

Shailesh Vara MP  
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Dear Minister

Following our meeting on 4 November and your follow up letter of 17 November, I am writing to up-date you on the LSB Board's consideration of whether to recommend the order under Section 69 of the Legal Services Act 2007 in relation to the Council for Licenced Conveyancers' (CLC) ability to regulate probate services offered by non-conveyancers.

Let me first say that I appreciated the candour of the meeting and relayed your thoughts carefully and fully to the Board. We appreciate the time which you and your officials have already devoted to the issue ahead of any formal recommendation and I can assure you that we are taking all of the points made into consideration, to the extent that it is lawful for us to do so.

Secondly, the Board welcomed your very clear support for the policy objectives which lie behind the proposal. I have no doubt at all that what is being put forward is in line with Government policy on deregulation. Although the number of firms and individuals affected may not be very great in the first instance, removing the current statutory impediment to CLC activity in this area would, we believe, open the door to a wider range of applications to undertake other reserved activities; the CLC has consistently shown itself to be one of the most focused and effective regulators.

The question then arises of how best to achieve this outcome. As you know, we consider that Section 69 of the 2007 Act was designed to address this kind of restriction and our legal advice differs from yours in this respect. However, we can both agree that the best way forward is to make an amendment to primary legislation in order to provide the necessary certainty across the board, removing any prospect of challenge to CLC activity in this area and also ensuring that neither MoJ or the LSB can face any prospect of a legal challenge in relation to the vires behind an amending order.

This is the course of action you recommended at our meeting and you also indicated that you would be prepared to look for a legislative vehicle to achieve this. I would like to urge you to consult your colleagues on the possibility of making an amendment to the Deregulation Bill currently which will have its Report Stage in the House of Lords in January 2015. As the nil response to the consultations indicated, this is a matter of no controversy and could therefore be incorporated even at this comparatively late stage of the Bill's progress towards Royal Assent in this Parliament. I am also advised that such a change would lie within the title of the Bill. I believe that the CLC would take great comfort from a public statement that you were prepared to explore this route and either propose a government amendment or be prepared to indicate support for a back bench amendment.

The Board believes that this option should be very thoroughly explored before it moves to deciding whether or not to make a recommendation in the New Year. The Board asked the executive to seek external legal advice to inform a further discussion at the Board's January meeting. At that stage, before the Board makes any decision, it would want to consider a draft recommendation document and take proper account of developments in the interim. The prospect of specific legislation within as closely defined a timetable as possible, given the inevitable uncertainties of the parliamentary process would, I believe, be a material factor in our final decision making. We would certainly want to ensure that it was given due weight along-side the other factors of legal analysis and legal risk which I mentioned in my earlier letter.

I would be extremely happy to speak to you about this before Christmas if you would find that helpful. I do believe that, with continued creativity and flexibility on all sides, it should be possible to move to a solution which manages to diffuse the uncertainty around the issue and achieves the outcome which we all want to put in place as rapidly as we can.

I am copying this letter to Anna Bradley.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Michael Pitt', with a stylized flourish extending to the right.

**Sir Michael Pitt**  
Chairman