

Defining competence and competence assurance

Understanding what it means to be a competent legal professional and how competence can be maintained and assured over time is a core objective of this work.

We would welcome your views on what you think is needed to demonstrate competence, whether competence needs to be tested throughout the career of a legal professional and how it could be assessed. This may cover areas such as:

- the characteristics or skills that should be part of a competency framework
- the types of competence particular to different types of work or legal disciplines (e.g. barristers, legal executives)
- different models for competence assurance that you use or are aware of

We would welcome qualitative and quantitative evidence in particular on: determining the components of professional competence; approaches to competence assurance; the effectiveness of CPD and other methods of assurance.

CLC Response

The CLC licences individuals and practices to provide conveyancing and probate services. These licenses are issued individually for each service that is to be provided. This underpins the specialist approach that is the foundation of the CLC's regulation. If a conveyancing lawyer wishes to undertake probate, they will need to complete the relevant course of study and secure a licence from the CLC for that specialisation.

The CLC determines separately the standards of education which individuals must attain to become a CLC Legal Technician or CLC Lawyer in each of conveyancing and probate and works in partnership with awarding bodies to define the appropriate methods and conditions of assessment. The CLC's approach to competence covers licensed individuals and does not extend to non-licensed legal support staff etc.

Legal knowledge and occupational competence are assessed at the time the application for a licence (conveyancing or probate) is made and is not re-assessed while an individual continuously maintains a licence. If a licence holder leaves CLC regulation, legal knowledge and occupational competency are re-assessed when the individual applies to reinstate a licence. At that time the applicant must demonstrate they meet re-entry requirements. The CLC does not formally reassess competence during the careers of professionals who have continuous activity in the profession.

Context for the CLC's approach to competence in its sector can be found in the [CLC Code of Conduct](#), which offers high-level outcomes, and more specific requirements in the [CPD Framework](#) and [CPD Code](#).

The CPD Code contains specific requirements for ongoing competency, including that professionals must tell the CLC each year whether they have complied with the requirements and keep an up-to-date training record for inspection by the CLC on request.

The CPD framework aims to ensure that providers of legal services continue to develop their knowledge and competency by setting expectations as to the number of hours of CPD that should be completed. It does not specify competencies and skills (e.g. communication, accounting etc.) but expects the individuals to plan appropriate training. The CPD Framework allows the CLC to direct a licence holder to complete specific courses of training. On occasion we have provided blanket training provision on specific topics to particular

groups, such as AML training for MLROs.

The high-level outcomes from the Code of Conduct directly relevant to the ongoing competence of CLC-regulated professionals are that:

- Clients are provided with a high standard of legal service
- Client matters are dealt with using care, skill and diligence
- Appropriate arrangements, resources, procedures, skills and commitment are in place to ensure clients always receive a high standard of service, and
- Each client's best interests are served.

The CLC monitors competence on an ongoing basis through its regime of regular onsite inspections of practices (which take place on a three-yearly cycle), through targeted questioning in its Annual Regulatory Review and AML Questionnaire, and through other intelligence. These methods allow us to triangulate information about risks and weaknesses within practices. We may recommend or direct an individual to attend (and pay for) a specific course as an alternative to disciplinary action if it is satisfied they have failed to a material extent to comply with the CLC's Code of Conduct.

There are also legal requirements relating to competence and training contained in the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations which the CLC monitors and enforces in its role as AML supervisor. In this way competence relating to anti-money laundering is monitored on an ongoing basis.

The CLC has planned a review of its own ongoing competence arrangements which has now been placed on hold pending progress in the LSB's work that will help to inform the future framework for CLC -regulated lawyers.

Consumer expectations of competence

Understanding consumers' perspectives on, and expectations of, competence in the legal services sector is crucial to our work in this area.

We would welcome your views on what ways consumers can have greater confidence that they have a competent advisor. This may cover areas such as:

- the ways consumers can make judgements on the quality of the advice or service that they have received
- what role consumer feedback could or should play in helping legal professionals to build their competence and helping to foster trust
- the frequency of competence checks that would reassure consumers
- different types of consumers, consumer problems or legal activities that are more likely to experience quality issues, or be vulnerable to greater harm from quality issues

We would welcome qualitative and quantitative evidence in particular on: meaningful ways to demonstrate competence to consumers; how professions can provide information to consumers on the quality they should expect; the relative risk and impact of poor quality advice on consumers.

CLC Response

Consumer judgements and feedback

Consumers are able to make a judgement about the quality of a service they have received by referring to other consumers' reviews on websites such as Trustpilot.

At present, the CLC promotes the use of such tools by regulated entities and we are considering going further. We hope that the LSB will support our effort to secure a sector-wide approach to the use of feedback platforms and other quality indicators for widely used legal services such as conveyancing so we can achieve a whole-of-market approach, even if only by one area of law at a time. This would equip consumers to make better-informed judgements about the quality of services received.

Consumer feedback should play a central role in helping legal professionals to build their competence and foster trust. Generally, consumer feedback will be provided directly to the practice or individual and the CLC has access to such feedback during onsite inspections. The CLC also allows consumers to provide feedback about members directly to it either using a general feedback form online or by making a complaint to the CLC or the Legal Ombudsman.

Consumers are also able to assess the likely quality of service by checking whether regulators have published any disciplinary proceedings relating to a practice or individual. This of course does not provide any positive indication of quality and could be difficult for consumers to weigh as part of their selection of a legal service provider.

Central to consumers' perceptions of quality and service in the conveyancing sector is a regulated professional's ability to communicate effectively and efficiently. This is in large part due to the high-value and time-sensitive nature of property transactions and is reflected in the data on complaints received about the legal professionals in the conveyancing sector. However, the CLC does not believe that consumers in the sector are vulnerable to greater harm as they are protected by the CLC's indemnity and compensation arrangements.

Frequency of competency checks

The frequency of competency checks that might reassure consumers would likely change according to circumstances i.e. you might expect more frequent training on a practice area or subject that carries a higher level of risk. Consumers likely also expect legal professionals to update their training and competencies when there is a relevant change in statute or case law, when they move into a different practice area, or when they move to a different career stage.

The CLC is able to actively identify and address gaps in competency/CPD. For example, following the introduction of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 the CLC's inspection regime identified that a number of money laundering reporting officers were not completing the required level of training. In response, the CLC organised for the requisite training to be delivered in locations around the country, and mandated that those officers should attend (or else provide proof of attending equivalent CPD elsewhere). In this example the CLC provided training (rather than only specifying the requisite level of training), so ensuring coverage and mitigating risk.

In general, the CLC's hands-on approach to regulation and supervision aims to meet increasing consumer expectations of quality and competence. The CLC attempts to demonstrate competence in its regulated sector by maintaining high standards in its licensing and inspection processes. Our approach is to ensure that practices address risks before they materialise as actual harm to consumers.

The CLC Secure Badge displayed on its practices' websites is an additional way that the CLC aims to provide assurance and foster trust among consumers. The CLC was the first regulator to identify and adopt this tool, which also helps to tackle fraudulent impersonation of law firms.

Competence assurance in the legal services sector

Understanding the current competence assurance frameworks adopted by regulators and the profession is important, as is confirming, qualifying and quantifying any examples of poor-quality services or suggested risk areas.

We would welcome your views on this, and it may cover areas such as:

- practice areas which do or could impose greater competency risks
- legal professionals that may be more at risk of competency challenges
- existing competency assurance methods used in the sector and their effectiveness
- the respective roles of regulators, providers and individuals to assure ongoing competence
- any potential barriers to assuring the competence of legal professionals

We would welcome qualitative and quantitative evidence in particular on: competence or quality issues for particular types of work; service and non-service-related issues experienced by consumers; the effectiveness of current competence assurance practices.

We would also welcome identification of potential evidence sources that are not readily available but that we could seek access to.

We would also welcome any evidence of competence assurance practices used in legal services sectors in other jurisdictions.

CLC Response

Refer to our response on page one, which overlaps with the information here and describes the CLC's relevant frameworks and codes.

We do not believe that either probate or conveyancing poses a higher competency risk than other legal services. Risks may increase in situations where, for example, a professional who generally only does residential conveyancing decides to offer commercial conveyancing services. The CLC requires a professional only to accept instructions and act in relation to matters which are within their professional competence (Code of Conduct 3a and CPD Code).

It is important to note that certain risks and issues arise not because of the type of work that is being delivered, but as a result of the vulnerability or other characteristics of the client.

In addition, legal professionals may be more at risk of competency challenges if they face affordability or geographic barriers and are unable to complete the training they require.

As part of our AML training courses, we have been raising awareness about risks in accepting instructions from novel or unusual sources (e.g. from overseas clients) and how they should be mitigated.

Existing competency assurance methods used by the CLC include inspections, complaints monitoring, and the licensing and authorisations processes. Inspections take place on a three-yearly cycle (with the first onsite inspection taking place 12 months after a practice is accepted into CLC regulation as the culmination of a period of intensive monitoring and supervision).

The CLC is the standard-setter for all relevant training qualifications leading to licence to practise. The CLC considers that these methods provide it with an appropriate level of confidence in the competency of its regulated professionals.

Competence assurance in other sectors

Understanding what other sectors do to assure ongoing competence is useful because it helps us to learn what has worked well in other professional services sectors and identify any opportunities to adapt the approach in legal services.

We would welcome your views on what ways the legal services sector can learn from the competence assurance approaches adopted in other professional sectors. This may cover areas such as:

- methods to gain competence assurance that have been tailored to different professional environments
- the benefits to consumers and the profession of different competence assurance schemes e.g. revalidation, observation or simulation
- how assurance data is collected, recorded and made accessible to consumers

We would welcome qualitative and quantitative evidence in particular on: consumer views on the benefits of competence assurance schemes; the robustness of different methods for competence assurance; the competence assurance systems which produce the most reliable assessments.

We welcome evidence from the sectors provided as examples above as well as other sectors not specified in this paper.

CLC Response

The CLC does not wish to comment on competence assurance practices in other sectors at this time.