

Continuing Profession Development Consultation

Consultation Period. 20 September 2022 to 06 January 2023

Purpose: For decision.

Author: Deputy Director of Authorisations and New Business

Approver: Chief Executive

Summary

This paper updates Council on the recent CPD consultation which closed Tuesday 6 January 2023. Which set out a new set of principles which will involve changes for individuals, as well as introducing a universal CPD requirement for CLC firms. These proposals will mitigate risks and continue to improve standards in the profession while enhancing consumer protection.

Given the high level of support for the proposed new CPD framework, the executive team is now keen to progress to development and modelling of the full revised framework encompassing all the changes that were consulted upon.

Recommendations

Council is asked to note the consultation response and agree that we should now move to taking the steps needed to fully model the new CPD offer.

Risk Management

To be included in the post consultation development work

Financial impact

To be included in post consultation development work

Diversity and Inclusion Impact

Have been considered in the broader agenda papers leading to this consultation.

Communication Requirements

None at this stage but other reference testing will be made during modelling with an intention for this to come back to Council by the July meeting.

Background

The CLC proposed the following changes to its existing CPD Framework:

- 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.
- d. consensus for increasing mandatory CPD as an upstreaming tool;
 - e. should each CLC regulated entity should be required to submit of statement of its maintenance of ongoing competence annually or integrated into the inspection cycle;
 - f. the level of CLC involvement in the CPD Market; and
 - g. implementation timescales

RESPONSES

50 individuals responded, of which 41 were responding on behalf of their CLC regulated practice. The Society of Licenced Conveyancers also provided a detailed response.

ENDORSEMENT OF THE KEY PRINCIPLES

Views on the new set of Principles, and their impact.

Broadly most respondents agreed with the core principles set out in the proposed changes to the CLC CPD Framework. There were clear indicators to strongly suggest that the new framework would be acceptable to the regulated market. In fact, only 6% of the CLC practices that responded, did not support the approach.

a. move away from an hours-based approach and move towards an activity and outcomes based approach;

There was overwhelming consensus (83%) for a move away from an hours to an activity based approach.

b. include a mix of externally assessed and informally assessed activity;

86% supported the move to a more structured focus on activities covering ethics, professional standards, and consumer protections; whilst allowing individuals to choose from externally assessed and non-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.**

Expanding the CPD framework to include an entity responsibility for CPD was widely supported (84%). 19% of CLC practices believed that they already adopted an approach similar to that being suggested in the consultation. 35%, felt they could quite easily independently adopt the new CPD approach. Whilst 40% believed that with some target support, they would be happy to work towards adopting such an approach. Nobody agree with the statement that the approach was too difficult to adopt.

Notwithstanding this support, there were some concerns expressed about how the framework would manage and moderate requirements for multiple role holders. We are already sighted on any unnecessary burden on multiple role holders being a potential barrier to practice level adoption.

The CLC has no appetite to double up activity unnecessarily. Our focus is to encourage more meaningfully planned, risk based activity, relevant to the level of exposure to risk or the requirement to manage risk across a combination of commonly combined roles.

d. Consensus for increasing mandatory CPD as an upstreaming tool

64% agreed the CPD framework should include modification to allow the CLC to mandate specific CPD activity where needed following enforcement and/or disciplinary action, Around 20% did not have a strong view on this as a specific sanctions tool, but remained open minded to the idea.

A high level of willingness to undertake mandated training is very helpful. In part because it validates the approach taken for some time by the CLC in its licensing application regime. Which has been mandating CPD as evidence of up to date legal and technical knowledge as part of the standard formalities to apply for a range of applications, such as conversions, Head of Legal Practice and Head of Finance and Administration applications.

This approach has also been used somewhat successfully within the licence reinstatement processes. Which touches on disciplinary sanctions by way of requests being made by individuals that have been subject to sanctions, when they seek to return to regulation post compliance with those sanctions. To date, mandating CPD has stopped short of being formally used as a mandatory component of monitoring or enforcement regime.

- e. Should each CLC regulated entity should be required to submit of statement of its maintenance of ongoing competence annually or integrated into the inspection cycle.**

Opinion was evenly split, 50% one and 50% three years. However, for reasons set out in additional licensing paper also being presented to Council, the more robust and in-depth three year reporting cycle for entities is emerging as the CLC's preferred approach for optimum value and operational viability. We intend to keep the annual reporting requirement for Licence holders.

- f. Views on whether there should be other principles added that are currently not considered**

Respondents did not believe that there were any other principles that should be included that had not already been considered.

- g. The level of CLC involvement in the CPD Market**

Not unsurprisingly, there was considerable appetite (86%) for the CLC to be more involved in the oversight of CPD providers and more extensively the accreditation of CPD courses.

This would be a new work stream with un-mapped resourcing implications for the CLC. Although not meant to anticipate any level of interest for CLC to become involved in the validation aspects of the CPD market.

We did consider it wise to touch on the provision of CPD in the Education update paper, which is also being presented to Council. In so far as, it lightly touches on some ideas around how the

CLC might leverage CPD provision into a wholesale changes, as opposed to being seeming managed in a standalone work stream.

h. Implementation timescales

When asked about how quickly (or slowly) any changes should be implemented, the most common preference was for a 12 month transitional period, i.e. from the time between publication and implementation of the new framework within a licensing period. This is not out of step with our current thinking and which, given it does not create tensions with other related licensing initiatives, is achievable

The LSB requires that we published our implementation plan by January 2024. Which could provide a reasonable lead in period from Q1 to Q4 2023 to bring together the strategic and operational information necessary to meet the LSB's January 2024 publishing deadline, and a self-imposed deliver target of 01 November 2024.

- a. Given, the level of support from the consultation, **Council is asked to agree that the executive team now progress to development and modelling of the full revised framework encompassing all the changes that were consulted upon.**