related volatility has passed.

Regional disparities continue to grow. House prices in London are now 54% higher than their pre-crisis peak in 2007, while in the North of England (the only region to see a decline in the second quarter), house prices are still 9% lower than they were in 2007.

Nationwide predicts that the labour market will play a decisive role in how the residential property market develops from here, although they are reassured that it has remained robust over recent months with the unemployment rate falling to an 11-year low in April.

You can read the full report here:
http://www.nationwide.co.uk/~/media/MainSite/documents/about/house-price-index/2016/Jun_Q2_2016.pdf

RICS: Work and the Built Environment

Daniel Cook, the Director of Strategy and Planning at RICS, has written a brief think-piece which points out that the future of work is not only relevant for the residential property market, but can also have a profound effect on commercial property.

Citing ongoing urbanisation, generational change, and automation as key drivers changing how and where we work, he suggests six things that require attention:

- **Workplace productivity:** This is an increasing area where our work on standards, such as IPMS, will be really important, as will our new partnership with IFMA to progress these areas.

- **Agility and lifelong learning:** Tech is changing everything so we all have to continue learning new things and acting on them faster than ever before.

- **Work culture:** Younger generations would like to be their own boss, so "corporate culture" will not survive. It is not surprising that some employers are co-investing in new ventures. Co-working spaces are thriving and more on crowdsourcing for skills are expected to be a potential driver for a future "gig" economy.

- **Wellbeing:** Ageing matters so we can expect health and wellbeing to rise up the agenda. From the new ‘Well certification’ to Google's ‘Calico’, health is starting to matter.

- **Skills:** We need to get better at creating and helping up skill people for the jobs of the future or we risk greater instability, especially among the young trying to enter the workforce and people in traditional roles that are under threat from digitisation and wider change.

- **Inclusion:** We need to make sure social inclusion has a greater focus for the built and natural environment. Everyone needs to share in economic benefits and our sector has a part to play as managers or advisers of use of 70% of the world's wealth.

These may also be relevant considerations for CLC-regulated employers.

You can read his note in full here: http://www.rics.org/uk/news/news-insight/comment/why-the-future-of-work-is-so-important-to-the-future-of-the-built-environment/

Facts, Figures and Statistics

Land Registry: Transaction Data for April 2016

The following is the latest analysis of monthly transaction data from the Land Registry:

- Land Registry completed 1,491,651 applications
- The South East topped the table of regional applications with 342,612
- Birmingham topped the table of applications by local authority area with 21,981

The Transaction Data shows Land Registry completed more than 1,491,650 applications from its customers in May. This included 1,460,738 applications by account customers, of which:

- 365,745 were applications in respect of registered land (dealings)
- 697,066 were applications to obtain an official copy of a register or title plan
- 179,220 were searches
- 81,583 were transactions for value

Region	Applications
South East	342,612
Greater London	302,168
North West	162,598
South West	144,605
West Midlands	125,236
Yorks & Humber	115,944
East Midlands	103,140
Wales	68,333
North	67,526
East Anglia	59,400
England and Wales (not assigned)	72
Isles of Scilly	17
Total	**1,491,651**

Top three local authorities	Applications
Birmingham	21,981
City of Westminster	20,649
Leeds	17,323

Top three customers	Transactions for value
Knights Professional Services Ltd	2,565
My Home Move Limited*	1,770
Countrywide Property Lawyers*	833

Top three customers	Searches
Enact*	8,481
Optima Legal Services	6,401
O'Neill Patient	5,133

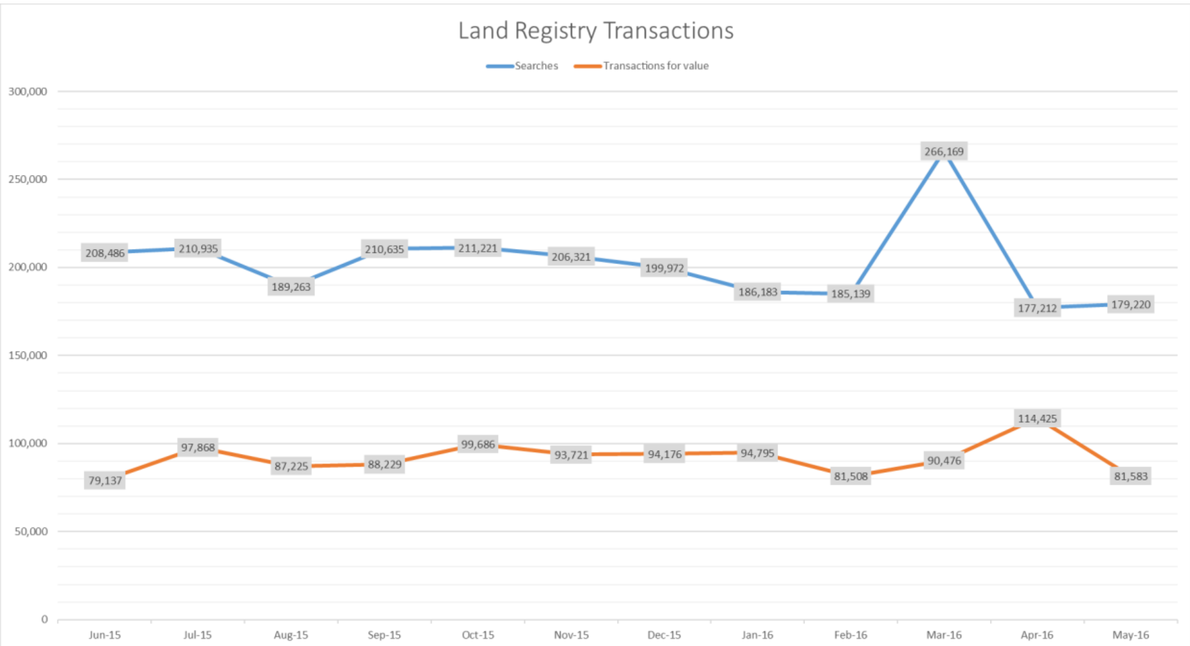
*** CLC-regulated practices**

You can access the full dataset here: http://data.gov.uk/dataset/monthly-land-registry-property-transaction-data

There was an expectation that there would be a drop off in the number of transactions for value following the increase in stamp duty for buy-to-rent purchasers, and perhaps this is born out in the table below. It shows the number of Land Registry transactions of various kinds that took place in April and May, 2016. It also shows the percentage change in the number of transactions between the two months. The most substantial reduction is in the number of transactions for value, down more than a quarter from April to May.

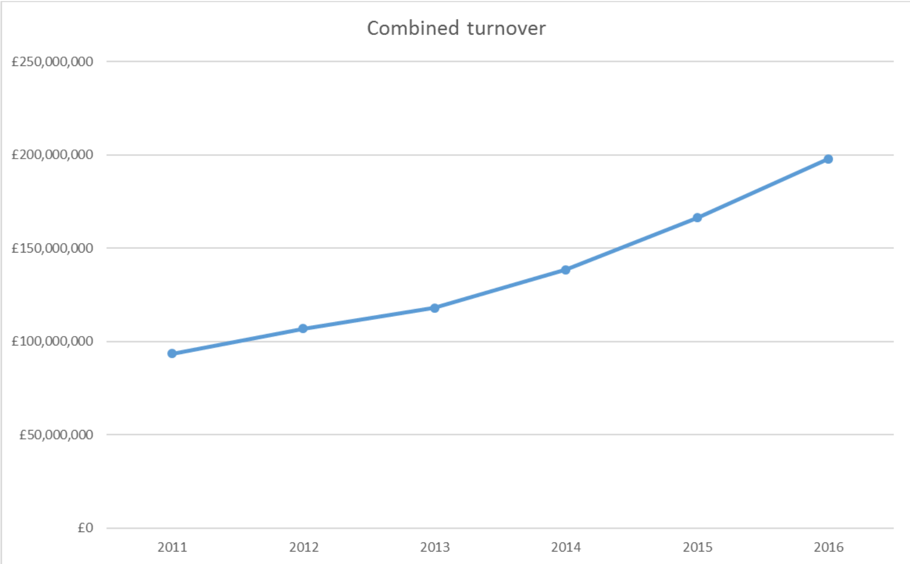
Headline figures	April 2016	May 2016	Percentage change (%)
Land Registry completed applications	1,567,627	1,491,651	-4.8
Applications by account customers	1,537,201	1,460,738	-5.0
Applications in respect of registered land (dealings)	404,747	365,745	-9.6
Applications to obtain a copy of a register or title plan	725,585	697,066	-3.9
Searches	177,212	179,220	1.1
Transactions for value	114,425	81,583	-28.7

This change is more surprising given a historical context. The large gap between searches and transactions for value in March might be explained as an example of "irrational exuberance", but the gap in May (with the number of transactions for value in decline) could better be characterised as market uncertainty:



CLC-Regulated Practices More Than Double Turnover Since 2011

A happier note to end on. The combined turnover of CLC-regulated practices has more than doubled since 2011. In 2011, the combined turnover of all practices was £93,421,038, but by 2016, this had increased to £197,940,246.



Of course over the same period there has been an increase in the number of practices regulated by the CLC, but further analysis shows that the growth in combined turnover has been largely in-step with the growth of the regulated community, meaning that average turnover has increased almost as much as combined turnover. We do not yet have a fixed number of practices for 2016, but comparison of figures from 2015 show that combined turnover had increased by 178% from 2011, while average turnover per practice increased by 175% over the same period.