



UK Internal Markets Act: Continuity of exclusions from the principles of mutual recognition and non-discrimination for services

**Consultation response from the Council for Licensed Conveyancers
to the Department of Business, Energy & Industrial Strategy**

1. Name:
2. Email:
3. Organisation: Council for Licensed Conveyancers (CLC)
4. OK to publish responses? Yes.
5. OK for responses to be quoted? Yes
6. In which nations do you operate? England and Wales
7. Category you are a part of? Services regulator (legal)
8. Summarise your organisation's purpose, focus, or main area of business:

The Council for Licensed Conveyancers (CLC) regulates specialist conveyancing and probate lawyers in England and Wales. The CLC sets entry standards and licenses and regulates providers to deliver high-quality, accessible legal services.

9. *Under which piece or pieces of legislation do you operate?*

The CLC was established by the *Administration of Justice Act 1985* and is bound by the regulatory objectives in the *Legal Services Act 2007*. The CLC also has powers derived from the *Courts and Legal Services Act 1990* and the *Deregulation Act 2015*.

10. *Please state in respect of which service activity or sector you are responding. If you are responding regarding multiple services activities or sectors, please identify clearly in your answers which consideration applies to which service(s).*

Legal services (conveyancing and probate) in England and Wales.

11. *Please give a high-level overview of the current regulatory regime(s) for the service(s) in question, being clear about whether it is specific to a part of the UK or UK-wide.*

The CLC regulates Licensed Conveyancers and probate practitioners who provide their services in England and Wales only. Conveyancing and probate services can be provided by legal professionals regulated by other legal sector regulators (e.g. SRA; CILEx Reg) however the CLC provides the only regulatory regime for Licensed Conveyancers and Licensed Probate Practitioners.

12. *Would you consider this service to be in scope of Part 2 of the UKIM Act?*

We would consider these services to be in scope of Part 2 of the UKIM Act.

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- 13.** *Is this service excluded from the application of the mutual recognition or non-discrimination principles in the Act, under Schedule 2? If yes, please specify which entries in Schedule 2 you consider apply to this service.*

These services are excluded from the application of the mutual recognition principle in the Act under schedule 2. They are not excluded from the principle of non-discrimination.

Questions for Regulators

- 14.** *Do you currently disapply the requirement to recognise authorisations issued by a regulator in another part of the UK, under Regulation 15(5D) of the Provision of Service Regulations 2009?*

Yes.

- 15.** *If you have answered 'yes' to the previous question, what service activity and legislation does the derogation under Regulation 15(5D) apply to? Please provide as much detail as possible.*

The Licensed Conveyancer and Probate Practitioner professions are unique to England and Wales and so the CLC does not recognise authorisations for this service activity granted by regulators in other parts of the UK. Lawyers qualified in Northern Ireland or Scotland may apply for a licence from the CLC to deliver conveyancing and/or probate services in England and Wales, but it is likely that they will need to complete some parts of the Licensed Conveyancer professional qualification to ensure that they have the legal technical knowledge and skills to deliver those services in the England and Wales jurisdiction.

- 16.** *If the service activity you regulate is not listed under Schedule 2 of the UKIM Act, do you believe that it should be? Please explain your answer.*

N/A – the service activity regulated by the CLC is listed in Schedule 2.

- 17.** *What is the overriding reason relating to the public interest you rely on to be able to disapply the mutual recognition principle under Regulation 15(5D) of the Provision of Services Regulations 2009? See under the 'Current landscape' section for the meaning of 'overriding reason relating to the public interest'.*

The protection of consumers, recipients of services, and workers as the legal and technical knowledge and occupational experience required for the delivery of conveyancing and probate services to the required standard (under English Common Law) are different than in the other UK jurisdictions. This is reflected in the exclusion of legal services from the mutual recognition requirement.

There are also public policy and safety grounds. The profession of Licensed Conveyancer and Probate Practitioners was created by Parliament for England and Wales alone. The governments in NI and Scotland have not created any parallel legal profession.

[Questions 18-22 are for service providers]

Views on further amendments to the exclusions list under Sch. 2 of the UKIM Act

- 23.** *Do you believe that the list of exclusions at Schedule 2 of the UKIM Act should be changed, or that it should stay as it is?*

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The CLC agrees that legal services, including those which it regulates, should be excluded from the principle of mutual recognition, but that they should not be excluded from the principles of non-discrimination.

24. If you believe it should be amended, please state the additions and/or deletions you would suggest making to Schedule 2 of the Act.

N/A – we are not suggesting any changes to Sch. 2

25. Please explain the policy rationale for your position. You should seek to explain how any changes would impact the regulatory framework specific to the service(s) you are responding about.

N/A – we are not suggesting any changes to Sch. 2

26. Please state the approximate value of the change(s).

N/A

27. Please explain your analysis on how any changes would impact the functioning of the UK Internal Market. You should seek to explain any costs of providing the service, the regulatory complexity for your sector and any evidence gaps/limitations (additional information can be annexed).

N/A

Further views on the functioning of the UK Internal Market for services

28. As part of the Government's ongoing commitment to monitor and assess the functioning of the internal market, please provide your views on any other ways to further enhance the UK Internal Market for services. This could be in the form of changes to the exclusions in Schedule 2 of the UKIM Act, or changes to the UK's Internal Market in services more broadly.

The different legal jurisdictions, which have different legal systems, mean that a single UK market for legal services faces obstacles. While large commercial customers of lawyers may well be able to choose between lawyers based in one jurisdiction to carry out work in another and/or under the different system of law, that is only possible where the legal services provider is qualified in both jurisdictions or the service being delivered is not on the list of reserved legal services in England and Wales.

Both conveyancing and probate contain reserved legal services that can only be carried out by Authorised Persons as defined by legislation. However, one can envisage that, with the emergence of different process for conveyancing and probate driven by digital innovation, there could be a harmonisation of processes across UK jurisdictions that would make it easier to establish UK-wide providers of these mass and commoditised legal services, whatever the legal tradition. This is because the differences in the legal systems would be less significant and more easily accommodated in the legal services.

A true single market in conveyancing and probate would likely require a change to the system of reservation of legal services that is currently in place to allow provision by legal service providers across all UK jurisdictions. The legal sector has been thinking about this and related issues, such as how to maintain client protection and public interest protection through a different structure for regulation that is built on the nature of the service being regulated rather than the professional title of the provider of that service.

29. *Please explain the policy rationale for your position. You should seek to explain how any changes would impact the regulatory framework specific to the service(s) you are responding about.*

The markets for the delivery of conveyancing and probate services are currently highly fragmented despite both services being large scale and increasingly delivered on a commoditised basis. A UK single market in those services would give providers access to a larger pool of potential clients. It would also allow providers to base operations in parts of the UK where those operations are less expensive to deliver and where untapped legal talent is available or can be developed. This is possible because probate and conveyancing services no longer require face to face contact between the client and their lawyer.

While the legal frameworks for conveyancing and probate differ between the UK jurisdictions, the substantial elements of the service to the client, the gathering and checking of data to ensure that a full picture of the relevant transaction is available and understood, are the same. With digitisation of these services gathering pace, there are opportunities for legal service providers to develop very different models of client service that offer greater security in transactions, greater transparency and speed, potentially at lower cost.

The regulatory framework would need to allow cross-border provision of legal services. This need not require a change to the system of reservation and a move away from title-based regulation if legal services providers felt that it was worthwhile to dual or triple qualify or employ staff with the necessary titles for the delivery of services in each of England and Wales, Northern Ireland and Scotland. However, setting a UK standard for the provision of those services and allowing existing regulators to licence providers meeting that standard would drive out the benefits of a larger single market.

30. *If possible, please state the approximate value of the change(s).*

We are not able to assess the value of such a change.

31. *What evidence can you provide in support of your answer? e.g., how these changes would impact the functioning of the UK Internal Market (explaining associated costs and benefits of the change, evidence sources, evidence gaps - additional information can be annexed).*

Extrapolating from information we hold about CLC-regulated practices, we might estimate that the legal service providers of conveyancing have an aggregate annual turnover of around £2bn. Introducing efficiencies into this market could reduce costs to the consumer, improve profitability and fund further innovation.
