



## **Proposed changes to the Law Society National Conveyancing Protocol**

### **Consultation from the Law Society of England and Wales**

#### **Response by the Council for Licensed Conveyancers**

*May 2018*

#### **Summary**

1. The changes to the Protocol appear to provide additional support, clarity and guidance in some areas of conveyancing transactions that have been causing issues, frustrations and delays for both consumers and conveyancers.
2. It is positive to see the inclusion of the term 'conveyancer' in place of solicitor throughout the Protocol as it better reflects the mix of legal professionals carrying out this type of work.
3. The proposal of providing more information upfront is welcome. Consumers should be provided with the information they need, at a time they need it, to allow them to make an informed decision with confidence.

#### **Introductory Comment**

4. Despite the proposed changes, there is still, in the CLC's view, confusion around the purpose of the Protocol. The fact that CQS firms are required to use the Protocol suggests that it should be a signal of quality to consumers. In practice, the Protocol sets out a basic framework of minimum standards which the CLC would expect all conveyancers to meet.

#### **About the Council for Licensed Conveyancers (CLC)**

5. The CLC was established by the Administration of Justice Act 1985 and is an Approved Regulator under the Legal Services Act 2007, subject to the oversight regulation of the Legal Services Board. It licenses and regulates licensed conveyancers and practices in the provision of reserved legal activities, currently conveyancing, probate services and other non-reserved legal activities (including will writing). It is also a Licensing Authority authorised to license and regulate Alternative Business Structures (ABS). It has no representative function having always been an independent regulator.
6. The CLC's role is to safeguard the public interest and consumers by regulating providers to deliver high quality and accessible legal services.
7. The CLC welcomes the opportunity to respond to this consultation.

#### **Response to consultation**

**Question 1: Do you agree or disagree that it would be helpful to consumers if there was an obligation in the Protocol to provide them with information about the nature of the process generally, and how they might break chains?**

8. The CLC agrees that consumers should be provided with clear, concise information in plain English about the conveyancing process at the earliest stage possible. This will help to manage consumer expectations, especially around timescales.
9. Providing information about breaking chains is not essential to the conveyancing transaction and may not be appropriate or viable for some consumers. It may be too late for consumers to consider breaking the chain by the time the conveyancer has provided that information to them.

**Question 2: Following the issues associated with unfair leasehold, many lenders have made new requirements in relation to ground rents and lease terms. We propose that a new section of the Protocol addresses this by requiring these issues to be reported at an early stage to the lender, for the consideration of their valuer.**

10. The CLC agrees that providing relevant information to the lender at the earliest stage possible may help to prevent unnecessary delays and issues with the mortgage.

**Question 3: If you were obliged under the Protocol to check with the estate agent or developer that they had given the consumer the information they need to make an informed decision, how could this best be achieved?**

11. The CLC does not believe that it is the role of the conveyancer to check with other professionals that they have provided the consumer with necessary information.

**Question 4: Subject to the Court of Appeal decision in Dreamvar and P&P, do you agree or disagree the obligation in A2 Client Identity should be:**

**(a) to take reasonable steps to identify your client?**

**(b) to comply with AML, UK Finance Handbook, BSA Mortgage Instructions and HM Land Registry terms as to identity?**

12. The CLC agrees. Establishing and verifying the identity of your client is part of carrying out client due diligence (CDD) and know your client (KYC) checks which help to determine the risk of money laundering and fraud.

**Question 5: Do you think that the insertion of time limits would assist the process?**

13. Providing average timescales may help to manage expectations but it should be clear that they should be seen as a guide and not a deadline.
14. Time limits for searches and leasehold information as outlined in the government's call for evidence response may help to reduce delays in transactions but this is not within the control of conveyancers.

**Question 6: Do you agree or disagree with the statement: "it may sometimes be necessary for the buyer to obtain SDLT tax advice, particularly if higher rate SDLT and multiple dwelling relief applies"?**

15. The CLC agrees.

**Question 7: Are there any steps that you would remove from the Protocol?**

16. As stated in the introduction to the Protocol, 'the steps in the Protocol are not exhaustive and should not be regarded as a conveyancing checklist'. The Protocol makes some assumptions about a transaction but different transactions may require different processes and not all steps will be applicable every time.

**Question 8: Do you think there are any steps missing from the Protocol?**

17. See the answer to question 7.

**Question 9: Are there any steps in the Protocol that you think are likely to cause you and/or your clients particular delay or frustration?**

18. The CLC has no comment.

**Question 10: What else can we do to improve the proposed Protocol?**

19. The CLC has no comment.

**Question 11: Is there anything else you would like to add about the proposed changes?**

20. The Protocol will need to be updated if changes are made to the home buying and selling process further to the government's call for evidence response.