



## Ongoing Competence Code – Consultation and Engagement (March 2025)

This document contains:

- [CLC Ongoing Competence Toolkit extracts](#):
  1. CLC approach to Ongoing Competence
  2. Impact Statements, Core Topics, Suggested Topics, and Assessment.
- our current [Impact Assessment](#) related to our proposals – for comment and feedback.

## CLC Ongoing Competence Toolkit Extracts

### 1. CLC approach to Ongoing Competence

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We are committed to safeguarding the interests of consumers of legal services by promoting high standards and supporting our regulated community to not only fulfil all regulatory, legal and ethical obligations, but to thrive in delivering excellent legal services which meet consumer need and embody good practice.

Our approach to Ongoing Competence centres around risk identification and risk management and is outcomes- and impact- focussed.

We expect our regulated community to reflect on the risks and issues that are affecting or likely to affect their current or future practice (related to them as an individual or as a practice).

We encourage our community to reflect on how their ongoing competence impacts their practice by requiring them to identify the most relevant **Impact Statement** achieved for each ongoing competence activity ('activity').

CLC Lawyers are expected to plan and undertake appropriate educational, training and/or learning activities as and when considered necessary to maintain their competence (skills, knowledge and behaviour) in pace with their role, responsibilities (including supervisory responsibilities and career progressions), and relevant legislative and regulatory changes; and CLC Practices are expected to adopt a similar approach for their Key Compliance Personnel, supporting them as required.

For CLC lawyers, we aim to gain sufficient regulatory assurance regarding ongoing competence by mandating a minimum number of activities, of which a minimum must be assessed. We recognise that learning and its evaluation happens in diverse settings and formats; our requirements are designed to enable flexibility whilst providing assurance of ongoing competence.

We aim to foster more consistency in the topics that our community complete whilst supporting them to identify and complete ongoing competence activities that de-risk their practice (as an individual and a corporate body), particularly for pertinent emerging risks or legislative or regulatory changes. To do so, we identify:

- **Core Topics.** These are broad topics that form part of everyday practice and should be routinely refreshed or revisited.
- **Suggested Topics.** These are specific topics that we consider to be current or emerging areas of risk related to our community's practice that are informed by our annual Risk Agenda report. They are designed to highlight topical areas for which our community should consider completing activities to help de-risk their practice.

As a regulator, this Ongoing Competence Code enables us to meet our regulatory objectives. Both a preventative and remedial tool, ongoing competence enables us to identify:

- profession-wide levels of competence;
- key areas of risk in the sector to inform our upstream (preventative) interventions; and
- key persons/practices who are failing to meet our standards and determine remedial interventions to address this. This could include requiring CLC Lawyers or Practices to complete specific ongoing competence activities.

Within our ongoing competence assurance regime, we undertake annual sampling of records and thematic reviews to pursue these aims.

## 2. Impact Statements, Core Topics, Suggested Topics, and Assessment.

The information contained within the Toolkit will be updated as required in advance of the next cycle (starting in November). The CLC will normally conduct a formal review of the Toolkit every three years.

**Impact Statements** – We encourage our community to reflect on how their ongoing competence impacts their practice by requiring them to identify the most relevant **Impact Statement** achieved for each ongoing competence activity ('activity'):

- I. Improving consumers' experience of Legal Services
- II. Managing areas of increased risk for consumers
- III. Improving internal assurance measures
- IV. Improving stakeholder experience of Legal Services Providers
- V. Improving legal competence

**Core topics** – These are broad topics that form part of everyday practice which should be routinely refreshed or revisited by our community and, all 9 activities should be covered at least once in a three year period

1. Ethics and Professionalism
2. Delivering high standards Legal Services
3. Know Your Client
4. AML
5. Financial Fraud and risk awareness
6. Customer Satisfaction
7. Regulation and compliance
8. GDPR, Privacy and Client Confidentiality
9. Cyber threats, IT security and AI

**Suggested Topics** – These are specific topics that we consider to be current or emerging areas of risk related to our community's practice that are informed by our annual Risk Agenda. They are designed to highlight topical areas for which our community should consider completing activities to help de-risk their practice.

- a) Complaints Handling
- b) Innovation & Process improvement
- c) Finance/accounting practice/Accounts Code
- d) Equality, Diversity & Inclusion
- e) Client care, assessing vulnerability and access to services
- f) Industry and key stakeholder developments
- g) Green environment and Net Zero legislation
- h) Pertinent legislative or regulatory change, relevant to your licence and practice.

- **Assessed activities:** activities where the CLC lawyer's sound understanding of the topic is informally or formally assessed, verified or evaluated. This could be through formal and informal post-training assessment (which produces a certificate/pass mark); recorded feedback or evaluation which is countersigned by a suitably qualified peer or colleague. Assessed activity does not necessarily mean paid-for activity.

Assessed activities should cover a range of different topics and types of assessments over the three years; we do not expect the same assessment to be repeated each year, or identical topics to be assessed each year.

- **Non-assessed activities:** activities completed without the CLC lawyer's understanding being informally or formally assessed, verified or evaluated. This could include attending conferences, seminars, workshops or webinars or delivering in-house training.

**1. Equality Impact Assessment, and Impact on Regulated Persons, Consumers and the Public Interest:**

<b>Protected Characteristic</b>	<b>Impact</b>
Age	Some – re digital exclusion; financial
Sexual Orientation	None identified.
Race	None identified
Disability	Some – re digital exclusion
Gender Identity / Gender reassignment	None identified
Gender	None identified
Pregnancy and Maternity	Some – re annual requirements
Marriage / Civil Partnership	None identified
Religion or belief	None identified

1.1. It has always been a requirement that CLC Lawyers undertake professional development to remain competent and fit to practise. We have explored where potential adverse impact has been identified in further detail below.

1.2. In considering what is set out below, it is important to note that ongoing competence is also an expectation of several other stakeholders in the broader conveyancing and probate sectors, such as insurers, lenders, Land Registry, and the Probate Office, albeit that none of these stakeholders are regulators and therefore cannot establish mandatory ongoing competence frameworks as we can. Nevertheless, these stakeholders require professionals to have the skills, and technical and legislative knowledge to undertake their professional responsibilities and in some instances, professionals are required to report annually to these stakeholders (insurers and lender panels for example) on competence. This means that not only does compliance with the CLC’s ongoing competence framework ensure that professionals meet CLC requirements, but it also enables them to demonstrate to other critical stakeholders that they are competent and therefore, for example, suitable to be reappointed to lender panels (which means the practice will get work), or be re-insured (meaning that the practice can continue trading). The CLC Ongoing Competence Code has been developed with those additional qualitative and commercial drivers in mind. Therefore, we believe that CLC Practices will quickly see the advantages of adopting the new Code as a means to dual purpose the information they report on.

**Age**

1.3. Whilst we are not aware of any who are truly digitally excluded and we believe that digital literacy is generally good, there may be an impact for some older CLC Lawyers if their own skills level excludes them from the online reporting of their activities. Using age as a proxy for digital exclusion, we know from other sources that we have referenced, that it is amongst those aged 65+ that digital exclusion is likely. Applying this to the CLC regulated population and extrapolating data from our 2023 Diversity Survey, we know that approximately 4%, are aged over 65%. With a total of 1938 registrants, 4% represents 78 registrants. And as outlined above, given the skillset required of professionals working in the probate and conveyancing sectors, it is anticipated that very few of the 78 who fall into this age category are likely to be truly digitally excluded, though, as outlined above, we have no concrete data on numbers

who are truly digitally excluded.

- 1.4. Mitigation: To the extent that there may be small numbers who are digitally excluded by virtue of their age, the online reporting of their activities could be undertaken alongside a fellow colleague who is digitally competent and therefore, whilst there may be an impact for a small minority, we do not consider this to be disproportionate, to place them at disadvantage nor to exclude them and place them at risk of non-compliance or regulatory sanction. If the CLC is notified of any CLC Lawyers whose age and therefore digital competence excludes them, support will be offered and a degree of leniency in the timing of reporting may be accommodated.
- 1.5. The new prescribed minimum levels of assessed activity (four assessed activities) may carry a cost burden which may potentially impact younger professionals seeking to apply to be licensed for the first time by virtue of them either not being currently employed and therefore at a financial disadvantage or potentially being from a financially disadvantaged background.
- 1.6. Whilst there may therefore be an impact for a small proportion of young prospective applicants, the potential impact is not considered to be unjustified or unreasonable given the balance between Ongoing Competence the need to protect and promote the wider public and consumer interest by ensuring that professionals entering the profession meet minimum levels of competence.
- 1.7. We are also of the view that any potential impact is mitigated in several ways, firstly the new Framework does not prescribe that activities are paid for nor that they must be delivered through professional training providers for a fee. The Framework offers flexibility to undertake a range of activities that do not bear a financial burden, for example, younger professionals could attend regular mentoring or coaching sessions, or free seminars held by other legal professionals working the sector etc.
- 1.8. Secondly, all prospective applicants applying for a licence have either secured employment or have an offer of employment as part of their eligibility to apply for a first qualifying licence (that offer being confirmed upon obtaining a CLC licence). Additionally, as is common across the sector, employers typically pay the cost of a good proportion of Ongoing Competence activities, should the individual choose to do paid for activities. As such, for young entrants to the profession, whilst there may be impact from these changes, it is not going to present a barrier to entry or progression in the profession, and as financial barriers which might exist for a younger person can be overcome as highlighted above, any impact is not detrimental nor disproportionate. In the CLC's view the impact is justified and reasonable when weighed against the imperative to ensure legal services are delivered to the highest standards by professionals who are competent.

### **Disability**

- 1.9. The introduction of the new Code does not change the existing requirement for all professionals to ensure that they remain skilled, knowledgeable, and up to date with key developments and changes in their profession, and thus we do not expect that the Code will negatively impact nor disproportionately impact people living with disabilities.
- 1.10. There may be an impact for people with disabilities in submitting their OCR/ROCR online, to fulfil their annual reporting obligations, if any assistive technology they use (screen readers for example) is incompatible. The CLC's 2023 Diversity Survey showed that 6% of staff survey considered themselves to have a mental or physical disability (note however that this includes CLC staff and board members who

responded to the survey). If we take this percentage as broadly indicative of the proportion of staff in CLC practices likely to have a disability, and in relation to whom compliance with ongoing competence will be a requirement and extrapolate the figure out, it is likely that less than 116 people will have a disability. It is reasonable to form a view that not all 116 people are likely to be impacted by the proposed new requirement for online reporting of compliance with ongoing competence. This view is based on the fact that the level of ability, skill and computer literacy required to operate within the modern probate and conveyancing profession is such that we anticipate most professionals will be able to submit an online report to the CLC, and, given for those with a declared disability, there is a legal requirement on their employers to make reasonable adjustments in the form of assistive technology, it is anticipated that this requirement will in fact impact very few professionals.

- 1.11. The online reporting facility will use a combination of text and tables. We plan to ensure it is accessible by design and therefore will test the facility with accessibility tools, and seek further advice, if required, to make it as accessible as possible.
- 1.12. Further mitigation includes the fact that an individual can be assisted by another person to complete the online reporting.
- 1.13. We believe the requirements are justified and support the wider public interest that is served by the new requirements is justified because the Code aims to ensure that all CLC licensed individuals, regardless of disability, are competent and able to deliver legal services that protect and promote the consumer interest.
- 1.14. On a case-by-case basis, we will consider any requests to make accommodation for CLC Lawyers who are disabled and are unable to use the online reporting facility. This might include allowing extra time to complete the reporting, or extensions of time to complete certain activities where for example individuals might have experienced difficulties or delays in accessing training in an accessible format. Any request for leniency will be based on the specific facts and will take account of any risk to the consumer interest in allowing any extensions of time etc. Decisions will be reasonable, justified, and proportionate.

#### **Pregnancy and maternity and other forms of leave associated with children**

- 1.15. As a regulator, we have a duty to balance the protection of consumers against the rights of individuals.
- 1.16. The current Code applies, in full, to all CLC Lawyers regardless of whether they have a protected characteristic. Our current CPD Code and CPD Framework does not make any exemption or dispensation of the CPD requirements for those who take time out of practice on maternity, paternity or adoption leave whilst keeping their licence. Individuals are encouraged to optimise work keep-in-touch and phased return to work days to maintain their current years requirement. Individuals re-joining mid-licensing year, which mostly encompasses those on maternity, paternity and adoption leave automatically receive a dispensation on the current year's requirements. Which takes the form of a pro-rata reduction to the annual minimum requirement.
- 1.17. We have always considered ours to be a robust policy approach which supports and safeguards the occupational confidence of the individual whilst providing us with assurance about their professional competence, whatever their personal circumstances, which justifies our current policy approach.
- 1.18. However, as we currently consider making dispensations for periods of leave due to

medical or other capacity issues (most often extending the time to complete requirements, which amounts to carrying over a proportion of the requirement from one year to the next, or on exceptional cases waiving the requirements), we are considering whether a similar approach for parental leave would be suitable and reduce any potential risk of indirect discrimination. However, we are mindful that carrying over a proportion of the requirement from one year to the next in a return-to-work period, as opposed to optimising return-to-work days in current period, will be less manageable because it removes or reduces allocated mainstream worktime to complete the requirements. We would like to hear your views on whether the new Code should make provision for dispensations/exemptions on the grounds of maternity/paternity or adoption leave or parental leave.

1.19. Key considerations include:

2. Is it more feasible to keep up to date with ongoing competency requirements by using agreed employer/employee keep-in-touch-days and phased return-to-work days as opposed to carrying over a proportion of the requirements to be concentrated into the more demanding return to work period.
3. One of the concerns of adjusting our requirements pro-rata is the fact that some individuals may complete significantly less mandatory ongoing competence activities over multiple years, particularly if they have more than one period of maternity/paternity or adoption leave. (They or their employer may still decide that they should complete more than their minimum requirements to meet their competence needs).
4. One of the benefits of adjusting our requirements pro-rata (and retrospectively at licence renewal), could mean there are less barriers for parents to return to work. Many other regulators who prescribe a set number of activities/hours pro-rata their requirements for these individuals.

4.1. Within our consultation in March 2025, we will be asking for the sector's views on the above including if they have any concerns about potential reduced consumer protection were we to pro rate requirements.

4.2. Below is further information about our current policy approach:

4.3. If we maintain our current approach, the requirement to do a prescribed number and type of activities may result in an adverse impact for some people who hold a CLC licence who are pregnant and take maternity leave by virtue of not having the full year within which to undertake ongoing competence.

4.4. Although we do not hold data on total number of regulated individuals who are pregnant or who go on maternity leave in a year, we know from our licensing data that, in the 2024 renewal round, only six lawyers chose not to automatically renew their licence when taking maternity leave. It is therefore reasonable to conclude that to the extent that there may be any impact for pregnant people, the numbers likely to be impacted are very low.

4.5. Currently, anyone who holds a CLC licence or takes a planned break from holding a licence, must undertake and report that they have completed the required number and type of activities in any 12-month period, which will include any period of pregnancy and maternity leave. This might mean that, for women who are pregnant or have been off on maternity leave, they have less time than other women to undertake the required activities. Whilst this might result in an impact for these women, our current approach has centred on the need to ensure that professionals, regardless of their maternity or pregnancy status, are competent to hold a licence and therefore deliver services that promote and protect the consumer interest, which

has justified the potential impact.

4.6. A similar type of impact (although likely to be to a lesser extent) to that described within the pregnancy and maternity leave analysis may be experienced by some CLC Lawyers who take adoption leave, shared parental leave or paternity leave, and similar justifications to not allow adjustments to the requirements of our Code in these circumstances exist: the need to ensure that professionals, regardless of their parental status, are competent to hold a licence and therefore deliver services that promote and protect the consumer interest, justifies the impact.

4.7. We have limited data upon which assumptions could be made about numbers of people who fall into these categories and who therefore may be impacted by the proposed shift to ongoing competence. The 2023 Diversity Survey did not include questions addressing pregnancy, maternity or other categories of people likely to take other forms of leave associated with children. What we do know from the 2023 survey is that the majority (76%) of the CLC regulated population identifies as female. However, this does not equate to the number of people likely to be impacted however, because we can extrapolate from licensing data that we have, that numbers of pregnant people or those on maternity in any year are very small. Similar assumptions can be made in relation to the number of people who may take other forms of leave associated to parenting.

**5. Impact on Regulated Persons, Consumers and the Public Interest:**

Regulated Persons	<p>Positive – more helpful direction from the CLC which does not appear to be unduly burdensome as it is simpler and more unified. We are clearer on the regulatory mechanisms within which ongoing competence falls.</p> <p>Neutral impact – we do not believe there will be any difficulty in sourcing relevant learning opportunities related to the mandatory Core Topics. There is a notification process in case an individual or practice is experiencing difficulties in meeting their obligations.</p> <p>Negative – some potential impacts identified related to maternity/parental leave (explored above), digital exclusion, socio-economic factors and vulnerability.</p>
Consumers	<p>Positive – the proposed Code provides more confidence in the consistency on ongoing competence than our current code.</p> <p>Negative – none identified.</p>
Public Interest	<p>Positive – the proposed Code enables the CLC to be more directive to the sector and help the sector to reflect on the risks to practice, plan and undertake targeted learning accordingly. The proposed Code supports the better principles of regulation and</p> <p>Negative – none identified.</p>

**Career Breaks**

5.1. The new Code will apply to all CLC Lawyers regardless of whether they are on a career break. The requirement to do a prescribed number and type of activities remains. Lawyers can choose to come off the register and re-apply for licence once they would like to return to practice.

**Socio-economic factors**



- 5.2. There is no evidence suggesting that CLC Lawyers will experience any unjustified or disproportionate impact under this Code by virtue of being from a socio-economically disadvantaged background because most CLC Lawyers are in employment and, for most, the cost of any training or professional development is covered (in part or full) by their employer.
- 5.3. In addition, the new Code allows flexibility in what type of training or professional development is undertaken, meaning that cost or socio-economic disadvantage need not exclude anyone from undertaking the required activities in any 12-month period.
- 5.4. The Ongoing Competence requirements may be a barrier to entry to the profession for prospective candidates who experience socio-economic disadvantage or exclusion. However, as highlighted above under 'age', as with young applicants, for those who wish to enter the profession and experience socio-economic disadvantage or exclusion, any potential impact of this Code is mitigated in several ways:
- 5.5. Firstly, the new Code does not prescribe that assessed activities are paid for or that they must be delivered through professional training providers for a fee. The Code offers flexibility to undertake a range of activities that do not bear any financial burden.
- 5.6. Secondly, as most prospective applicants will be applying for a licence either once they have secured employment or as a pre-condition of an offer of employment, as is common across the sector, their employers will carry the cost of Ongoing Competence activities, should the individual choose to do paid for activities. As such, for anyone who is socio-economically disadvantaged, there is unlikely to be any unjustified or disproportionate impact by virtue of this disadvantage.

#### **Digital exclusion**

- 5.7. There is no evidence to suggest that any regulated individuals are truly digitally excluded, and to the extent that there are any conveyancing or probate practices which still operate on a paper-based system, which is a very small number, even those have provided email addresses as part of their registration with the CLC.

#### **Vulnerability**

- 5.8. Whilst we have not expressly researched vulnerability among regulated individuals (i.e. whether and if any could be categorised as vulnerable), vulnerability has been considered for purposes of this assessment.
- 5.9. Licensed professionals may become vulnerable or experience vulnerability for several reasons including health (physical or mental wellbeing), personal circumstances (death, divorce, relationship difficulties), economic or environmental reasons and this may be an ongoing factor or a temporary factor which could impact their ability to undertake and report their Ongoing Competence.
- 5.10. The new Code applies equally to all licensed professionals regardless of vulnerability or any of the other factors listed above. To the extent that a person's vulnerability does or may impact their ability to satisfy the requirements of the new Code, on a case-by-case basis, the CLC will consider any requests to make reasonable accommodation.

- 5.11. This might include allowing extra time to complete the reporting, or extensions of time to complete certain activities where for vulnerable individuals have been unable to complete the activities or report them within the required timeframes.
- 5.12. Any request for leniency will be based on the specific facts and will take account of any risk to the consumer interest in allowing any extensions of time etc. Decisions will be reasonable, justified, and proportionate.

## **6. Financial assessment**

- 6.1. For the reasons set out further on in this paragraph, we have not done a detailed comparison of the likely time and cost required to comply with the proposed new framework versus the current arrangements. The new requirements do not mandate any commercially provided courses (I.e. paid for) and indeed, with good planning, it may be possible for some professionals to satisfy the ongoing competence requirements at no cost. It is anticipated that there may be some differences in terms of the time and cost required to comply with the two different schemes, however, the new scheme is self-driven and how each professional seeks to comply with it will be unique to that individual. There are too many potential variables to make any cost and time projections at all meaningful i.e. how much upskilling/training a person chooses to do, when and how they do it, what type (online versus in person) and whether it is paid for or free etc. makes any form of comparison meaningless. Further, for employed professionals, the cost of ongoing competence compliance is usually carried by their employer (in most cases, the cost of staff training will be deductible for tax purposes for the employer, and the benefit to the employee will be tax free). Where there may be a cost implication, is in the case of locums and consultant, however, this group could potentially pose a higher risk to consumers because they are likely to have less consistent supervision (by virtue of not having an employment arrangement within a practice) and as such are more likely to benefit from ongoing competence, and, to the extent that there is any potential cost impact, it is justified even more so in the case of locums and consultants. In addition, being able to demonstrate compliance with CLC ongoing competence requirements will act as an assurance mechanism for the firms engaging their services, and thus potentially open them up to increased earning opportunities particularly if they can demonstrate that their ongoing competence meets specific needs within a prospective firm. Not always, but frequently, locums and consultants operate through their own company vehicles for tax purposes, and ongoing competence will be a tax efficient business cost for many.
- 6.2. We do not believe this will have any significant financial impact for the regulated community.
- 6.3. There will be additional business-as-usual and set-up costs to the CLC, which are to be incorporated within the relevant budgets for 2025 and beyond. These include costs for developing and testing the reporting facility, an increase in CLC server space for increased document storage, and the business-as-usual costs (which will increase slightly due to our sampling activity).