

Foreword

Janet Paraskeva Chair of the Council for Licensed Conveyancers

The Council for Licensed Conveyancers plays a vital role underpinning confidence in the property market that is such a vastly significant element of the British economy. As well as protecting consumers we serve the public and commercial interest by supporting innovation in the delivery of property law services.

Partly as a result of the CLC's tailored regulation, the businesses that we regulate continue to grow their share of the still highly fragmented conveyancing market. The ongoing review of our Handbook will continue to sharpen and streamline our approach and the benefits to consumers and the regulated community.

We have continued to campaign for all regulation of legal services to be carried out by fully independent regulators. We were pleased with the recommendation from the Competition and Markets Authority that the role of representative bodies in regulation should be reviewed and we are glad the Legal Services Board is acting now. We hope that this will prove greater clarity and a new settlement that will ensure that regulation can evolve more freely to meet changing market conditions and consumer expectation.

Sheila Kumar, the Chief Executive sets out below the detail of the work of the CLC team in this report on 2016. I would like to thank the staff and the non-executive members of Council as well as the Audit and Risk Committee for a year of substantial progress. The CLC's operations continue to improve as we identify new ways of working to protect consumers and we have been able to make a 20% reduction in entity fees. This has been achieved through good management and streamlining of all of our resources.

2016 and the early part of 2017 saw some change in the make-up of the Council when a vacancy arose because of the resignation of George Kidd to take a full-time role in another sector and Council agreed to the appointment of an additional law member. Alan Cogbill and Quinton Quayle, both Lay Members of Council, joined in October 2016.

SUPPORTING INNOVATION AND COMPETITION, PROTECTING THE CONSUMER

In 2016:

Three-quarters of CLC lawyers said regulation by the CLC provides value for money and supports innovation and growth in their business.

The Legal Services Board found that 'the CLC has a culture of improvement and is not static in its approach to regulation' and gave the CLC the best assessment of any front line regulator.

Our new Participating Insurers Agreement included the provision of run-off cover for all firms, free at the point of closure, helping ensure that consumers continue to be protected when firms close.

We continued to press for fully independent regulation across all legal services, in the consumer interest. Our experience as an independent regulator demonstrates its value.



I would like to take this opportunity to welcome our new Council Members and to pay tribute to the work of George, over his years on the Council. He and the other Council Members, Andrea Pierce, Heather Foster, Rob Gurney, John Jones, Teresa Perchard, Jan Smith and Alex Clark have provided wise guidance and constructive insight and advice vital to the progress that we have made over the past four years. I am hugely indebted to them all.

I also want to record my thanks to our Chief Executive Sheila Kumar and the small and committed staff team of the CLC. Many are new in post since we moved offices and adopted a new structure in mid-2015. Throughout the transition and all the changes, the team has maintained the high standards for which we have long been recognised. The findings of the 2016 Stakeholder Perceptions Report show that we have made really impressive progress since it was last carried out in 2014, with views of the services we provide as well as the impact of our regulatory action very much improved.

Three-quarters of the individuals we regulate believe that we support innovation and growth in their business and this sits alongside the Legal Services Board's positive appraisal of our performance – the best in the legal sector. These features are a tribute to the efforts of Council and staff working together.

The achievements of 2016 will help to maintain and extend our impact and reputation as we face new challenges and make the most of new opportunities in 2017.



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Annual Report 2016

Introduction

Sheila Kumar, Chief Executive

In the following pages I will report on the full breadth of the Council for Licensed Conveyancers (CLC's) activities in 2016, beginning with our core purpose of regulatory activity to protect the consumer and public interest. I will then go on to look at policy work and then our strategic development.

Finally, I will report on resourcing and infrastructure, but it is important to note here that staffing, process and IT changes made in 2015 have shown their value in 2016, the first full year of operation of new staffing structures. We have improved performance – as assessed by our oversight regulator and the regulated community itself - while managing down costs.

This report is being published to accompany our statutory Financial Statements for 2016. They set out in detail how we have been able to reduce our cost base and so meet our commitment to keep the financial burden of regulation to the appropriate minimum in the interests of clients and the businesses that we regulate.

REDUCING THE REGULATORY BURDEN

In 2016, the CLC:

Implemented a 20% cut in entity fee rates.

Launched new PII arrangements that secure run-off cover free at the point of need.

Moved provision of education to CLC qualifications from the CLC to specialist providers to standards set by the CLC, further streamlining our operations.

Regulatory activity

During 2016 we completed the usual annual programme of monitoring activity set out below, maintaining the high standards that are expected as an outcome of specialist regulation of specialist lawyers. We did so by making changes to processes and reviewing resources available and I will report on both business as usual and change activity in this report.

Professional Indemnity Insurance

The new Participating Insurers Agreement (PIA) introduced this year saw a smooth insurance renewal round alongside the introduction of enhanced protection for consumers and benefits for regulated entities.

Under the PIA, insurers must provide run-off cover to insured entities when they close at no additional cost. The six-year run-of cover is subject to an aggregate £2m limit. The history of claims in relation to closed firms shows that this limit will be more than sufficient.

This new provision gives consumers additional protection by removing the risk that a firm will close without taking out run-off cover because the cost is too high. For the same reason, it also reduces the exposure of the Compensation Fund that we manage on behalf of the regulated community.

We are monitoring the operation of the new arrangements closely.

Tackling Fraud and Cybercrime

Conveyancers are often targeted by fraudsters both on and offline. We have improved the resources and advice available on our website and promoted it heavily to our regulated community.

Our conferences in Bristol and Manchester in January 2016 included sessions focusing on cybercrime and we have become a supporter of the Take Five to Stop Fraud campaign. We are encouraging firms to promote the campaign and to educate their staff and their clients in steps they can take to protect themselves.



Licence Renewal

In 2016 we continued the streamlining of the licence renewal process in order to reduce the regulatory burden on Licensed Conveyancers. As a result, the licence renewal process in October 2016 continued the progress begun in 2014. In a feedback survey of the regulated community 97% of respondents rated their experience of licence renewal as either 'good' or 'very good'. This is a significant improvement on 2015 when over 80% took the same view.

The licence renewal process is a useful checkpoint to remind practitioners of their responsibilities and duties. As part of that licence renewal process we held over a small number of individual and entity licences pending progress on some points of compliance. This was judged necessary because we were not satisfied with the speed and rigour that was being brought to the correction of failings that we had identified and considered necessary to underline the risk that the practices were running of losing their licence entirely if they failed to achieve compliance.

By December it was possible to issue new licences to the individuals and practices concerned in the light of progress that had been made. However, all those involved remain under close scrutiny until our Regulatory Supervision Managers are completely satisfied that full compliance has been met.

As we review the licensing and licence renewal process as part of our wider overhaul of the CLC Handbook, we aim to enhance the usefulness of the process as a check and a tool for ensuring compliance.

Monitoring Inspections

In 2016 we undertook 70 monitoring inspections against a target of 50. These were undertaken by CLC staff and by appointed agents working to the same procedures.

The majority of those inspections resulted in some kind of action with the regulated entity to address areas of non-compliance, most of which were comparatively minor. These were addressed by the practice in line with the expectations of our Regulatory Supervision Team.

There were no issues arising directly from inspections that were of a sufficiently serious nature to place a practice on the watchlist while the matter was corrected. However, intelligence received outside routine inspections has led to more serious regulatory action in relation to both individuals and entities, including referral to the Adjudication Panel.

Watchlist Management

The CLC watchlist is an internal document that tracks activity with firms that are under investigation or enhanced supervision as a result of concerns that have come to light through general monitoring activity, inspection visits, consumer complaints or intelligence received.

The use of that watchlist was reviewed in 2015 to ensure that the issues it records are resolved as quickly and efficiently as possible and to improve the clarity of reporting to the Senior Management Team and to Council. Resolution may of course mean that the entity has successfully addressed the concerns identified by the CLC or that they have failed to do so and some form of disciplinary action has been taken. In the event of disciplinary action short of a referral to the Adjudication Panel for suspension or removal of licence or intervention into an entity, there is an accompanying plan to ensure that the entity continues to work to address the CLC's concerns. If they still fail to do so, the matter will be escalated further.

The work of the Regulatory Supervision Managers in 2016 has ensured that the average time spent on the watchlist by any one firm is considerably shorter than in the past. Issues are being resolved more promptly through very active management and clearly set out expectations of firms.

Conduct complaints and adjudication panel referrals

We investigated 41 conduct complaints against Licensed Practitioners during the year, of which two were serious. We made six referrals to the Adjudication Panel (these referrals can arise from complaints received or our own monitoring activity). Details of the Panel's findings in each case can be found on our website

Interventions and managed close downs

We did not need to undertake any interventions in 2016. Six regulated entities closed of their own accord with oversight by our Regulatory Supervision Managers.

The Annual Regulatory Return

In 2016 we undertook the second of our now annual wide-ranging survey of the regulated community to deepen understanding of the market that we regulate. The full report of that Annual Regulatory Return (ARR) has been published and the ARR or a shortened version of it will be repeated annually so that we can continue to enrich the data we hold and monitor trends in the market place.

Analysis of ARR data drew out seven key points:

- *Client Care* - Less than half of practices carry out client satisfaction surveys and there is limited awareness of how to identify and support vulnerable clients.

- *Business models* - While there is great specialisation in practice, there is very great diversity of business models in the CLC regulated community.
- *Succession planning* – Only one-third of firms have a written succession plan.
- *Investment* – Firms are generally able to fund their own development without external investment.
- *Pricing* – 90% of firms offer services on a fixed price basis.
- *Diversity and inclusion* – 70% of practices do not monitor diversity in their workforce.
- *Anti-Money Laundering* – There is work to do to ensure AML arrangements are understood by all employees.

These findings have led to actions in the 2017 Business Plan and those around pricing and client care have helped inform the Competition and Markets Authority's market study of legal services.

Some of the data collected through the Annual Regulatory Return is added to the CLC's risk assessment tool. This provides an assessment of the risk posed by individual entities based on a range of information either provided by firms themselves or third parties such as the Land Registry and Legal Ombudsman. This tool informs our monitoring activity by identifying concentrations of risk and issues to explore further with individual entities.

Publishing disciplinary information

In line with the Publication Policy agreed by the Council in 2015, details of disciplinary actions taken by the CLC are published. In 2016 this amounted to the publication of the dates and details of hearings of the Adjudication Panel and the outcomes of two such hearings.

Policy development and influence

The CLC seeks to play its full part in the development of the regulation of legal services policy and also the practice of property law in relation to conveyancing and probate as it affects both consumer and provider. This wide remit is necessary because of the CLC's mission to foster competition, innovation and growth alongside protection of the public and consumer interest.

Tightening and improving the property transfer process

Work begun by the government in 2015 to review and improve the property transfer process, and in which we took a very active part, has slowed. We still await publication by the Department of Business, Energy and Industrial Strategy of a consultation paper. We have welcomed publication by the Conveyancing Association of its own White Paper putting forward proposals for change and we have offered our support for the further work to explore which of those can be built upon and implemented in the interests of the consumer and the functioning of the property market.

Competition and Markets Authority Market Study

We played a very active part in the market study carried out by the CMA over the course of the year.

We are grateful to the CMA for moving forward the conversation on price, service transparency and comparison. We were pleased that the CMA shares our view of the need for a review of the scope of legal services regulation and a move to a more rational, risk-based approach. We have been pressing

for this for some years. However, as the Chair has highlighted in her foreword, we believe their recommendation that the government carry out a review of the separation of regulation from representation is unnecessary and that the LSB can and should act to secure independent regulation without delay.

We are working alongside the other front line regulators to develop responses to the CMA's recommendations on information remedies.

In parallel to the CMA's work, the Council had been considering some of the possible approaches the CLC could take to increasing the transparency of price and quality information on legal services to inform better consumer choice. That work continues with surveys of the profession and stakeholders to gather views on the full range of potential approaches.

Review of the CLC Handbook

Work to review our regulatory arrangements got under way during the year. As an activity-based regulator, the CLC is able to identify and address the specific risks relating to property law services and focus our rules and guidance on those. Our aims for this review are to identify any need for enhancements to consumer protection and ways to streamline and further tailor our Handbook and associated guidance to keep the regulatory burden to the minimum.

In 2016 we introduced the new Participating Insurers Agreement and reduced entity licence fees. We also launched a consultation on new arrangements for Continuing Professional Development that moves away from a simplistic hours-based approach to a much more tailored and individual arrangement that will better support lawyers in their day to day practice as well as management of their businesses. That consultation will close in March 2017.

The review of the CLC Handbook will be completed in 2017.

Strategic development

As I have already mentioned, 2015 saw a significant amount of change by the CLC alongside our day to day delivery of effective regulation. I will look first at some of the strategic changes we made before turning to the practical changes that underpin those strategic decisions.

Education, training and apprenticeships

New arrangements for the provision of education qualifications leading to the awarding of a licence by the CLC are now in place.

The CLC became a provider of education in order to foster the new profession established by Parliament in the 1980s. That was successful, but the time came to separate the provision of education and assessment of attainment from the licence-awarding function.

In 2014 we began a project to scope and implement new arrangements that would streamline the CLC's operations, improve the learning experience and secure a strong pipeline of new entrants to the profession.

Under the new model, the CLC continues to set the standards for qualifications and entry to the profession. In fact, we have been able to introduce a range of qualifications at two different levels to meet the needs of students and the businesses that will go on to employ them. As well as Level 6 qualifications that lead to licence as a CLC Lawyer in either Conveyancing or Probate, there are now two Level 4 Qualifications leading to recognition as a Conveyancing or Probate Technician. The Level 4 qualifications are a stepping stone to level 6, but some students may choose to end their studies there, with a portable qualification that makes clear to employers their level of specialist attainment. The qualifications were developed in consultation with employers through two independently chaired consortiums, so we have a high degree of confidence that they reflect employer need as well as the demands we make of lawyers as their regulator.

The new qualifications are overseen by the SQA, an Ofqual body, and delivered by a range of specialist education providers. These providers have already put into a place a much more contemporary approach to learning than the CLC would have been able to provide without a very great deal of investment. Training is available through distance learning, classroom and apprenticeship routes.

Early response from transferring and new students is very positive and we are working with the education providers to promote the new qualifications.

Working with financial institutions

We continue to strengthen our links with banks and building societies as part of our commitment to supporting the good functioning of the property market, raise the standards of conveyancing and combat fraud. We have also to ensure that lenders do not discriminate against or in favour of particular types of lawyers and this means that we sometimes need to educate some of the smaller or newer lenders about the status of the lawyers that we regulate. We engaged with lenders individually and through the CML and BSA and we are pleased that sharing information in the consumer interest is becoming easier and more effective.

Infrastructure

We made major changes to staffing, processes and infrastructure in 2014 and 2015 which put us onto a very strong footing for 2016 and beyond.

Reductions that we were able to make to entity licence fees in 2016 were made possible by these changes. The reductions in our income, and the reduced burden on the regulated community are built into our future planning and were not one-off reductions. We continue to keep all of our infrastructure under review with a view to further reductions to the regulatory burden.

Staffing

Staffing was stable in 2016 after two years of very considerable change. Reductions in permanent staff have in part been supported by increased use of flexible outsourced arrangements which make more efficient use of our resources.

We have carried out benchmarking to ensure that our remuneration arrangements remain competitive. At the end of 2016 we announced an across the board 2% cost-of-living increase. This comes after a pay freeze of two years, since the current salary scales were settled.

Processes

Many of our processes were reviewed in 2016 and new Standard Operating Procedures were introduced to make sure that we are working as efficiently and consistently as we can. This is an ongoing cycle of review. The licence renewal process evolved again in 2016 and the success of that is reflected in the 97% satisfaction rating from the profession.

Non-Executives

Changes to the non-executive team on the Council have been mentioned above. To ensure that we remain competitive and to inform future recruitment rounds, we undertook a benchmarking of non-executive remuneration.

We faced some challenges in recruiting new professional members to the Council in 2016. Clearly, joining the governing body represents a significant time commitment for practitioners and we are sympathetic to the difficulties that can cause. We are looking for new ways to help those who might want to get involved with the CLC to do so more easily.

Audit and Risk

Our Audit and Risk Committee carefully reviews progress with an internal audit inspection programme. During the course of the year, our Audit and Risk Committee has reviewed nine internal audit reports and advisory reports on key elements of the CLC's operational regulatory functions and service delivery.

Internal audit's 2016 inspection reports have identified no common weaknesses so far. It is worth highlighting that an audit into the arrangements to transfer the development and application of the professional qualification for Licensed Conveyancers to the Scottish Qualification Authority received substantial assurance. Neither have any negative assurance opinions been issued.

Heather Foster, Chair of the Audit and Risk Committee commended the Chief Executive and her management team for being proactive in ensuring that recommendations arising from audit inspections have been implemented in a timely manner. Demonstrable progress has been made, which is reflected within the level of assurance with the management processes and reporting arrangements over the past year.

Remuneration

Our Remuneration Committee, which supports the CLC's responsibilities in the area of remuneration, recruitment and retention of staff and non-executive members has also been complementary in its review of activities completed during the past year. Jan Smith, who has chaired the Committee and is now standing down as her Council term comes to an end, has highlighted within her report that the significant changes to the organisational structure and staffing following the CLC's relocation to London in 2015 have provided the foundation for a more agile organisation, observing that this has been a constructive and positive year.

The CLC's approach to regulation

The CLC aims to help its regulated community to achieve compliance with regulatory and legal obligations. Our determination to support innovation and growth means that we want to help the entities we regulate to implement new ways to meet customer needs and grow their businesses. This means helping businesses to understand how they can meet the appropriate regulatory outcomes and not binding them into inflexible forms of compliance. This is the best way of providing consumer protection and choice.

We pride ourselves on having a good understanding of the businesses that we regulate. We aim to have a detailed and rounded view of their activities so that we have a global understanding of the particular risks they might face. This starts with very close supervision of new businesses in the first years of their regulation by the CLC. Our concern then is not simply with regulatory compliance but also with financial stability and health because unsound businesses also present a threat to the consumer and public interest. We aim to work in close partnership with the business so that they succeed and are compliant.

CLC proceeds on the basis that prevention is better than cure and use a wide range of approaches and tools to support regulated entities, ensure compliance and take corrective or disciplinary action where it is necessary. They give us a range of regulatory responses that are proportionate to the risk to clients in any particular case.

Maintaining the health of the profession

When new entities are established under CLC regulation for the first time they will have satisfied us that they have in place the appropriate processes and resources to deliver conveyancing or probate services and manage their own and clients' money in line with our regulatory requirements. They will also have presented a business plan for their first three years setting out their road to sustainability. We will also have satisfied ourselves as to the qualifications, experience and background of the Authorised Persons, other managers and any external owners. All of these aspects are monitored closely at the beginning of the firm's life.

Annual checks

After the early period of regulation of a new entity, we use a mix of self-certification, third-party reports, desk-based supervision and inspection visits to monitor the all-round health of the profession. The key points in the regulatory year are:

- Submission of accountants' reports – In line with the entity's audit year
- Licence renewal
 - For individuals – in October each year individuals must inform us of any change in circumstances that might affect their right to a licence for the coming year beginning 1st November
 - For entities – also in October, a licensed Manager must confirm that there is no issue that might affect the entity's licence to practise
- Annual Regulatory Return – Each entity is required to provide a response to a questionnaire that probes a range of areas to understand ongoing or emerging risks within the firm and across the sector as a whole

Concerns raised in accountants' reports may give rise to requirements on the entity to address shortcomings in their management of client funds. If so, a timescale will be set and compliance monitored until the CLC is satisfied.

Licence renewal is an automated and speedy, but not automatic process and is a key point in the regulatory year. If the CLC has concerns about an individual or entity, we may decide to hold over renewal of a licence until the issue has been addressed or a timetable for its correction is agreed. Licences may also be issued with conditions that need to be met by the individual or entity to ensure retention of that licence.

Data from the Annual Regulatory Return may give rise to further regulatory action in relation to a specific entity or highlight the need for more general action such as enhanced or clarified guidance to the profession or new CPD requirements in relation to specific issues. It also provides an understanding of changes in the profession as a whole.

Monitoring Inspections

In addition to the desk-based monitoring that is set out above we undertake a programme of on-site inspections of regulated entities each year. Some of these will be arranged in light of specific issues that have we have identified with firms and where desk-based supervision is judged to be insufficient. Others will be risk-based, in other words, we will not be aware of a specific issue, but have concerns about the entity's risk profile that merit a closer look. (That might be because the firm undertakes a significant amount of transactions in which they act for both sides, for example, or are disproportionately dependant on one client.) The final group of visits will be arranged simply because of the time that has elapsed since the entity last had a monitoring inspection.

Other intelligence

The CLC may also receive information about a regulated entity or individual from another regulator, The Legal Ombudsman or a mortgage lender as well as an employee, colleague or client. In such cases, the matter will be addressed directly with the firm or individual until the CLC is satisfied that they are in compliance or may lead to some kind of disciplinary action. Conduct complaints may, following investigation, also give rise to some form of compliance assurance or disciplinary action, as appropriate.

Disciplinary action

Where an individual or entity fails to achieve compliance to the satisfaction of the CLC, for example, where there is evidence of misconduct or where there is clear evidence of risk to the consumer, the CLC can either refer the matter to the independent Adjudication Panel. The Adjudication Panel, which will set an appropriate sanction following consideration, or intervene to close an entity in the interest of existing and potential future clients. At time of writing, work is underway to develop a set of guidelines for the Council to assist in applying sanctions. This reflects the fact that the hearings are infrequent and so what might be called case law is slow to build up. The guidelines will not impinge on the independence of the Adjudication Panel and will be published in the interests of transparency and to guide the profession and other stakeholders.