

Application by the Council for Licensed Conveyancers to become an approved regulator to grant authorisations to licensed conveyancers to:

- carry on rights of audience and
- conduct litigation

February 2011

Background

The Council for Licensed Conveyancers (CLC) is an approved regulator under the Legal Services Act 2007 (the Act). The CLC was established by the Administration of Justice Act 1985 to regulate licensed conveyancers in the provision of legal services (currently conveyancing and probate).

The CLC is making an application under section 53 of the Courts and Legal Services Act 1990 (1990 Act)¹ and Part 2 of Schedule 4 of the Act. If granted, this will allow the CLC to grant authorisations to licensed conveyancers to carry on rights of audience and to conduct litigation. Licensed conveyancers who have been authorised would be able to provide these services for an employer, independently or to a client on behalf of their employer.

The CLC currently regulates approximately 10-15% of the residential conveyancing market. Its regulated community is made of up 1103 licensed conveyancers, 301 managers and 215 practices. About two-thirds of licensed conveyancers are employees, and the remainder are managers.² Most employed licensed conveyancers work in practices regulated by the Solicitors Regulation Authority and by the CLC but some work in local authorities or for employers engaged in the property industry (e.g., developers).

At the same time as making this application, the CLC is also making an application under Schedule 10 of the Act to become a Licensing Authority. If granted, this will allow the CLC to regulate Alternative Business Structures (ABS) once the regulatory regime which lifts the current restrictions on non-lawyer ownership and investment begins.³

If the application to be designated as a Licensing Authority is successful, this application to extend its reserved legal activities will apply to the CLC as both an approved regulator and a Licensing Authority.

¹ Section 53 and Schedule 8 of the 1990 Act combine to allow for the CLC to apply to expand the scope of its reserved legal activities by seeking authorisation to grant "advocacy licences" and "litigation licences".

² A "manager" is the subject of an extensive definition in our Licensing Rules 2009, but that definition can be summarised as a licensed conveyancer who is either a sole practitioner or a member, partner or director of a CLC Recognised Body.

³ With the commencement of Part V of the Legal Services Act 2007

Structure of the application

Part A –Introduction and overview

Part B – Provides information about licensed conveyancers and the statutory background

Part C – Provides information about what the CLC wants to do

Part D – Explains the litigation and rights of audience regulatory arrangements and qualification scheme

Part E – Conclusion

Annexes:

- A. Table of contents
- B. Glossary and defined terms
- C. Proposed Licensing Framework
- D. Recognition framework (draft)
- E. Proposed Code and Rule Changes
- F. Litigation and Advocacy Supplementary Code
- G. Draft Training Framework
- H. The proposed education programme
- I. A listing of CLC's current Rules & Regulations
- J. Compliance with the Legal Services Board's criteria for determining designation applications
- K. The Council: governance details and organisations charts
- L. A summary of NARIC's work for the Council in developing a higher education credit framework

Proposals

The CLC is seeking designation as an approved regulator of:

- The conduct of litigation
- Rights of audience

Consultation

CLC consulted on these proposals between 2 February 2010 and 31 March 2010 and between 24 September and 17 December 2010.

Timetable

Under the Act the Legal Services Board (LSB) has 12 months in which to make decision on a designation application (with the possibility of extending this to a maximum of 16 months). This application was received on 03 February 2011 and therefore we will make a decision by 03 February 2012 (or no later than 03 August 2012 if an extension notice is issued).

The LSB has an internal target of making a decision on whether to make a recommendation to the Lord Chancellor within 6 months of the application being deemed to be complete. This is of course dependent on what emerges from the detailed consideration of the application.