



The consultation response below was submitted to the LSB on 2nd October 2023.

We always welcome comments or questions on any of the CLC's thinking. You can email us on clc@clc-uk.org

CLC Response to LSB Consultation

Draft guidance on promoting technology and innovation to improve access to legal services

2nd October 2023

The CLC's position

The CLC shares a vision with others in the property sector of digitalised services and tools which will deliver a faster, simpler, more certain, and less stressful property transfer process. This is in the interest of clients (lawyers will spend less time and energy gathering information and be able to focus more easily on advising the client) as well as in the public interest (better anti-money laundering standards, for example and a better functioning, more liquid, property market). Therefore, the CLC welcomes this consultation on how regulators can work to speed up the adoption of new technical solutions to improve access to legal service.

The CLC is an active member of the Regulatory Response Unit (RRU), which provides a very useful umbrella for the sector to cooperate on some of the issues and opportunities that technological progress opens up. For example, the RRU provided the easiest forum for the development of the joint guidance on digital ID tools, and we hope that more such guides can be produced jointly to help demystify and promote technologies that we believe legal services providers should be using to improve their services to customers and in the public interest.

The CLC is the specialist regulator of conveyancing and probate. In relation to these two services, the most pressing issue is how technology can be used to deliver better consumer outcomes. Unmet need for, and challenges of access to, conveyancing and probate services are not a significant concern other than in relation to the digitally excluded, who are likely to find access an increasing challenge. The CLC is joining with the Bar Standards Board and CILEx Regulation to develop research into digital exclusion that we hope will indicate effective steps that can be taken to address it.

While the CLC's focus is currently on buying and selling property, much of the learning and progress in the sector is applicable to the administration of probate too. Both legal services are built on the gathering of data from a wide range of sources to advise clients, and the accurate distribution of both real and intangible assets as well as funds at the end of the process. They involve the care and transfer of large amounts of value in ways that can be attractive to highly motivated fraudsters. Those services are generally used by citizens at moments of significant personal stress, which means that they need to be regarded by default as vulnerable clients.

Addressing opportunities and challenges for the CLC's regulated community

As mentioned above, the opportunity for the CLC's regulated community is to deliver legal services to clients that are:

- Simpler
- Faster
- More certain
- Less stressful

Many of the approaches, systems and tools to enable a transformation of conveyancing services are already available. From the Buying and Selling Property Information questionnaire developed by the Home Buying and Selling Group, digital ID tools, property logbooks and more. In other areas work continues, such as on the Property Data Trust Framework, which will provide a firm framework for the accessibility of trusted data according to a shared taxonomy. There also remains a significant amount of vital information that is currently not digitalised and that will need to be brought into the data network over time.

To promote and speed adoption of new technologies and approaches, HM Land Registry, the relevant legal sector regulators, the legal sector representative bodies, as well as the Building Societies Association and UK Finance are working together as the Digital Property Market Steering Group (DPMSG).

In an echo of the approach suggested in the LSB's draft guidance, DPMSG will not be prescriptive about the systems and tools that are finally adopted, other than ensuring that they deliver the expected consumer and public policy outcomes. We are seeking to encourage innovation and coordinate work that is needed to remove barriers or to pave the way for progress. That is a very important role in relation to the transfer of property, which engages so many professions and organisations in its delivery, from estate agents to mortgage brokers, surveyors, financial institutions, local authorities, information and IT suppliers, conveyancers, and removals companies.

Consultation questions and CLC responses

Q1: Do you agree with our approach of using the guidance to set outcomes for regulators?

The CLC does not object to this approach. The CLC considers that it is already undertaking a great deal of work that meets the expectations set out in the guidance and is aware of similar activity by some of the other regulators.

Q2: Do you know of any case study examples it would be useful to share?

The CLC's sandbox pilot of Third-Party Managed Accounts, which saw a tool developed and put into use on real conveyancing transactions, including chains, with support from insurers and lenders is a good example of what can be done to test and understand a new tool. It led to changes to the CLC's Accounts Code. The CLC also undertook research into the use of digital estimate generators for conveyancing work and promoted the findings to the regulated community.

The consultation document mentions the joint statement on digital ID tools. As this is a good template for what can be achieved, and could be followed for other tools, it would be helpful to promote that further.

Q3: Do you agree with the proposed outcome to ensure that technology and innovation are used to support improved access to legal services and to address unmet need?

The CLC supports this proposed outcome, but we consider that it might perhaps be drawn more widely. Improving access to legal services and addressing unmet legal needs are very important goals, but there is also the opportunity to transform the delivery of legal services in the client and public interest in wider terms. While some of this might be understood as ‘access’, we consider that there is scope for technology and innovation to transform how legal services are delivered as well as the speed, accuracy, and security of service. We note above that improved property transfer processes should support a better functioning and more fluid property market. Similar benefits could be generated by transformation of other legal services.

Q4: Do you agree with the proposed outcome for regulatory frameworks to balance benefits and risks, and the opportunities and costs, of the use of technology and innovation in the interests of the public and consumers?

This outcome is sensible, but we wonder whether it is necessary given the regulatory objectives and better regulation principles which mean that this approach underpins how regulators operate in all of their work, from policy development onwards. It may be that the LSB will be looking for evidence on these points in relation to technology an innovation in particular, but that could perhaps be captured in the sourcebook under the previous outcome.

Q5: Do you agree with the proposed outcome on ensuring the legal sector is open to technology providers and innovators?

This is an important outcome and the CLC considers that regulators are already working hard to achieve it through engagement with technology providers and innovators and through the Regulatory Response Unit. A key area of effort for regulators and others is to ensure that legal services providers are aware of the opportunities that are available to them and are open to taking them.

Q6: Do you agree with our proposed plan for implementation?

The CLC thinks that it is sensible to fold the assessment of achievement of the objectives covered by the guidance into the Regulatory Performance Assessment process, with guidance in the associated sourcebook.

Q7: Do you have any comments or concerns about the equality impacts of our proposed guidance? Do you have any evidence relating to the potential impact of our proposals on groups with

**protected characteristics and any associated mitigating measures you think we should consider?
Are there any wider equality issues and interventions that we should take into account?**

No. We think that the positive impacts of technology have the potential to help clients and lawyers regardless of their personal profile and we cannot see any negative impacts on people with protected characteristics beyond how some of those might find themselves digitally excluded and that is the subject of research the CLC is undertaking with the Bar Standards Board and CILEX Regulation.

Q8: Do you have any comments on the potential impact of the draft guidance, including the likely costs and anticipated benefits?

While there is a potential for an increased burden on authorised persons and entities arising from an increased focus on technology and innovation, we consider that these are unlikely to be disproportionate to the potential benefits to those individuals or entities, their clients and the wider public interest. Indeed, taken at a sectoral level, we expect that this work will deliver very considerable net benefits.

Changes to business models that emerge from technology and innovation could change the patterns of employment in the sector. This may largely be experienced as a reduction in low-value administrative effort and an increase in higher-value provision of advice. It should also create opportunities that do not currently exist, as we have seen in other sectors that have embraced new ways of working, especially digitalisation, automation and innovation.

Q9: Do you have any other comments about the proposed guidance?

No.