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Licensed Body Framework		
Respondent	Feedback given	CLC response
Law Society	<p><i>i. Fit and proper test</i></p> <ul style="list-style-type: none"> • Current fit and proper test focused on the individual; CLC will need to further consider how corporate body manager and owners (and the key people within them) will be assessed. • Fit and proper test should also include whether a person has outstanding county court judgements, involvement in a company which has entered into administration or liquidation, or removed from a charity role under the Charities Act 2006. • Limited information about how the CLC will assess 	<p>The fit and proper test for a corporate body will broadly reflect the approach taken in respect of licensed body applications. This will include governance arrangements, financial arrangements and application of fit and proper test to the directors. This test will also be applied to the owners of the corporate body. If the owner is a company we will verify the data provided on its shareholder until we identify the ultimate beneficial owners with interests in excess of 10% in the licensed body.</p> <p>The fit and proper test already takes account of outstanding county court judgments as follows:</p> <ul style="list-style-type: none"> • “has failed to satisfy a civil judgment within the time limited; • Any adverse order or finding of a civil court or employment tribunal” <p>and with involvement in a company in administration,</p> <ul style="list-style-type: none"> • in their own right or as a director of a company has had an administrator or receiver appointed <p>and account will be taken of removal from a charity role in the following provision,</p> <ul style="list-style-type: none"> • is not a suitable person to be engaged in the direction or ownership of a body by reason of character, conduct or association and in particular been in breach of statutory requirements regarding payment of tax or for a licence. <p>Relevant information provided in Framework’s ‘Factors to be taken</p>

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	<p>applications where a person declares an issue which might put their suitability to carry out a role in question.</p> <p><i>ii. Owners</i></p> <ul style="list-style-type: none"> • Schedule 13 makes clear that ‘Material interest’ can cover a wide variety of other types of influence and these should be reflected within the rules. • Introduction sets out that the fit and proper test only applies to beneficial owners with a material interest; it should also apply to any non-lawyer with a material interest. • Much more detail is needed on how the CLC will consider associates. Currently unclear whether CLC will consider all associates of owners or those it considers most relevant (and how define ‘relevant’) and what aspects of an associate they will consider. • Lack of information on how the CLC will assess whether an owner may compromise the regulatory objectives, particularly how it will identify potential conflicts of interest and the action it will take where such conflicts are identified. <p><i>iii. HoLPs and HoFAs</i></p> <ul style="list-style-type: none"> • Concerned the CLC will refuse a HoLP/HoFA who has failed the fit and proper test but not where their training or role within the organisation makes them unsuitable. <p><i>iv. Licence application data requirements</i></p>	<p>into account in determining an application’.</p> <p>The definition provided identifies the different types of Material Interest.</p> <p>Agreed. P.4 in Persons box will be re-phrased so that it reads “owners (to include beneficial owner(s) and material interest holders - together with associates) of 10% or more interest in the body”.</p> <p>We will take a proportionate approach to our consideration of external ownership. We will require associates to declare any fit and proper issues. This information will only be verified where we have identified concerns, particularly if there is a risk of a significant improper influence/control nature.</p> <p>The Licensing Approach section looks at the suitability of proposed owners and assesses a number of factors including conflicts of interest and improper influence arrangements and the approach we are likely to take.</p> <p>The Licensing Approach section makes clear this will not be the case. The role we expect a HoLP/HoFA to adopt is clearly defined in the Licensed Body Code.</p>
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	<ul style="list-style-type: none"> • Unclear whether associates of all owners need to be declared or just those of the ultimate beneficial owners. • Declaration of any non-compliance with the Code of Conduct and Licensed Body Code includes details of how the applicant will resolve them. • Details provided on the provision arrangements for non-legal services should include how these are kept separate from non-legal activities and how client money will be accounted for separately. • HoLP and HoFA to provide information about their role in the organisation and how they can effect change within it. • Requirement to supply accounts should probably apply to any company with a material interest not just to those who own 10% of licensable bodies. <p>v. <i>Data verification</i></p> <ul style="list-style-type: none"> • Verification of all owner and associate information will require a substantial resource and is unlikely to be practical. CLC should identify where regulatory objectives are most at risk to target its resources. <p><i>Licensing Approach</i></p> <ul style="list-style-type: none"> • In many areas a lack of detail regarding how the CLC will determine the suitability of an owner e.g. the CLC has not provided the factors it will consider when assessing the effectiveness of governance and risk management 	<p>Please see ii above.</p> <p>Agreed. This requirement has been made more explicit.</p> <p>The requirements will be clarified by insertion of the following definition in the glossary “Client Money’ means any money held or received for a Client by a CLC regulated person or body incidental to the provision of legal services regulated by the CLC”.</p> <p>The CLC believes the current requirements are sufficient.</p> <p>The CLC does not intend to extend its requirements to supply accounts to companies which do not hold a material interest.</p> <p>Agreed. The CLC will always verify information about an owner who is not an Authorised Person. Where this raises concern we are likely to also verify the information of any identified associate. Unless enquiries made of the Approved Regulator raise specific issues of concern, the CLC does not anticipate carrying out the same level of scrutiny of an owner who is an Authorised Person.</p> <p>Our expectations are set out in the <i>Factors to be taken into account in determining an application</i> section.</p>
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	<p>procedures.</p> <ul style="list-style-type: none"> • Does not provide information on the data or process the CLC will use to consider the risk an external owner poses to the regulatory objectives. • <i>Access to Justice</i> • The CLC has not said what they will do with the information contained in the Statement, how they define access to justice and how it will monitor the overall impact of ABS in this area. <p><i>vi. Licensed Body Code</i></p> <ul style="list-style-type: none"> • Unclear why there is a need for a separate Code as many of the requirements seem to duplicate the revised Code of Conduct. • Principles should state who will need to ‘systematically identify’ improper influence and conflict. • Should be a requirement to have an effective system of regulatory breach reporting to the HoLP/HoFA. <ul style="list-style-type: none"> • Use more inclusive terms than Chief Executive and Director. <p><i>vii. Multi-Disciplinary Practices</i></p> <ul style="list-style-type: none"> • The CLC may wish to delay regulating MDPs until all the risks these bodies can present have been fully identified and it is understood how best to mitigate them. 	<p>This information is provided throughout the Framework. The CLC does not propose to provide any additional information at this stage.</p> <p>We do not consider it appropriate to narrowly define access to justice. We have provided a broad definition and place the onus upon the applicant as to how they demonstrate their contribution to this area. The CLC will monitor broadly the impact of ABS on access to justice.</p> <p>Agreed. The duplications will be removed. It is important to retain Licensed Body Code due to the specific characteristics of ABS.</p> <p>This is clearly stated in HoLP’s responsibilities.</p> <p>It is. In every case a report should be made to the HoLP, and in the case of a finance-related matter also to the HoFA.</p> <p>Agreed. These terms will be replaced with ‘Manager’ which has an inclusive definition in the Glossary of Terms.</p> <p>The CLC considers that in principle it is able to regulate all types of ABS. It does however recognise that there are limitations to its competence regarding non-legal services. Where an applicant proposes to provide non-legal services which are regulated by a</p>
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	<ul style="list-style-type: none"> • Where firms are owned by businesses with other interests the ABS must be ring-fenced from other parts of the business and clients' information must not be improperly transferred outside the ABS. If no ring-fence, firms must provide clarity about what is/isn't regulated. Regulators should not attempt to regulate non-legal services which are outside their area of competence. <p><i>viii. Conditions</i></p> <ul style="list-style-type: none"> • Conditions need to be clear and where they require a specific step to be carried out they should be time-limited and require the CLC to be given notice of how a condition is met. It should be clear that where conditions are not met the licence will be revoked. • Expect firms to comply with all regulatory requirements before being issued a licence so would consider conditions requiring firms to take a specific step to be used to a greater extent post-authorisation. These should be time-bound and removed once the condition is met. • No information on the standard conditions the CLC plans to place on all licences. 	<p>body party to the ABS Multidisciplinary Practices MoU the CLC will adopt a co-regulatory approach. Where the regulator is not signed up to the MoU the CLC may seek to include them within it. Where an applicant is proposing to provide non-legal services which are not regulated by another entity the CLC will ring-fence the ABS so it is clear to consumers which services are regulated and which are not. The CLC considers this appropriate to safeguard the interests of the public and consumers and to ensure they are aware of where they are, and are not, afforded regulatory protection.</p> <p>Agreed. Conditions will be framed so they are capable of being enforced.</p> <p>Conditions will be imposed at licensing stage if the particular circumstances of a firm identify a risk which could be mitigated through the imposition of a condition. Agreed. Conditions are often time-bound; we will make this clearer.</p> <p>The terms of a licence will endorsed through the imposition of: a) authorisations which specify the reserved legal activities the body is authorised to deliver; b) permissions which identify the non-reserved activities which are permitted; and c) any relevant conditions.</p>
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	<ul style="list-style-type: none"> • Pleased the CLC will formally audit its licensing decisions; it may also wish to consider using information such as inspection reports to ensure information collected at application is borne out in practise. <p><i>ix. Other</i></p> <ul style="list-style-type: none"> • Criteria against which the CLC will determine applications is unclear. • Licence refusal 3rd paragraph does not make sense. • Factors for determining fitness of managers do not match information requirements for fit and proper test. This section should also apply to owners or a separate set of factors created. • Should make clear that where the CLC modifies a licence because the licensed body would not consent to a condition and the condition needs to be added because of the risk to consumers. 	<p>Our Regulatory Policy is clear that we will inspect new entities. We will also make clear in the Licensed Body Framework that we may require information to ensure declared arrangements are actually in operation.</p> <p>The CLC is satisfied that the current proposed criteria maintain appropriate balance of flexibility whilst taking proper account of the regulatory objectives. Agreed. The paragraph will be removed. Agreed. The table will be removed.</p> <p>Agreed. This will be made explicit.</p>
CLC Recognised Body	<ul style="list-style-type: none"> i. Agree with general structure. ii. Page 17, unclear penultimate bulletpoint – should it refer to any regulatory breach? iii. Page 18, 5th bulletpoint – ‘employment procedures and arrangements’ is ambiguous; may wish to be more prescriptive. iv. Page 25, 1st para – suggest rewording due to use of many negatives v. Page 25, section (b) of the table – do not understand what this means e.g. is this a criminal or legal charge? What is meant by third party interest? 	<p>Agreed. We will remove the ‘arrangement reference.</p> <p>Agreed. This will be clarified.</p> <p>Agreed. The paragraph will be removed.</p> <p>The table has been removed. Please see ix in row above.</p>

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	<ul style="list-style-type: none"> vi. Page 31 – seek clarification regarding first Client Protection bulletpoint (remove ‘not’?) vii. Agree with regulatory objectives being aligned with Code of Conduct Outcomes/Principles; this should be specifically referred to in Licence Application and Determination sections. viii. Consider that the framework achieves adequate consumer protection. ix. Agree the transitional arrangements for Recognised Bodies. 	<p>It is important that clients are aware when they are not afforded protection.</p> <p>The CLC is satisfied that the alignment is already sufficiently explicit.</p>
Office of Fair Trading	<p>‘Unless there is a compelling evidence to show a significant detriment to competition through foreclosure and/or a substantial degradation of consumer protection, is unlikely to raise any substantive concerns since it is likely to increase choice for consumers and professionals’.</p> <ul style="list-style-type: none"> i. For guidance, the types of issues that may cause the OFT concern: <ul style="list-style-type: none"> • Any unnecessary barriers on whom an ABS can choose to be its Licensing Authority; • Any unnecessary barriers on whom individual legal service providers can choose to be their Approved Regulator; • Any unnecessary preclusion of the carrying out of any reserved or unreserved legal activities; • If the proposed regulation does not provide legal services consumers with certainty over who regulates an entity, who regulates individual legal service providers within an entity, and who should be contacted when there are questions or complaints; 	<p>Our licensing approach will not present any issues along these lines.</p>

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	Any unnecessary restrictions of non-lawyer ownership.	
Lord Chief Justice	Opposes the CLC becoming a Licensing Authority which regulates ABSs carrying out the additional reserved legal activities of litigation and advocacy.	See response to comments made by LCJ under “Extension of Regulatory Scope to include litigation and advocacy”

Extension of Regulatory Scope to include litigation and advocacy		
Respondent	Feedback provided	CLC response
The Law Society	<ul style="list-style-type: none"> i. Fundamentally opposed to CLC’s proposal to regulate this area; considers that the CLC does not have a full grasp of the issues involved with regulating varied areas of legal work and that we are not capable of regulating in this area. ii. Failure to articulate the differences in approach that will be required to regulate these distinctive areas of practice – <i>how</i> will our system of regulation and monitoring processes be modified? iii. Understand the justification for issuing standalone licences but such a system can be difficult to implement and administering such a system is complex and confusing. iv. Believes the CLC should undertake CRB checks to verify the information provided by applicants. v. Considers the CLC to be premature in developing qualification arrangements given the joint regulators current Quality Assurance for Advocates consultation. vi. Training programme does not deal with the broad range of additional subjects in which litigators and advocates 	<p>The CLC is confident that it can demonstrate it has the necessary capability and capacity to regulate the extended scope of services.</p> <p>Please see above.</p> <p>Please see above.</p> <p>The CLC will carry out checks to verify the information provided which will include CRB checks.</p> <p>The CLC believes its proposed arrangements will help inform the QAA consultation.</p> <p>The CLC’s training programme will concentrate on those skills required for CLC licensees to be effective litigators and advocates .</p>

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	<p>are currently trained in other parts of the profession.</p> <p>vii. Very limited details about the period of practical training that will be required – once outcomes have been developed it is hoped the CLC will consult on them. Question who the CLC proposes will supervise individuals undertaking training and how the CLC will be satisfied that the outcomes are met during this period.</p> <p>viii. Concerned by the potentially confusing system for core academic and vocational stages of training which appear to be a system of exemptions and piecemeal course provision.</p> <p>ix. Proposals for the academic and vocational stages of the programme are very much dependent upon course providers agreeing to allow students to attend and sit parts of the assessment of a more extensive qualification (and to adjust the price accordingly) – the CLC does not indicate whether any provider has agreed to this.</p> <p>x. CLC briefly mentions its intention to implement higher rights in four years time; the CLC must consult again at that time.</p> <p>xi. Of the opinion that the CLC cannot realistically achieve effective regulation in this area in the short timescale it has set itself.</p>	<p>These issues will be addressed in the CLC’s extension of scope application.</p> <p>The CLC will have in place a structured system for affording prior learning appropriate recognition.</p> <p>The purpose of the proposal is to afford prior learning appropriate recognition.</p> <p>These views are noted.</p> <p>These views are noted. We do not agree. The CLC believes the approach it has developed of incremental rights will resolve this concern.</p>
<p>Bar Standards Board Education and Training Committee</p>	<p>i. Considers the education and training scheme to be unduly narrow – an absence of training in criminal law might place CLC Civil Litigators and their clients at a disadvantage when becoming involved in judicial proceedings.</p> <p>ii. Concerned that the CLC has ‘little institutional history or</p>	<p>These views are noted. The system of authorisations, permissions and conditions will ensure that the scope of legal services any licensee can provide is appropriate to their education, training and skills.</p> <p>The CLC believes that its educational arrangements will provide an</p>

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	<p>expertise in assessing the quality of the advocacy training' students will be given; 'it is not sufficient to rely upon the expertise of a sole educational provider...to develop appropriate learning and teaching criteria'.</p> <p>iii. Does not believe standalone licences should be issued; requiring persons to first qualify as Licensed Conveyancer will mean they have a 'basic level of substantive expertise' to build upon.</p> <p>iv. The plan of the scheme appears to be to provide litigation and advocacy beyond conveyancing and probate fields which indicates that the CLC is planning to 'create a new group of lawyers that will undertake "reserved work" to challenge the primacy of barristers and solicitors in this area'; prompting the question 'what specialised expertise does the CLC have to provide the training and certification of this proposed fourth core route to becoming a qualified lawyer'?</p> <p>v. Considers the 5 year implementation timescale overly ambitious.</p> <p>vi. The "macro" learning objectives/outcomes have no explicit coverage of equality and diversity.</p>	<p>environment where students can achieve appropriate level and quality of learning.</p> <p>These views are noted.</p> <p>The BSB's observations are correct. The CLC is confident that it has the capability and capacity to ensure the standards it sets are met.</p> <p>In the context of the way in which the CLC proposes to extend its regulatory scope of services the CLC believes that the timescale is realistic.</p> <p>These views are noted.</p>
CLC Recognised Body	Agree with proposals.	
Office of Fair Trading	i. 'Unless there is a compelling evidence to show a significant detriment to competition through foreclosure and/or a substantial degradation of consumer protection, is unlikely to raise any substantive concerns	The CLC's proposed arrangements do not present any such issues.

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	since it is likely to increase choice for consumers and professionals’.	
Lord Chief Justice	<ul style="list-style-type: none"> i. Concerned at the proposal to extend the scope of reserved legal activities to be regulated by the CLC; considers litigation and advocacy to be activities which lie outside the proper sphere of activity of a licensed conveyancer. ii. Recognises that the CLC’s proposals identify some consumer interest in an extension of the CLC’s regulatory scope but is unable to identify a strong public interest in such a course of action; reserved activities must be regulated in the public interest and not merely in the consumer’s interest of reduced cost and greater competition. Considers access to the legal profession is adequately provided through ILEX’s scheme and therefore finds little justification for a parallel scheme administered by CLC. iii. Should the CLC’s application to the LSB prove successful, it is important that the CLC implements a regulatory regime at least as robust as that of existing regulators with appropriate steps taken to protect the broad public justice and the proper administration of justice. 	<p>S.53 Courts and Legal Services Act 1990 explicitly provides for the CLC to be authorised to regulate advocacy and litigation services, as well as probate services which it has regulated since November 2008.</p> <p>The CLC accepts that the public interest is one of the factors which the LSB will need to take into account in assessing the CLC’s application. We consider that an extension of our regulatory scope is positively in the public interest</p> <p>The CLC fully intends to implement a robust regulatory regime in the event that its application is successful.</p>
ILEX Professional Standards	<ul style="list-style-type: none"> i. Considers further work to be needed in some areas, including proposed authorisation interview; the Monitoring & Practice Support Workshop; and the practical training requirements: <ul style="list-style-type: none"> o Suggests the areas of civil litigation should be further defined to include debt recovery and family law; o Specifies potential exemptions but fails to outline the level and syllabus; 	<p>Comments are noted. Workshops are intended primarily for Managers setting up a new practice. Supervision requirements are set out in the CLC’s Application. We continuously review the scope and audience of our workshops.</p>

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	<ul style="list-style-type: none"> ○ Programme structure – some of content listed in Human Rights column is also applicable in Chambers and County Court; ○ Need to clarify criteria to be applied in authorisation (interview); ○ Unsure whether workshop is also available to individual licensed conveyancers as well as practices; ○ Unsure how practical training requirement will be met as they will need to be supervised by an Authorised Person i.e. solicitor or barrister. <p>ii. The 5 year implementation timescale is achievable and realistic; changes will be needed to regulatory systems and staff capacity.</p>	
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Revised Rules and Guidance		
Respondent	Feedback provided	CLC response
Law Society	<ul style="list-style-type: none"> i. Links between the guidance and the rules somewhat unclear; would be helpful to have the universal guidance incorporated into the Code at the relevant point. ii. Could merge the recognised body framework, licensing framework and fit and proper framework to make licensing/ recognition process clearer or to provide 'clickable' links where there are references to other parts of the Code. iii. Status of some sections is unclear e.g. is Compensation Fund Framework a set of mandatory rules or a set of potentially discretionary 'specific requirements'? Guidance sometimes uses word 'must' e.g. Conflicts of 	<p>Guidance is specific to particular areas and is attached to relevant Codes.</p> <p>We do not consider it appropriate to merge the frameworks.</p> <p>Specific requirements no longer possess a discretionary element. Agreed. The status of frameworks will be made clearer.</p>

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	Interest. Status of 'Useful Information' is unclear.	
	<p><i>iv. Acting as Insurance Intermediaries</i></p> <ul style="list-style-type: none"> • Explain in introduction that licensed conveyancers only act as insurance intermediaries under exemption. • If Code does not apply to sole practitioners this should be made clear in introduction. 	The CLC considers the current statement 'in the provision of regulated activities in relation to which the General Prohibition does not apply as a result of s.327 FSMA' to be sufficient. It is.
	<ul style="list-style-type: none"> • 21 should be an absolute requirement. • Should include a requirement that the insurance recommended is suitable for the client or, if no such insurance exists, the client is informed of this. <p><i>v. Compensation Fund</i></p> <ul style="list-style-type: none"> • Should be made clear a contribution is an absolute requirement; • Unclear of the relevance of the paragraph before 6 & 7 as these will generally apply to claimant not subject to CLC's Outcomes/Principles. <p><i>vi. Complaints</i></p> <ul style="list-style-type: none"> • Guidance 3 should be amended by the addition of 'normally' between 'can' and 'only' • Time limits and case fee arrangements in 4 are inaccurate <p><i>vii. Conflicts of Interest</i></p> <ul style="list-style-type: none"> • 4 and 5 conflict <ul style="list-style-type: none"> • Guidance Note defined a 'non-arm's length transaction' but does not mention when a licensed conveyancer might act for 2 parties in such a transaction. 	<p>Agreed. Discretion is no longer afforded to specific requirements. Already covered by Principles, 'You only recommend a business or product when in the best interests of the Client' and 'You do not give false or misleading information'.</p> <p>Agreed. Discretion is no longer afforded to specific requirements.</p> <p>The status of the framework has been made clearer.</p> <p>Agreed. This has been amended.</p> <p>Agreed. This has been amended.</p> <p>4 prohibits representation when there is a <i>conflict</i> of interest whereas 5 refers to representing parties with <i>different</i> interests. The provisions are not the same and do not present a conflict.</p> <p>We consider the most important determining factor to be the inequality of power, rather than the personal relationship.</p>

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	<ul style="list-style-type: none"> • • Guidance Note 4 and Specific Requirement 5 conflict, requiring different parties with different interests to be represented by different APs. • Merge 7 & 8 and ensure 'informed' consent is an absolute requirement. <p>viii. <i>Conveyancing Files</i></p> <ul style="list-style-type: none"> • 6a should specify the contents of files are retained for a minimum of 6 years from date of mortgage. <p>ix. <i>Data processing</i></p> <ul style="list-style-type: none"> • Overall – either expand the current draft or provide 'process' guidance which focuses less on explaining the Data Protection Act and on ensuring the Data Controller has relevant training and authority and the information commissioner is notified you are processing personal data. • Should expand definition of 'personal data' to include data likely to come into the possession of the data controller • Helpful to add additional definitions, particularly 'data processor' and 'processing'. • Helpful to explain that exemptions are from the non-disclosure requirements not from the Act as a whole. • Replace 'disclosed' with 'processed' re: sensitive personal data and perhaps include a broader discussion of processing sensitive data. • Under 'Outsourcing information processing' – add a discussion of Principle 7 (security) - and the need for a written contract, as well as a discussion of Principle 8. 	<p>Agreed. This has been amended.</p> <p>7 & 8 are separate provisions. Specific requirements are no longer discretionary.</p> <p>Agreed. The timeframe has been made mandatory, rather than a recommendation.</p> <p>As the legislation is no longer explicitly referenced in the Code of Conduct this Code has been removed.</p>
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<ul style="list-style-type: none"> • Give fair and lawful processing requirement more prominence. • Strong recommendation that the Information Commissioner is asked to comment on the document's suitability. <p>x. <i>Dealing with unqualified third parties</i></p> <ul style="list-style-type: none"> • Clarify paragraph 9(a) <ul style="list-style-type: none"> • 12 should apply to all payments not just CHAPs transfers <ul style="list-style-type: none"> • Paragraph 6(a) of guidance may be better placed under 'acting for the seller'. <p>xi. <i>Disclosure of Profits and Advantages</i></p> <ul style="list-style-type: none"> • Law Society has already lobbied for referral fees to be banned. However, if maintained, 'it is important that an approach consistent with that of the solicitor's profession is adopted to prevent regulatory conflict'. <ul style="list-style-type: none"> • Should qualify 4 by requiring a written statement that any advice given will be independent and the client is free to raise questions. • Rules should specify that the referral agreement should be in writing and available for inspection by the CLC. • 5 should specify that information disclosed to the licensed conveyancer will not be disclosed to the introducer unless the client consents and that the 	<p>Agreed. The paragraph has been amended, <i>(a) avoid extending your duty of care to persons who are not clients by seeking to ensure that to your knowledge, you do not provide legal advice (in the circumstances provided by Hedley Byrne v Heller [1964] AC 465) on which they may seek to rely;</i></p> <p>Agreed. This has been amended.</p> <p>We do not agree.</p> <p>We do not agree that referral fees should be banned. The research carried out for the Legal Services Consumer Panel on this issue found there to be little or no detriment to the Client. We will take on board the Legal Services Board's recommendation on such arrangements when made. In the meantime the CLC does not propose to make the changes suggested by the Law Society.</p> <p>We do not consider this proportionate. The Code of Conduct requires advice to be independent.</p> <p>When made we will take on board the Legal Services Board's recommendation on these arrangements.</p> <p>The CLC already requires client information to be kept confidential. This applies to introducers.</p>
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<p>licensed conveyancer may have to cease acting if a conflict arises if also acting for the introducer.</p> <p><i>xii. Estimates and Terms of Engagement</i></p> <ul style="list-style-type: none"> • Clients should be advised how long a fixed fee estimate will be valid for and on expiry a revised quotation will be issued. • Manage the client’s expectations by advising at an early stage that an estimate may be revised should unforeseen complications arise. <p><i>xiii. Equality</i></p> <ul style="list-style-type: none"> • Considers that all sole practitioners should have a written Equality Policy. This should encompass the way trainees are treated. <p><i>xiv. In the event of absence, incapacity or death</i></p> <ul style="list-style-type: none"> • The appointed Attorney would need to be an Authorised Person. <p><i>xv. Glossary of Terms</i></p> <ul style="list-style-type: none"> • Provides a more consistent approach and reduces unnecessary duplication. • Definition of ‘ABS’ should better reflect LSA provisions by referring to any body which provides legal services to the public and which has a non-lawyer as a manager or with an interest in the body. <p><i>xvi. Licensed conveyancer licensing framework</i></p> <ul style="list-style-type: none"> • In the case of a substantial time lapse between a person completing their training and applying to become a licensed conveyancer the CLC should make checks to ensure the person has kept their knowledge up to date. 	<p>This is a matter for individual practices to determine.</p> <p>Provision has already been made for this possibility See <i>CoC 3m – ‘You promptly advise Clients of any significant changes to projected costs, timelines and strategies’</i>.</p> <p>The relevant Code of Conduct Outcome will be expanded to include trainees.</p> <p>Whilst reserved legal activities can only be carried out by an Authorised Person there may be circumstances in which the only practical solution is for a non Authorised Person to take over the running of a Practice.</p> <p>Agreed. We have revised the definition.</p> <p>Agreed. We have made this more explicit.</p>
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<p><i>xvii. Notification Code</i></p> <ul style="list-style-type: none"> • Should include the following as notifiable events – entering into an IVA; an outstanding county court judgement; and removal from the office of charity trustee or trustee for a charity by an order under the Charities Act 1993. • Remove ‘in your own right’ from 8th bulletpoint. <p><i>xviii. Management and Supervision</i></p> <ul style="list-style-type: none"> • Not clear what is meant by a Qualified Person. <p><i>xix. Professional Indemnity Insurance Code</i></p> <ul style="list-style-type: none"> • The CLC should provide more information on how it will assess policies provided by other insurers and how it will ensure brokers and insurers provide the information it requires. <p><i>xx. Recognised body certification framework</i></p> <ul style="list-style-type: none"> • Add a requirement that all Recognised Bodies have a practising address in England and Wales. • Unclear why a company must have a manager as a chairman or why a qualified person must have the casting vote within an LLP but there is no similar requirement for a partnership or company. • Should reduce the timescale in which the CLC is notified of a firm being wound up. 	<p>Please see response given at page 1.</p> <p>This has been amended.</p> <p>Agreed. We have removed ‘Qualified Person’ from the regulatory arrangements and replaced with Authorised Person.</p> <p>As identified the insurance must be obtained from an Authorised Insurer. We will seek advice from our brokers to help inform our assessment of the proposed cover. We anticipate that one of the conditions for accepting the opt- out PII policy offered by an insurer is that the insurer enters into an agreement with the CLC as to the information it will provide us.</p> <p>Control of an entity – this includes delivery of legal services - from England and Wales is a Code of Conduct requirement. We consider this to be sufficient.</p> <p>Agreed. These provisions were inherited from current arrangements. They have been removed.</p> <p>Agreed. This has been reduced to 7 days.</p>
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	<ul style="list-style-type: none"> • • Unclear whether the CLC wishes to be notified of events in table 6 or these matters will be considered at licensing determination. • Unclear what will happen if a firm does not have an Authorised Person due to unforeseen circumstances. • Should define 'permitted person' and 'qualified person'. <p>xxi. <i>Undertakings Code</i></p> <ul style="list-style-type: none"> • 5 should specify that clients are 'immediately' informed when it becomes apparent that work cannot be completed within a reasonable timescale. <p>xxii. Do not believe that a Master Policy opt-out would have a significant impact. Important to have a robust system for ensuring licensed conveyancers have adequate insurance.</p>	<p>Both apply.</p> <p>See 32 and 33 of the CLC Recognised Body - Recognition Framework.</p> <p>'Permitted person' has been removed from the regulatory arrangements. 'Qualified person' now only applies in the context of the CLC Student Training Framework.</p> <p>Covered by CoC 3m, 'You promptly advise clients of any changes to projected costs, timelines and strategies'; and in addition, 'CoC 3.1 Each Client's best interests are served; CoC 3.2 Clients receive advice appropriate to their circumstances; CoC 3.3 Clients have the information they need to make informed decisions; CoC3a You keep the interests of the Client paramount (except as required by the law or the CLC's regulatory arrangements). CoC3h You provide the Client with information which is accurate, useful and appropriate to the particular Client. CoC3I You consult Clients on key decisions in a timely way'.</p> <p>Agreed. A robust system will be implemented.</p>
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Bar Standards Board	i. Have concerns regarding outcomes-focused regulation, including the increased regulatory burden it might create for regulated firms and individuals to comply with new Code and the clarity of the draft outcomes.	Agreed. Outcomes-focused regulation seeks to afford more flexibility and to enable innovation but this could have a disproportionate impact upon small firms in particular. For this reason Guidance is provided throughout the regulatory arrangements, including Example Policies and Procedures.
	ii. Concerned that an Equality Impact Assessment does not appear to have been completed for these changes.	It is not a requirement of Schedule 4 applications that a formal Equality Impact Assessment be carried out.
	iii. <i>Litigation and Advocacy Supplementary Code</i> It should have similar provisions to the BSB's Code of Conduct rules 602, 603, 606, 607, 608, 609 & 610 regarding professional embarrassment, accepting instructions, acting in the best interests of clients, withdrawing from a case and the cab rank rule. If the CLC does not include these provisions it should justify their absence.	<p>The CLC already has a number of provisions which deal with these points. In addition to OP4 of CoC (duty to the court) the following provisions are relevant –</p> <p>3.1 Each Client's best interests are served;</p> <p>3.2 Clients receive advice appropriate to their circumstances;</p> <p>3.3 Clients have the information they need to make informed decisions;</p> <p>3.6 Clients' affairs are treated confidentially (except as required or permitted by law or with the Client's consent).</p> <p>Under OP3:</p> <p>a) You only accept instructions and act in relation to matters which are within your professional competence.</p> <p>b) You keep the interests of the Client paramount (except as required by the law or the CLC's regulatory arrangements).</p> <p>c) You do not act for a Client where you judge it is not in their best interests for you to do so.</p> <p>d) You do not accept instructions from a person nor continue to act for a Client whose interests conflict directly with your own, the entity's, or another Client.</p> <p>e) You disclose client information only as the Client has</p>

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	<ul style="list-style-type: none"> • The code does not differentiate litigation and advocacy. • Unclear why there is one set of requirements in the Code of Conduct and another in the Supplementary 	<p>instructed (or as required by the CLC’s regulatory arrangements or by law), keeping effective records of any disclosure you make.</p> <p>g) You cease acting in a matter if the Client so instructs or, in the absence of such instructions where it is reasonable to do so.</p> <p>h) You provide the Client with information which is accurate, useful and appropriate to the particular Client.</p> <p>l) You consult Clients on key decisions in a timely way.</p> <p>m) You promptly advise Clients of any significant changes to projected costs, timelines and strategies.</p> <p>n) Where the entity represents parties with different interests in any transaction. each party is at all times represented by different Authorised Persons conducting themselves in the matter as though they were members of different entities.</p> <p>r) Before or when accepting instructions, you inform Clients of the terms on which the instructions are accepted, a complete, accurate estimate of fees and disbursements to be charged and if and when they are likely to change.</p> <p>In the CLC’s view these provisions deal more than adequately with the observations made. The CLC is not currently of the view that there is a requirement for a “cab rank” rule.</p> <p>We do not see there is a need to do so.</p> <p>The Supplementary Code deals with requirements that are considered more specific than is appropriate for the Code of</p>
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	Code.	Conduct.
	<p><i>i. Promote Equality of Access and Service Code</i></p> <ul style="list-style-type: none"> • 4.3 – positive action legislation not likely to come into force soon. • ‘Dual discrimination’ still under consideration by the Government. • Helpful to set out the duties from the Equalities Act which 11.2 refers to. • Strongly believe that all CLC regulated bodies should have E&D policies. 	<p>Agreed. This provision was relevant at the time of consultation.</p> <p>Agreed. This provision was relevant at the time of consultation.</p> <p>Agreed. This will be clarified.</p> <p>While it will encourage all CLC Bodies to have an E&D policy, the CLC believes that it is premature to make it mandatory.</p>
CLC Recognised Body	<p><i>i.</i> All persons regulated by the CLC should have an Equality Policy.</p> <p><i>ii. Master Policy opt-out</i></p> <ul style="list-style-type: none"> • Should result in reduced premiums which will be reflected in pricing structure for clients and will bring the CLC in line with SRA provisions and remove one of the competitive advantages a SRA-regulated firm has when tendering for major contracts. • Page 17 , Clause 23 – references to clauses 15 & 17 are incorrect. • Page 39, Clause 12.2 – should reference to clause 8.2 actually refer to clause 8.1? • Page 85, Clause 4(e) – is it proposed that the CLC requires every ltd company to have a company 	<p>See above.</p> <p>Noted</p> <p>Agreed. The references have been amended. These are steps which the Claimant is required to take and therefore the CLC should be able to waive the requirement.</p> <p>Agreed. The Terms of Engagement clause reference is incorrect. This will be amended.</p> <p>Agreed. The proposed amendment has been made.</p>

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	<p>secretary? If not, suggest this is amended to state secretary/director in line with current company law.</p> <ul style="list-style-type: none"> Page 96 , Glossary of Terms – expand licence definition to include Conduct of Litigation and Exercise of Rights of Audience in keeping with Regulated Services definition on page 100. 	<p>Agreed. The definition has been expanded as proposed.</p>
<p>CJ Coleman & Co Ltd</p>	<p>i. Consider the general structure outlined appears appropriate in providing a framework whilst retaining flexibility for the future.</p> <p>ii. <i>Complaints Code</i></p> <ul style="list-style-type: none"> The code offers a well-managed framework for handling potential disputes fairly and expediently. It may benefit from smaller firms being able to allow their appointed locums to manage any complaints on their behalf, providing greater independence in the assessment of a complaint. <p>iii. <i>Equality</i></p> <ul style="list-style-type: none"> All parties regulated by the CLC should have a distinct policy. It would be beneficial for a model framework to be provided. <p>iv. <i>Glossary of Terms</i></p> <ul style="list-style-type: none"> Definition of disbursement may be better placed in Glossary of Terms than Estimates and Terms of Engagement Code. Should it not be transferred it should clearly state that referral fees are not classed as disbursement. <p>v. <i>Master Policy opt-out</i></p> <ul style="list-style-type: none"> If properly controlled this should have no significant impact upon clients - though it may increase legal 	<p>It is for the individual firm to determine their complaints-handling arrangements. This may include a locum managing complaints on their behalf if that is their individual preference.</p> <p>While it will encourage all CLC Bodies to have an E&D policy, the CLC believes that it is premature to make it mandatory. Agreed. We have provided an Example Policy.</p> <p>Agreed. We have removed the duplication so the definition is provided only in the Glossary of Terms. The disbursement definition clearly states what this refers to and the list does not include referral fees.</p> <p>The CLC accepts this is a risk, but believes it can be effectively managed and mitigated.</p>

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	<p>services costs to consumers in the medium to long term due to a rise in PII costs – unless an Authorised Insurer failed financially. This would mean client claims on PII policies would not be met.</p> <ul style="list-style-type: none"> • An opt-out will initially assist competition but this will lead to uncertainty in the size of the premium pool and lead to an upward pressure on premium rates • Additional guidance could include explaining the procedure a CLC regulated body should follow if insurers impose a higher level of self-insured excess. 	<p>There are a number of different factors which will determine the future of the Master Policy including the performance of the Master Policy when compared to PII policies in the open market, the continuing effectiveness of the CLC as a regulator and the performance of the economy.</p> <p>Agreed. The Professional Indemnity Insurance Code will be amended to include a duty to notify us of higher self-insured excess.</p>
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Enforcement and Regulatory Policies		
Respondent	Feedback provided	CLC response
Legal Services Consumer Panel	i. Welcomes the commitment to publish information on investigation outcomes/enforcement action, but should also publish complaint information i.e. first-tier complaints volumes and LeO information.	To be determined. The CLC will consider this issue further after the Legal Ombudsman has decided its publication policy.
	ii. Should consider the severity of the risk posed to the individual consumer, as well as the number of people affected;	Agreed. This has been made explicit in the Enforcement Policy.
	iii. The CLC must be willing to clamp down on businesses that commit relatively minor breaches on a regular basis and who fail to respond to more informal resolution approaches.	Agreed. This has been made explicit in both the Enforcement and Regulatory Policies.
Law Society	i. <i>Publication of enforcement findings</i>	

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	<ul style="list-style-type: none"> • As a minimum those subject to revocation or suspension should be named, as well as possibly those who are subject to restrictions on their practice. <p><i>ii. Enforcement Policy</i></p> <ul style="list-style-type: none"> • Limited information on interventions. • It would be helpful to provide more information about the data the CLC plans to collect from licensed conveyancers in the future. 	<p>Agreed.</p> <p>Agreed. More information will be provided.</p> <p>This is a matter about which the LSB is currently consulting. The CLC considers it premature to express any final view at this stage.</p>
CLC Recognised Body	<p>i. Consider it unreasonable to publish findings except where formal enforcement action has been taken following a prima-facie material breach.</p> <p>ii. Enforcement and Regulatory Policies clear and sufficiently aligned to Outcomes.</p> <p>iii. Fully endorse the 'reasonable' test applied for enforcement i.e. 'so that clients receive the standard of legal services that they should reasonably expect to receive'. This should also be reflected in the Code of Conduct.</p>	<p>The CLC does not currently intend to publish findings until after a determination has been made.</p> <p>Agreed.</p>