



Office for Legal Complaints
Draft Schemes Rules Consultation
The CLC's response
December 2009

The CLC's response to the OLC's draft Schemes Rules Consultation

Introduction

1. The Council for Licensed Conveyancers ("the CLC") was established under the provisions of the Administration of Justice Act 1985 as the Regulatory Body for the profession of Licensed Conveyancers. As set out at section 28 Legal Services Act 2007 the CLC must, so far as is reasonably practicable, act in a way—
 - (a) which is compatible with the regulatory objectives (set out at section 1 of the Legal Services Act 2007), and
 - (b) which it considers most appropriate for the purpose of meeting those objectives.
2. Further, the CLC must have regard to-
 - (a) the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed, and
 - (b) any other principle appearing to it to represent the best regulatory practice.

The purpose of the CLC

3. To set entry standards and regulate the profession of Licensed Conveyancers effectively in order to:
 - secure adequate consumer protection and redress;
 - promote effective competition in the legal services market, and
 - provide choice for consumers.
4. The CLC's jurisdiction to determine complaints of poor service made against licensed conveyancers and their practices will be transferred to the OLC when Part 6 of the Legal Services Act 2007 comes fully into force.
5. The CLC welcomes the opportunity to respond to the OLC's consultation on its Schemes Rules. The CLC has used its experience in handling the complaints jurisdiction to inform this response.

Discussion draft questions on principles for in-house complaints handling (questions posed jointly with LSB)

Q1. Should we include some additional guidance in the scheme rules about how in-house complaints handling inter-relates to the Ombudsman scheme? If you agree, what form should this take? More generally, what can we do to promote good customer service in the legal profession? Please give examples and reasons.

6. Licensed Conveyancers are required under the CLC's rules and guidance to notify clients of their complaints procedure and to follow that procedure when they receive complaints. The CLC suggests that the most effective way for the

OLC to promote good customer service is by engagement with the approved regulators.

Q2. Should the OLC ask the Lord Chancellor to consider exercising this power to include the others we have suggested? Should we include anyone else? Please give your reasons why or why not.

7. The CLC supports the proposal to extend the OLC's jurisdiction to include other types of complainants as suggested. With regard to including additional complainants please see response to Q3.

Q3. Are there any gaps in who can come to the ombudsman scheme? Should we ask the Lord Chancellor to consider including anyone else and, if so, whom and why?

8. The CLC is only able to determine service complaints received from clients of licensed conveyancers. It has received a number of complaints about service received from borrowers in re-mortgage transactions where the practitioner has been instructed by the lender, and not directly by the borrower. However, failures by the practitioner (such as delay, the premature discharge of mortgages giving rise to an early redemption charge, the failure properly or promptly to account) may have a direct adverse impact on the borrower. In the CLC's view, given the relationship between the lender and the borrower, the borrower is required to pay indirectly for the legal service provided and is therefore entitled to appropriate redress in the event that the standard of service falls below the standard reasonably expected.

Q4. What do you think about the current proposal for the time limit to bring a complaint? If you think it should be different, please say what time limits you would include and why.

9. The CLC considers the current proposal appropriate.

Q5. Do you have any comments on the approach to resolving disputes set out in the scheme rules?

10. The CLC supports the approach adopted for resolving disputes..

Q6. The scheme rules also set out a framework for our ongoing relationship with approved regulators? Is this framework sufficient? If you think we should include something additional, what form should this take?

11. The CLC agrees that the rules appear to be reasonably flexible.

Q7. Are there any other points or issues you wish to raise in relation to the draft scheme rules? Do you think there is anything missing? Is there anything you disagree with? Please give your reasons.

12. The CLC has no comments.