



Submission to the Housing for All Expert Group on Conveyancing and Probate

29 April 2024



Coimisiún um
Iomaíocht agus
Cosaint Tomhaltóirí

Competition and
Consumer Protection
Commission



Introduction

The Competition and Consumer Protection Commission welcomed the opportunity to participate in the workshops hosted by the Housing for All Expert Group on conveyancing, on 27 March 2024, and probate, on 9 April 2024. As a follow-up to this participation, the CCPC is pleased to make this written submission to the Expert Group, covering the key points raised by its participants at the workshops.

The CCPC has a statutory function under Section 10(3)(a) of the Competition and Consumer Protection Act 2014 to provide advice to policymakers on matters likely to impact on consumer protection and welfare, or competition. The CCPC's contributions to the abovementioned workshops and this submission reflect that mandate.

Conveyancing

In 2006, the CCPC's predecessor agency, the Competition Authority ('TCA'), recommended the **establishment of the profession of conveyancer** in its 'Solicitors and Barristers' Market Study which reviewed competition in the legal sector¹. This recommendation was reiterated in its 2022 submission to the Legal Services Regulatory Authority (LSRA) consultation on the Creation of New Profession of Conveyancer. This consultation helped inform an external expert report by Indecon International Consultants commissioned by the LSRA², and ultimately into the LSRA report to the Minister for Justice³, published on 11 April 2024.

According to the Indecon analysis underpinning the LSRA report, legal service providers estimate average conveyancing fees in Ireland at €1,839. This is higher than similar estimates for the UK, Australia and New Zealand, for example. In New Zealand, estimates suggest average fees range from €485 - €625 depending on whether it is a sale or purchase or whether a mortgage is involved. England and Wales, which have a very similar legal regime to Ireland, have had a licensed conveyancing profession since 1987. Earlier

¹ <https://www.ccpc.ie/business/research/market-studies/study-legal-professions/>

² [Research-into-the-Creation-of-a-Conveyancer-Profession-Indecon-Report.pdf \(lsra.ie\)](#)

³ <https://www.lsra.ie/wp-content/uploads/2024/04/LSRA-S34-Consideration-of-Conveyancer-Profession-Report-to-Minister.pdf>

research has shown that between 1989 and 1998, the average cost of conveyancing a £65,000 house fell by 25% even though conveyancers only secured a 5% market share⁴.

It remains the view of the CCPC that the new profession would increase competition for conveyancing services and bring about significant consumer benefits such as reduced conveyancing fees and improved quality of service. Of course, the full potential of this new profession will only be achieved under a suitable regulatory model. This is consistent with the abovementioned Indecon research, which highlighted the importance of introducing the new profession only as part of a broader reform package including digitalisation of the conveyancing process, i.e. eConveyancing, enhanced price transparency requirements and consumer information campaigns. While the CCPC welcomes the recommendation of these broader reforms, it is our view that these reforms will only truly be effective in a competitive environment where new and innovative business models can drive improvements for consumers. The CCPC was thus disappointed that the LSRA, in its report to the Minister, did not make an explicit recommendation to introduce a new profession in parallel with broader reforms, nor set out a timetable for a decision to be made on such introduction.

In the short term, the Minister for Justice should set out a **clear timetable for the establishment of conveyancing as a profession** as part of a package of reforms to improve the conveyancing process, making it faster reducing its cost to consumers. The delivery of these reforms will necessarily be medium-to-long term in nature, but preparatory work should be undertaken in the short term to ensure that the new profession can be established – and necessary supportive reforms delivered – within a reasonable timeframe.

Also in the short term, the CCPC supports development of **agreed industry-wide guidance for consumers** to navigate the conveyancing process. The guidance should set out in plain English the conveyancing process, from the point of view of the consumer, including indicative timelines and prices. It should also include options for seeking redress in the event of poor service.

⁴ <https://www.ccpc.ie/business/research/market-studies/study-legal-professions/>

As mentioned above, the CCPC welcomes the LSRA's recent proposal for **enhanced price transparency requirements** for conveyancing services. In line with the transparency model adopted in England and Wales, these requirements should also cover the nature of the service provided and avenues for redress available to consumers. The LSRA state that it "should be given statutory powers to, following appropriate stakeholder engagement, introduce enhanced transparency requirements for solicitors in relation to conveyancing services and their costs." It is the view of the CCPC that a shorter-term alternative, that would not require legislative change, would be for the Law Society of Ireland to introduce price transparency requirements unilaterally by amending its Code of Conduct, or for the LSRA itself to do so by way of introducing a Code of Practice for Solicitors under S. 22 of the Legal Services Regulation Act 2015.

ESRI research⁵ on **mortgage switching** found that 1 in 3 (34%) cited high costs, such as solicitor fees, as a barrier in the switching process. The Central Bank of Ireland (CBI) has identified a need to engage with lenders on process enhancements when switching to a new mortgage lender as part of the review of the Consumer Protection Code⁶. CBI should set clear targets to increase levels of switching and update, as necessary, the Consumer Protection Code and the Code of Conduct on the Switching of Payment Accounts with Payment Service Providers to ensure these targets are met.

Probate

The Competition and Consumer Protection Commission sees important parallels between conveyancing and probate from the point of view of consumers. Both are legal processes that most consumers will engage with at some point in their lives. Both are in need of digitalisation to facilitate a smoother and more timely service⁷. Both are relatively straightforward processes to the extent that consumers are permitted to engage in the processes without engaging professional support if they so wish. However, most consumers do ultimately decide to engage a professional and, for both conveyancing and

⁵ <https://www.esri.ie/system/files/publications/RS161.pdf>

⁶ https://www.centralbank.ie/docs/default-source/publications/consultation-papers/cp158/cp158-consultation-paper-consumer-protection-code.pdf?sfvrsn=45d631a_5

⁷ In the case of eProbate, this is expected to be launched in mid-2025.

probate, solicitors are the only professionals permitted to provide those services. Consideration should be given to identifying the steps needed to **introduce competition into the market** whereby probate professionals other than solicitors could provide those services. In England and Wales, for example, the Council for Licensed Conveyancers also regulates the licensed probate practitioners.

In the shorter-term, the CCPC welcomes the imminent 'plain English' revamp of the information on the Courts Service website with respect to probate and advocates that:

- The dual fee structure operated by the courts service, whereby lay applicants pay double the fee paid by solicitors, should be replaced by a **flat fee structure**. This would mean that lay applicants, or potential lay applicants, are not disadvantaged with respect to solicitors. This may be of particular salience when eProbate is introduced since, by design, the latter is expected to significantly reduce the error rate and simplify the verification process, potentially opening up the possibility for more lay applicants to .
- **A helpline – or similar user support** – should be introduced in parallel with eProbate so that there is at least minimal human support for what is to become an almost fully automated process. This will be of particular benefit to lay applicants who only engage occasionally with the probate process.
- In line with the LSRA's proposal for **enhanced price transparency requirements** for conveyancing services, the CCPC would like to see this approach extended to probate services and, indeed, to other services provided by solicitors where this is appropriate.

ENDS

