



The Faculty Office of The Archbishop of Canterbury’s Review of the Post-Qualifications Environment Call for Evidence

Response from the Council for Licensed Conveyancers

Introduction

1. The Council for Licensed Conveyancers (CLC) welcomes the opportunity to comment on the ideas set out in the paper issued by the Faculty Office in February 2024.
2. The CLC is the regulator of specialist conveyancing and probate lawyers. The practices and individuals that we regulate only deliver conveyancing and/or probate services. There is a clear need for specialisation in these areas which are mass-market, safeguard the wealth of individuals and families and which are increasingly complex because of the changing pressures of the environment in which they are delivered.
3. The Law Society’s CQS scheme and the long-established STEP scheme underline the consensus around the need for specialisation in these fields. Of course, neither is regulatory in nature. CLC firms, because of their specialist scope of work and by virtue of the CLC’s specialist regulation, can access the legal services market without membership of those schemes.
4. We are grateful to the Faculty Office for setting out the current post-qualification arrangements. The CLC is of the view that post-qualification supervision for new notaries who wish to offer conveyancing and/or probate services should be enhanced significantly in the interests of client and public protection.
5. For the purposes of this consultation response, we will consider the situation of new Notaries who have not previously practiced significantly in conveyancing or probate as an Authorised Person regulated by another legal services regulator under the Legal Services Board. The CLC considers that it would be possible to consider different supervision arrangements if a new Notary has significant,

documented experience in those fields. However, such arrangements would be a divergence from a new standard approach.

6. The consultation paper sets out six potential new arrangements for immediate post-qualification supervision of new notaries who wish to offer conveyancing and/or probate services. It is only the first, 'Maximalising Supervision' that the CLC considers would meet the level required to ensure client protection, and protection of the public interest, in relation to the delivery of conveyancing and probate services.
7. For example, students who have completed the academic stage of preparing to be a specialist conveyancer or probate practitioner are required to complete 1200 hours of verified [practical experience](#) in qualifying employment, supervised over a period of 24 months by a qualifying Authorised Person, before they are licensed as a CLC lawyer. After that, they would need to be able to demonstrate considerable further expertise, and at least four years [post qualifying experience](#) of supervised employment in a regulated law firm, before they can apply to establish their own business to deliver those legal services under CLC regulation. This helps to protect clients who are facing major financial milestones in their lives with all the risk that goes along with that.
8. As the consultation paper points out, day to day supervision, which is required for other Authorised Persons carrying out conveyancing and probate, would
 - be more meaningful than the current arrangements,
 - be more proportionate to the complexity and risk that arises in relation to conveyancing and probate; and
 - protect clients more effectively while the newly qualified Notary gains experience and builds expertise.
9. Furthermore, conveyancers are now required to carry out a range of tasks that relate to public policy objectives, most notably in the areas of sanctions, anti-money laundering and anti-proliferation financing. These are complex matters in the context of conveyancing and probate, and it is arguably impossible for a newly-qualified practitioner to be able to meet the legal requirements that are placed on them without guidance in any but the most straightforward of transactions.
10. In addition to the complex legal requirements which may be difficult for a newly qualified person to understand and fully comply with, communication and engagement with individuals who may be high risk can often be difficult. Some individuals can exert extreme pressure on conveyancers to take a light touch

approach to compliance with AML procedures, and as a result, inexperienced, newly qualified conveyancers may unwittingly find themselves in a position where they have not fully complied with these important provisions. In circumstances like this, the oversight or supervision of a more experienced colleague may assist newly qualified conveyancers in managing what can be incredibly difficult and high-pressure client engagement and enabling their full compliance with these important legal requirements.

11. We note that ‘maximalising supervision’ would effectively require a newly qualified Notary offering conveyancing or probate services to work very closely with their supervisor. We would envisage that this supervision would be similar to that expected for newly-qualified Licensed Conveyancers or Solicitors. It would need to take place on a day-to-day basis and be carried out by an Authorised Person experienced in the relevant legal service. As the paper points out, this could restrict access to delivery of those services. However, we think that this is the proportionate approach for conveyancing and probate to deliver the necessary level of consumer protection.
12. As noted above, the requirement would not be in place for a newly qualified Notary who has significant, documented experience in conveyancing or probate. Those individuals already should have been through a period of supervision that would ensure that they are ready to deliver those services without supervision.
13. We answer the specific consultation questions below.

Questions

1. Who are you:

The Council for Licensed Conveyancers (CLC) is the specialist regulator of conveyancing and probate services in England and Wales. The CLC was established 40 years ago as an independent regulator to establish a new, specialist profession. The CLC is supervised by the Legal Services Board.

2. Do you consider the supervision for new notaries who wish to practice in conveyancing, and in wills, probate and administration is at the right level?

Not at present.

3. What is the reason for your answer in 2 above?

The CLC considers that the current supervision arrangements do not reflect or mitigate the degree of risk to the client and public interest that arises from the provision of conveyancing and probate practices. The complexity of these services has increased considerably in recent years and practitioners regulated by the CLC and others are rightly supervised while they gain the necessary experience and expertise to be able to act independently.

Provision of conveyancing and probate services engage the wealth and lives of clients and beneficiaries of wills. These are stressful times for clients when there is a great deal of risk to their money. These are also transactions that have public interest considerations.

For these reasons, close and extended supervision is appropriate.

4. Which of the [6] ideas put forward do you think are sensible and why? Similarly, which are not sensible and why?

As set out in our introduction, the CLC considers that only the **first idea** put forward, Maximising Supervision, could provide an appropriate degree of supervision for newly qualified Notaries delivering conveyancing and probate services. Day to day, close supervision reflects the risks of conveyancing and probate

The second idea, a more prescriptive version of the current system, does not provide the day to day supervision, advice and guidance that is necessary to protect clients of a newly-qualified provider of these complex legal services.

Idea 3 would create barriers to entry to the market that are not purely regulatory and that are not shaped by the Regulatory Objectives nor overseen by the Legal Services Board. The CQS and STEP schemes may improve standards of practice, but they are not regulatory in effect and so do not offer the consumer and client protection that comes with regulation. Regulation would need to continue to be delivered by the Faculty Office because it is appropriate that market entry should be controlled in the light of standards set by a properly accountable regulator.

Those standards should relate to the training, expertise and character of the legal service provider to ensure that they meet a minimum level for good client protection. Achievement of best practice standards sets too high a bar for market entry, and some would say is a logical impossibility for all providers to achieve in any event.

Idea 4 is a voluntary version of idea 3. It would not create a barrier to market entry but because it would be voluntary, it would not guarantee client protection.

Idea 5, a Faculty Office Kitemark seems otiose. Regulation by the Faculty Office is itself already kitemark and the challenge seems to be to ensure that the standards consumers would expect of such a kitemark are to be found behind it.

Idea 6, automatic inspections of Notaries on completion of their probation, is a welcome idea to introduce alongside Idea 1. The CLC carries out inspections of new practices within their first year of operation to ensure that they are maintaining the standards that the CLC expects and that the managers have undertaken to observe. This is only a near parallel, however, as the lawyers in such practices will include seasoned specialists in conveyancing and probate as well as potentially students and newly-qualified lawyers still under close supervision.

5. Do you have any other suggestions which in your view would improve the level of supervision for new notaries who wish to practice in conveyancing and in wills, probate and administration?

We should be clear that CLC does not consider it to be an unwarranted or disproportionate barrier to entering the market to provide conveyancing and probate lawyers to first undergo close, day to day supervision for a fixed period. As mentioned above, the CLC requires anyone seeking licence as a CLC lawyer to have completed the specialist academic training and 1200 hours of [supervised practical experience](#). There is a similar requirement for solicitors.

6. Do you have any further comments?

No.

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