

The Council of Licenced Conveyancers  
CAN Mezzanine  
49-51 East Road  
London  
N1 6AH

20 May 2016

The logo for the Legal Services Consumer Panel is located in the top right corner. It consists of a large blue circle on the left, and a blue rectangular area on the right containing the text "LEGAL SERVICES CONSUMER PANEL" in white, uppercase letters. The text is arranged in four lines: "LEGAL", "SERVICES", "CONSUMER", and "PANEL".

LEGAL  
SERVICES  
CONSUMER  
PANEL

Dear Simon,

## **CLC Professional Indemnity Insurance**

The Legal Services Consumer Panel welcomes the opportunity to respond to the Council for Licensed Conveyancers (CLC's) consultation on changes to its Professional Indemnity Insurance (PII) arrangements.

The Legal Services Act 2007 requires Approved Regulators to have appropriate insurance and compensation arrangements. Such financial protections are designed to protect consumers from identifiable financial loss due to dishonesty, fraud, negligence or failure to account. These arrangements also benefit the profession, covering lawyers for civil liabilities and helping to maintain public confidence.

In June 2013, the Panel assessed the financial arrangement in the legal services sector and raised a number of issues directly relevant to this consultation, e.g. the need for joined up working amongst Approved Regulators and greater openness and sharing of data. Overall, we want to see consistent consumer protection across the landscape, with risks monitored, and mitigated against adequately. That said, the Panel appreciates the reality of commercial insurance and accepts that trade-offs will be necessary when balancing varying interests.

We are supportive of the CLC's proposal to move away from its Master Policy arrangements. The new proposal will instead ask insurers to sign up to a Participating Insurers Agreement. This will enable CLC regulated entities to choose from a number of participating insurers. We agree that this will enhance choice and competition.

The Panel is broadly supportive of the accompanying provision relating to run-off cover. The CLC has brokered an agreement which will see insurers include run-off cover in the PII. The run-off cover will be for a duration of 6 years and have a limit of £2 million aggregate (inclusive of defence cost). We do not object to this approach in principle, and recognise that this method guarantees run-off cover for all the entities regulated by the CLC. However, we are concerned that the cap of £2 million aggregate may leave some gaps in consumer protection; consumers may be left out of pocket in multiple negligence cases for example.

The CLC has provided evidence which suggest that the £2 million aggregate cap is sufficient because insurers' figures since 2011 show the aggregate claims per practice in run-off have not exceeded £100,000. However, it is plausible for

multiple claims to exceed £2 million aggregate, especially in the area of property law. In 2013, our research on financial arrangements noted that stakeholders broadly agreed that residential and commercial property conveyancing, wills, estate administration and probate are the highest risks area of law with the potential for larger sums of money to be involved.

We have considered the CLC's proposals alongside the Solicitors Regulation Authority's (SRA) concurrent consultation to make a variation to the terms of its own Participating Insurers Agreement. The SRA will no longer require firms to have run-off covers when firms are switching to another regulator. The SRA's consultation states that removing this requirement will enable regulated individuals or entities to choose between regulators. We agree. However, if larger SRA regulated firms move to the CLC, there is likely to be an accompanying increase in liabilities and risks which may impact on run off covers. The figures used to assess the appropriateness of the proposed run off cap may change. We would therefore suggest a review two years post implementation of the changes.

It is uncertain how regulators plan to deal with situations where a firm with a mixture of portfolios e.g family, conveyancing, and probate switches regulators, from the SRA to the CLC for example. Such a firm may obtain the necessary PII and run off cover for the conveyancing and probate arm of its business, but not the family law work, as this would fall outside the CLC's regulatory oversight. Approved Regulators must work together to ensure that gaps or loopholes do not result in consumer detriment or lack of clarity. In 2013, the Panel highlighted inconsistency across the legal services landscape as an issue that needed to be addressed. Shopping around for a regulator is likely to exacerbate this issue. In the same report we strongly supported the idea of a centralised protection arrangements for all regulated legal advice providers, in lieu of this, it is imperative that the Approved Regulators collaborate to prevent and monitor gaps.

Yours sincerely



Elisabeth Davies  
**Chair**