CLC's Property and Law Round Up October 2016

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Research and Reports

Q3 GDP Figures

Britain's economy expanded by 0.5% in the three months after the EU referendum; down slightly from the 0.7% growth recorded in Q2, but defying the most pessimistic predictions made by the Remain campaign.

Most economists forecast third quarter growth of 0.3%, and although initial results are in line with the official forecasts made before the referendum took place (in March the Office for Budget Responsibility predicted third quarter growth of 0.5%), it is possible that they may be revised downwards for a result more in keeping with expert predictions.

We have apparently avoided the Treasury's referendum campaign claim that a vote to leave the EU would result in 0.1% fall in GDP in Q3, heralding the start of a recession, and their worst-case "severe shock" scenario which predicted a 1.0% fall in the three-month period, although that was predicated on an immediate triggering of Article 50. For now we remain in a state of limbo.

The State of the Economy

The relatively strong growth makes it less likely that the Bank of England's Monetary Policy Committee will further cut interest rates, which remain at a historic low. This had been discussed as a possibility, and may have encouraged more people to enter the property market, if banks made a corresponding downward adjustment in mortgage rates.

The GDP figures may give a misleading picture of a generally buoyant economy, because although the dominant services sector grew by 0.8%, there was a 1% drop in manufacturing output, and the other major sectors all contracted; production (which includes industries such as mining and waste management) by 0.4%, agriculture by 0.7%, and construction – the sector most closely aligned to the work of CLC-regulated practices – saw the largest fall of 1.4% (see commentary on the "Nationwide House Price Index: September 2016" below, for effects on the supply of housing stock).

Britain's economy has held up well since the vote to leave the EU, but uncertainty around the future of international trading relationships could hit investment, according to Ben Broadbent, the deputy governor of the Bank of England: "Even if growth stays strong, that uncertainty alone is dangerous, making it hard for businesses to know if they should make big spending decisions."

The pound has lost more than 15% of its value against the dollar since the Brexit vote, and Goldman Sachs believes it is still overvalued by about 10%. This favourable exchange rates may encourage foreign investors to target British properties, completely removing any barriers that may have been erected by the increase in stamp duty in Q2, but any effects of these have been muted so far, and it may be that investors are waiting for legal and policy positions to solidify, or simply to see how much further the pound will fall from what is already a 31-year low.

RICS: September Report

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

- Buyer demand increases for the first time in seven months although conditions vary across the UK
- House prices continue to rise while new instructions remain scarce
- Downward trend in sales eases with expectations continuing to improve

The September 2016 RICS Residential Market Survey results show new buyer enquiries increased for the first time in seven months, but the pick-up was modest.

A regional breakdown shows prices continue to fall in Central London and the North East, although the pace of decline eased noticeably across the latter. Anecdotal evidence suggests that uncertainty following the EU vote, along with Stamp Duty changes, are both continuing to adversely impact the top end of the market in particular. Predictions for the next 12 months suggest prices in the capital will not change substantially, making London the only area in which prices are not projected to rise in the coming year.

New sales instructions fell for the seventh month running. In fact, the flow of new stock coming to market has been on a more or less steady downward trend for the past two years, so stock levels on estate agents books remain exceptionally low.

Marginally increasing demand and a real lack of supply is firmly underpinning prices, and the lack of choice for would-be purchasers also appears to be restricting overall sales market activity

You can read the full report here:
http://www.rics.org/Global/9._WEB_%20September_2016_RICS_UK_Residential_Market_Survey_tp.pdf

SRA: PII Report

According to a new report from the Solicitors Regulation Authority (SRA), the smallest practices in the sector pay substantially more in professional indemnity insurance (PII) cover as a percentage of turnover.

The figures, collated by the SRA between 2004 and 2014, revealed that the owners of small law firms were "particularly affected" by the costs of an indemnity insurance policy, which, the report concluded, contributed to "the single highest cost of regulation" in the sector.

The table below shows how PII payments as a proportion of annual turnover vary with practice-size (as indicated by number of partners):

Number of partners	PII payments as a proportion of annual turnover (%)
Sole practitioner	7.0
2 to 4 partners	5.5
5 to 10 partners	3.2
11 to 25 partners	3.9

SRA policy director Crispin Passmore stated that the legal sector had a responsibility to provide a better environment for smaller firms to operate within:

> We have a very diverse profession with solicitors and firms practicing in many different ways. Regulation needs to respond to and support this variety.

The study also found that conveyancing was the area of the law giving rise to the largest number of claims across the sector.

You can read the full report here: https://www.sra.org.uk/documents/solicitors/colp-cofa/conference-2016-plenary-pii.pdf

Ownership and Investment in CLC-Regulated Practices

The following is a preview of sorts of the upcoming "Council for Licensed Conveyancer's Annual Regulatory Return 2015-16".

Findings are based on the annual regulatory return, a survey of all CLC-regulated practices in which, among other information, respondents were requested to provide details about the ownership of their practice, their attitudes towards investment, and the nature of any investments made in the 2015 calendar year.

The CLC is an entity regulator, and it regulates two broad kinds of practice; licensed bodies and alternative business structures (ABSs). The following analysis looks at responses to the regulatory return primarily through the lens of "entity type".

Table 1 sets out the ownership structure of CLC-regulated practices, and shows that more than three-quarters of practices are Limited Companies. This rises to more than 95% of ABSs, but traditional practices make use of a wider range of ownership structures.

Table 1: Proportion of practices that made substantial investments with a particular ownership structure, by entity type

	Licensed Body (%)	Alternative Business Structure (%)	All practices (%)
Limited Company	65.0	95.8	76.6
Partnership	17.5	0.0	10.9
Limited Liability Partnership	7.5	4.2	6.3
Sole Trader	10.0	0.0	6.3

Table 2 shows the proportion of practices that agreed or disagreed with each of four statements relating to investment in their legal business. It shows that almost half of all practices find it easy to access capital when their business requires investment. Almost two-fifths say there are a range of sources for such finance. Almost a third believe that short-term finance options, such as overdrafts, are a reliable source of funding, and two-thirds are more concerned with retaining control than growing their businesses. Responses do not vary a great deal between entity-types, but ABSs seem on the whole to be less optimistic about their ability to raise funds and less concerned about maintaining control of their businesses than respondents from Licensed Bodies.

Table 2: Proportion of practices that agree or disagree with the following statements about investment, by entity type

	Disagree (%)	Agree (%)
"When my business needs investment, it is easy to access the capital required"		
Licensed Body	14.9	46.4
Alternative Business Structure	22.2	37.8
All practices	16.4	44.6
"When my business needs investment, there are a range of sources of readily available finance"		
Licensed Body	16.8	38.9
Alternative Business Structure	22.2	35.6
All practices	17.9	38.2
"Short-term sources of finance, such as overdrafts, are reliable sources of investment funding"		
Licensed Body	27.5	32.3
Alternative Business Structure	28.9	22.2
All practices	27.8	30.2
"Keeping control is more important than growing my business"		
Licensed Body	5.4	69.9
Alternative Business Structure	8.9	53.3
All practices	6.2	66.4

We wondered whether an attitudinal difference might affect investment decisions, if, for instance, a belief that funding would be hard to access would discourage investment. But table 3 suggests that in most instances it does not. It shows that whether practices made substantial investments in 2015, gave investment serious consideration but ultimately decided against it, or didn't even give it a thought, their attitudes towards the availability of funds were really quite similar.

Table 3: Proportion of practices that agree or disagree with the following statements about investment, by whether or not they made a substantial investment in their legal business

	Disagree (%)	Agree (%)
"When my business needs investment, it is easy to access the capital required"		
Investment made	17.7	45.2
No investment, but it was given serious consideration	12.5	43.8
No investment, and it was not given serious consideration	16.2	44.9
All practice	16.4	44.9
"When my business needs investment, there are a range of sources of readily available finance"		
Investment made	17.7	41.9
No investment, but it was given serious consideration	12.5	43.8
No investment, and it was not given serious consideration	18.5	35.6
All practice	17.8	38.0
"Short-term sources of finance, such as overdrafts, are reliable sources of investment funding"		
Investment made	33.9	35.5
No investment, but it was given serious consideration	37.5	18.8
No investment, and it was not given serious consideration	23.7	29.6
All practice	27.7	30.5
"Keeping control is more important than growing my business"		
Investment made	1.6	66.1
No investment, but it was given serious consideration	6.3	75.0
No investment, and it was not given serious consideration	8.2	65.7
All practice	6.1	66.5

Table 4 shows the proportions of practices that actually did make a substantial investment in 2015, and it reveals considerable differences between traditional practices and ABSs, with the latter more than twice as likely to have made an investment. More than half of ABSs made substantial investments in 2015, compared to less than a quarter of licensed bodies. It also seems that licensed bodies were almost twice as likely as ABSs to seriously consider making an investment, but ultimately not commit to the spending. Bearing in mind the caveat that correlation does not equal causation, it nevertheless seems that there may be something about the ABS which engenders a greater sense of entrepreneurialism.

Table 4: Proportion of practices which made a substantial investment in their legal business, by entity type

	Licensed Body (%)	Alternative Business Structure (%)	All practices (%)
Investment made	23.2	52.2	29.4
No investment, but it was given serious consideration	8.3	4.3	7.5
No investment, and it was not given serious consideration	68.5	43.5	63.1

Table 5 details the areas in which practices made substantial investment in 2015. It is in two parts; the top half of the table looks at the proportion of practices within an entity-type that made investments in particular areas, regardless of whether or not the respondents' practices actually made an investment, while the bottom half presents the same data, but includes only those practices that made a substantial investment in 2015. If respondents invested in more than one aspect of their legal business, they were not limited to a single response. The table shows that the main targets of investment were fairly similar for both licensed bodies and ABSs, although the latter were the more likely to make investments in all but the two least popular areas. It also reveals that the main area of investment was in hiring more staff, lending some credence to the old platitude that people are a company's most important asset. The next most popular targets of investment were both IT-related; with systems for improved practice management edging out consumer-facing systems. Among practices that made investments, ABSs were a third more likely than traditional practices to invest in management systems, and among all practices they were more than three times as likely as licensed bodies to make such an investment. This is in line with findings from last year's regulatory return, which indicated that ABSs were making greater use of innovative information and communications technologies than traditional practices.[1]

Table 5: Proportion of practices targeting particular aspects of their legal business for investment, by entity type

	Licensed Body	Alternative Business Structure	All practices
Proportion of all practices, including those which did not make substantial investments			
Expansion of the business through hiring more staff (%)	13.7	41.3	19.6
Improved management of the business through the purchase of new IT for practice management (%)	8.9	30.4	13.6
Improved management of the business through the purchase of consumer-facing IT systems (%)	7.1	17.4	9.3
Other (%)	3.6	15.2	6.1
Expansion of the business through the purchase of new property (%)	4.8	2.2	4.2
Expansion of the business through purchase of an existing business (%)	0.6	0.0	0.5
Proportion of only those practices which made substantial investments			
Expansion of the business through hiring more staff (%)	59.0	79.2	66.7
Improved management of the business through the purchase of new IT for practice management (%)	38.5	58.3	46.0
Improved management of the business through the purchase of consumer-facing IT systems (%)	30.8	33.3	31.7
Other (%)	15.4	29.2	20.6
Expansion of the business through the purchase of new property (%)	20.5	4.2	14.3
Expansion of the business through purchase of an existing business (%)	2.6	0.0	1.6

Table 6 adopts a structure similar to what we saw in table 5, breaking analysis once again into two parts; the proportions of all practices, and the proportions of those practices that made substantial investments. By a huge margin the main source of funds for both licensed bodies and ABSs was business profits or cash reserves, and among those practices that actually made investments, more than 70% used profits or reserves. The second most popular funding option for each entity-type diverges interestingly however, with ABSs receiving capital injections from existing owners, while traditional practices were more likely to resort to the banks.

[1] http://www.conveyancer.org.uk/CLC-Blog/April-2016/ABSs-Leading-the-Way-on-Information-Technology.aspx

Table 6: Proportion of practices funding investment by particular means, by entity type			
	Licensed Body	Alternative Business Structure	All practices
Proportion of all practices, including those which did not make substantial investments			
Business profits or cash reserves	16.7	39.1	21.5
Loan from a bank	4.8	4.3	4.7
Capital injection from existing owners/partners	4.2	6.5	4.7
Overdraft facility	3.6	0.0	2.8
Loan from family or friends	1.8	2.2	1.9
Capital injection from new owners/partners who were formerly authorised persons	0.6	2.2	0.9
Other	0.0	4.3	0.9
Capital injection from new owners/partners who are authorised persons	0.6	0.0	0.5
Proportion of only those practices which made substantial investments			
Business profits or cash reserves	71.8	75.0	73.0
Loan from a bank	20.5	8.3	15.9
Capital injection from existing owners/partners	17.9	12.5	15.9
Overdraft facility	15.4	0.0	9.5
Loan from family or friends	7.7	4.2	6.3
Capital injection from new owners/partners who were formerly authorised persons	2.6	4.2	3.2
Other	0.0	8.3	3.2
Capital injection from new owners/partners who are authorised persons	2.6	0.0	1.6

Conveyancing and Property News

Nationwide House Price Index: September 2016

The growth in house prices halved in September to 5.3%, down from 5.6% in August, although it remained within the 3.0%-6.0% band that it has maintained for more than a year and a half. The average house price fell £130 from £206,145 in August to £206,015, the first month-on-month decrease since January.

Enquiries from new buyers have remained subdued, and the number of homes on the market remains close to all-time lows.

Regional price trends have continued, with the South-East of England making the greatest gains, although price growth in London and the outer metropolitan area is down almost a third since the second quarter.

The number of new homes is growing, but too slowly to keep pace with demand. It is up 30% on the low point seen in 2010, but still 15% below the average rate of building in the five years before the financial crisis, and 38% below the 225,000 new households projected to be required in each year of the next decade.

Low interest rates, and schemes such as Help to Buy, should give confidence to housebuilders to increase output. But economic uncertainty is a serious impediment to increased activity in the short- to medium-term.

The regions with the lowest house price to earnings ratios, such as the North-West of England and Yorkshire and the Humber, have seen the smallest increases in housing stock. And while London experienced the greatest increase, at 2.9%, this was still substantially lower than the 4.3% rise that might have been expected given the elevated house price to earnings ratio and observations in other regions. In outer London the growth in housing stock was only two-thirds of what might have been expected.

You can read the full report here:
http://www.nationwide.co.uk/~/media/MainSite/documents/about/house-price-index/2016/Sep_Q3_2016.pdf

Stamp Duty Avoidance

New tax avoidance schemes are emerging in the wake of the Stamp Duty 3% surcharge on the purchase of second homes that came into force in April.

Similar schemes were popular a few years ago, but had largely disappeared as HMRC successfully challenged them and closed the loopholes, and most of those who participated in such schemes have had to pay the full SDLT liability, plus interest on late payment, and penalties in some cases – all on top of the fees paid to the promoter of the scheme.

A simple Google search reveals a handful of companies that, once again, offer structures which claim to save Stamp Duty on property purchases for an upfront fee, although actual details are vague. Such schemes are likely to be challenged by HMRC.

Other problems may arise for parents who already own their home and who may wish to help their child buy their first home. If they acquire an interest in the property, the higher rate of Stamp Duty will apply.

You can read more about the matter here: http://www.propertyindustryeye.com/new-tax-avoidance-schemes-emerging-after-stamp-duty-3-surcharge/

Facts, Figures, and Statistics

Land Registry: Transaction Data September 2016

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

- Land Registry completed 1,568,749 applications
- The South East topped the table of regional applications with 364,163
- Birmingham topped the table of local authority applications by area with 23,306

The Transaction Data shows Land Registry completed more than 1,568,740 applications from its customers in September. This included 1,530,176 applications by account customers, of which:

- 367,942 were applications in respect of registered land (dealings)
- 734,178 were applications to obtain an official copy of a register or title plan
- 199,521 were searches
- 97,263 were transactions for value

Region	Applications
South East	364,163
Greater London	309,228
North West	168,490
South West	152,945
West Midlands	130,302
Yorks & Humber	120,652
East Midlands	110,273
Wales	73,774
North	69,706
East Anglia	69,067
England and Wales (not assigned)	85
Isles of Scilly	64
Total	**1,568,749**

Top three local authorities	Applications
Birmingham	23,306
City of Westminster	22,112
Leeds	17,716

Top three customers	Transactions for value
My Home Move Limited*	2,287
O'Neill Patient	1,138
Countrywide Property Lawyers*	1,121

Top three customers	Searches
Enact*	9,235
Optima Legal Services	6,529
O'Neill Patient	6,463

*** CLC-regulated practices**

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

There has not been a historically significant reduction in the number of monthly transactions following the increase in stamp duty for buy-to-rent purchasers, or the EU referendum result. The table below shows the number of Land Registry transactions of various kinds that took place in August and September, 2016. It also shows the percentage change in the number of transactions between the two months. There has been a surprising rise of almost 14% in transactions for value between August and September, with the number of transactions reaching the highest level since April of this year:

Headline figures	August 2016	September 2016	Percentage change (%)
Land Registry completed applications	1,520,037	1,568,749	3.2
Applications by account customers	1,493,738	1,530,176	2.4
Applications in respect of registered land (dealings)	380,059	367,942	-3.2
Applications to obtain a copy of a register or title plan	687,676	734,178	6.8
Searches	205,500	199,521	-2.9
Transactions for value	85,396	97,263	13.9

Transactions of all kinds appear to have been somewhat down since the Brexit decision, but they now seem to be on a slow upward trajectory. This is likely to continue until the next major shock, which will likely be the triggering of Article 50: