

LSB Call for Evidence: Ongoing Competence

Response from The Society of Licensed Conveyancers

Introduction

The Society of Licensed Conveyancers ('the Society') is the professional body (formed in 1988) representing Licensed Conveyancers and Licensed Probate Practitioners ('LC') regulated by the Council for Licensed Conveyancers. It is independent of but maintains good relations with the Council for Licensed Conveyancers ('CLC') and is governed by an elected board of Directors.

In 2013, the Society to open its membership to Solicitors and Legal Executives who can join as Associates and enjoy all the benefits of membership.

The CLC 'Continuing Professional Development Code and Framework' requires a LC to keep an up to date training record recording continuing education and training in recognised courses in each licence year (1st November to 31st October). For each LC manager the minimum requirement is 12 hours if they only hold a conveyancing licence or 16 hours if they hold both a conveyancing and probate licence. For a LC, other than a manager, the requirements are 6 and 8 hours respectively.

On each licence renewal the LC must declare that the annual training record for CPD is true and accurate and, if requested by the CLC, provide documentary evidence in support.

To support LCs in achieving the required hours the Society holds roadshows, workshops, webinars and other CPD activities throughout the year as well as holding an Annual Conference that is well established and has a great reputation for delivering a well-structured and highly topical agenda (which allows members to claim up to 6 hours CPD on the day).

The Society also provides its members with the ability to download and print more than 18 client guides free of charge from the Society website. These guides and forms are professionally produced and attractively designed. They help LCs explain some of the tricky issues that clients need to understand. Using guides like these, help save time, ensure better client service, and can help protect firms against negligence claims or complaints. The Society is unique in providing these detailed guides.

The Society provides its members with regular newsletters and updates as well as having recently launched an in-house journal, *The Property Lawyer*, which contains articles and features of great interest, and is in printed form so that it can also serve as a 'coffee table' publication.

The Society believes that the services it supplies to its members and especially its CPD events, Annual Conference, Client Guides and publications such as its newsletters and *The Property Lawyer* all promote and evidence the competency of each LC.

This response by the Society to The Legal Services Board ('LSB') 'call for evidence' in relation to 'ongoing competence' reflects the findings of a survey conducted of its membership from March to May 2020. Roughly, 20% of its membership responded to the survey.

This response will detail the answers to the 9 questions it raised as the Society's answer to the LSB 'call for evidence' in this topic.

Survey

1. Do you agree with the Consumer Panel's definition of competence in the legal sector, namely, *"combining up-to-date legal knowledge and skills with good client care, to deliver advice in a way that is useful"*?

93% of those surveyed answered 'Yes' to this question. We draw your attention to two comments received on this point:

"I don't think 'up to date legal knowledge' goes far enough. A competent lawyer must have in-depth (and up to date) legal knowledge. I don't think 'good client care' has anything to do with being a competent lawyer, though it is an important attribute that all client facing service providers should have. I do agree that a competent lawyer must be able to deliver advice on their subject in a useful way. This is how they demonstrate their competence."

"It needs to go further to make it clear that this the advice should be useful and delivered effectively, efficiently and in a timely way. Too often advice is delivered at the last minute and in bulk when the consumer is least able to digest it because they are under so much pressure to exchange contracts."

2. Do you agree that Licensed Conveyancers and Licensed Probate Practitioners should ensure that their legal professional skills and knowledge are kept relevant and up-to-date throughout their careers?

98% of those surveyed said 'Yes' to this question. The main overall comment from the respondents was for this issue to apply to all lawyers not just LCs.

3. Do you agree that there should be one method of assessing and assuring ongoing competence – whatever that method might be- across the legal sector?

86% of those surveyed answered 'Yes' to this question. We draw your attention to some of the comments made by the respondents to this question:

"there are already two systems - the SRA 'self-assessment' approach and the CLC requirement for a minimum amount of CPD. both approaches have their flaws and benefits."

"Different professionals have different needs and therefore there should be flexibility in the way that CPD is assessed. I consider that there may be one method for recording CPD - eg. a single online portal or application but the assessment ought to be specific to the qualification."

"Competencies differ across the many legal disciplines and a "one size fits all" approach has failed to work with Law Society regulation of solicitors practices e.g. the need for CQS accreditation is a classic example of an acknowledgement that specific legal disciplines need specific competency criteria/measures. Setting conveyancers apart as the CLC and SLC have done and regulating specifically has seen its benefits for the industry and consumer"

"I think an assessment would be time consuming and we all already have enough to do. If this is straight forward, then it may work but we would need to concentrate on work."

4. Should consumers be able to check the ongoing competence of legal professionals by accessing information held by the regulators?

73 % of those surveyed answered 'Yes' to this question. We draw your attention to the following respondent comments:

"If a regulated professional is checked by the Regulator that should be enough"

"It's really 'Not necessarily' - depends on what information the regulators hold and what they would release. At present the consumer is relying on the regulator doing their job so that a lawyer on the roll/register with the regulator is acceptable regarding ongoing competence. it could be a minefield if consumers are expected to second guess what is or isn't adequately up to date."

"Yes, consumers should be able to access information on qualification, years post qualification etc but how are consumers supposed to be able to interpret any details on the quality of ongoing training etc? This should be for the regulators to determine."

"Will consumers understand what has been undertaken without prompting further questions. Equally because someone has a professional qualification this does not necessarily mean that another person with years of experience is has less knowledge."

5. Should there be some form of 'quality indicator' (i.e. competency 'badge' or quality 'mark') – in addition to the legal professional's title/qualification - that consumers can rely on to reassure them as to the competency of legal professionals?

59% of those surveyed answered 'Yes' to this question. See comments that follow:

"CLC qualification should be sufficient"

"The badge of being a Licensed Conveyancer is already and must continue to be the quality mark that people trust for specialist property lawyers. Any other badge should stand for something different. E.g. commercial property competency, agricultural property, company deals, equity release, adverse possession, caravan sites, lease extensions, newbuild developments....."

"The fact you have qualified as a licensed Conveyancer/Probate Practitioner is sufficient especially in view of the on-going monitoring by the CLC. To have further badges is confusing and promoted by those who will provide them and profit from the to the detriment of the profession and consumer."

"The consumer should be able to rely on all legal professionals issued with a practising certificate to be competent"

"Whilst possibly reassuring to some a competency badge or quality mark often only signifies that certain criteria have been met not that the person of firm is actually acting on this, and it can often give a false impression of competence and quality of service. The only true badge or quality mark is that given by consumers who have used the service of the provider."

"The CLC accreditation is as much of a "kite-mark" as should be required - after all lenders have taken this view. It is dangerous to suggest that some qualified conveyancers offer "less" of a quality service than others."

- Every 10 years
- Other, please specify []
- I do NOT agree with revalidation

32% of those survey objected to revalidation. Of the other respondents the most popular period was every 5 years (26%). See comments below:

“Again, what would the validation process be? A classroom exam? The implication of spreading it out over several years suggests that it could be an onerous process? DO the regulators start telling the public that a lawyer is due to revalidate in 1 year, 2, 3? Does it imply that the closer to the revalidation date you are the less you should be trusted to be competent? And where does any of this relate to your ability to deliver good client care?”

“I don't agree that full time practicing lawyers should have to resit exams every few years. However, their skills should be regularly revalidated though CPD at least once a year.”

“Don't fully understand what this means - what would revalidation look like? If it's taking test then no - wouldn't support this”

9. Should the regulators be responsible for monitoring and assessing the assurance of ongoing competence of legal professionals?

89% of those surveyed answered ‘Yes’ to this question. See comments below:

“Are they not already?”

“It could be left with SLC or education establishment.”

“as a firm yes, and managers should assess staff”

Conclusion

The Society already supports LCs in promoting and demonstrating their competence in delivering conveyancing and probate services. It will continue to do so. The Society supports a single method of assessing and assuring ongoing competence but only if applied to all legal professionals. Consumers must be able to rely on the fact that regulators are granting annual practising certificates as an indicator of competence without the need for further external assurances. Regulators must do more to promote that view. The Society considers that all consumers are at risk if their legal professional is not competent. The Society does not support revalidation as a distinct option but argues that assessing ongoing competency should form part of the annual re-licensing cycle, or that re-licensing be every two or three years to accommodate any assessment of ongoing competence within that programme.

The Society of Licensed Conveyancers

22nd June 2020