

Response to the Competition and Markets Authority's Legal Services Market Study Report

Context and background

INTRODUCTION

Responding to the CMA's recommendations

The CLC is grateful to the Competition and Markets Authority (CMA) for its thorough and constructive review of the legal services market. We are especially pleased that it included clear and actionable recommendations.

Our Chief Executive, Sheila Kumar, is chairing the Legal Services Remedies Programme Implementation Group through which the front line regulators are coordinating their action plans in response to CMA's recommendations. As far as possible, the regulators are moving forward together, but this will not mean that progress will be at the pace of the slowest.

The CLC is determined to take any and all steps that it believes to be appropriate and effective to empower consumers and to continue to foster competition and innovation in the delivery of the legal services we regulate. Our streamlined governance arrangements and complete independence mean that it may be easier for us than for other regulators to act quickly and decisively.

Our discussions with stakeholders and other members of the conveyancing and wider legal services community lead us to believe that private sector solutions for improving the availability and comparability of information on price and service will emerge. So we hope that regulatory action can be limited to setting expectations, monitoring delivery and promoting and supporting compliance.

Independent regulation

Although it does not affect the CLC directly, we must address briefly the CMA's recommendation in relation to the importance of independent regulation. The CLC has always been an independent regulator. The governing Council has a majority of lay members and a lay chair.

We believe that fully independent regulation is vital for public confidence in the provision of legal services as well as being extremely important for securing an efficient market that is working in the best interests of consumers. Therefore we are taking this opportunity to underline the importance of the recommendation that regulation should be independent of the representative bodies for lawyers and of government. At the very least there should be complete transparency about the finances, resourcing and exertion of influence between the representative body Approved Regulators and their regulatory arms. We hope that the Legal Services Board will implement this recommendation with urgency.

The market we regulate

The conveyancing and probate lawyers and the firms we regulate provide the most commonly used legal services. Unlike some other legal services, there is no issue of lack of access to conveyancing or probate services on the basis of cost nor any evidence of unmet need in those areas. Providers work very hard to win customers in a highly contested market, the need to use a lawyer is well understood and funding the work will only very rarely be a problem for the clients that use conveyancing and probate services.

The CLC and the profession of Licensed Conveyancer were established by parliament in 1985 to foster competition in the provision of conveyancing services. This, and the abolition of scale fees for conveyancing based on the value of the property, mean that conveyancing costs now make up a much smaller percentage of the overall property transaction than was the case thirty years ago.

The CLC's regulatory approach

The CLC regulates specialist conveyancing and probate lawyers.

Activity-based regulation allows us to focus tightly on the particular risks that arise in the delivery of these legal services, which are of course the services most used by the public.

Our assessment of risk is built on deep insight into the entities that we regulate, starting with information captured at the point a firm enters regulation by the CLC and an initial intense period of supervision, regular inspections, desktop monitoring, the very detailed Annual Regulatory Return we require each firm to provide, intelligence received from a wide range of sources and our analysis of data generated by agencies such as HM Land Registry, HMRC etc.

We have comprehensive arrangements in place for consumer redress, beginning with the expectations we place on firms to deal with complaints from clients. If complaints are not resolved at this stage, clients can turn to us in the case of conduct issues and the Legal Ombudsman in the case of service complaints. Compulsory Professional Indemnity Insurance is provided by the market under our Participating Insurers scheme that sets out minimum acceptable terms and a minimum cover of £2m for each and every claim. In 2016 we added run-off cover free at the point of closure of a firm to the minimum terms, so increasing consumer protection. We also operate a Compensation Fund, provisioned by the regulated community, as a fund of last resort.

The Legal Services Board has noted that we take a 'consistent and risk-based approach', are able to take 'targeted action depending on the risk posed' and 'allow practitioners to be innovative in the way they deliver their products'. Three-quarters of CLC Lawyers say that regulation by the CLC provides value for money and supports innovation and growth in their businesses and that being regulated by the CLC is either 'extremely' or 'mostly' beneficial to their businesses.

The CLC's current transparency regime

Our action plan contains details of our current activity, which is summarised here for ease.

Price and service

We require firms to give their clients full and accurate estimates, including details of any referral fee that may be paid before accepting instruction. Firms are also required to set out their terms and conditions ahead of instruction.

Regulatory status and redress

Firms are required to show that they are regulated by the CLC on their websites, printed materials and letterhead.

Our online register provides full details of regulated firms and individuals which clients and others can use to check their regulatory status. Details of regulatory actions taken against firms and individuals are also published on our website in accordance with our Publication Policy.

In early 2017 we launched a secure badge scheme for the websites of CLC-regulated firms. This gives consumers added assurance about the status of CLC firms and, by linking to the CLC's site, provides an additional channel for us to engage with consumers. So far the CLC is the only legal services regulator in England and Wales to use this tool.

Firms are required to signpost the CLC and LeO for conduct and service complaints respectively. They are also required to tell clients about their entitlement to make a claim on the Compensation Fund administered by the CLC.

Use of independent feedback platforms

We encourage use of feedback platforms and provide support and advice to firms using those tools.

Helping consumers navigate legal services

The CLC contributes to funding of the Legal Choices website and is on the editorial board. It will be very important for the success of the Legal Choices website that each of the regulators meets their financial and editorial commitments. We also provide information for consumers about conveyancing and probate services through our own website.

Data for intermediaries

Since 2015 we have made available basic data about CLC firms in a usable format for intermediaries such as comparison websites. The spreadsheet contains the names, office addresses, contact points and the unique identification numbers of CLC firms. It is updated quarterly and published on our website.

<http://clc-uk.org/Updates/Data-for-Comparison-Websites.aspx>

Developing and delivering the CLC's CMA Remedies Action Plan

The CLC's Action Plan has been developed in close cooperation with the other front line regulators through the Remedies Programme Implementation Group that is chaired by the Chief Executive of the CLC, Sheila Kumar. We are very grateful to the CMA and LSB for

making time available for some very constructive discussions that have helped us shape this Action Plan.

Our Action Plan has also been informed by sessions at the CLC's Managers Conference in January 2017 and sessions at Society of Licensed Conveyancers Roadshows around England in May. The CMA's recommendations were also reviewed in discussions with small groups of representatives of CLC-regulated firms across England and Wales in February 2017.

We ran a survey for three months from December 2016 to gather initial views on a range of possible approaches to the provision of price and service information in ways that could inform consumer choice better.

The governing Council of the CLC has considered the Action Plan on two occasions and has delegated to the Chair and two members (one lay, one professional) the authority to sign off this final version.

The CLC will run a full consultation on its detailed proposals in the autumn of 2017 with a view to implementing the Action Plan through our business plan for 2018 and beyond. This path has been taken account of as the CLC has developed its new strategy for 2018-2022 and is fully integrated into that strategy.

The Council of the CLC and its Audit and Risk Committee will keep under review the CLC's progress against plan, the risks and mitigations, and consider the impact on our sector as we go through various stages of implementation.

Summary of CLC's responses to the CMA's recommendations

The CLC fully supports the recommendations set out by the CMA. Our Action Plan sets out the full detail of what we plan to undertake and those actions have already begun and are being built in to our business plans for 2018 and beyond. In summary they are as follows.

Price and service

We will consult on detailed proposals, including quote generator template, measures of quality and changes to our rules from the autumn of 2017.

Regulatory status and redress

We are exploring what more we can do, through our own channels and the Legal Choices website, to increase consumer understanding of the protections afforded to them by using a CLC-regulated firm.

Use of independent feedback platforms

We will be encouraging the use of independent feedback platforms, engaging with providers and helping conveyancing and probate lawyers make the best use of them.

Helping consumers navigate legal services

We are committed to developing the Legal Choices website and already have a well-advanced plan worked up with other regulators.

Data for intermediaries

We are working with other regulators to ensure consistency in the data that is available to intermediaries.