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## PRACTICE NOTE: #002

### Scope of Works/Services

Date: 11 November 2023

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As indicated in the Presidents report from the Society's annual general meeting earlier this year, the Board was awaiting a decision of the Legal Complaints Review Officer ("LCRO") in relation to a (Society of Conveyancers) Standards Committee ("SC") own motion complaint and determination on the topic of what is acceptable work for Conveyancing Practitioners ("CP") to engage in on behalf of clients. The LCRO has now determined that scope of works for CPs isn't a matter that they wish to provide any determination on, so with the approval of the member who had the own motion complaint directed at them, the Board now wishes to provide the following guidance to members:

1. All work defined as "**conveyancing**" under the Lawyers and Conveyancers Act 2006 is **safe** for CPs to engage in.
  - See definition of "conveyancing" herein: [Lawyers and Conveyancers Act 2006 No 1 \(as at 24 August 2023\)](#), [Public Act 6 Interpretation – New Zealand Legislation](#), as follows:
    - a. *means—*
      - (i) *legal work carried out for the purpose of effecting or documenting any transaction or prospective transaction that does or would create, vary, transfer, or extinguish a legal or equitable estate, interest, or right in any real property; and*
      - (ii) *legal work carried out for the purpose of effecting or documenting a sale or purchase of a business, whether or not land is involved; and*
    - b. *includes legal work carried out for the purpose of effecting or documenting—*
      - (i) *a lease of land; or*
      - (ii) *the grant of a mortgage or charge over any interest in land; or*
      - (iii) *the creation of a trust affecting any real property or any interest in land; and*
    - c. *includes any legal services that are incidental to, or ancillary to, any work of a kind described in paragraph (a) or paragraph (b); and*
    - d. *includes, in particular, the presenting of any instrument for registration under the Land Transfer Act 2017 or the Deeds Registration Act 1908 and the carrying out of any other work required by either of those Acts to be performed by, or on behalf of, persons seeking to effect registration of instruments; but*
    - e. *does not include the legal work involved in the preparation or drafting of a will; and*
    - f. *despite paragraph (d), does not include the work (not being legal work) involved in an agent of a practitioner or incorporated firm presenting an instrument for registration under the Land Transfer Act 2017 or the Deeds Registration Act 1908*

Members will note that (c) above is potentially very broad in scope.
2. All work defined as "**reserved areas of work**" under the Lawyers and Conveyancers Act 2006 CPs should **not** be engaged in

- See definition of “conveyancing” herein: [Lawyers and Conveyancers Act 2006 No 1 \(as at 24 August 2023\), Public Act 6 Interpretation – New Zealand Legislation](#), as follows:

*reserved areas of work means the work carried out by a person—*

- a. *in giving legal advice to any other person in relation to the direction or management of—
    - (i) any proceedings that the other person is considering bringing, or has decided to bring, before any New Zealand court or New Zealand tribunal; or
    - (ii) any proceedings before any New Zealand court or New Zealand tribunal to which the other person is a party or is likely to become a party; or*
  - b. *in appearing as an advocate for any other person before any New Zealand court or New Zealand tribunal; or*
  - c. *in representing any other person involved in any proceedings before any New Zealand court or New Zealand tribunal; or*
  - d. *in giving legal advice or in carrying out any other action that, by section 21F of the Property (Relationships) Act 1976 or by any provision of any other enactment, is required to be carried out by a lawyer*
3. All work not defined either as “**conveyancing**” or “**reserved areas of work**” under the Lawyers and Conveyancers Act 2006 sits within a grey area, where CPs aren’t explicitly barred from engaging in it under the act, so need to use their best judgement on a case by case basis. A good rule of thumb is to ask yourself the following before engaging in any work not explicitly captured under “**conveyancing**”:
- i. Am I confident I can complete this work to a high standard?; and
  - ii. Does my professional indemnity policy cover me for this work?
4. Please find attached the King’s Counsel opinion obtained by the SC in relation to the topic of scope so all members may look over, and note below comments from the Board:
- i. While Wills are specifically excluded from “**conveyancing**”, members will note that they are not included in “**reserved areas of work**”.
  - ii. Members are encouraged to read the opinion to understand as a warning that it is likely some other solicitors and judges may share this, or a similar view of what CPs may do.

Your cooperation and understanding in adhering to these guidelines are crucial in maintaining the high standards of our profession. Thank you for your attention to these matters.

Board and Council of the NZSoC