



**Proposed Application by the CLC to the Legal Services Board
as an Approved Regulator to regulate licensed conveyancer
practices in the Exercise of Rights of Audience
and the Conduct of Litigation
CLC Consultation Paper
February 2010**

Submission Deadline: 31 March 2010

Executive Summary

1. Taking account of the matters set out in this Consultation Paper, the CLC has provisionally concluded that:
 - a. it should apply as an Approved Regulator to regulate licensed conveyancers in the exercise of Rights of Audience and the Conduct of Litigation (as well as Reserved Instrument Activities, Probate Activities and the Administration of Oaths which it is currently authorised to regulate):
 - b. it should seek amendment of its statutory framework so that it can:
 - regulate licensed conveyancers in any legal services they provide, and not confined (as is currently the case) to the Reserved Legal Activities; and
 - issue licences to licensed conveyancers which do not necessarily include an entitlement to provide Reserved Instrument Activities.

Responding to this Consultation

2. The questions posed in this Consultation Paper are set out at page 14. They are not also incorporated into the main part of the Consultation Paper because the questions are not as directly linked to particular sections as they might be in other Consultation Papers. You are invited to respond to some or all of the questions. The CLC also welcomes comments on the proposals as a whole.
3. When you respond could you please give your name and address and whether you are a licensed conveyancer. If you are not a licensed conveyancer, could you please state, if relevant, your status or professional qualification. The CLC reserves the right to publish any response and to refer to it specifically in any further document it publishes following this Consultation. If you wish your response to be treated as confidential could you please let us know when you respond.
4. All responses should be send by email to consultations@clc-uk.org or by post to

The Council for Licensed Conveyancers
16 Glebe Road
Chelmsford
Essex CM1 1QG

Or by to DX 121925 CHELMSFORD 6

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Introduction

Statutory Framework

5. The CLC was established by the Administration of Justice Act 1985 (AJA) to regulate licensed conveyancers in the provision of conveyancing services. It has no representative function. The CLC currently regulates about 1,000 licensed conveyancers and just under 200 practices. About 25% of these practices already have Managers and/owners who are not licensed conveyancers and are not Authorised Persons¹. These arrangements have been permitted by the CLC since 2000 when its Recognised Bodies Rules 2000 came into force.
6. As an approved regulator from 1 January 2010 the CLC “must, so far as is reasonably practicable, act in a way.., which is compatible with the regulatory objectives”² as follows:
 - a. Protecting and promoting the public interest;
 - b. Supporting the constitutional principle of the rule of law;
 - c. Improving access to justice;
 - d. Protecting and promoting the interests of consumers;
 - e. Promoting competition in the provision of services by ‘authorised persons’³;
 - f. Encouraging an independent, strong, diverse and effective legal profession;
 - g. Increasing public understanding of the citizen’s legal rights and duties;
 - h. Promoting and maintaining adherence to the professional principles⁴.
7. The “professional principles” are—
 - (a) that authorised persons should act with independence and integrity,
 - (b) that authorised persons should maintain proper standards of work,
 - (c) that authorised persons should act in the best interests of their clients,
 - (d) that persons who exercise before any court a right of audience, or conduct litigation in relation to proceedings in any court, by virtue of being authorised persons should comply with their duty to the court to act with independence in the interests of justice, and

¹ Defined by LSA as individuals regulated by Approved Regulators as listed in Annex1

² S.28(2) Legal Services Act 2007

³ defined at s.18 LSA

⁴ s.1(1) LSA

- (e) that the affairs of clients should be kept confidential.⁵
8. The CLC is also required to “have regard to...the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed”⁶.

CLC’s Approach to Regulation

9. The CLC’s Corporate Strategy for 2009-2014 summarises the purpose of the CLC as setting entry standards and regulating the profession of licensed conveyancers effectively in order to:
- secure adequate consumer protection;
 - promote effective competition in the legal services market; and,
 - provide choice for consumers.
10. The CLC fulfils its responsibilities by undertaking a range of activities, which are outlined as follows:
- Set educational and training standards for entry to the profession;
 - Issue licences to practise to those qualified to provide conveyancing services to clients;
 - Maintain a register of all Licensed Conveyancers;
 - Set standards to regulate the professional practice, conduct and discipline of licensed conveyancers;
 - Set standards to maintain adequate professional indemnity insurance and a compensation fund to protect the public;
 - Undertaking accounts investigations and practice inspections to monitor the work and conduct of Licensed Conveyancers and to determine whether they are meeting the required standards;
 - Provide guidance and advice to Licensed Conveyancers to maintain compliance with the standards and those regulations relevant to our duty of consumer protection;
 - Investigate complaints against a Licensed Conveyancer and order redress for the client for poor service where appropriate;
 - Investigate allegations of misconduct against a Licensed Conveyancer and where appropriate take disciplinary proceedings before the Discipline and Appeals Committee;
 - Collaborate with key stakeholders in the conveyancing services market to monitor and shape the impact of proposed regulations on the conduct of Licensed Conveyancers in order to maintain adequate consumer protection.

Reserved Legal Activities

11. The Legal Services Act 2007 defines Reserved Legal Activities as:

⁵ s.1(3) LSA
⁶ s.28(3) LSA

- The exercise of rights of audience⁷
 - The Conduct of Litigation⁸
 - Reserved Instrument Activities⁹
 - Probate Activities¹⁰
 - Notarial Activities¹¹
 - The Administration of Oaths¹²
12. Other Approved Regulators are authorised to regulate lawyers in the provision of these Reserved Legal Activities (see Annex 1¹³). Notarial Activities currently remain the exclusive province of Notaries Public regulated by the Master of the Faculties.
13. The Law Society is entitled to make¹⁴, and has made¹⁵, rules relating to all legal services provided by solicitors, whether or not those activities are Reserved Legal Activities.

Regulatory Policy Dilemma

14. In the White Paper leading to the introduction of the Legal Services Bill the Department of Constitutional Affairs commented “The problem at present is that any person can provide unreserved services without any form of regulation (other than the general law) and this is where most damage occurs”¹⁶ highlighting the problems consumers had experienced with claims managers (now subject to regulation).
15. The Legal Services Board (LSB) has commented “...some legal activities can be delivered exclusively by non-authorized persons and hence not be regulated by an AR. This presents a regulatory policy dilemma: are the risks and costs of such an extension to the scope of regulation greater than those arising from actual or potential consumer confusion and mis-purchase?”¹⁷ The responses from the Solicitors Regulation Authority (SRA) and the Bar Standards Board (BSB) to the LSB’s Discussion Paper on ABS considered that it was in the interests of consumers for reserved and non-reserved legal activities to be regulated in the same way because “consumers may not distinguish between the services they are receiving”.
16. As the LSB has observed “In some contexts a legal activity may be regulated and in other contexts that same legal activity may not be regulated. This is a

⁷ para 3 sch 2 LSA

⁸ para 4 sch 2 LSA

⁹ para 5 sch 2 LSA a variation of Conveyancing Services, the Reserved Legal Service regulated by the CLC up to 31 December 2009

¹⁰ para 6 sch 2 LSA

¹¹ para 7 sch 2 LSA

¹² para 8 sch 2 LSA

¹³ based on Annex C: Reserved and Unreserved Legal Activities – a diagram at p.98 LSB’s Consultation Paper Alternative Business Structures: approaches to licensing (“ABS Consultation Paper”)

¹⁴ s.31 Solicitors Act 1974

¹⁵ SRA Code of Conduct accessible at <http://www.sra.org.uk/solicitors/code-of-conduct.page>

¹⁶ p 52 The Future of Legal Services: Putting Consumers First Cm 6679 October 2005

¹⁷ para 17 p5 ABS Consultation Paper

result more of historical accident than design”.¹⁸ Even within the areas to which they relate, Reserved Legal Activities have a relatively narrow scope “and much consumer interaction with lawyers involves unreserved legal activities”¹⁹.

17. The White Paper included a brief overview of the extent of regulatory reach in the legal services sector. “There is a mix of provider and service based regulation: everything done by a solicitor is regulated by virtue of his professional status, whereas service regulation has developed in areas such as immigration. Some services, such as general legal advice, are regulated if provided by, for example, a solicitor or barrister, but are otherwise unregulated. There are only six areas which are regulated by virtue of their being reserved to those who are appropriately qualified. There are a number of services which most people would regard as legal services which are not reserved and can be provided by anyone who cares to do so. The consumer may, therefore, buy such services from providers who are regulated by virtue of their professional status, or from unregulated providers. The following table sets this out:-

Reserved	Unreserved
Probate	General legal advice
Immigration	Will drafting
Conveyancing	Employment advice [this includes appearing on behalf of one of the parties before the employment tribunal]
Notarial functions	Claims assessment and management [now regulated]
Rights to litigate	
Rights of audience.” ²⁰	

18. The CLC has identified other examples:

- the Administration of an Estate following the death of an individual is not classed as a Probate Activity and may be carried out for reward by persons who are not legally qualified;
- acting as a Deputy, or advising a Deputy, in the Court of Protection is not a Reserved Legal Activity, and therefore can be undertaken by any person;
- the provision of Home Information Packs (HIPs) is not classed as a Reserved Instrument Activity, so any person may produce a HIP (whether or not they are an authorised person within the meaning of the LSA);
- the provision of advice relating to commercial and company law is not a Reserved Legal Activity.

19. The LSB has noted “It is unlikely that consumers make any distinction between reserved and unreserved legal activities – or more broadly between regulated

¹⁸ para 162 p42 ABS Consultation Paper

¹⁹ para 163 p43 ABS Consultation Paper

²⁰ para2 pp92-93 Review Of The Regulatory Framework For Legal Services In England And Wales Final Report Sir David Clementi December 2004

and unregulated legal activities. Consumers are therefore likely to assume that, to the extent they are aware of any protection afforded by 'regulation', all the advice they receive is subject to the same degree of protection".²¹ It is therefore possible for lawyers, who are not regulated by an Approved Regulator, to deliver legal services which can have a serious effect on the person to whom those services are delivered. In the CLC's view, this creates a serious imbalance within the legal services market detrimental to the interests of the consumer. Clementi referred to this as "an asymmetry in the regulatory reach as regards individuals providing the same legal service".²²

20. Lawyers providing regulated services must comply with the requirements of their regulators to have professional indemnity insurance and compensation arrangements in place, the cost of which is recouped from the consumer. They are also required to comply with regulations, the intent of which is to provide appropriate safeguards for the consumer. The likelihood, therefore, is that the fees charged by regulated lawyers are greater than those charged by unregulated lawyers. It is only when things go wrong that the consumer realises the limitations of the contract to provide services made with the unregulated lawyer.
21. The LSB suggests that consumers "should be free to purchase any legal service, but they must be made aware: (i) that the legal service being purchased is unregulated; and (ii) what protections a LA provides in these circumstances. We therefore expect LAs (licensing authority) to focus on educating the consumer on what is or is not subject to the protection of regulation".²³ Whilst it has no objection in principle to some legal services being delivered by individuals who do not have formal legal qualifications, in the CLC's view, it is likely to take a number of years for the level of consumer education about the different nature of legal providers and services to reach a level to which the LSB aspires.
22. The Government has suggested it can rely on competition to iron out the difficulties the consumer experiences in the market place. "The Government takes it as axiomatic that consumers are best served when the markets for the goods and services they purchase are competitive. Competition within the legal services industry is expected to deliver two key benefits:
 - Lawyers in effective competition with each other will seek to innovate - to develop new ways to deliver services to their customers, using new delivery methods and new business structures. Insofar as these innovations reduce costs or improve the quality of the services on offer, consumers will ultimately benefit as the price of legal services falls.
 - Those lawyers (and their firms) that offer better value for money can expand at the expense of the inefficient. This process will not only improve outcomes for domestic consumers; it will also improve the

²¹ para 164 p43 ABS Consultation Paper

²² para19 p98 Review Of The Regulatory Framework For Legal Services In England And Wales Final Report Sir David Clementi December 2004

²³ para 18 p6 ABS Consultation Paper

competitiveness of the legal services market in an increasingly global market.²⁴

23. Clementi considered that variety within the regulatory environment is healthy and is a driver for change which benefits consumers. “Some degree of choice in the type of provider, and the regulatory rules under which they operate, is to be welcomed, subject to a minimum standard being met. It is a point that is made in the submission of the Council for Licensed Conveyancers who argue that not all providers of this reserved service need follow the same rules”. The point was echoed by the Bar Council. The Office of Fair Trading suggested that Clementi’s preferred model of an oversight regulator (LSB) with Approved Regulators (as provided for by the LSA) allowed for “the possibility of regulatory choice and competition...putting the LSB ‘in a position to both encourage such competition, but also to step in if it appeared that such competition was weakening regulation to the point where this was endangering consumer protection’”.²⁵

Current Scope of Legal Activities regulated by the CLC

24. As set out at paragraph 5 the CLC was established by the AJA to regulate licensed conveyancers in the provision of conveyancing services.

25. References in Part II AJA conveyancing services “are references to—

- (a) the preparation of transfers, conveyances, contracts and other documents in connection with, and other services ancillary to, the disposition or acquisition of estates or interests in land, and
- (b) any other activities which are reserved instrument activities for the purposes of the Legal Services Act 2007 (see section 12 of and Schedule 2 to that Act).²⁶

26. On this basis the CLC regulates licensed conveyancers in the provision of all activities ancillary to the provision of conveyancing services. For instance,

- instructing Counsel about matters incidental to or arising from the provision of conveyancing services;
- advising clients on landlord and tenant matters;
- the provision of HIPs.

27. The CLC requires a licensed conveyancer when providing conveyancing services to:

- comply with rules made by the CLC²⁷,
- have in place a complaints procedure²⁸,

²⁴ para 30 p12 Legal Services Market Study Quality in the Legal Services Industry A Scoping Study August 2005 Department for Constitutional Affairs

²⁵ para 29 pp34-35 Review Of The Regulatory Framework For Legal Services In England And Wales Final Report Sir David Clementi December 2004

²⁶ s.11(3) AJA (as amended by LSA)

²⁷ s.20 AJA

²⁸ r. 4.6.4 Conduct Rules 2009

- comply with requirements for professional indemnity insurance²⁹, and
 - contribute to a Compensation Fund out of which grants are made to persons who have suffered loss (in the case of the client of a licensed conveyancer) as a result of the negligence, fraud, or other dishonesty of a licensed conveyancer, or the failure to account.³⁰
28. However, there are serious limitations to the extent of the CLC's regulatory reach which it is concerned are not properly appreciated by consumers (if at all) and therefore may be seriously detrimental to their interests. There is no statutory restriction preventing a licensed conveyancer with a conveyancing practice from setting up a separate practice (unregulated by the CLC or any other Approved Regulator) providing those elements of a conveyancing service which are not reserved,³¹ the most obvious example is the provision of a HIP. The CLC's view has been that although it can not prevent a licensed conveyancer from providing services other than as a licensed conveyancer, it can require a licensed conveyancer to "inform the Client in writing that such work is not so regulated and that it is not covered by indemnity insurance taken out in accordance with the Council's Rules".³² The LSB has separately identified this risk since it "want[s] to avoid a situation where a provider of legal services could escape regulation by creating two businesses – one an ABS (Alternative Business Structure) which only provides reserved legal activities and one which only provides unreserved legal activities (and which, perhaps, has the primary role in interacting with the consumer).³³ It has also concluded that there is a need to collect better evidence on how well consumers understand the current situation and whether any actual or potential detriment arises from any confusion.³⁴
29. Licensed conveyancers have since 1994 been authorised to administer oaths³⁵, a further Reserved Legal Activity. On 1 January 2010 the CLC was specifically empowered to make rules "prescribing its arrangements for authorising licensed conveyancers...to carry on activities which consist of the administration of oaths"³⁶. These Rules will be made shortly.
30. From November 2008 the CLC has been entitled to regulate licensed conveyancers in the provision of probate services defined as:
- "services limited to the drawing or preparation of any papers on which to found or oppose a grant of probate or grant of letters of administration and the administration of the estate of a deceased person".³⁷
31. The CLC cannot make rules relating to the drafting of Wills by licensed conveyancers, since that it not an activity which the CLC has been authorised

²⁹ s.21 AJA and Indemnity Rules 2009

³⁰ s.21(2) AJA

³¹ ie can only be undertaken by authorised persons authorised to provide Reserved Legal Activities

³² rule 4.4.4 Conduct Rules 2009

³³ para 167 p43 ABS Consultation Paper

³⁴ para 171 p44 ABS Consultation Paper

³⁵ SI 1994 No. 1380

³⁶ s.33A AJA in force 1 January 2010

³⁷ r. 1.2 Probate rules 2008 – definition taken from s.119 CLSA

to regulate. However, a number of Licensed Conveyancers provide will drafting service through a separate non regulated entity.

32. For the reasons set out at paragraphs 17 and 18, the CLC believes that its current regulatory arrangements, as prescribed by the statutory framework within which it functions, create a real risk of detriment to consumers.
33. It follows that the CLC is of the view that this is not compatible with the regulatory objectives, namely:
 - Protecting and promoting the public interest;
 - Supporting the constitutional principle of the rule of law;
 - Improving access to justice;
 - Protecting and promoting the interests of consumers.
34. The CLC considers (principally from the engagement it has with consumers on a day to day basis) there is an assumption by consumers that they will receive full compensation for any loss they incur as a result of the negligence or dishonesty of a lawyer. Whilst the CLC administers a Compensation Fund, because of the restricted nature of the legal services which it regulates, this belief has only limited applicability so far as clients of licensed conveyancers are concerned. Grants may only be made out of the Compensation Fund where they have suffered loss as a result of the negligence or dishonesty of a licensed conveyancer whilst acting as a licensed conveyancer in the provision of conveyancing or probate services (assuming he has a probate licence). The CLC would not have power to make a grant out of the Compensation Fund to a consumer who had suffered loss as a result of the actions of a licensed conveyancer if that individual had not been acting as a licensed conveyancer when providing the service resulting in loss to the consumer (eg drafting a will).
35. The CLC was established to regulate specific lawyers (licensed conveyancers) in the provision of a specific service (conveyancing). Whilst the scope of legal services the CLC is now able to regulate, and licensed conveyancers are now able to provide, has been extended to probate services, even within conveyancing and probate services there is significant risk that consumers will not understand fully the limitations of regulatory reach. In the CLC's view, this risks having a detrimental effect on the reputation of licensed conveyancers.
36. Whatever the outcome of the LSB's review of the scope of Reserved Legal Activities³⁸, the CLC believes that it is in the consumer interest and in the interest of licensed conveyancers for it to make an early application to regulate licensed conveyancers in the provision of:
 - The exercise of the rights of audience; and
 - The conduct of litigation.

³⁸ para 86 LSB draft Business Plan 2010-2011

37. The CLC considers that such an application is necessary in order to facilitate meaningful or effective implementation of the ABS in the legal service market and to facilitate improvement in regulatory standards by stimulating healthy consumer focused competition among Approved Regulators, as Clementi recognised (paragraph 23).
38. The CLC believes that consumers will experience significant benefits if the CLC is able to extend its regulatory reach. Comparing the potential benefits identified by the LSB in relation to ABS, the CLC believes that consumers will have:
- more choice: they will have greater flexibility in deciding from where to obtain legal and some non-legal services.
 - reduced prices: consumers should be able to purchase some legal services more cheaply.
 - better access to justice: some Licensed Conveyancers already provide services in rural areas or to less mobile consumers and will be able to extend those services. Alternatively, some Licensed Conveyancers may choose to deliver services remotely, relying on contact telephone, text, email and internet, which appeal to a different consumer sector.
 - improved consumer service: consumers may benefit from an extended service since Licensed Conveyancers are currently able to access external finance and may choose to take advantage of specialist non-legal expertise.
 - greater convenience: Licensed Conveyancers will be able to provide a greater range of legal and allied services.
 - increased consumer confidence: Licensed Conveyancers will be able to provide the same high standards in an extended range of legal services. They will have a strong incentive to keep that reputation when providing legal services.³⁹

Maintaining Professional Standards

39. The CLC recognises that professional qualifications go a long way to giving consumers confidence that an individual solicitor or barrister is an appropriate person to be dealing with their legal problems. However, as the White Paper observed, the most significant feature of those qualifications (in contrast to the licensed conveyancer qualification) is that they are general ones that allow a lawyer to practise in any area of law.⁴⁰ It is possible for a solicitor or barrister to provide legal services without appropriate expertise.
40. The CLC accepts this risk would apply equally to licensed conveyancers extending their field of practice to advocacy and litigation services. In order to reduce significantly or eliminate this risk, the CLC's intention is that any licensed conveyancer wishing to exercise rights of audience or conduct litigation will be required to achieve the relevant standard, either through the CLC's education and training requirement, or by recent, relevant prior learning.

³⁹ pp 40-41 The Future of Legal Services: Putting Consumers First Cm 6679 October 2005

⁴⁰ p3 Legal Services Market Study Quality in the Legal Services Industry A Scoping Study August 2005 Department for Constitutional Affairs

As in the CLC's regulation of Probate Activities, the standard licensed conveyancers would be expected to achieve would be equivalent to that of other Authorised Persons. The CLC will have particular regard to the standard expected of barristers and solicitors specialising in those areas of practice. It believes that by issuing separate licences in respect of different Reserved Legal Activities, rather than by providing blanket authorisation, licensed conveyancers will continue to deliver legal services across the sector to a consistently high standard. Where standards are not met in respect of a specific reserved legal activity it will be open to the CLC to withdraw the licence for that activity or to impose appropriate conditions to ensure that the standards of service expected are maintained. This would enable Authorised Persons to transfer between Approved Regulators, and provide choice in the legal services market without detriment to the quality of service generally provided. The CLC's existing regulatory regime would apply equally to licensed conveyancers able to exercise rights of audience or conduct litigation, in particular the requirements relating to conduct, the holding of client monies, professional indemnity insurance and compensation fund.

41. The CLC also intends to apply for amendment of the AJA so that it regulates licensed conveyancers in the provision of any legal service they provide (examples of which are at paragraph 18). This will ensure that consumers are provided with services which meet the standards expected of a licensed conveyancer and comply with the CLC's Rules . Licensed conveyancers will no longer be able to provide some legal services through practices which are regulated by the CLC and other legal services through separate practices which are not regulated.
42. As the AJA is currently framed, the CLC may only issue a probate licence to a licensed conveyancer who has been issued with a licence to provide conveyancing services. Whilst it is likely that a licensed conveyancer providing conveyancing services may also wish to provide probate services, it is unlikely with the current state of specialisation within the legal services market that a lawyer licensed to provide litigation services (and choosing to specialise in personal injury) will wish also to provide conveyancing services. The CLC's view is that the range of legal services provided by a licensed conveyancer should be a choice for that practitioner, rather than an artificial requirement imposed, largely for historical reasons (ie that the CLC was established to regulate licensed conveyancers in the provision of conveyancing services). The critical factor from the consumer's point of view is to instruct a lawyer with the necessary expertise. Whilst some knowledge of the conveyancing market may be helpful where the matter relates to property litigation, that knowledge is unlikely to be relevant in a personal injury claim. In that case, the CLC's view is that there should be no requirement for that licensed conveyancer to have passed the CLC's conveyancing exams.

Timing

43. The LSB has set out the following timetable for implementation of the ABS regime:⁴¹
- March 2010 – Final Guidance on licensing rules and how to apply to become a LA
 - August 2010 – First approved regulator applies to become a LA
 - March 2011 – First LA are designated by the Lord Chancellor
 - July 2011 – First licensable bodies are licensed as ABS
 - July 2012 – End of grace period for LDPs and special bodies
44. The CLC will discuss with the LSB the precise timing of steps required in order to make it feasible for its applications
- as an Approved Regulator to regulate licensed conveyancers in the exercise of rights of audience and in the conduct of litigation;
 - for amendment of its statutory framework to enable it to regulate licensed conveyancers in the provision of all legal services they provide, not just the reserved legal activities; and
 - to become a Licensing Authority regulating ABS in the exercise of rights of audience, in the Conduct of Litigation, in Reserved Instrument Activities, in Probate Activities and in the Administration of Oaths
- to be approved and implemented by July 2011.
45. The timing is challenging and the CLC's resources are limited. Nevertheless, as set out in its Corporate Strategy for 2009-2014, the CLC is already committed to achieving many of the objectives set out in this Consultation Paper in order to align it more closely with the requirements set out in the LSA and currently being rolled out by the LSB. The CLC is issuing a Consultation Paper "Review of Licence and Practice Fee Arrangements" at the same time as this Consultation Paper. The Consultation Period for both these Consultations is short, but necessarily so, given the time within which it aims to implement the changes proposed. The relatively small size of its regulatory community is a positive advantage for the CLC in that it enables it to engage more directly with it and other stakeholders. The CLC is confident this will result in a reinvigorated profession ready for the challenges of the new regulatory regime providing improved service to the clients and consumers with which it engages.

⁴¹ para 38 p 14 Consultation paper "Alternative business structures: approaches to licensing"

Questions

In each case you are asked to provide reasons for the answer you have given. You may wish to give specific examples.

1. Do you agree the CLC's proposal to extend its regulatory remit? In particular, do you agree that:
 - (i) It should apply to regulate:
 - (a) the exercise of rights of audience;
 - (b) the conduct of litigation;
 - (ii) it should have power to issue standalone licences for different legal activities;
 - (iii) it should press for amendment to statute so it is able to regulate licensed conveyancers in all unreserved legal services they provide?
2. Do you think there are any other consumer benefits of the CLC's proposal to extend its regulatory remit and to enable licensed conveyancers to be regulated in all unreserved legal services that they provide?
3. Do you think that there any risks to consumers associated with the CLC's proposal to extend its regulatory remit and to enable licensed conveyancers to be regulated in all unreserved legal services that they provide?
4. What do you think are the benefits to licensed conveyancers of the CLC's proposal to extend its regulatory remit and to enable licensed conveyancers to be regulated in all unreserved legal services that they provide?
5. What do you think are the risks to licensed conveyancers associated with the CLC's proposal to extend its regulatory remit and to enable licensed conveyancers to be regulated in all unreserved legal services that they provide? In particular, do you think that some sections of the regulated community would be disproportionately impacted by these proposals? Do you have suggestions on how the risks identified can be effectively mitigated?
6. What do you think are the potential benefits to new entrants to the legal services market and/or authorised persons regulated by other Approved Regulators of the CLC's proposals to extend its regulatory remit and to enable licensed conveyancers to be regulated in all unreserved legal services that they provide?
7. What do you think are the benefits and risks to Licensed Conveyancers and Practices currently regulated by the CLC of enabling the CLC to regulate the provision of advocacy and litigation rights by individuals and Practices which do not also provide conveyancing services?

**Annex 1
Reserved and Unreserved Legal Activities**

Approved Regulators/ Quasi-Approved Regulators	The exercise of a right of audience	The conduct of litigation	Reserved Instrument Activities	Probate Activities	The administration of oaths	Notarial Activities	Unreserved Legal Activities
The Law Society	X	X	X	X	X		All unreserved legal activities given in the course of legal advice, included that provided through a separate business
The General Council of the Bar	X	X	X	X	X		All unreserved legal activities given in the course of legal advice
The Master of the Faculties			X	X	X	X	All unreserved legal activities which form part of the notary's practice
The Institute of Legal Executives	X				X		Where a legal executive is employed by a barrister or solicitor, all unreserved legal activities given in the course of legal advice
The Council for Licensed Conveyancers			X	X	X		All unreserved legal activities related to conveyancing or probate
The Chartered Institute of Patent Attorneys	X	X	X		X		All unreserved legal activities which form part of the relevant lawyer's practice
The Institute of Trade Mark Attorneys	X	X	X		X		All unreserved legal activities which form part of the relevant lawyer's practice
The Association of Law Costs Draftsmen	X	X			X		None, unless the unreserved legal activities are provided in such a way as to bring the Association of Law Costs Draftsmen into disrepute
The Association of Chartered Certified Accountants				X			None, unless the unreserved legal activities are provided by someone who deems themselves competent to provide them
The Association of Chartered Accountants in Scotland				X			None, unless the unreserved legal activities are provided by someone who deems themselves competent to provide them