



The
Specialist
Property
Law
Regulator

Council for Licensed Conveyancers

Annual Report 2018





Strategy

Empower consumers to make informed choices of conveyancing and probate lawyers

- Price and service information is more easily accessible and comparable in line with the CLC's Action Plan in response to the Competition and Markets Authority's recommendations on information remedies in legal services
- CLC firms with the best ratings from consumers will increase their transaction volumes

Adapt regulation to the changing market

- No regulatory failures will arise as a result of new technological innovations or business models
- We will adapt our regulatory approach in response to changes in the market for specialist conveyancing and probate services
- Innovative practices will agree that being regulated by the CLC is either 'extremely' or 'mostly' beneficial to their business

Be the regulator of choice in our specialist areas

- Firms agree that being regulated by the CLC is either 'extremely' or 'mostly' beneficial to their business
- The share of the conveyancing market (in terms of numbers of transactions) under CLC regulation continues to grow



Foreword

Dame Janet Paraskeva

Chair

2018 was the first year of the CLC's new five-year strategy period. We have set ourselves ambitious goals that are all aimed at exploiting to the full the benefits of regulation of specialist property lawyers.

There are immediate benefits for clients of those property lawyers, as the CLC's specialist regulation focuses on the risks particular to conveyancing and probate. For example, it has enabled us to take a clear and pragmatic approach to empowering consumers through better information to guide their choice of lawyer. I am pleased that there has been such a positive response to the new rules we have introduced this year requiring practices to provide cost, service and quality information in comparable and easily accessible formats.

It is also gratifying to see other regulators implement their own secure badges for the websites of firms they regulate as part of that agenda. The secure badge is a tool the CLC pioneered to help reduce fraud and to inform consumers about the protections of regulation.

There are longer-term benefits too, because of the insight we have into the future evolution of conveyancing and probate services. This insight allows us to future-proof our regulatory approach and ensure that we are able to respond to emerging risks.

There are also benefits for the practices we regulate. The CLC's handbook is tailored to conveyancing and probate and our approach supports innovation and new methods of delivery of those services as well as new business models.

The work we have done this year considering the potential use of escrow in conveyancing transactions demonstrates our commitment to preparing for the future of conveyancing. Its key value is in helping us understand the way that the risk profile of conveyancing may change. It also helps firms think about how they might use new tools to improve their service to clients and reduce their own risks.

Specialist conveyancers are responding to the strengths of our approach by moving their practices into CLC regulation, with six firms moving in whole or part from SRA to CLC regulation in 2018. This is something that has only been a practical possibility for a little over a year, following a change of policy by the SRA in relation to insurance run-off cover for transferring firms. There is now a pipeline of firms that is exploring with us how they can move their conveyancing operations into CLC regulation. We welcome early discussions with any firm considering that so we can help them shape their thinking and understand whether our regime will be right for them. We have a rigorous process for the assessment of transferring firms that includes consultation with the SRA to ensure that we have a full picture before we decide whether to allow a firm into our regulated community.

The ability to choose the most appropriate regulator for one's practice is one of the benefits of the Legal Services Act 2007. We will continue to work with the Legal Services Board, other regulators and the Ministry of Justice to ensure the potential of the Act is fully realised. Key to that is the effective independence of all front-line regulators and I welcome the Legal Services Board's commitment to continuing work to that end.

We are fortunate in having as CEO Sheila Kumar, whose experience and insight into the regulation of legal services is unique in its breadth and depth. Sheila has taken leadership of the sector's response to the CMA's recommendations on better information to support consumer choice as chair of the group of all the front line regulators that has coordinated our work. Her commitment and energy has been key to the progress that has been achieved there and by the dedicated staff of the CLC itself against all of our goals for the year.

My thanks also go to the Council of the CLC, which brings together a diversity of talent and experience that is invaluable in achieving our purpose of consumer protection and driving our ambition to be the regulator of choice for specialist property lawyers.

I am delighted to have accepted the renewal of my role as Chair for a second and final four-year term that, in addition to being a good opportunity to focus on how our Council works together, also provides the prospect of forging ahead with our five-year strategy. This gives us much to look forward to, building on a year of solid achievement in 2018.



Introduction

Sheila Kumar

CEO

This report on the CLC's work in 2018 demonstrates how effective a specialist regulator can be across all areas of consumer protection as well as compliance monitoring and support of the firms that we regulate. Our Council bring their broad range of knowledge, skills and experience to bear to help plot the future direction of the CLC so ensuring that our specialist approach remains appropriate for any future developments. Through their setting of the strategy and monitoring of our performance they make sure we are delivering as an organisation.

The CLC supports firms in achieving compliance wherever possible before we resort to enforcement action. But we monitor the performance of our regulated community closely and take swift action where necessary to protect clients, as can be seen from the two interventions that we carried out this year.

The effectiveness of our approach is built on our close and constructive work with the firms that we regulate. We remain in frequent contact with our practices throughout the year. Formal inspections reach each firm at least once every three years and new or transferring firms have even more intensive engagement. Firms also complete a wide-ranging and detailed Annual Regulatory Return that reveals trends across the regulated community as well as informing our risk assessment of individual firms. We also see many CLC lawyers at our own conferences and roadshows across the country and at events organised by others.

As firms have begun to transfer into CLC regulation from other regimes and new practices start up, we remain confident that even if the size of our regulated community were to double we will be able to maintain our unique and successful model of regulation.

The second year of our strategy will continue our focus on the future of conveyancing and probate to ensure that regulation does not burden practices or inhibit innovation. We will be reviewing the CLC's Code of Conduct and the Accounts Code to ensure they are fit for purpose. Engagement with the regulated community and our research into the future evolution of conveyancing, along with our insight into the current risk profile of conveyancing will inform those reviewed.

We have identified the need to review the Code for Continuing Professional Development but we have decided to wait for the results of the Legal Services Board's review of this across the legal sector, due to take place during 2019. There is much to learn from the experience of other regulators and the LSB's own assessment, which will help us develop a robust approach.

Our monitoring of the individuals working under CLC regulation reveals a persistent challenge in relation to career progression for women and participation overall by black and minority ethnic (BAME) people. Our review of our Equality and Diversity Code will look at the CLC as an employer and consider what we can do to promote diversity and inclusion with more impact as a regulator and what better support we can offer to firms developing inclusive recruitment and progression policies and procedures.

We will be ensuring compliance with the new transparency rules by including it in our usual monitoring and enforcement work. We also plan to assess their impact on consumer behaviour and satisfaction. This is something that we will watch closely to inform any adjustment to our requirements as we and firms gain more experience of good examples of providing transparent information to consumers. We will also be adding to our online register details of disciplinary sanctions as a further element of consumer information.

Throughout 2019 we will also continue our usual rolling programmes of internal development, streamlining and efficiency measures to ensure that we continue to offer the highest standards of consumer protection in a cost-effective way that supports the development of thriving legal businesses.

REGULATED COMMUNITY

**“WE AIM
TO ENSURE SPECIALIST
PROPERTY LAWYERS
CAN THRIVE.”**

Regulated Community

Entity Type

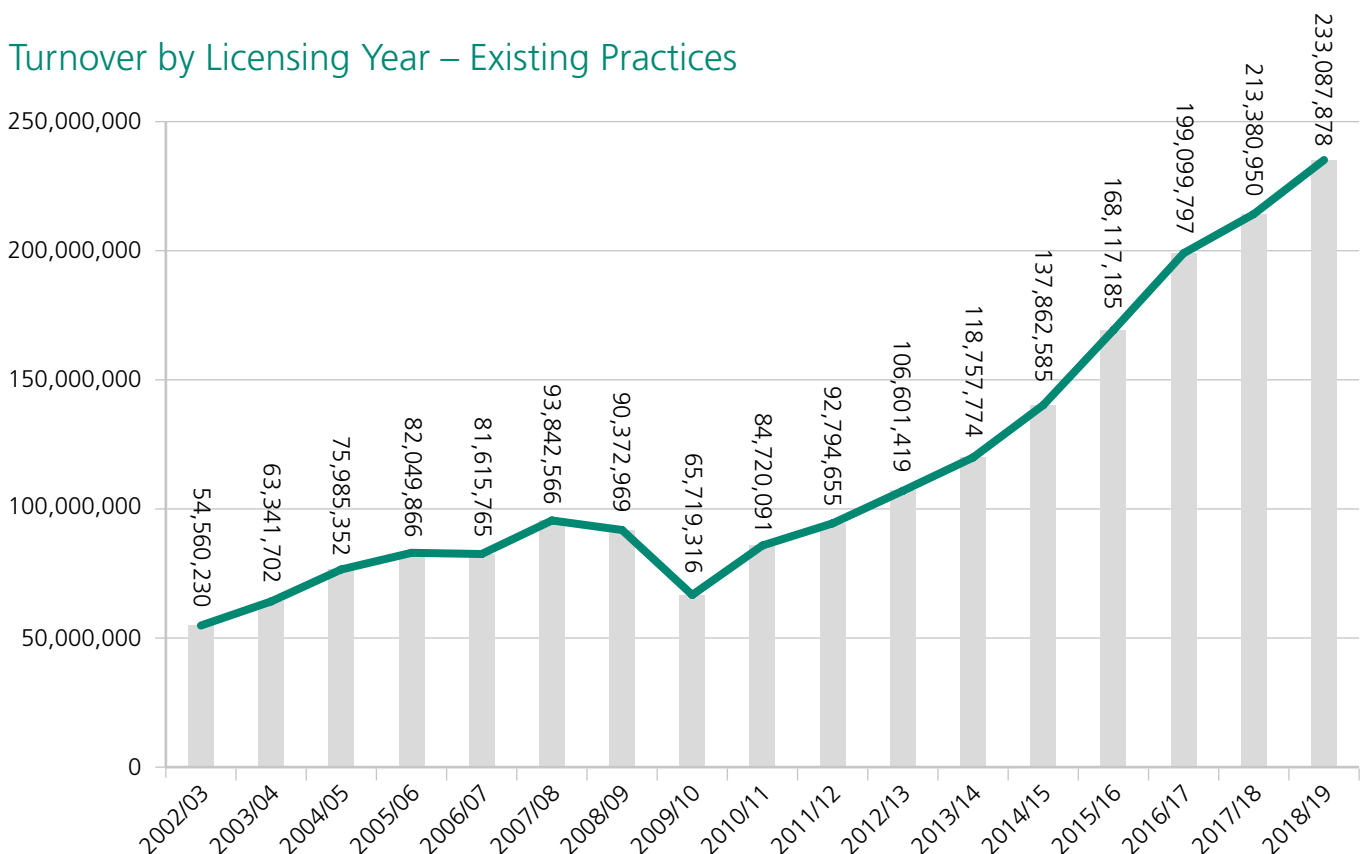
Regulated entities can be established in a range of company types. At the end of December 2018, 75 were Alternative Business Structures, meaning that they have some degree of non-lawyer participation. This could be in the form of external investment or having non-lawyers (e.g. finance, HR or marketing professionals) as managers or directors of the business.

Practices by entity type	Total	Of which ABS
Limited Company	156	70
Limited Liability Partnership	15	5
Partnership	16	-
Sole Practitioner	41	-
Total	228	75

Total Turnover

The chart below looks at the reported turnover of all firms within CLC regulation each year since 2002/03. As is clear, total turnover growth has been considerably faster since the 2007 downturn than in the years leading up to it while overall the number of firms under regulation has been fairly stable despite closures and openings of firms each year. There is a general trend for turnover to be concentrated increasingly in the larger firms. There has been a spike in smaller practices closing following the change to Professional Indemnity Insurance (PII) terms from July 2016 which has meant that where there is no successor, practice insurers will provide six year run-off cover of £2M in aggregate at no additional cost to the practice at point of closure. This is a considerable enhancement of consumer protection.

Turnover by Licensing Year – Existing Practices



Annual Regulatory Return

In 2018 we again carried out our annual wide-ranging survey of the regulated community to deepen understanding of the market that we regulate. The full report of that Annual Regulatory Return (ARR) has been published and the ARR is repeated annually so that we can continue to enrich the data we hold and are able track trends in the market place. Some key findings are set out below.

Practices were asked to report the proportions of transactions conducted in areas of work they carried out. The report found that the proportion of transactions conducted in each business area was:

Residential conveyancing	Commercial conveyancing	Will-writing	Probate	Re-mortgaging	Equity release	Other
82%	7%	3%	5%	6%	1%	5%

Acting for both sides in a transaction

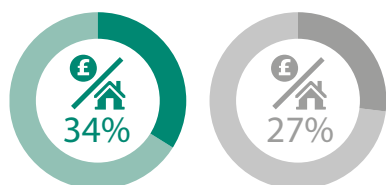
Practices that conducted residential and / or commercial conveyancing were asked to report the proportion of transactions where they acted for both sides of the transaction. The proportion of transactions (%) where firms acted for both sides is below:

0%	1% - 10%	11% - 20%	21% - 30%	31% - 40%	61% - 70%	91% - 100%	I work for one side only
6%	44%	10%	3%	1%	<1%	<1%	35%

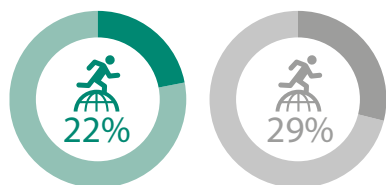
Business risks

Firms were asked to report the greatest business risks they expected to face over the next 12 months.

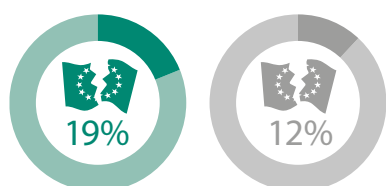
The top three anticipated risks were:



Fraud / money laundering 34% (2017 27%),



Cybercrime 22% (2017 29%)



Brexit 19% (2017 12%)

Other findings included:

41% of firms expected their volume of work to grow over the next 12 months, compared to 53% in last year's return, with signs of concerns about the impact of Brexit on the property market;

48% expected their volume of work to stay the same, while 41% expected it to grow over the next 12 months;

26% said they had felt pressure to reduce the cost of their services during the year – although few did so – while 34% expected their fees to increase over the next 12 months;

When asked to report the greatest opportunities that firms expect to have over the next 12 months, growth due to recommendation (18%) and branching out into new or niche areas of work (15%) were the most commonly cited; and

REGULATOR OF CHOICE

**“THE MOVE
MADE SENSE TO
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Regulator of Choice

Our regulatory approach is designed to support client-focused and innovative property lawyers. We proceed on the basis that prevention is better than cure and use a wide range of approaches and tools to support CLC Practices, ensure compliance and take corrective or disciplinary action where it is necessary.

We're committed to the long-term success of the firms we regulate. This means we work alongside practices to support them to provide modern legal services that benefit consumers.

Education, Training and Apprenticeships

We are now in the second full year of our outsourced approach to the delivery of education to achieve qualifications that pave the way to becoming a Licensed Conveyancer and Licensed Probate Practitioner. Under the oversight of the Scottish Qualifications Authority (SQA), our providers are ensuring that students receive the skills and knowledge they need to succeed as CLC technicians and lawyers.

Training is delivered through colleges, private providers and employer centres:

Bradford College

Damar Training

MOL (Manchester Online Learning)

LTC (Law Training Centre)

The Manchester College

JS Law

My Home Move

Conveyancing firms continue to be keen to recruit specialist qualified property lawyers and technicians. We promote the CLC specialist property and probate qualifications through a variety of routes and work with providers of education and training to encourage growth in the pipeline of qualifying CLC lawyers to help meet the demand in the sector. We are also liaising with apprenticeship providers and SQA in their efforts to support employers and employees to access the CLC graduate apprenticeships.

We celebrated with those individuals qualifying as CLC lawyers, and for the first time CLC technicians, at our national graduation ceremony in London hosted by the Chair of the CLC Council. The graduates provided positive feedback on their experience as students and the employment advantages that have opened up to them since qualifying as a CLC lawyer.

At the end of November 2018 there were around 1450 active students of which some 200 are apprentices. Two-thirds of these students are studying the Level 4 (technician) qualification.

Apprenticeship recruitment is now increasing and offers an accessible way to qualify as a CLC Lawyer at no cost to the candidate. The first Level 6 apprentices are due to complete in early January 2019 and the first Level 4 Technicians in June 2019. The CLC will be looking at how best to work with key educational stakeholders to support apprenticeship growth during 2019. The Distance Learning route continues to be the most popular method of study and is expected to be a continuing trend.

In 2018, Claire Richardson, the CLC's Deputy Director of Authorisations became a member of a government appointed panel of legal professionals tasked with designing the occupational specification for a new Technical Level qualification (T Levels) in Legal, Accounting and Finance. From 2022 T Levels will give post-GCSE students a technical alternative to A levels and, with a combination of academic and commercial concepts, help them to get a skilled job. They will provide a mixture of technical knowledge and practical skills specific to practising in the legal services sector. The new T level for Law will be offered to 16-17 year olds as part of the national curriculum from 2022.

Managing Entry to the CLC Regulated Community

The CLC sets a high bar for entry to its regulated community. Lawyers qualify as a Licensed Conveyancer or Licensed Probate Practitioner. Experienced lawyers who have qualified by other routes (e.g. Solicitors, Fellows of CILEx) can apply to be licensed as CLC lawyers.

Lawyers, beneficial owners and non-lawyers who are Directors, Partners or Members in a CLC Practice must also satisfy our fit and proper person test and complete standard AML checks. There is more detail on this at the appendix. Businesses seeking to transfer into CLC regulation from another regulator are subject to the same rigor together with additional compliance checks with the current regulator.

Case Study

2018 saw the first law firms taking advantage of the freedom to choose to move to a specialist regulatory regime that supports innovation.

Law firms seeking to become regulated by the CLC are encouraged to contact our Licensing Team so we can explain the process, likely timescales and agree expectations. Our approvals process is outcomes focused and centred on consumer protection whilst taking account of your aims and aspirations in delivering conveyancing and probate services. In our experience practices take advantage of moving to regulation by the CLC to transform their business model, setting ambitious targets for sustained business growth. In recognition of the time this takes, we encourage applicants to determine the pace of the application process and so properly consider the types of changes that benefit and strengthen their business.

A V Rillo, Clutton Cox, and Fidler & Pepper Lawyers moved over from the Solicitors Regulation Authority (SRA), while another three SRA-regulated firms, EHL Conveyancing, Poole Townsend Estates and Your Conveyancer moved their conveyancing practices into separate CLC-practices.

We welcome this as an important driver for the promotion of competition in the provision of legal services, one of the regulatory objectives in the Legal Services Act 2007.

"The move made sense to us as we have become specialist property and private client lawyers and we wanted a regulator that was similarly specialised – in this respect the CLC fit the bill perfectly and have been a pleasure to deal with throughout the process."

Mark Slade, CEO of Fidler & Pepper limited.

"We found the process to be straight-forward and were helped very supportively by the CLC throughout the process. I feel we now have the corporate structure and a forward-looking specialist regulator to help and guide us to thrive in the new legal landscape."

Paul Hajek, Managing director Clutton Cox Conveyancing

The first trading year under new regulation is critical and when Practices most look to us for support. Our Regulatory Supervision Managers quickly develop close working relationships with new CLC-regulated Practices and the firm will be inspected in its first year of operation.

An open dialogue with firms is key to the success of our regulatory model, encouraging them to speak to us about problems they are facing before they escalate so they can be managed proactively.

Licence Renewal

In 2018 we enhanced the streamlining of the licence renewal process begun in 2014 to reduce the regulatory burden on CLC Lawyers and Practices. We introduced new digital declaration and direct invoice systems which made the renewal process easier to understand and complete. We received fewer queries and completed renewals much earlier and in a much shorter period than in previous years.

In a feedback survey of the regulated community 89% of respondents rated their experience of licence renewal in 2018 as either 'good' or 'very good'.

The licence renewal process is a useful checkpoint to remind practitioners of their responsibilities and duties and to ensure that all changes have been reported to us over the course of the year.

Supporting compliance

Throughout 2018 we have continued to work closely with our firms to support them in their ability to comply with our rules.

In January we held our Annual Conference, which had several sessions focusing on different aspects of compliance. Eight out of ten of who attended said they would definitely take part again next year.

In May we supported the Society of Licensed Conveyancers by presenting to their roadshows, talking to attendees about the forthcoming transparency requirements. We also ran a series of compliance workshops for our own licensed community in June. A key strand of our work through 2018 has been to prepare CLC Practices to prepare for the new requirements we brought in on 6 December 2018 (see page 15 for more).

We have also provided support to practices to help them prepare for the implementation of the General Data Protection Regulation (GDPR) and adhere to recent changes to Anti-Money Laundering (AML) legislation. Over the year we have also held or participated in a number of webinars on a range of subjects. Feedback from participants is that they find these a helpful way of receiving information and we know that individuals continue to return to view them after the original broadcast.

General Data Protection Regulation

The GDPR came into effect on 25 May 2018 and places greater obligations on how organisations handle personal data. To support CLC practices we provided a range of resources to support compliance which included a Guidance Note, briefing materials, a ten step guide as well as running a webinar.

Anti Money Laundering

The National Crime Agency and Government continue to identify money laundering as a risk to the UK economy with conveyancing and the use of client accounts rated as high risk. The last year has seen an ongoing effort to support our licensed community to understand and fulfil their anti-money laundering (AML) obligations.

In March 2018 HM Treasury approved the new guidance for lawyers on the Money Laundering Regulations 2017 (MLR 2017). This has been previously prepared by the Legal Sector Affinity Group which brings together all of the legal sector AML supervisors, including the CLC.

Our work on AML in 2018 is a good example of how our in-depth and timely insight into our regulated community shapes our priorities and actions.

Inspections of firms in late 2017 and early 2018 began to indicate that firms needed more support to comply with the requirements of the MLR 2017. We ran a series of four compliance roadshows around the country in June. These were supplemented by a webinar run by our Regulatory Supervision Managers (RSM).

We also reshaped and refreshed the content on our website, establishing an AML toolkit. This provides advice and resources to enable users to comply with requirements and also better spot attempted money laundering.

In January 2018 the Office for Professional Body Anti-Money Laundering Supervision (OPBAS) was established. OPBAS is an oversight regulator set up by the government to strengthen the UK's AML supervisory regime. Its aim is to ensure consistently high standards of AML supervision across the legal and accountancy sectors.

During 2018, OPBAS visited all 22 legal and accountancy supervisors, including the CLC. They looked at our compliance with the standards set in the MLR 2017. OPBAS will publish an anonymised report of their findings in spring 2019 and we will address any issues identified during the course of 2019.

In the autumn of 2018 we worked closely with the Home Office on the refresh of their Flag It Up! Campaign whose purpose is to promote best practice in anti-money laundering compliance and reporting suspicious activity. It now has a much stronger focus on professionals who may become targets for money launderers, including lawyers, accountants and for the first time those in the property sector.

Monitoring

In 2018 we undertook 74 monitoring inspections against a plan for 74. 64 of these visits were routine inspections (each practice has a monitoring inspection at least once every three years) and 10 were targeted inspections triggered by our own knowledge of the firm or intelligence received. These were undertaken by CLC staff and by appointed inspectors working to the same procedures.

The majority of the routine inspections resulted in the regulated entity being required to take some remedial action to address minor areas of non-compliance. These were addressed by the practice in line with the expectations of our Regulatory Supervision Team.

The insight gained from monitoring is fed back to practices by our RSMs to help raise standards of practice as well as informing the development of new policy and compliance support materials. This has include delivering the AML webinar along with feeding into material for our newsletters.

Enforcement

The CLC watchlist is an internal document that tracks activity with firms that are under investigation or enhanced supervision as a result of concerns that have come to light through general monitoring activity, inspection visits, consumer complaints or intelligence received.

The work of the RSMs in 2018 has ensured that the average time spent on the watchlist by any one firm continues to reduce. Issues are being resolved more promptly by being very clear to practices about our expectations coupled with active management of practices which are required to resolve compliance issues. The number of firms on the watchlist ranged between two and five during the year and a total of eight practices appeared on the watchlist during 2018.

‘Resolution’ of an issue may mean either that the practice has successfully addressed the concerns identified by the CLC and is judged compliant with our requirements. Alternatively, it may mean that they have failed to do so and some form of disciplinary action has to be taken. In the event of disciplinary action short of a referral to the Adjudication Panel, there is an accompanying plan to ensure that the entity continues to work to address the CLC’s concerns. If they fail to do so, the matter will be escalated further as appropriate.

The watchlist is kept under regular review to ensure that the issues it records are resolved as quickly and efficiently as possible and to improve the clarity of reporting to the Senior Management Team and to the Council.

Interventions and Managed Close Downs

The CLC intervened into, and closed down, two practices in the course of 2018. In both cases, the intervention was required to protect the interests of clients.

There was a managed close down of one practice because terms could not be agreed for renewal of its Professional Indemnity Insurance policy.

Conduct Complaints

We received 123 complaints about CLC-regulated Lawyers/Practices in 2018.

Professional Indemnity Insurance Arrangements

The Participating Insurers Agreement (PIA) introduced in 2016 assured another a smooth insurance renewal round alongside the introduction of enhanced protection for consumers and benefits for regulated entities.

Under the PIA, insurers must provide run-off cover to insured entities when they close at no additional cost. The six-year run-off cover is subject to an aggregate £2m limit.

This provision gives consumers excellent protection by removing the risk that a firm will close without taking out run-off cover because the cost is too high. For the same reason, it also reduces the exposure of the Compensation Fund that we manage on behalf of the regulated community. We are in regular contact with the insurance providers to assure ourselves of the effective operation of the scheme.

Compensation fund

The CLC operates a Compensation Fund as a fund of last resort for clients who have suffered financial loss at the hands of a CLC-regulated firm or individual that is not covered by professional indemnity insurance. This is funded by the regulated community. A report on the Compensation Fund will be included in the CLC’s Annual Financial Statements 2018.

Adjudication Panel Findings

The Adjudication Panel sat twice in 2018 to decide requests for reviews of Compensation Fund determinations made by the CLC.

EMPOWER CONSUMERS

**“WE BELIEVE
THAT PROVIDING
CLEAR INFORMATION
TO CONSUMERS
MAKES GOOD
BUSINESS
SENSE.”**

Empower consumers

Informed choice to aid consumer decision making

The primary purpose of the CLC is to provide regulation that protects the public.

The strategy adopted by the CLC at the beginning of 2018 identified as one of its aims that we would *empower consumers to make informed choices of conveyancing and probate lawyers.*

The CLC Council indicated that this strategic aim would be achieved in several ways. One of the key ways would be to ensure: *Price and service information is more easily accessible and comparable in line with the CLC's Action Plan in response to the CMA's recommendations on information remedies in legal services.*

As a regulator we believe that providing clear information to consumers makes good business sense. We want CLC- practices to see the changes as providing them with new opportunities to create a competitive advantage as they focus on service and quality.

We have ensured throughout the year that CLC practices have been kept informed of the direction of travel, with the potential changes forming a key part of the compliance roadshows we ran across the country in June.

In May we consulted on the proposed changes to our Regulatory Arrangements in order to implement the CMA recommendations. We published the draft rules and guidance in July as we submitted them to the LSB for approval.

Under our existing Regulatory Arrangements, CLC Practices already have to provide clear cost information to clients. Changes to the Regulatory Arrangements from 6 December 2018 mean that consumers now have access to additional and clearer information when shopping around.

The changes aim to empower consumers to make better informed decisions about their choice of legal service provider. The new requirements also aim to foster innovation and competition in the legal services market.

Following the Legal Services Board (LSB) approval, we published the final rules and guidance in September to help those we regulate prepare for the new requirements. This was followed with a programme of support including a toolkit with templates and example text on the CLC website, webinars, nine national roadshows and a series of FAQs.

We have always been clear that we have made the minimum changes to our rules to allow the greatest flexibility to our practices. We acknowledge that all CLC Practices are different, so this allows them to comply with the requirements in the way that best suits their business and their clients.

Throughout 2019 we will be monitoring and evaluating how well the new rules are working and the impact they may be having on practices and consumer behaviour. The CMA will also be evaluating the changes towards the end of 2019.



Legal Choices

Legal Choices is a consumer-facing website funded and delivered jointly by the front line regulators of legal services. Its two main aims are:

- to help equip people with the information they might need to make good choices about lawyers and legal services, and
- to give people more ways to get their views heard and play a stronger role in the work of legal regulators.

Through this year we have been working jointly to significantly increase the reach and impact of the website. With appointment of a research agency and a digital development agency work is underway to develop a new site in 2019.

Fraud

Fraud continues to be seen as a major risk both for the practices we regulate and their clients. The Annual Regulatory Return (ARR) for 2017/18 (completed by all the practices that were licensed by the CLC for the full twelve-month period covered) found that 37 firms had resisted attempted frauds in the year covered while the number and variety of attacks on conveyancers increased. In that period 11 practices reported having been the victims of fraud.

During 2018 the CLC has continued to take steps to reduce the risk of fraud faced by CLC Practices and their clients. We have updated the advice section of our website to include help and advice from National Cyber Security Centre, National Crime Agency, and the Information Commissioner's Office.

We have also developed consumer facing advice on our website that is also shared regularly on social media.

We have continued to support and promote the Take Five to Stop Fraud Campaign, encouraging firms to join the campaign and raise awareness of types of fraud risk. We have also used campaign assets to help lawyers and clients protect themselves from fraud.

As part of our new transparency requirements we have amended our rules to make the use of the CLC Secure Badge mandatory on the websites of all CLC Practices. Following the introduction by the CLC of the badge a number of other frontline legal sector regulators are introducing similar schemes.

The badge helps to protect customers by making it more difficult for fraudsters to imitate real law firms or create fake law firms. It also allows consumers to check the regulatory status of a firm they are considering instructing and leads them to the CLC website where they can find more information about how to raise complaints and seek redress.



ADAPT REGULATION TO THE CHANGING MARKET

**“WE ANTICIPATE,
PREPARE AND
RESPOND TO PROTECT
CONSUMERS AND
SUPPORT THRIVING
AND INNOVATIVE
BUSINESSES.”**

Adapt regulation to the changing market

Our aim is to anticipate, prepare for and respond to;

- movements in the property market,
- changes in the way legal services are delivered, and
- evolution in the profile of risks to clients.

This work is vital to our mission to protect consumers and our commitment to support thriving and innovative businesses.

We gather intelligence and insight from;

- our inspections of firms,
- the mandatory Annual Regulatory Return that covers the full range of our regulated entities' activity, and
- informal visits to firms and discussions with their suppliers, lenders and others in the property market
- consumer research
- running our own and attending others' conferences,
- other research we undertake ourselves or in collaboration with others.

In 2018 the key external factors that have influenced how we achieve our objectives include;

- stresses in the market arising from the changing economy
- work across the sector to transform the home buying and selling process
- the 2017 Money Laundering Regulations
- the advent of innovative solutions to risk in conveyancing transactions
- changes in practice reflecting case law.

The ever-changing property market

We constantly track economic trends and property market data and insight from sources such as the Bank of England, HM Land Registry, the major mortgage lenders, RICS and the EY Item Club among many others. The intelligence derived from this tracking is provided to our staff and governing Council to inform our risk-based approach to regulation. We also issue a quarterly *Property and Law Round Up* via our website to help inform CLC practices in their business planning.

Transforming home buying and selling

For some years now we have been engaged closely with government as it has examined how to improve the home buying and selling process. Throughout 2018 we have taken a large role in the conversation that is being led by the Ministry of Housing, Communities and Local Government and HM Land Registry.

The CLC is the only regulator member of the Land Registry's Advisory Council and the Home Buying and Selling Group that brings together representatives of all of the key groups in the property transfer process. We are also part of the Transaction Reform Group bringing together conveyancers and estate agents.

We have been assisting the Bank of England as it progresses its review of the Real Time Gross Settlement system and looks at payments more broadly.

Research

As part of our work to implement the recommendations from the Competition and Markets Authority, aimed at giving consumers better information to help in choosing a lawyer, we collaborated with the SRA to undertake some consumer research (see previously page 15).

Over the course of 2018 we have promoted the findings of that research as we have consulted on the proposed rule changes that came into force on 6 December 2018.

We also carried out our own practical research into the use of estimate generators at the end of 2017. This provided insight into the use and impact of estimate generators and improved accessibility of price information on consumer behaviour. The findings indicated that consumers appear more likely to approach a conveyancing practice if they have an initial indication of the likely cost of their services.

To support our insight of consumer understanding of conveyancing we conducted research with the polling company YouGov which identified a lack of consumer knowledge of referral fees in driving estate agency advice.

Supporting and preparing for innovation

We have been meeting with a wide range of proptech and fintech innovators over the year to ensure that we are prepared to regulate potential changes to the conveyancing market due to technological advances. The insight that we have gained helped inform to our conference in early 2018 entitled 'Thriving in a Digital Future'. We have also discussed potential changes and the government's own agenda for transforming home buying with conveyancers at events across the country.

Monitoring and advising on changes in practice reflecting case law

This year, conveyancers have been responding to the implications of the *Dreamvar* judgment. We have provided advice on our website and explored with our practices the practical steps they are taking to respond to the uncertainties around liability in verifying the identity of their client and the client on the other side of the transaction.

Regulatory Framework

As a fully independent regulator, the changes proposed by the LSB to the Internal Governance Rules for all Approved Regulators have little direct impact on the CLC. However, our particular status means that we have a unique experience and perspective to provide to the debate and we have continued to engage closely with the LSB because we want to ensure that the full benefits of the Legal Services Act 2007 can be realised. That requires effective independence for those front line regulators that have been established by representative bodies. This is a point we will continue to press and promote.

Innovation Case Study - Escrow

Risks to client money during conveyancing transactions are arguably the most significant risks in the process. Working with an FCA-regulated supplier of escrow services, with CLC practices and with lenders, we have facilitated trials of digital escrow in conveyancing.

Those trials have demonstrated significant potential benefits from a move away from the use of client account in terms of both the security of cash transfers and increased certainty of the day and time of completion. They have also helped us to understand how we might need to shape our regulatory response to the adoption of such tools by the firms we regulate.

Appendix: The CLC's approach to regulation

The CLC aims to help its regulated community to achieve compliance with regulatory and legal obligations. Our determination to support innovation and growth means that we want to help the entities we regulate to implement new ways to meet customer needs and grow their businesses. This means helping businesses to understand how they can meet the appropriate regulatory outcomes and not binding them into inflexible forms of compliance. This is the best way of providing consumer protection and choice.

We pride ourselves on having a good understanding of the businesses that we regulate. We aim to have a detailed and rounded view of their activities so that we have a global understanding of the particular risks they might face. This starts with very close supervision of new businesses in the first years of their regulation by the CLC. Our concern then is not simply with regulatory compliance but also with financial stability and health because unsound businesses also present a threat to the consumer and public interest. We aim to work in close partnership with the firms so that they succeed and are compliant.

CLC proceeds on the basis that prevention is better than cure and use a wide range of approaches and tools to support regulated entities, ensure compliance and take corrective or disciplinary action where it is necessary. They give us a range of regulatory responses that are proportionate to the risk to clients in any particular case.

Governance

Council Members 2018

Dame Janet Paraskeva, Lay Chair of the Council

Alan Cogbill, Lay Member of the Council

Alex Clark, Professional Member of the Council

Andrea Pierce, Professional Member of the Council

Colin Wilby, Lay Member of the Council

Heather Foster, Lay Member of the Council

Quinton Quayle, Lay Member of the Council

Rob Gurney, Professional Member of the Council (left Council 30 April 2018)

Sally Szarka, Professional Member of the Council (joined Council 1 August 2018)

Sarah Debney, Professional Member of the Council (joined Council 1 May 2018)

Teresa Perchard, Lay Member of the Council

The CLC Council has responsibility for oversight of all regulatory functions vested in the CLC under the Administration of Justice Act 1985 and the Legal Services Act 2007. It takes decisions on the financial management of the organisation and sets the strategic direction and priorities, oversees the standards of entry into the profession and maintenance of the ethical conduct and quality standards of licensed practices and practitioners. More information is provided in our Annual Financial Statement that can be found on the CLC website.

Council business is transacted at formal meetings of the Council. Council members also meet to discuss and explore emerging policy and strategy formulation in Council workshops.

The Council has appointed an independent advisor to facilitate an evaluation of its effectiveness on an objective basis and to provide confidential and anonymous feedback on themes and issues, with recommendations for inclusion within its strategy as appropriate.

The CLC seeks to satisfy the Financial Reporting Council's UK Corporate Governance Code. Whilst it is not a statutory requirement, we see it as a framework for good governance. A recent internal audit inspection found that we have arrangements in place in place which would allow us to reflect the provisions within the code.

In line with best practice, the Audit and Risk Committee has undertaken a biennial self-effectiveness assessment. In addition to the risk management policy, which has been developed to formalise and support the risk management process, the Audit and Risk Committee has reviewed the principal risk register at its meetings and the actions being taken to address or mitigate identified risks. The external auditors, who provide an independent review of the CLC's systems of internal control and financial statements attended meetings of the Audit and Risk Committee and Council to present their annual opinion in relation to the financial year 2018.

The Council has 3 Committees:

Audit and Risk Committee

Members

Heather Foster – Chair (lay member)

Alex Clark – Professional member

Richard Cryer – Independent member

Teresa Perchard – Lay member

Andrea Pierce – Professional Member

The Audit and Risk Committee supports the Council's responsibilities in the area of risk, control, governance and associated assurance.

Remuneration Committee

Members

Alex Clark – Chair (professional member)

Quinton Quayle – Lay member

Alan Cogbill – Lay member

The Remuneration Committee supports the Council's responsibilities in the area of remuneration, recruitment and retention of staff, Council and Committee members.

Appointments Committee

Members

Dame Janet Paraskeva (Chair) (Lay member)*

Alex Clark - Professional member

Colin Wilby – Lay member

The Appointments Committee is responsible for the appointment of Non Executive Directors, the Chief Executive and, where required, other senior staff. In planning for succession of Council members and senior officers, it has regard to equality, diversity and inclusion considerations to ensure that the Council has an appropriate balance of skills, experience, independence and knowledge on which to draw.

**Members of the Appointments Committee do not participate in decisions which relate to themselves. Alex Clark chaired meetings of the Committee which were considering the re-appointment and appraisal of the Council Chair and Heather Foster, lay member, sat on the Committee*

Equality, Diversity and Inclusion

The CLC's efforts to improve equality, diversity and inclusion (EDI) within the regulated community and in relation to the treatment of clients has been significantly mainstreamed within our regulatory work for some time. All policy proposals are assessed for their EDI impact and especially for any negative impact on protected groups. Our Annual Regulatory Return is now tracking the particular challenge of progress from entry to managerial roles of women and BAME lawyers and support staff in the practices that we regulate.

To support individuals and employers better, we are working with the other front line regulators to share insight, ideas and best practice. We are also a member of Business in the Community, opening up their wider social responsibility resources to the regulated community.

Maintaining the health of the profession

When new entities are established under CLC regulation for the first time they will have satisfied us that they have in place the appropriate processes and resources to deliver conveyancing or probate services and manage their own and clients' money in line with our regulatory requirements. They will also have presented a business plan for their first three years setting out their road to sustainability. We will also have satisfied ourselves as to the qualifications, experience and background of the Authorised Persons, other managers and any external owners. All of these aspects are monitored closely at the beginning of the firm's life.

Close Initial Support and Supervision

Before a new entity is authorised, the Licensing Team at the CLC will have met the managers of the practice to discuss their plans in detail. This takes place at an early stage, to help ensure that submitted applications take full account of our requirements. This helps ensure that we and the applicants don't waste time dealing with incomplete or insufficient applications. Some applicants will find at this stage that CLC regulation is not right for them or may take time to think more about their plans and how they might need to change in order to meet our requirements for consumer protection.

Either before or very soon after entity authorisation, key managers are required to attend a workshop at our offices led by the Regulatory Supervision Managers. This is valuable in establishing the firm's relationship with that team and ensuring that the managers are fully prepared for the reporting that is expected of them.

All new CLC-regulated entities will be inspected during their first year of operation to ensure that the systems and processes they have in place are being followed and that they are achieving compliance with the CLC's Handbook.

Annual Checks

After the early period of regulation of a new entity, we use a mix of self reporting, third-party reports, desk-based supervision and inspection visits to monitor the all-round health of the profession. The key points in the regulatory year are:

- Submission of accountants' reports – in line with the entity's audit year.
- Licence renewal
 - For individuals – in October each year individuals must inform us of any change in circumstances that might affect their right to a licence for the coming year beginning 1st November
 - For entities – also in October, a licensed Manager must confirm that there is no issue that might affect the entity's licence to practise.
- Annual Regulatory Return – Each entity is required to provide a response to a questionnaire that probes a range of areas to understand ongoing or emerging risks within the practice and across the sector as a whole.

Concerns raised in accountants' reports may give rise to requirements on the entity to address shortcomings in their management of client funds. If so, a timescale will be set and compliance monitored until the CLC is satisfied.

Licence renewal is an automated and speedy, but not automatic process. If the CLC has concerns about an individual or entity, we may decide to hold over renewal of a licence until the issue has been addressed or a timetable for its correction is agreed. Licences may also be issued with conditions that need to be met by the individual or entity to ensure retention of that licence.

Data from the Annual Regulatory Return may give rise to further regulatory action in relation to a specific entity or highlight the need for more general action such as enhanced or clarified guidance to the profession or new CPD requirements in relation to specific issues. It also provides an understanding of changes in the profession as a whole.

Monitoring Inspections

In addition to the desk-based monitoring that is set out above we undertake a programme of on-site inspections of regulated entities each year. The largest group of inspections will be arranged because of the time that has elapsed since the entity last had a monitoring inspection. Each practice will be inspected at least once every three years.

Additional visits are arranged in light of specific issues that we have identified with firms and where desk-based supervision is judged to be insufficient. Others will be risk-based, in other words, we will not be aware of a specific issue, but have concerns about the entity's risk profile that merit a closer look. (That might be because the firm undertakes a significant amount of transactions in which they act for both sides, for example, or are disproportionately dependant on one client.)

Other Intelligence

The CLC may also receive information about a regulated entity or individual from another regulator, The Legal Ombudsman or a mortgage lender as well as an employee, colleague or client. In such cases, the matter will be addressed directly with the firm or individual until the CLC is satisfied that they are in compliance or may lead to some kind of disciplinary action. Conduct complaints may, following investigation, also give rise to some form of compliance assurance or disciplinary action, as appropriate.

Working with Financial Institutions

We engage with mortgage lenders on a range of issues that relate to the work the regulated community does for and with them. Their panel management approaches can offer useful insight into the conveyancing market place for us at an aggregate level and, where there might be problems, with an individual practice that we regulate.

As a regulator, we do not advocate for panel access for an individual firm, but we wish to ensure that there are no unfair barriers to market entry or access. We are pleased that lending institutions have responded so positively when we have had to address the issue with them.

Disciplinary Action

Where an individual or entity fails to achieve compliance to the satisfaction of the CLC, for example, where there is evidence of misconduct or where there is clear evidence of risk to the consumer, the CLC can refer the matter to the independent Adjudication Panel. The Adjudication Panel, will set an appropriate sanction. Work has been completed to develop a set of guidelines for the Adjudication Panel to assist in applying sanctions. The guidelines do not impinge on the independence of the Adjudication Panel and have been published on our website in the interests of transparency and to guide the profession and other stakeholders.



Contact us

For enquiries, please use the details below.

We are open Mon-Fri, 8am-5pm.

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