

The Consumers' Association of Ireland

Denshaw House, 120-121 Baggot Street Lower Dublin 2. Tel: (01) 6599 430

www.thecai.ie



Submission:

Consultation for Report on the Creation of New Profession of Conveyancer

January 2022

1. Do you have **views on the creation** of a new profession of conveyancer?

The Consumers' Association of Ireland (CAI) has made previous submissions regarding its views upon the creation of the profession of conveyancer for Ireland. In our earlier submission we outlined the need for reform of the process. This 'process' will be important in what we would consider key – and that is the creation of the Profession of Conveyancer.

Long before the establishment of the LSRA and a not insignificant element of the content of calls for establishment of the LSRA, certainly from the CAI, had been the absence of clarity and transparency for consumers in the process of conveyancing and the attaching costs which were made with little or no clarification of their need or basis of calculation. Now, in 2022, little has changed.

There had been the Report of the Law Reform Commission that outlined the costly and inefficient nature of the existing system, the amount of documentation involved, the diversity of sources from which information must be obtained and the number of parties involved in the process.

This LRC Report was followed by the then Competition Authority Report and recommendations in terms of Legal Services Reform – much of which we have seen now implemented and within which this call and our submission is made. That context is, specifically, that the area of conveyancing remains as an outstanding matter for significant change and enhancement to meet the needs of all who require and engage with the process.

2. What **impact do you consider** the establishment of a new profession of conveyancer could have in Ireland in terms of **competition in the provision of legal services**?

- Elimination of unduly restrictive and inefficient service provision
- A focus upon a regulated profession delivering competitively and transparently priced services in a timely and efficient manner.
- A reduction in fees through actual, rather than percentage based, costs and fees.
- Opportunities for efficiencies through a professional provider that could improve the quality of the service, the timely provision of the service and the introduction of efficiencies of delivery through e-services.

3. Are there **specific implications**, positive or negative, for **the legal services sector and the solicitors' profession** that in your view would arise from introducing a new profession of conveyancer?

There have been clear lessons learned from revisions across the EU and other jurisdictions. It would seem to indicate that the new approach must be considered in terms of reasonable business costs as well as realistic costing for delivery. Many have found their approach to be costly and resulting in losses. However, this is a matter of business planning and the creation of the professional conveyancer role open real and positive opportunities for those who have entrepreneurial business focus in a marketplace that is evolving rapidly.

4. What are the potential **benefits and risks to consumers** of legal services (including businesses) that can be reasonably expected from enabling them to access the services of a conveyancer, specifically in terms of **legal costs, access to legal services and consumer protections**?

These are the key components of any offering and to which we refer above. As far back as 2008 the European Commission published its economic evaluation of the marketplace where, in 21 countries of the EU – Competition Commissioner, Neelie Kroes commented how *“Most Europeans buy or sell a home or land at some point in their lives, and will have to pay the associated legal fee”*. This was broadened by then Internal Market and Services Commissioner Charlie McCreevy in a plain English advice that *“There are no big surprises in this report and it is plain - where consumers are being provided with more choice and lower costs”*

With oversight of the LSRA through the ‘Profession’ of Conveyancer then an open, affordable and efficient services provision can be established. This would likely be provided in reality as a part of a suite of services such as mortgage provision, indemnity insurance etc. These services already exist in Ireland but they would benefit the consumer and the business significantly with the addition of a professional conveyancer’s oversight. Key to this would be the ability for cost comparison, query and competitive and fair pricing.

5. What are the potential **benefits and challenges to enterprise and national competitiveness** with the introduction of a new profession of conveyancer?

There are many who will attest, notably in the UK, that this is not a viably stand-alone business model. We have reflected upon this above and how there must be business acumen in alignment with the facilitation and addition of a professional conveyancer on the provider team, partnership or entity. This is a necessary consideration in any business model and strategic plan.

6. Are there specific issues related to **digital technology and how digitalisation** that should inform a decision to establish a conveyancer profession?

The Report of the Scottish Law Society in December of 2020 highlighted how they were required to engage very determinedly with technology and the revision of legal provisions to support conveyancing in the context of Covid and where many providers were working from home and without the oversight and underpinning basic office services that must be a part and focus of delivery.

Professional Indemnity insurance has become a very high cost requirement under such attending high risks. This will therefore suggest the minimum requirements of Approved quality scanners and printers to ensure professional quality Land Registry plans and boundary definitions. Detailed review of requirements in terms of Title Deeds as well as identity checking will require to be a factor for consideration if there is to be efficiency of cost versus delivery of the service by the professional.

What is key is that technology is at the heart of both deliver and the regulation that must be adhered to in that provision.

7. Do you consider that there are any **particular barriers to the establishment of new providers** for conveyancing services?

Some are outlined above. What will be the most challenging barrier will be a continuity of mindset to resist positive change out of hand in preference for the old ways being the best. They are not and with Appropriate Supervision of Process with a requirement for internal oversight and a system of staged approval the CAI considers the determining of a Profession standing as a Conveyancer will promote such a new approach and mindset to provide for a new and next generation who are already demanding of a much better service and value for money.

8. Are there any specific considerations for the **training and models for regulation** of a new profession of conveyancer in line with the Authority's statutory objectives that should be taken into account?

Much of what we have already outlined goes to the heart of a professional service delivered under the provision of company law, accounting and audit provisions and oversight, good governance and best practice. These are what consumers expect and pay to receive. What is missing is a competitive edge to focus upon reputational establishment in a market open for much needed change.

9. Are there **any further considerations** that in your view should be taken into account, including in respect to Ireland's domestic economy and the wider legal services sector?

The current cost of property is serving only to frustrate the consumer who relies upon the current conveyancing services that exist. It must be acknowledged that, as property prices increase, so too do the percentage based fees and costs to the consumer. This is unacceptable! The lack of transparency, for far too many, means that they are paying for services of which they have little or no knowledge or experience. They have no benchmark to guide their decisions and so must pay, in simple terms, what is demanded of them.

Our economy, domestically and internationally, needs to reflect a far better system. Our legal system needs to similarly reflect that we are open to change – provided, of course, that it is in our best interests. The CAI would consider it is in our very best interests to create the Profession of Conveyancer to enhance the status of and the trust in the legal profession.

ENDS.

03/01/2022