

Application by the Council for Licensed Conveyancers to become a Licensing Authority



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 to the Legal Services Board (LSB) under Schedule 10 of the Act to become a licensing authority. This application, if granted, 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 begins¹.

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. As a quarter of these practices are currently owned or managed by non-authorized persons, the CLC already has some experience of regulating a form of ABS².

In preparation for making this application the CLC has also reviewed the entirety of its regulatory framework. Significant revisions have been made to the Code of Conduct to ensure an outcome focused and risk based approach to regulation, only retaining detailed rules and requirements where necessary.

Scope

The scope of this application is limited at the current time to the CLC's current reserved activities. At the same time as making this application, the CLC is also making an application under Part 2 of Schedule 4 of the Act to allow it to award rights of audience and rights to conduct litigation. If the application to be designated as a Licensing Authority is successful, the application to extend its reserved legal activities will apply to the CLC as both an approved regulator and a licensing authority.

¹ With the commencement of Part V of the Legal Services Act 2007

² CLC Licensing Authority application, page 4

Structure of the application

The main part of the application consists of:

- **Section 1 Background information** – describes the CLC and its current regulated community
- **Section 2 Policy Statement** – made under section 82 of the Act. Sets out how the proposals comply with the Regulatory Objectives, Better Regulation Principles, Statutory Code of Practice for Regulators (Hampton principles), and the Code of Practice on Guidance on Regulation
- **Section 3 Competition** – describes the impact of the proposed arrangements on competition, particularly in relation to the regulatory objectives of improving access to justice, promoting competition of services provided by Authorised Persons and encouraging an independent, strong, diverse and effective legal profession
- **Section 4 Framework Services Directive** – explanation of compliance with the Framework Services Directive
- **Section 5 CLC Licensed Body Framework** – provides a summary of the Licensed Body Framework and the CLC handbook as they relate to the requirements of the Act and LSB guidance on the content of licensing rules
- **Section 6 Explanatory material** – explains how the CLC will approach the regulation of ABS including its approach to risk, resourcing, staffing and adaptability. Supported by the Corporate Strategy (annex F), Business Plan (annex G) and Resources Statement (annex H)
- **Section 7 Governance Arrangements** - provides a summary of the CLC's internal governance arrangements and confirmation that it is not at risk of undue influence from those within a representative function
- **Section 8 Equalities Considerations** – consideration of the impact of the proposals on equality and diversity
- **Section 9 Declaration of truth and accuracy** – certification from the CLC Chair and Chief Executive that the information contained within the application is true, accurate or reasonable to the best of their belief

This is supported by the following **annexes**:

- A. CLC Handbook** which contains the universal arrangements that all bodies and individuals regulated by the CLC must comply with. Includes the **Licensed Body Code** (see page 240) which sets out the outcomes, principles and specific requirements that will apply specifically to CLC Licensed Bodies (ABS)
- B. Licensed Body (ABS) Licensing Framework** (p.309) which sets out how the CLC expects Licensed Body applications to be made, how decisions will be made, process for appeal of licence determinations and the regulatory responsibilities that successful applicants must comply with and the range of regulatory and enforcement responses available to the CLC if they are not

- C. Client Charter**
- D. ABS Multi Disciplinary Practice (MDP) Memorandum of Understanding (draft)**
- E. ABS Appeals Memorandum of Understanding (draft)**
- F. CLC Corporate Strategy**
- G. CLC Business Plan**
- H. CLC Resources Statement**
- I. CLC Appointment Regulations**
- J. Consultation themes**

Consultation

The CLC consulted on these proposals between 24 September and 17 December 2010. A summary of the key themes emerging from consultation is provided at Annex J to the application.

Timetable

Under the Act the Legal Services Board (LSB) has 12 months in which to make decision on a licensing authority designation application (with the possibility of extending this to a maximum of 16 months). This application was received on 4 February 2011 and therefore we will make a decision by 4 February 2012 (or no later than June 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.