



Digital Identity

CLC Response to DCMS Call for Evidence

September 2019

The Council for Licensed Conveyancers is the regulator of specialist providers of conveyancing and probate services with a mission to protect consumers. We are closely engaged with work across the sector to improve the home buying and selling process and we are committed to supporting innovation and improvement by the firms that we regulate. To that end we engage with prop tech and fin tech entrepreneurs who are developing new approaches and tools to benefit consumers and improve the property transfer process.

Below we set out our responses to those questions in the Call for Evidence that are relevant to our work.

Questions on needs and problems

1. Do you think digital identity checking will be a way to help meet the common needs of individuals and organisations referenced above? What other ideas or options would help?
2. What are the economic or social benefits or costs from developing a digital identity system in the UK which meets these needs? Can you provide examples?
3. What are the costs and burdens of current identity verification processes?
4. How should we ensure inclusion, especially for individuals with thin files?
5. What currently prevents organisations from meeting the needs stated above?
6. Where do you see opportunities for a reusable digital identity to add value to services? Could you provide examples?

CLC responses

1. We believe that digital identity checking has the potential to meet the common needs of individuals and organisations that need to prove identity before accessing/providing services. There are considerable potential benefits in relation to the conveyancing and probate services regulated by the CLC, which both require clients and beneficiaries to prove their identities.

In the context of conveyancing, home buying and selling requires the buyers and sellers to prove their identity at multiple points in the process. Others may also be required to prove their identity, too, such as a family member who is helping to fund a purchase.

Regulated individuals undertaking conveyancing or probate might also need to prove their status as a regulated individual to their client, financial institutions and government bodies (Land Registry, Probate Registry) There are currently systems in place for that to take place, but if an individual's qualifications or regulated status were attributes able to be checked digitally through a trusted system, that could potentially improve process as well as increase security and anti-fraud measures.

2. Providing proof of identity can introduce significant delays in the home buying and selling process. A quick and reliable method for home buyers and sellers to prove their identity, moving away from utility bills which consumer often no longer retain even if they receive physical copies, could streamline the process considerably.

Home buyers and sellers are required to prove their identity at multiple points in the process: to estate agents, mortgage brokers, lenders, surveyors, conveyancers. At the moment, those professionals' concerns about their liability in the event of ID fraud and the requirements of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 mean that they each undertake the ID check separately. This leads to additional time and expense. It also often means that the client's identity details in the form of copies of passports and utility bills, are held in many locations (on paper and electronically), multiplying the risk that they could be misused.

In the case of probate services, the identity of executors and beneficiaries will generally only need to be established once, but here too digital identity checking could be helpful in improving a process that often takes far longer than those involved anticipate.

3. We are not able to identify the costs of ID checking in relation to conveyancing and probate services but the amount of time currently spent on them by lawyers and clients, and their repetition in the home buying and selling process means that they must be considerable.
4. This is outside our area of expertise.
5. The key obstacles to streamlining ID checking in conveyancing and probate at the moment are
 - a. Questions of liability arise should one professional in the process choose to rely on checks made by another. We believe this could be overcome, for example, through the agreement of clear standards for ID verification backed up by a digital checking system with both elements having statutory underpinning.
 - b. Legislation, most notably the anti-money laundering measures, that mean professionals may not rely on ID checks undertaken by others.

If a. can be achieved, the issue at b. might conceivably fall away, but it is more likely that legislative changes will be needed to ensure that any new system can be used confidently within a clear framework of liability.

6. This question is not relevant to our area of interest.

Questions on criteria for trust

7. What are the building blocks essential to creating this trust? How should the environment be created to enable this trust – for example, what is the role of open standards (identity, technical, operational, business implementation, design requirements for consumer privacy and protection)?
8. How does assurance and certification help build trust?
9. How do we ensure an approach that protects the privacy of users, and is able to cover a range of technologies and respond appropriately to innovation (such as biometrics)?
10. How do we ensure digital identities comply with the Human Rights Act and ensure people with protected characteristics are able to participate equally?
11. How should the roles, responsibilities and liabilities of players in the digital identity market be governed and framed to enable trust? Digital Identity: Call for Evidence 6
12. What's the best model to set the “rules of the road” to ensure creation of this trusted market?
13. Who do you think should be involved in setting these rules?

CLC Responses

Questions 7 to 12 are outside our area of expertise.

13. Because the new system will need to be relied upon by a very wide range of users, the ‘rules of the road’ will need to be agreed by a wide range of organisations that currently demand proofs of identity of some kind. This will help ensure that the final system is acceptable to those organisations and facilitate reliance on the system for the widest possible range of purposes. However, given the importance of protecting individuals’ rights as new systems are developed, we would suggest that the Information Commissioner might be given a key role – with additional resources, as necessary – to oversee development and perhaps operation of the new systems. It will also be important to involve a broad and diverse range of consumers in the development of the rules to ensure they reflect and protect the needs the end user.

Questions on the role of the government

14. Do you think government should make government documents and/or their associated attributes available in a digital form, which could be used to help assure identity?
15. i) For what purposes should government seek to further open up the validity checking of government-issued documents such as passports? ii) How should this be governed to ensure protection and citizen control of data? iii) What should the cost model be?
16. i) For what purposes should government seek to further open up the attributes (such as age of citizens) that it holds for verification? ii) How should this be governed to ensure protection and citizen control of data? iii) What should the cost model be?
17. What's the role of legislation and statutory regulation to grow and enforce a secure, privacy-centric and trusted digital identity market?
18. What legislation and guidance requires updating to enable greater use of digital identities?
19. What else should government do to enable the wider use of digital identity?
20. How could digital identity support the provision of local government services (including library cards and concessionary travel)?

CLC Responses

14. Government should make government documents or the attributes they contain available digitally as these will generally be the underpinning documents on which individuals will depend to prove their identity or attributes. As ease of use needs to be balanced with data security, might it be possible for government to confirm information supplied by the individual seeking to prove identity or attribute?
15. i) It would seem appropriate for the government to open up government-issued documents for validity checking in order for the individual to exercise their rights as a citizen and to be able to meet statutory requirements – from proving age to make restricted purchases to proving their identity in relation to anti-money laundering checks, for example.
ii) It would seem essential for citizens themselves to maintain control over their own data and to explicitly consent to the sharing of their identity or attributes on each occasion. There might be a role for the Information Commissioner to set and monitor the rules of the road.
iii) Given that individuals will be using the service in order to exercise their legal rights as citizens, the cost to them should be low (cost recovery only) while alternative means to prove identity are available and zero if a new digital identity system were to become universal. The use of the system for other purposes that are not related to the exercise of fundamental rights or compliance with statute might always be on a cost-recovery basis. Any cost model should ensure that costs for those who cannot or do not wish to use a digital identity (such as those with low digital literacy or a “thin file”) must not increase.
16. Our answer in relation to attributes alone is the same as for the validity-checking of documents, as at 15 above.
17. Given that this is an area that is likely to see considerable and possibly rapid evolution, it may be best for the primary, governing legislation to be a framework for a government department or the Information Commissioner to work within in to develop and evolve a regime of secondary legislation, guidance and accountability.



18. Any legislation that refers to proofs of identity or proof of attributes is likely to need amendment to ensure wide use of digital identities.

We have no comment on questions 19 and 20.