



**CONTINUED PROFESSIONAL DEVELOPMENT
CONSULTATION PAPER ON NEW PRINCIPLES
30th September 2022**

Consultation deadline

This consultation will run for thirteen weeks.

It will close at the end of 6th January 2023.

Background

Following recent discussions at the CLC Council the CLC has decided to consult on expanding the requirements around Continuous Professional Development (CPD). These fall under a new set of principles, involving changes to individual licenses, and now applying to practices as well.

Summary

This paper sets out proposals on the new principles, and – if approved - who they will apply to, and how. It does not cover the details of implementation or steps to move to the new revised CPD framework. This will be included in a future workstream, dependent on the outcome of our consultation.

Why this consultation is important

Practices regulated by the CLC and their representative bodies should consider how the plans set out in this consultation could affect their work, staff and clients, and the reputation of the regulated community. Clients of regulated entities and organisations representing consumers should consider whether the options set out in this consultation have any impacts on client protection. Other organisations in the property and probate sectors should consider whether the options set out in this consultation have any impact on themselves, their clients, or the wider reputation of the sector.

Responding to this consultation

You can respond to the consultation by email to consultations@clc-uk.org or by post to:

- The Council for licensed Conveyancers, WeWork, 131 Finsbury Pavement, London, EC2A 1NT.

You can also respond via an online survey: <https://www.surveymonkey.co.uk/r/K5S62X5>

The CLC will publish all responses and may refer to any of them specifically in any further document it publishes following this consultation. (If you prefer all or part of your response to be treated as confidential, please clearly indicate that when you respond).

Consultation deadline

This consultation will run for thirteen weeks until the end of 6th January 2023.

Next Steps

Following the closing date the Council of the CLC will consider the responses to this consultation and finalise a submission to the LSB to approve the final rule changes in 2023. That submission will be published along with consultation responses (noting the caveat about confidentiality above).

Depending on responses to the process, and whether and how any changes may be approved, the CLC will also be looking at supporting material (such as example templates and tailored guidance) to support individuals and firms in applying these changes.

CPD Review – New Principles

Introduction

Following our requirements under legislation, and in keeping with good administrative practice, we continually review our framework on CPD. We have been analysing a range of options around CPD principles for the last 3-4 years, with the aim of consulting on our ideas around this period and believe this is a suitable moment to consider changes.

We propose to deliver these via new CPD Principles. Two of the most significant recommendations are: proposals to change individual licences; and a universal CPD requirement for CLC firms operated at Practice level.

Aims of this consultation

We are seeking your views on:

- The new set of Principles, and their impact.
- Whether there should be other principles added that are currently not considered.

Regulatory and legislative framework

Regulatory Objectives

The Legal Services Board (LSB) is responsible for monitoring our adherence to each Regulatory Objective (RO)¹. This consultation looks at measures intended to help meet the following RO.

- RO1 - protect and promote the public interest
- RO4 - protect and promote the interests of consumers
- RO6 - encourage an independent, strong, diverse, and effective legal profession
- RO8 – promote and maintain adherence to the professional principles”.²
 - In particular ‘Section b’ of that objective which notes that: “Authorised persons should maintain proper standards of work.”

¹ [Regulatory objectives \(legalservicesboard.org.uk\)](https://legalservicesboard.org.uk)

² These professional principles are set out in s.1(3) of the Legal Services Act 2007.

If the proposed new RO on economic crime is introduced through legislation, the approach set out in this paper will support it being met by addressing training needs that arise in relation to it.

LSB Guidance

We note that much of our planned work has been echoed by the recent LSB Statement on this issue³ (see details below) and we believe both sets of proposals reinforce each other, with the aim of a more effective CPD regime. For example, we have been considering for some time an arrangement which enables us to mandate specific CPD activity in some circumstances, and this has been reflected by the LSB and their recent proposal on remedial action (item 3 below).

On 28 July 2022, The Legal Services Board published a new statutory statement of policy on ongoing competence. It sets clear outcomes that the legal services regulators should meet to ensure that lawyers have the necessary skills, knowledge, and behaviours to provide good quality legal services.

The launch of the new statement is the culmination of extensive policy development since 2019, including a wide public consultation and call for evidence, independent research, and cross-sector engagement. It covers:

1. **Setting standards of competence** that legal professionals should meet at the point of entry and throughout their careers
2. **Assessing profession-wide levels of competence**, identifying any key areas of risk, and using that information to design upstream interventions
3. **Where individual legal professionals who are failing to meet the standards of competence are identified**, taking suitable remedial action in response.

Alongside the work we have been developing for some time, these proposals have also reflected recent updates around the legal profession which overlap with much of our earlier thinking.

Other Benefit / Impacts

We believe that under our new proposals:

- There is more likely to be a reduction in risks for firms, including (all things being equal) fewer practices being unable to secure Professional indemnity insurance on terms that are unaffordable or unacceptable to the CLC.
- A revised CPD framework, and a strong set of guidance to support that, could lead to a clearer promotion process to key roles in firms, helping to make that more objective and transparent.
- There will be no negative impact on consumers or protected groups, and there could well be benefits in terms of more responsive training.

³ [LSB sets new expectations to ensure lawyers remain competent throughout their careers - The Legal Services Board](#)

The current approach

The CLC's existing Ongoing Competency Requirements are set out in its CPD Framework⁴. The CLC expects individual licence holders to keep their professional knowledge up to date through Continuing Professional Development (CPD) activities. The annual requirement is for:

- 6 hours minimum for all licence holders.
- 8 hours for dual probate and conveyancing licence holders.
- 12 to 14 hours when the licence holder is also a Registered Manager.
- All licence holders must maintain an up-to-date training log verified by their employer.

Other than the specifying a minimum of hours (which must be recorded, verified by the employer, and presented on request) the CLC framework places no expectations on the content or format of the development activity that is recorded.

Positive aspects of the framework

The current framework benefits from significant flexibility. During the pandemic we expanded the CPD flexibilities to include employer led in-house training and free or cost neutral activities. We also encouraged individuals and their employers to think about events in their day-to-day work that could contribute to CPD hours, such as, in-house training sessions, providing or receiving mentoring and coaching.

When used appropriately we believe that the flexibility of the current scheme allows a high degree of tailoring to the needs of the individual and employee and is enhanced by proper planning at each level, based on actual need.

Risks

A potential weakness of the scheme is where this preparation and planning is not started or is not pursued. There is a risk that some conveyancers could be meeting most of the mandatory hours by completing brief online webinars or attending generic types of conferences. Both can be useful if designed well, but only if attendees are reflecting on their roles and responsibilities in a meaningful way.

We are also currently of the view that most do not take a risk mitigation and consumer protection approach to planning their CPD activity. There is little evidence that CPD is commonly used as a tool to develop lawyers as their careers progress, for example, as they are promoted into supervisory

⁴ [CLC – The Specialist Property Law Regulator \(clc-uk.org\)](https://www.clc-uk.org)

roles at team and at practice level. All of above has an impact on individual conveyancers, firms, consumers and the reputation of the profession.

The new CPD Principles

During recent discussion we concluded that changing the existing framework was necessary to mitigate risks that the CLC sees in the delivery of legal services, to continue to improve standards in the profession, and protect consumers and to meet the LSB's expectations.

Following a workshop focused on CPD, and a supporting dialogue around this workstream, the CLC has analysed its priorities for a revised CPD approach. Our intention is that these would keep its existing strengths and reduce risks. Our aims have been summarised into the set of principles set out below.

1. Introduce more meaningful risk/competency direction and increase the levels of mandatory evidence and reporting requirements for individual licence holders, to enable us to assess profession-wide levels of competence (and identify individual legal professionals that are failing to meet the standards of competence identified).
2. Provide quantitative and qualitative data that will help us to assess profession-wide levels of competence, understand the competence of individual non-legally qualified professionals with key accountabilities within practices, and identify practices that are failing to meet the standards of competence identified.
3. Help practices align their organisational wide training and development and risk management processes into a coherent on-going compliance and competence strategy that will help protect consumers and reduce the regulatory burden.
4. Introduce a mandatory practice-level responsibility for ongoing competence, to improve the overall risk management and performance of CLC practices.

The new CPD Framework

Application

It is proposed that this revised approach will:

- a. move away from an hours-based approach and move towards an activity and outcomes based approach;
- b. include a mix of externally assessed and informally assessed activity;
- c. introduce a regulated entity responsibility for ongoing competence, to improve the overall risk management and performance of CLC practices, which will apply to:
 - Individual CLC Licence Holders

- Heads of Legal Practice
- Heads of Finance and Administration
- Money Laundering Reporting Officers
- Complaints Handling leads (these are described differently in different practices)
- Directors/Partners/Members/Sole Practitioners.

The expectations relating each of the groups above will be:

- Tailored to the needs of their roles, and moderated when one individual holds multiple roles;
- Their duties as defined in regulation; and
- Their responsibilities for the supervision of the delivery of legal services and/or management of the business.

(NB Comparisons with other legal regulators' CPD regime are not straightforward due to the range and diversity of approaches among each across different issues. However, one of the most common shared attributes is the focus on activity and outcomes rather than on hours, which the CLC is now proposing moving to).

Q1. We have suggested a range of typical key personnel appointments that hold particular service or compliance responsibilities within CLC regulated entities; do you think that the range of key personnel identified is:

- a. About right***
- b. Too broad***
- c. Too narrow***

If you answer b. or c. which roles should be removed or which have we missed out that you feel should be included?

Requirements

There will be elements of CPD activity that are mandated by the CLC each year for each group listed above. Other elements will be chosen by the individual either following reflection on their own practise requirements, or in consultation with their employer. Individuals also regulated by another licensing body would when the content was appropriate, be able to use CPD activity that counted towards their primary regulators requires to also meet their CLC requirements.

The mandated areas will include areas such as ethics, professional standards, and consumer protections, while individuals will have more choice around how they maintain and improve their legal, technical and industry knowledge in their specialist area or areas (see annex 1).

Q2. Do you agree with the move away from a fixed hours-based framework to an activity-based framework?

- a. Yes, I agree strongly**
- b. Yes, I agree**
- c. I do not have any strong views either way**
- d. No, I disagree strongly**
- e. No, I disagree**

Q3. Do you agree that the activity components should include specific direction on areas such as:

- a. ethics, professional standards, and consumer protections;**
- b. whilst allowing individuals to choose from externally assessed and non-assessed activity to maintain and improve their legal, technical and industry knowledge in their specialist areas, such as the topics suggested in annex 1?**

- a. Yes I agree with the approach set out in a. and b.**
- b. Yes, I agree with the approach, but would prefer both components a & b were directed by the CLC**
- c. I disagree with the approach set out in a. and b.**
- d. I do not have any strong views either way**

Reporting

CLC Lawyers report their completed CPD annually at the point of licence renewal by 1 November each year. Additionally, CLC lawyers applying for a licence modification, or reinstatement of a licence after a period of not holding an active licence, are also required to provide evidence that they have maintained the CLC's mandatory annual CPD requirements at the point of making the licensing application.

There will be a heightened emphasis on satisfactory CPD activity and reporting as a condition of annual licence renewals and modifications at all levels.

Individuals - Each individual in one of the categories at above will be required to submit an annual statement of CPD completed with supporting evidence of assessment where necessary. As a consequence, individuals looking to move into new roles, as HoLP or HoFA etc, will also be able to demonstrate to the CLC their suitability for appointment through relevant and more clearly laid out CPD activity.

Employers - will be required to demonstrate that the needs of the entity for ongoing competence are being met through individual CPD activities. Each regulated entity will be required to submit of statement of its maintenance of ongoing competence annually, within the standard three-year inspection cycle, or in response to specific requirements set by CLC in response to monitoring or disciplinary findings.

The CLC - reporting by individuals and entities will be used by the CLC to inform its risk profile of regulated entities, via our own assessment, and any that may be required by the LSB or other regulators such as OPBAS/HMG. Such activity may entail follow-up compliance and reporting activity with either individuals or entities.

Assessments

The framework will expect elements of CPD activity to be externally assessed (though this might be quite light touch) and some to be self-assessed.

Q4. Do you agree that an activity framework should include specific direction on the appropriate balance of externally assessed and non- assessment components?

- a. Yes, I already adopt this approach to planning my CPD**
- b. Yes, I would be willing to adopt this approach to planning my CPD**
- c. Yes, but I would need some support to adopt this approach to planning my CPD**
- d. I disagree with the approach**

If you disagree, please tell us what it is about the approach that you would find difficult to accept?

Q5. Do you agree with the inclusion of a regulated entity responsibility in the CPD framework, whereby CLC regulated entities will be required to demonstrate that the needs of the entity for ongoing competence are being met through individual CPD activities?

- a. Yes, I strongly agree, my/our business has already adopted this type of approach**
- b. Yes, I agree, my/our business would be willing to work towards adopting this approach**
- c. Yes, I agree, but my/our business would need support adopting this approach**
- d. I disagree, my/our business would find it difficult to adopt this type of approach**
- e. I disagree with the approach**

If you disagree, please tell us what it is about the approach that you would find difficult?

Q6. Do you think that each CLC regulated entity should be required to submit of statement of its maintenance of ongoing competence:-

- a. Annually; or**
- b. Integrated into the three yearly inspection cycle?**

Q7. Do you agree that each CLC regulated entity should be required to submit of statement of its maintenance of ongoing competence in response to specific requirements set by CLC in response to monitoring or disciplinary findings?

Development / Improvements

The framework will enable the CLC to mandate specific CPD activity where needed following monitoring and inspection findings and/or disciplinary action. The CLC will develop an approach within the revised CPC framework that provides for appropriate remedial action to be taken to address competence and/or conduct issues in its:

- Enforcement regime, whereby practices working toward compliance will be expected to plan targeted education and training action to address specific areas of competence, practise, and risk; and
- Disciplinary regime, whereby providing the Adjudication Panel with a new practical framework from which it will be able to mandate rehabilitative sanctions alongside its traditional sanctions. Remedial action in this context will be measured and intended to support authorised persons and those in scope to improve or correct competence and conduct issues.

Q8. The framework will enable the CLC to mandate specific CPD activity where needed following enforcement and/or disciplinary action. Do you agree with this approach?

- Yes, I strongly agree***
- Yes, I agree***
- No, I strongly disagree***
- No, I disagree***
- I do not have any strong views either way***

Transitional Arrangements

The CLC is considering the length and nature of transitional arrangements in the move to the new framework if it is approved. Views on this issues are welcome. Final details on the requirements for regulated firms and individuals will be published later in this process.

Q9. Do you have any comments on what kind of transitional arrangements should be any place?

Other considerations

The CLC already operates and robust revalidation framework for lawyers seeking to reinstate a licence after a period of absence from practise, which includes externally courses and informally assessed CPD as a pre-condition of application. The revised CPD framework will also ensure that standard CPD activity is more meaningful.

Therefore, we are not proposing that a revised CPD framework extended into a universal revalidation framework for all CLC lawyers. Doing so would create a revalidation framework in excess of those in place for CLC counterparts.

We are also keen to assess whether there would be appetite from our regulated community and stakeholders for the CLC to extend its oversight of either, CPD training providers or more extensively by branding specific CPD courses.

This might include an approach is limited to the CLC approving CPD providers who continue to design and offer their own courses; or possibly extend into a CLC accreditation of CPD course under a branded CPD offering.

Q10. We are keen to assess what, if any appetite there would be for the CLC to be more involved in the oversight of CPD providers and more extensively the accreditation of CPD courses.

I would welcome the CLC introducing an accreditation scheme for CPD providers

I would welcome the CLC introducing CLC branded CPD courses

I would not welcome the CLC introducing any form of CPD accreditation scheme

I do not have any strong views either way

Summary of Consultation Questions

Q1. We have suggested a range of typical key personnel appointments that hold particular service or compliance responsibilities within CLC regulated entities; do you think that the range of key personnel identified is:

- a. About right*
- b. Too broad*
- c. Too narrow*

If you answer b. or c. which roles should be removed or which have we missed out that you feel should be included

Q2. Do you agree with the move away from a fixed hours-based framework to an activity-based framework?

- a. Yes, I agree strongly*
- b. Yes, I agree*
- c. I do not have any strong views either way*
- d. No, I disagree strongly*
- e. No, I disagree*

Q3. Do you agree that the activity components should include specific direction on areas such as:

- a. ethics, professional standards, and consumer protections;*
- b. whilst allowing individuals to choose from externally assessed and non-assessed activity to maintain and improve their legal, technical and industry knowledge in their specialist areas, such as the topics suggested in annex 1?*

- a. Yes I agree with the approach set out in a. and b.*
- b. Yes, I agree with the approach, but would prefer both components a & b were directed by the CLC*
- c. I disagree with the approach set out*

Q4. Do you agree that an activity framework should include specific direction on the appropriate balance of externally assessed and non- assessment components?

- a. Yes, I already adopt this approach to planning my CPD*
- b. Yes, I would be willing to adopt this approach to planning my CPD*
- c. Yes, but I would need some support to adopt this approach to planning my CPD*

d. I disagree with the approach

If you disagree, please tell us what it is about the approach that you would find difficult to accept?

Q5. Do you agree with the inclusion of a regulated entity responsibility in the CPD framework, whereby CLC regulated entities will be required to demonstrate that the needs of the entity for ongoing competence are being met through individual CPD activities?

- a. Yes, I strongly agree, my/our business has already adopted this type of approach*
- b. Yes, I agree, my/our business would be willing to work towards adopting this approach*
- c. Yes, I agree, but my/our business would need support adopting this approach*
- d. I disagree, my/our business would find it difficult to adopt this type of approach*
- e. I disagree with the approach*

If you disagree, please tell us what it is about the approach that you would find difficult?

Q6. Do you agree that each CLC regulated entity should be required to submit of statement of its maintenance of ongoing competence:-

- a. Annually; or*
- b. Integrated into the three yearly inspection cycle.*

- a. I agree with a*
- b. I agree with b*

Q7. Do you agree that each CLC regulated entity should be required to submit of statement of its maintenance of ongoing competence in response to specific requirements set by CLC in response to monitoring or disciplinary findings?

Q8. The framework will enable the CLC to mandate specific CPD activity where needed following enforcement and/or disciplinary action. Do you agree with this approach?

- a. Yes, I strongly agree*
- b. Yes, I agree*
- c. No, I strongly disagree*
- d. No, I disagree*
- e. I do not have any strong views either way*

Q9. Do you have any comments on what kind of transitional arrangements should be any place?

Q10. We are keen to assess what, if any appetite there would be for the CLC to be more involved in the oversight of CPD providers and more extensively the accreditation of CPD courses.

- a. I would welcome the CLC introducing an accreditation scheme for CPD providers*
- b. I would welcome the CLC introducing CLC branded CPD courses*
- c. I would not welcome the CLC introducing any form of CPD accreditation scheme*
- d. I do not have any strong views either way*

Annex 1

CPD – Specialist Areas

Maintaining and improving your legal, technical and industry knowledge in your specialist area.

Qualifying legal and technical knowledge and awareness raising activities, from the topics below.

1. AML, Know Your Client, dealing with vulnerable clients
2. GDPR, Privacy and Client Confidentiality
3. Fraud and risk awareness
4. Cyber threats and IT security
5. Complaints and Customer Satisfaction
6. Innovation and Process improvement
7. Ethics and Professionalism
8. Regulation and compliance
9. Finance/accounting practice/Accounts Code
10. Equality, Diversity, and Inclusion
11. Client care, assessing and vulnerability and access to services
12. Industry and key stakeholder developments
13. Green environment and Net-Zero legislation.