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Dear Lucas

Application by Council for Licensed Conveyancers to become an Approved Regulator to award rights of audience and rights to conduct litigation to licensed conveyancers

Thank you for your letter of 8 February inviting the Panel to provide advice on the above application. Under the Legal Services Act, the Panel is a mandatory consultee on applications from bodies to become approved regulators. In deciding what advice to give, the Panel must, in particular, have regard to the likely impact on consumers of the Lord Chancellor making an order for designation as set out in the application.

The Consumer Panel responded to the CLC's earlier consultation on its proposals, which is published on our website.

The Panel considers the CLC's proposed incremental approach is sensible for the reasons outlined in the application. In particular, as the CLC has not regulated litigation or advocacy before, it is preferable for the organisation to build up experience and demonstrate a successful track record before widening its jurisdiction further. The proposal to grant new permissions in a highly targeted way, for example by restricting permissions to certain areas of law or courts, supports this approach. It encourages specialisation and allows the CLC to exercise greater quality control over the competence of licence holders before they are able to practise.

However, the Panel is concerned about how the CLC intends to monitor the ongoing competence of licence holders. The role of supervisors and mentors should be helpful in the early stages, although we have doubts as to whether such persons would raise competence concerns with the CLC. Beyond this, the main requirements on licence holders relate to CPD and quantifying their utilisation of their new practising entitlements for the first five years. What appears missing is an external and independent check on the technical competence of litigation and advocacy work. Moreover, customer feedback should form part of assessing competence. Important qualities that are crucial to achieving consumer outcomes, such as

explaining matters clearly and good client care, are only observable by consumers.

There are parallels between the proposals and the Quality Assurance for Advocates initiative (QAA). QAA will initially cover advocates acting for defendants in criminal matters, but is likely to be extended to other areas. The Consumer Panel has some serious reservations about QAA, although we remain hopeful these will be resolved before the scheme goes live. Should these improvements be made, and should the scheme expand to new areas, we hope the CLC's arrangements will eventually become fully integrated into QAA. A multiplicity of schemes risks confusion, inconsistent levels of protection and unnecessary cost.

The Consumer Panel commented on the scope of regulation, including the CLC's approach to regulating non-reserved legal services, in our advice to the LSB on the CLC's licensing authority application. The CLC proposes to grant permissions to recognised bodies to provide an element of non-reserved legal services only when these are ancillary to the reserved activity, for example 'conveyancing services' where the licence is a 'conveyancing licence'. This information will be detailed on the licence document. Moreover, non-legal services can be provided through a CLC recognised body, but the licensed conveyancer must not communicate with the client in a way which states or implies he is undertaking that work as a licensed conveyancer, and he must inform the client that such work is neither regulated nor subject to indemnity insurance.

The Panel welcomes this approach, which reduces the risks to consumers within the limitations of the regulatory framework in the Legal Services Act. The desired outcomes are that licensed bodies only act within their competence, they should not be able to dodge regulation by setting up a separate unregulated business and that consumers should be aware of how they are protected when dealing with different providers. A combination of measures – the narrow and incremental permissions process, enhanced rules in the code of conduct and clear information to consumers – should support quality control and promote informed consumer choice.

Please contact Steve Brooker, Consumer Panel Manager, for enquiries in relation to this submission.

Yours sincerely,



Dr Dianne Hayter
Chair