



## Enforcement Determination Notice

29 April 2022

### Convey Law Ltd

*Alternative Business Structure*

*License Number: 11154*

*Main office: Maxwell Chambers, 34-38 Stow Hill, Newport NP20 1JE*

The Council for Licensed Conveyancers (**CLC**) issued **Convey Law Ltd** (the **Licensed Body**) with a Warning Notice dated 3 February 2022 (the **Warning Notice**) setting out its intention and reasons for imposing a sanction. The Licensed Body, which is an Alternative Business Structure (**ABS**) authorised and regulated by the CLC, responded to the Warning Notice on 17 February 2022 (the **first response**).

Following the CLC's review of the Respondent's response, the CLC invited the Respondent to provide supporting evidence. The Respondent then provided its further response on 14 March 2022 (the **second response**).

After careful consideration of the Licensed Body's responses, the CLC has decided to impose the sanctions below for the reasons set out in the Warning Notice and outlined at Annex 1 of this Enforcement Determination Notice.

#### ***Determination details:***

The CLC applies the following sanctions to the Licensed Body, in respect of breaches of the CLC's Code of Conduct:

- a) financial penalties totalling **£13,720.57** are imposed on the Licensed Body, pursuant to Paragraph 13.8 of the ABS Framework.

#### ***Summary of facts:***

The CLC investigated the Licensed Body's conduct associated with:

- a) various referrals from the Legal Ombudsman received between 3 June 2020 and 8 December 2021;
- b) a complaint received from a client on 28 July 2021 that the Licensed Body had attempted to charge in excess of the Government's mandated cap on legal fees for accessing the Help-to-Buy Individual Savings Account (**HTB ISA**) scheme.

#### ***Referrals from the Legal Ombudsman***

It was found that in eight referrals from the Legal Ombudsman that the Licensed Body failed to respond or adequately respond and/or adhere to agreed deadlines for the provision of information

following correspondence and/or requests from the Legal Ombudsman. In one of these referrals the Licensed Body also failed to make payment of an award determined by the Legal Ombudsman, within the required timeframe.

In doing so, the CLC considers that misconduct was occasioned by the Licensed Body in that it breached or failed to adhere to:

- i. Overriding Principle 5 of the Code of Conduct; and
- ii. Principle 5(f) and 5(g) of the Code of Conduct; and
- iii. Specific Requirement 5(j) of the Code of Conduct.

#### Legal fees on HTB ISA work

It was found that the Licensed Body:

- a) sought clients' consent to charge legal fees in excess of the Government's mandated cap on legal fees for accessing the HTB ISA scheme.
- b) charged one client legal fees in excess of the mandated cap Government's mandated cap on legal fees for accessing the HTB ISA scheme.

In doing so, the CLC considers that misconduct was occasioned by Licensed Body in that it breached or failed to adhere to:

- i. Overriding Principle 1 and/or 3 of the Code of Conduct; and
- ii. Outcome 1.2 and/or 3.1 of the Code of Conduct; and
- iii. Principle 1(c) and/or 1(l) and/or 3(b) of the Code of Conduct.

#### **Sanction rationale:**

The CLCs considers that the imposition of financial penalties are appropriate and proportionate following reference to the CLC Financial Penalties Framework and Regulation and Enforcement Policy for the following reasons:

- 1) there has been a pervasive or systematic failing by the Licensed Body to cooperate with investigations of the Legal Ombudsman over a period of many months.
- 2) despite the CLC having informally warned the Licensed Body that non-cooperation with investigations of the Legal Ombudsman was unacceptable, the misconduct continued.
- 3) the outcome is a proportionate outcome in the public interest because:
  - a) it creates a credible deterrent to other firms and the issuing of such a sanction signifies the risk to the public, and the legal sector, that arises when practices fail to cooperate and comply with requests and determinations of the Legal Ombudsman, act in contravention of the intentions and laws of Her Majesty's Government or put their own interests ahead of those of their clients;
  - b) the cost to the profession of claims being escalated to the Legal Ombudsman are significant and are only increased when practices fail to cooperate and comply with requests and determinations of the Legal Ombudsman;

- c) although there is evidence that investigations of the Legal Ombudsman were delayed, there is no evidence of lasting harm to consumers or third parties;
- d) notwithstanding that the Licensed Body:
  - i) originally charged a client in excess of the Government's mandated cap on legal fees for accessing the HTB ISA scheme, the Licensed Body refunded the client the fees paid above the mandated cap once the CLC had raised this practice as unacceptable; and
  - ii) sought to charge clients in excess of the Government's mandated cap on legal fees for accessing the HTB ISA scheme, the Licensed Body complied promptly with the CLC's direction to cease doing so.

***Publication:***

Any enforcement determination of the CLC under the ABS Framework should be published in order to ensure that transparency in regulatory and disciplinary processes is maintained, unless the CLC considers that the reasons for non-publication of the particular circumstances of an enforcement decision outweigh the public interest.

Accordingly, subject to any appeal, the CLC considers it is appropriate in the circumstances to publish this Enforcement Determination Notice (appropriately redacted in the interests of ensuring the privacy of clients).

## ANNEX 1

Finding #	CLC's Findings	Licensed Body's Response and Sanction Imposed
1	<p>a. The Licensed Body failed to respond or adequately respond and/or adhere to deadlines for the provision of information following correspondence and/or requests from the Legal Ombudsman in relation to the following complaints:</p> <ul style="list-style-type: none"> <li>i. ██████████, from on or about 3 April 2020 until at least 10 September 2020;</li> <li>ii. ██████████, from on or about 19 June 2020 until at least on or about 15 September 2020;</li> <li>iii. ██████████, from on or about 16 December 2020 until on or about 25 February 2021;</li> <li>iv. ██████████, from on or about 6 January 2021 until at least on or about 26 February 2021;</li> <li>v. ██████████, from on or about 17 November 2020 until at least 8 April 2021; and</li> <li>vi. ██████████, from on or about 16 June 2021 until at least on or about 3 August 2021;</li> <li>vii. ██████████, from on or about 15 October 2021 until at least on or about 29 November 2021;</li> <li>viii. ██████████, from on or about 24 September 2021 until at least on or about 30 November 2021.</li> </ul>	<p>The Licensed Body has responded to each of allegations 1(a)(i) to 1(a)(viii) separately.</p> <p><b>Allegation 1(a)(i)</b>  The Licensed Body has submitted in its first response that, “as a <i>Company we could be forgiven for not replying to the Legal Ombudsman for a period of time</i>” and that “<i>most of our staff were out on furlough and we were currently dealing with those files that are urgent and could still proceed to complete</i>” during the first months of the Covid-19 pandemic. The Licensed Body has also asserted that it “<i>was in correspondence with the client to look to resolve their issues and agree a settlement amount</i>”, although no evidence of the practice having been “<i>in correspondence with the client</i>” has been provided to the CLC with either the Licensed Body’s first or second response.</p> <p>Although the Licensed Body asserts (without providing evidence) that it engaged in attempts to resolve the client’s complaint, it is the CLC’s view that doing so does not render the Licensed Body exempt from simultaneously cooperating with the Legal Ombudsman’s investigation.</p> <p>The CLC considers that insufficient priority was placed on ensuring the Licensed Body was adequately resourced to comply with its regulatory obligations, including to cooperate with investigations of the Legal Ombudsman, during and after the initial Covid-19 lockdown in 2020. Whilst it may have been acceptable in the circumstances for the Licensed Body to be delayed for a short period in providing the Legal Ombudsman with the requested information, failure to do so for a period of over five months is unacceptable.</p> <p>The CLC has not seen any evidence that the Licensed Body adequately responded and/or adhered to various deadlines for the provision of information following</p>

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	<p>b. In doing so, the Licensed Body:</p> <ul style="list-style-type: none"> <li>i. breached Overriding Principle 5 of the Code of Conduct; and/or</li> <li>ii. breached Principle 5(f) of the Code of Conduct; and/or</li> <li>iii. failed to adhere to Specific Requirement 5(j) of the Code of Conduct.</li> </ul>	<p>correspondence and/or requests from the Legal Ombudsman, that the Legal Ombudsman's referral was unjustified and/or that the Licensed Body's conduct does not amount to misconduct. Accordingly, the CLC does not consider that allegation 1(a)(i) should be withdrawn or amended.</p> <p><b>Allegation 1(a)(ii)</b></p> <p>The Licensed Body has submitted in its first response that the CLC is mistaken in its allegation and notes that, "<i>you [the CLC] state that we did not correspond with the Legal Ombudsman from the 19th June 2020 until around the 15th September however, your documentation provides for an email from our Phill Edwards confirming that we were in correspondence with the client trying to deal with the issue direct on the 21st August, plus the contents of that email refers to a previous call being on the Monday (17th August).</i>"</p> <p>The CLC's allegation is not that the Licensed Body failed to <i>correspond</i> with the Legal Ombudsman; the allegation is that the Licensed Body failed to respond or adequately respond and/or adhere to agreed deadlines for the provision of information following correspondence and/or requests from the Legal Ombudsman. This having occurred is evident from existence of and information contained within the referral provided to the CLC by the Legal Ombudsman.</p> <p>The Licensed Body has provided evidence that it tried to resolve the matter directly with the client and that it had been provided "<i>an extension was provided by the Legal Ombudsman to deal with resolving the matter direct with the client until the 11th September 2020</i>". More specifically, a copy of the email from the Legal Ombudsman providing the extension was provided in the Licensed Body's second response and states, "<i>If the matter has not been resolved, I would now like you to provide the information requested back in June (attached) so that I can conclude matters</i>" and "<i>I look forward to hearing from you, either way, by 11 September 2020</i>".</p> <p>Given that the Legal Ombudsman's referral to the CLC is dated 15 September 2020, the CLC considers that the Licensed Body had failed to do the following by the deadline of</p>

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		<p>11 September 2020: 1) resolve the matter directly with the client and/or 2) update the Legal Ombudsman with the outcome of the Licensed Body's attempts to resolve the matter directly with the client and/or 3) provide the information originally requested by the Legal Ombudsman in June 2020.</p> <p>The CLC has not seen any evidence that the Legal Ombudsman's referral was unjustified and/or that the Licensed Body's conduct does not amount to misconduct. Accordingly, the CLC does not consider that allegation 1(a)(ii) should be withdrawn or amended.</p> <p><b>Allegation 1(a)(iii)</b></p> <p>The Licensed Body has submitted in its first response that, "<i>this file was on our old CMS [case management system] and therefore we would need to obtain the [paper] file from archive</i>". The Licensed Body further submitted that, "<i>our archiving site was closed during lock-down to comply with government restrictions and we were therefore further hampered in our abilities to obtain the information to be able to reply</i>". It would appear from the Licensed Body's response that both access to its old CMS (and with it the archived electronic file) and the archived physical file were both impeded during the relevant period. However, no evidence of the Licensed Body's communications with its archiving site or IT department was provided in support of these statements or to evidence any requests which were made for release of the relevant client file.</p> <p>The Licensed Body also submitted that "<i>We did not intend to hamper the investigation nor cause a delay in the Legal Ombudsman being able to deal with this, but we note that these were extremely difficult circumstances to be able to get some information over to the Legal Ombudsman</i>".</p> <p>It is evident from the documentation provided by the Legal Ombudsman (no documentation additional to the below was provided by the Licensed Body in its first or second response), that the Licensed Body and Legal Ombudsman communicated as follows:</p>

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		<ol style="list-style-type: none"> <li>1) Legal Ombudsman's letter and email of 7 December 2020 at 16:17 seeking various evidence from the Licensed Body by 16 December 2020.</li> <li>2) Legal Ombudsman's email of 16 December 2020 at 12:43 seeking an update from the Licensed Body.</li> <li>3) Licensed Body's email of 16 December 2020 at 15:29 apologising, noting the completed archive file was awaited and seeking an extension (undefined period).</li> <li>4) Legal Ombudsman's email of 5 January 2021 at 12:46 seeking an update on progress in obtaining the client's file from archive by 11 January 2021.</li> <li>5) Licensed Body's email of 10 January 2021 at 09:10 seeking an extension until 18 January 2021 to provide the information.</li> <li>6) Legal Ombudsman's email of 18 January 2021 at 15:56 noting no response received and seeking to understand whether the requested documents had been sent.</li> <li>7) Licensed Body's email of 18 January 2021 at 15:59 apologising and noting further information still awaited from IT department.</li> <li>8) Legal Ombudsman's email of 27 January 2021 at 13:18 noting, "<i>the firm's failure to provide the requested documentation and responses and lack of clarity around when I can realistically expect them is hampering my ability to effectively investigate this complaint</i>".</li> <li>9) Licensed Body's email of 27 January 2021 at 13:20 apologising and seeking extension to "<i>Friday this week</i>".</li> <li>10) Legal Ombudsman's email of 2 February 2021 at 16:00 noting that the requested responses were not received by "<i>last Friday</i>" and that the investigation needs to continue without the evidence requested from the Licensed Body.</li> <li>11) Legal Ombudsman's email of 16 March 2021 at 09:54 making reference to the Licensed Body's email of 25 February 2021 (not sighted by the CLC) providing the requested documents.</li> </ol> <p>Although the CLC accepts that it may not have been the Licensed Body's intention to hamper the investigation, we consider that the Licensed Body failed to communicate clearly with the Legal Ombudsman about when the information could realistically be</p>

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		<p>provided and in doing so, failed to respond or adequately respond and/or adhere to agreed deadlines for the provision of information following correspondence and/or requests from the Legal Ombudsman.</p> <p>Again, the CLC considers that insufficient priority was placed on ensuring the Licensed Body was adequately resourced (including within its IT department) to comply with its regulatory obligations including to cooperate with investigations of the Legal Ombudsman during the relevant period. It is noted also that although the relevant period was during a Covid-19 lockdown, this was not the first such lockdown and the CLC expects that adjustments to working practices should have been made by this time to enable practices to operate in compliance with the CLC's codes.</p> <p>Whilst it may have been acceptable in the circumstances for the Licensed Body to be delayed for a short period in providing the Legal Ombudsman with the requested documentation, the CLC considers that a failure to do so for a period of over two months, in circumstances where the Licensed Body failed to meet multiple deadlines during that time, is unacceptable.</p> <p>Accordingly, the CLC does not consider that allegation 1(a)(iii) should be withdrawn or amended.</p> <p><b>Allegation 1(a)(iv)</b></p> <p>The Licensed Body has submitted in its first response that the CLC is mistaken in its allegation and notes that, "<i>your [the CLC] letter states that there was a lack of correspondence from us [the Licensed Body] between 6<sup>th</sup> January 2021 and 11<sup>th</sup> March 2021</i>".</p> <p>The CLC's allegation is not that the Licensed Body failed to <i>correspond</i> with the Legal Ombudsman; the allegation is that the Licensed Body failed to respond or adequately respond and/or adhere to agreed deadlines for the provision of information following correspondence and/or requests from the Legal Ombudsman. This having occurred is evident from existence of and information contained within the referral provided to the</p>



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		<p>CLC by the Legal Ombudsman however on the basis of evidence provided with the Licensed Body's second response, the CLC considers that it is appropriate to amend a date in the allegation as originally drafted.</p> <p>In that regard, the Licensed Body asserted in its first response that detailed information was emailed to the Legal Ombudsman on 26 February 2021 in response to the Legal Ombudsman's request. A copy of the Licensed Body's email dated 26 February 2021 timed at 14:17 to the Legal Ombudsman providing detailed information was provided with the Licensed Body's second response and this email supports the assertion made in its first response.</p> <p>The CLC considers that the Legal Ombudsman's referral of 26 February 2021 must have been made on 26 February 2021 prior to receiving the Licensed Body's detailed email of that date. The CLC does not consider however that the existence of the Licensed Body's email dated 26 February 2021 timed at 14:17 exonerates the Licensed Body completely, as there is evidence that the Licensed Body failed to respond or adequately respond and/or adhere to deadlines for the provision of information following correspondence and/or requests from the Legal Ombudsman between on or about 6 January 2021 and 26 February 2021.</p> <p>Additionally, although the Licensed Body may have corresponded with the Legal Ombudsman after 26 February 2021, the CLC considers that this is irrelevant, given that the period the misconduct occurred was between on or about 6 January 2021 until at least on or about 26 February 2021.</p> <p>The CLC has not seen any evidence that the Legal Ombudsman's referral was unjustified and/or that the Licensed Body's conduct does not amount to misconduct. Accordingly, the CLC does not consider that allegation a(iv) should be withdrawn, however is of the view that it should be amended as follows:</p> <p style="text-align: right;"> <span style="background-color: black; color: black;">[REDACTED]</span>, from on or about 6 January 2021 until at least on or about <del>11 March</del> <u>26 February 2021</u>" </p>

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		<p><b>Allegation 1(a)(v)</b></p> <p>In its first response the Licensed Body provided a chronology of communications it asserts occurred between it and the Legal Ombudsman during the period 1 October 2020 and 5 May 2021. It is noted that no evidence of these communications was provided to the CLC with the Licensed Body's first response but that a bundle of supporting evidence was provided with its second response.</p> <p>The CLC does not seek to dispute whether the communications outlined in the chronology provided by the Licensed Body in its response to the Warning Notice occurred, however considers that <i>prima facie</i>, they are largely irrelevant to the allegation.</p> <p>Although the CLC accepts that it may not have been the Licensed Body's intention to hamper the investigation, we consider that the Licensed Body did at various times fail to communicate clearly with the Legal Ombudsman about when the information could realistically be provided. Notwithstanding that there were communications between the Licensed Body and the Legal Ombudsman between on or about 17 November 2020 until at least on or about 8 April 2021, the evidence available to the CLC indicates that the Licensed Body failed to respond or adequately respond and/or adhere to agreed deadlines for the provision of information following correspondence and/or requests from the Legal Ombudsman on various occasions during this time. More specifically these instances are outlined below:</p> <ol style="list-style-type: none"> <li>1) <b>10 November 2020</b>, to provide a response by the deadline of 17 November 2020 or any or all of the extended deadlines of 23 November 2020, 26 November 2020 and 1 December 2020.</li> <li>2) <b>1 December 2020</b>, to provide a response, which the Licensed Body confirmed it would provide by 14 December 2020, but provided no evidence that it did so (on the basis of the evidence provided in the Licensed Body's second response).</li> </ol>

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		<p>3) <b>17 December 2020</b>, to respond by 8 January 2020 [sic] (this reference to 2020 was incorrect and this should have been 2021), with the response being provided late, on 10 January 2021.</p> <p>4) <b>2 February 2021 and/or 3 February 2021</b>, to provide responses by the deadline of 17 February 2021 or any or all of the extended deadlines of 23 and/or 24 February 2021. The Licensed Body responded on 26 February 2021 without attaching the relevant responses. It is unclear from the evidence available to the CLC as provided by the Legal Ombudsman or with the Licensed Body's second response, when, if at all, these responses were ultimately provided. An email dated 20 April 2021 from the Legal Ombudsman states, "<i>I need to know if you have sent any evidence in at all as I cannot seem to locate it</i>". In any event, given that the Legal Ombudsman's referral was received by the CLC on 8 April 2021, we consider a response was still outstanding until at least this time.</p> <p>Lastly, it is noted that the member of staff at the Licensed Body tasked with responding to the Legal Ombudsman was required to go on emergency leave on or about 30 October 2020. As a result, it was not known within the Licensed Body that the client's complaint with the Legal Ombudsman was an active matter. Although that may have been so, the CLC considers that not having contemporaneous records of ongoing cases with the Legal Ombudsman is indicative of a failure by the Licensed Body to have made "<i>provision for alternative supervision arrangements in case of illness, accident or other unforeseen event</i>" and a failure to "<i>systematically identify, monitor and manage risks to the delivery of this Code's [the Code of Conduct] Outcomes</i>" (Management and Supervision Arrangements Code, specific requirements 10 and 11, respectively).</p> <p>The CLC has not seen any evidence that the Legal Ombudsman's referral was unjustified and/or that the Licensed Body's conduct does not amount to misconduct, however accepts that the Licensed Body was in communications with the Legal Ombudsman, during this period. Accordingly, the CLC does not consider that allegation 1(a)(v) should be withdrawn or amended.</p>

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		<p><b>Allegation 1(a)(vi)</b></p> <p>The Licensed Body has submitted in its first response that, <i>"It appears that we made adequate contact in relation to this particular file and therefore believe that the outcome in relation to this file is incorrect"</i>.</p> <p>The Licensed Body asserts that the requested information was provided to the Legal Ombudsman on 22 June 2021, although no evidence of this communication has been provided by with the Licensed Body's first or second response. Conversely, undercover of an email dated 22 June 2021 timed at 16:34 the Legal Ombudsman provided the Licensed Body with a letter of the same date which stated:</p> <p><i>"I have not received a response to my letter dated 9 June 2021, asking for evidence by 16 June. I also have not received a response to my emails asking for a further update of 17 June and 21 June.</i></p> <p><i>"Your failure to respond to our requests for documents relating to Miss ██████'s complaint is preventing us from processing the matter effectively.</i></p> <p><i>"Unless I receive your reply to my letter of 9 June, providing the documents and information we have asked for by 29 June, I will make a referral to the CLC to consider your failure to cooperate with us."</i></p> <p>Again, the CLC does not seek to dispute the communications outlined in the chronology provided by the Licensed Body in its response to the Warning Notice may have occurred. However the absence of key communications, particularly the absence of an email of 22 June 2021 from the Licensed Body providing the requested information to the Legal Ombudsman, does not assist in supporting the Licensed Body's response. This is particularly so in circumstances where the available evidence conflicts with that asserted by the Licensed Body in its response.</p> <p>Accordingly, the CLC considers that even if information was provided to the Legal Ombudsman on 22 June 2021 and/or on another occasion after this date as asserted (and prior to 3 August 2021), that this information was inadequate given that the date of the Legal Ombudsman's referral to the CLC was dated 3 August 2021.</p>

Finding #	CLC's Findings	Licensed Body's Response and Sanction Imposed
		<p>On the basis of the documentation provided by the Legal Ombudsman, and in the absence of any evidence being provided by the Licensed Body to confirm the Legal Ombudsman's was unjustified and/or that the Licensed Body's conduct does not amount to misconduct, the CLC does not consider that allegation 1(a)(vi) should be withdrawn or amended.</p> <p><b>Allegation 1(a)(vii)</b>  The Licensed Body asserts in its first response that although its reply to the Legal Ombudsman did not occur on 25 October 2021 as agreed with the Legal Ombudsman on 22 October 2021, it replied at "a later date, which allowed the Legal Ombudsman to make their decision and make an offer to the client".</p> <p>It is noted that under cover of an email dated 25 January 2022 timed at 17:03 the Licensed Body provided the CLC with a copy of an undated letter addressed to ██████████ of the Legal Ombudsman. On 28 January 2022 the CLC emailed the Licensed Body seeking confirmation of the date of the undated letter. The Licensed Body responded by email on 31 January 2022 timed at 13:34 that, "The reply was drafted in October 2021, on checking my exchange of emails with ██████████ I did email ██████████ on the 22<sup>nd</sup> October 2011 advising I was away from the office until Monday and would then return to him following my leave. It would appear that I did not send the final response over that day (22<sup>nd</sup> October) for which I apologise and which related to another email sent to him that morning. I do apologise that this was not responded on Monday 25<sup>th</sup> October as I originally advised ██████████. I did however have contact ██████████ following that in relation to resolving the complaint and the amount the client wanted."</p> <p>To date, the Licensed Body has not confirmed, either in its email dated 31 January 2022 nor in its first or second response to the Warning Notice, the date of the letter sent to the Legal Ombudsman in response to its request for information dated 5 October 2021. The CLC considers that this is because the Licensed Body cannot demonstrate that it responded or adequately responded and/or adhered to the agreed deadlines for the provision of information following correspondence and/or requests from the Legal</p>

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		<p>Ombudsman (specifically, the request for information dated 5 October 2021), at any time prior to the Legal Ombudsman's misconduct referral to the CLC dated 29 November 2021.</p> <p>Lastly, whether or not the Licensed Body's reply ultimately allowed the Legal Ombudsman to make a decision is immaterial to whether or not the alleged misconduct occurred, however it is a factor that may be considered in deciding the level of sanction, in that no ongoing harm was caused.</p> <p>The CLC has not seen any evidence that the Legal Ombudsman's referral was unjustified and/or that the Licensed Body's conduct does not amount to misconduct. Accordingly, the CLC does not consider that allegation 1(a)(vii) should be withdrawn or amended.</p> <p><b>Allegation 1(a)(viii)</b></p> <p>In its first response the Licensed Body provided a chronology of communications it asserts occurred between it, the client and Legal Ombudsman during the period 19 October 2021 and 7 January 2022. It is noted that some evidence of these communications was provided to the CLC with the Licensed Body's second response.</p> <p>The CLC does not seek to dispute that the communications outlined in the chronology provided by the Licensed Body in its response to the Warning Notice occurred, however considers that <i>prima facie</i>, they are largely irrelevant to the allegation. In that regard, it would appear that during the period 19 October 2021 to 7 January 2022 the Licensed Body engaged in attempts to resolve the client's complaint, however the CLC considers that doing so does not render the Licensed Body exempt from simultaneously cooperating with the Legal Ombudsman's investigation.</p> <p>Additionally, there is evidence that the Licensed Body did not substantively respond to the client's offer of settlement of 10 November 2021 until 21 December 2021. In the intervening period, the CLC received the referral from the Legal Ombudsman, and wrote to the Licensed Body on 17 December 2021 seeking that confirmation that the Licensed</p>

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		<p>Body had, <i>“provided the Legal Ombudsman with information requested by the Legal Ombudsman and confirm to the CLC the date that information was provided”</i>. After a delay of approximately 5 weeks in responding to the client's offer of 10 November 2021, within 2 working days of the CLC's aforementioned email, the Licensed Body responded and made a counter offer to the client on 21 December 2021.</p> <p>Although this detail does not go to providing the allegation as drafted, it is demonstrative of the Licensed Body's conduct, in that there were failures to respond in a timely manner (including to the client on this occasion) during the period the Licensed Body were seeking to resolve the complaint. Correspondingly, between 10 and 30 November 2021 (and evidently after the date of the Legal Ombudsman's referral) the Legal Ombudsman were awaiting an update/response on matters which were likely to include the Licensed Body's progress in resolving the client's complaint, which by 30 November 2021, had not been forthcoming.</p> <p>On the basis of the documentation provided by the Legal Ombudsman and the Licensed Body, the CLC has not seen any evidence that the Legal Ombudsman's referral was unjustified and/or that the Licensed Body's conduct does not amount to misconduct. Accordingly, the CLC does not consider that allegation 1(a)(viii) should be withdrawn or amended.</p> <p><b>General comments</b></p> <p>In addition to responding in relation to each of allegations 1(a)(i) to 1(a)(viii) in its first response, the Licensed Body has provided submissions of mitigating factors in respect of the misconduct alleged in allegation 1.</p> <p>Whilst the Licensed Body has acknowledged that, <i>“we have not complied with the time-scales to respond to the Legal Ombudsman in all cases”</i> they submit that, <i>“we have also shown above that there was more communication in most of the cases than has previously been taken into consideration”</i>. The CLC notes that although some evidence of these communications was provided to the CLC with the Licensed Body's second response and that the Licensed Body was in contact with the client directly an/or</p>

Finding #	CLC's Findings	Licensed Body's Response and Sanction Imposed
		<p>communicated with the Legal Ombudsman regarding settling a matter, this does not render the Licensed Body exempt from simultaneously cooperating with a Legal Ombudsman's investigation and requests for information/responses.</p> <p>The Licensed Body has submitted that, <i>"Your [CLC] letter dated 3rd February does not state that we have failed to comply with S.143, only S.145 and therefore we do not believe that we have a misconduct issue here, rather a failure on our part to cooperate in a timely manner."</i></p> <p><i>"In relation to S.145, we appreciate that we are required to comply with the Legal Ombudsman at all times and within a timely manner. It was not and never will be the intention of Convey Law or it's [sic] staff to intentionally not comply with Legal Ombudsman or the CLC in it's [sic] dealings and we sincerely apologise that in these instances that we did not comply with the time-scales provided to us."</i></p> <p>Seven of the eight referrals from the Legal Ombudsman were made on the basis of a general failure to co-operate with Legal Ombudsman's investigations, as is required of authorised persons (including Licensed Bodies) under section 145 of the Legal Services Act 2007 (<b>LSA</b>). The CLC's Code of Conduct at Principles 5(f) and f(g) requires Licensed Bodies to <i>"cooperate with any Legal Ombudsman investigation"</i> and <i>"comply promptly and fully with any Legal Ombudsman order"</i>, respectively. Failure to do so is considered by the CLC to a breach of our Code and therefore, misconduct.</p> <p>Although the CLC accepts that it may not have been the Licensed Body's intention to hamper the Legal Ombudsman's investigations, we consider that on numerous occasions the Licensed Body failed to communicate clearly with the Legal Ombudsman about when the information could realistically be provided and/or purported (but failed) to attach documentation to an email. In doing so the CLC considers that the Licensed Body failed to respond or adequately respond and/or adhere to agreed deadlines for the provision of information following correspondence and/or requests from the Legal Ombudsman in all cases. The number of referrals from the Legal Ombudsman is evidence of a pervasive and systematic by the Licensed Body to co-operate with the Legal Ombudsman which is concerning to the CLC.</p>



Finding #	CLC's Findings	Licensed Body's Response and Sanction Imposed
		<p>The Licensed Body's comments in relation to certain misconduct occurring during periods of lockdown and following the ill health of a member of staff, has already been considered and commented on above and is not considered a mitigating factor.</p> <p>The CLC are pleased to learn that the Licensed Body has implemented various changes within its practice and arranged training for staff to better resolve complaints and cooperate with the Legal Ombudsman, however this does not remedy the misconduct which has already occurred. Additionally, these steps were taken after the Licensed Body was notified by the CLC on 23 September 2021 that a disciplinary investigation into breaches of the CLC's Code of Conduct and Complaints Code had commenced. In late 2020 the Licensed Body had also participated in training facilitated by the Legal Ombudsman, after they had been identified as a poor performer in relation to complaints. Notwithstanding, six of the eight referrals detailed in this Enforcement Determination Notice were received by the CLC from the Legal Ombudsman after the Licensed Body's participation in this training. As such, having implemented various new practices and arranging training in more recent times is not considered by the CLC to be a mitigating factor capable of attracting a reduction in financial penalty when such action is taken at such a late stage.</p> <p>However, an admission of misconduct or remorse may be considered as a mitigating factor and attract a reduction in financial penalty. In the Licensed Body's first response it disputed that misconduct had occurred, which the CLC considered showed a concerning lack of insight into its conduct, and so any acknowledgement by the Licensed Body "<i>that we [the Licensed Body] have not complied with the time-scales to respond</i>" was deemed to be insufficient for the CLC to apply any degree of reduction in penalty. However, in its second response the Licensed Body admitted "<i>to being embarrassed as to the volume of referrals [from the Legal Ombudsman]</i>" and offered the CLC a formal apology. In the circumstances, the CLC considers that whilst the Licensed Body has not gone so far as admitting that misconduct occurred, the Licensed Body's later apology demonstrates some remorse /insight and accordingly, the CLC applies a 5% reduction in the penalty in respect of allegation 1, as a result.</p>

Finding #	CLC's Findings	Licensed Body's Response and Sanction Imposed
		<p>For the reasons set out above, the CLC does not consider that allegation 1 should be withdrawn or amended (aside from the amendment to allegation 1(a)(iv) as outlined above). In line with the comments above, the CLC however amends the sanction proposed by the Warning Notice and imposes on the Licensed Body a financial penalty of <b>£10,733.07</b> (0.25% of reported turnover for 2021), representing a collective penalty for numerous, systemic breaches to the Code of Conduct and based on Penalty Bracket 4 (High Conduct and Medium Impact assessments) and reduced by 5% for mitigating factors.</p>
2	<p>a. The Licensed Body failed to make payment of £350 to ██████████ by 21 December 2020 in accordance with the letter from the Legal Ombudsman dated 6 December 2020.</p> <p>b. In doing so, the Licensed Body:</p> <ul style="list-style-type: none"> <li>i. breached Overriding Principle 5 of the Code of Conduct; and/or</li> <li>ii. breached Principle 5(f) and/or f(g) of the Code of Conduct.</li> </ul>	<p>The Licensed Body has submitted that, <i>“We appreciate that we missed the payment to Mr ██████████ by three working days, but we did mitigate this by sending the payment during a time that our office was shut and making this an instant payment rather than a BACS (three day payment). We do feel that a fine of £1,250 is unfair in relation to missing the time-scale by such a small time. We would argue that this is a Low Conduct rating and a Low Impact rating which would result in a Penalty Bracket 1.</i></p> <p>The Legal Ombudsman’s letter dated 6 December 2020 required payment to the client by 21 December 2020 whereas the Licensed Body made payment on 30 December 2020. Although the payment was made nine days after the due date, the Licensed Body has noted in its response that this period amounted to only three working days during this (Christmas) period.</p> <p>In the Warning Notice the CLC attributed a Medium Conduct and Low Impact rating to the misconduct outlined in allegation 2. The Low Impact rating is not disputed by the Licensed Body, however it considers that the Conduct rating should have also been assessed as Low.</p> <p>The CLC assessed the Licensed Body’s (mis)conduct to attract a Medium rating for the following reasons:</p>

Finding #	CLC's Findings	Licensed Body's Response and Sanction Imposed
		<ol style="list-style-type: none"> <li>1) The Licensed Body was notified of the payment being required on or about 6 December 2020 and yet failed to make payment until 30 December 2020. The Licensed Body had a period of two weeks to take steps to arrange the payment, but failed to do so within that time.</li> <li>2) The CLC expects Licensed Bodies to “<i>comply promptly and fully with any Legal Ombudsman Order [Code of Conduct 5(g)]</i>” and any failure to do so is considered a moderately serious conduct.</li> <li>3) There is evidence that Licensed Body has repeatedly and/or systematically failed to co-operate with and/or adhere to requests from the Legal Ombudsman and the failure to make payment in the required timeframe is not therefore, in the wider context of the Licensed Body’s failures in this regard, an isolated incident.</li> </ol> <p>The Licensed Body has submitted that it has mitigated any misconduct by making the payment on 30 December 2020 by instant payment rather than a three-day payment. The CLC does not consider this to be a mitigating factor given that had the payment been arranged within the deadline provided by the Legal Ombudsman, this would not have been required and it did not cause the misconduct to be remedied.</p> <p>However, as noted above, in its second response the Licensed Body admitted “<i>to being embarrassed as to the volume of referrals [from the Legal Ombudsman]</i>” and offered the CLC a formal apology. In the circumstances, the CLC considers that whilst the Licensed Body has not gone so far as admitting that misconduct occurred, the Licensed Body’s later apology demonstrates some remorse /insight which the CLC considers to be a mitigating factor.</p> <p>The CLC does not consider that allegation 2 should be withdrawn or amended, however considers that it is appropriate to reduce the sanction on the basis of the existence of a mitigating factor. Accordingly, in line with the comments above, the CLC amends the sanction proposed by the Warning Notice and imposes on the Licensed Body a financial penalty of <b>£1,187.50</b> for breaches to the Code of Conduct and based on Penalty Bracket 2 (Medium Conduct and Low Impact assessments) and reduced by 5% for a mitigating factor.</p>

Finding #	CLC's Findings	Licensed Body's Response and Sanction Imposed
3	<p>a. The Licensed Body charged fees in excess of the Government's mandated cap on legal fees for accessing the Help-to-Buy ISA scheme, on file:</p> <p>i. [REDACTED].</p> <p>b. In doing so the Licensed Body:</p> <p>i. Breached Overriding Principle 1 and/or 3 of the Code of Conduct; and/or</p> <p>ii. Failed to achieve Outcome 1.2 and/or 3.1 of the Code of Conduct; and/or</p> <p>iii. Breached Principles 1(c) and/or 1(l) and/or 3(b) of the Code of Conduct.</p>	<p>The Licensed Body has submitted in its first response that although it "<i>appreciate[s] that the Government's cap for legal fees is £50 plus VAT</i>" it "<i>did not intend to overcharge the client nor go against the cap from the Government</i>" and that doing so was a "<i>misjudgement from the Board</i>".</p> <p>The Licensed Body's Board members include Licensed Conveyancers who ought to reasonably have known the conduct was improper. Further, the Licensed Body had gone to considerable lengths to update its client care information to outline to clients what the Government's mandated cap (the <b>cap</b>) was and simultaneously to advise clients that the Licensed Body could not undertake the work without charging an additional £100 plus VAT. The CLC considers that this demonstrates the Licensed Body had an intentional disregard for the cap, rather than a misjudgement.</p> <p>The Licensed Body further submits that it does not consider that Principle 1(c) nor 3(b) of the Code of Conduct were breached. Based on the Licensed Body's submissions, it would appear that Principle 1(c) was misstated for 1(l) which requires that Licensed Bodies "<i>do not take unfair advantage of any person, whether or not a client of the practice</i>". Principle 3(b) requires Licensed Bodies "<i>to keep the interests of the client paramount</i>".</p> <p>The CLC does not accept the Licensed Body's submissions that neither Principle 1(l) nor 3(b) were breached. Charging clients' fees in excess of the cap cannot be in clients' best interests and can only be in the interests of the Licensed Body, who seeks to/will ultimately profit from the additional revenue. Further, the Licensed Body is in a position of power in comparison to (unsophisticated) clients who may not be likely to understand that the conduct is improper and therefore unlikely to object to fees charged in excess of the cap. Additionally, in the particular complaint which led to the CLC's findings, the client had originally been quoted fees which complied with the cap, then later, once the Licensed Body had secured the client's instructions, the Licensed Body sought to charge fees in excess of the cap (and in excess of the original quote). The CLC considers that such conduct is unfair to clients and not at all in their best interests.</p>

Finding #	CLC's Findings	Licensed Body's Response and Sanction Imposed
		<p>The Licensed Body has also submitted that, <i>“bearing in mind the amount that we had mistakenly overcharged, we feel that the penalty of £4,321.47 for this is excessive”</i>. The penalty of £4,321.47 is based on High Conduct and Low Impact assessments. The Low Impact assessment reflects that the misconduct was remedied early enough to not have adversely affected many clients/that the impact on clients was low. On the basis that the Licensed Body co-operated with the CLC, acknowledged the breach, made efforts to rectify matters and did not continue with the breach at the time of having been notified of the improper conduct, the CLC considers that it’s assessment should be amended to a Medium Conduct rating. The degree of mitigation will be adjusted in light of the factors taken into consideration in reducing the Conduct assessment.</p> <p>However, in its response the Licensed Body’s has submitted <i>“none of our actions were intentional or indeed out of any act of misconduct or not acting in the best interests of our clients or our obligations to yourself [the CLC] and the Legal Ombudsman”</i> which the CLC considers shows a concerning lack of insight into its conduct and accordingly, does not consider that allegation 3 should be withdrawn.</p> <p>The Licensed Body has further submitted that the measures, if imposed, <i>“would have an adverse impact”</i> on the Licensed Body, including <i>“negative press to a CLC regulated company”</i>. The Licensed Body has not provided evidence to support this belief and whilst the CLC has considered the Licensed Body’s position, we consider that the measures outlined in this Enforcement Determination Notice are proportionate, necessary and that in all the circumstances (and as outlined at “Sanction Rationale” above), any concerns held by the Licensed Body about its reputation are strongly outweighed by the public interest in applying (and publishing) the sanctions outlined in this Enforcement Determination Notice.</p> <p>Lastly it is referenced in the Licensed Body’s response that, <i>“We [the Licensed Body] also provided evidence [to the CLC] that no other client was overcharged this fee [cap]”</i>. For the avoidance of doubt, the Licensed Body did not provide <i>evidence</i> to the CLC that no other client was charged in excess of the cap, however it did provide an assurance</p>

Finding #	CLC's Findings	Licensed Body's Response and Sanction Imposed
		<p>to the CLC that only one client was charged in excess of the cap. This assurance was provided by email dated 24 August 2021 timed at 17:35 when the Licensed Body responded to the CLC's request for the Licensed Body to provide "A list of clients who have been charged fees in excess of the cap" and stated that, "One client was charged £120.00".</p> <p>Accordingly, in addition to the comments above, the CLC repeats and relies on its previous findings. The sanction imposed is a financial penalty of <b>£1,800</b> for breaches to the Code of Conduct and based on Penalty Bracket 2 (Medium Conduct and Low Impact assessments) and reduced by 10% for mitigating factors, including that the fees were refunded to the client.</p>
4	<p>a. Separately to allegation 3, the Licensed Body attempted to charge clients fees in excess of the Government's mandated cap on legal fees for accessing the Help-to-Buy ISA scheme.</p> <p>b. In doing so the Licensed Body:</p> <ul style="list-style-type: none"> <li>i. Breached Overriding Principle 1 and/or 3 of the Code of Conduct; and/or</li> <li>ii. Failed to achieve Outcome 1.2 and/or 3.1 of the Code of Conduct; and/or</li> <li>iii. Breached Principles 1(c) and/or 1(l) and/or 3(b) of the Code of Conduct.</li> </ul>	<p>The Licensed Body's submissions in response to allegation 3 above apply also in response to allegation 4. The CLC's comments at allegation 3 apply also to allegation 4.</p> <p>The CLC does not consider that allegation 4 should be withdrawn. Accordingly, in addition to the comments above, the CLC repeats and relies on its previous findings. Accordingly, in addition to the comments above, the CLC repeats and relies on its previous findings. The sanction imposed is a financial penalty of £1,800 for breaches to the Code of Conduct and based on Penalty Bracket 2 (Medium Conduct and Low Impact assessments) and reduced by 10% for mitigating factors, including that almost immediately following a direction from the CLC, the Licensed Body confirmed to the CLC that it had ceased seeking to charge and/or ceased charging clients' fees in excess of the mandated caps.</p>