

CLC Council Meeting
Minutes of the Council meeting held
on
Thursday 28 January 2016
at
CAN Mezzanine, East Road, London, N1 6AH
1100hrs – 1300hrs

Council Present

Dame Janet Paraskeva (JP) Chair
Mr H Foster (HF)
Mr G Kidd (GK)
Mr A Clark (AC)
Mr R Gurney (RG)
Mr J Jones (JJ)
Ms T Perchard (TP)

CLC in attendance

Ms S Kumar (SK) Chief Executive
Mr S Blandy (SB) Director of Regulatory Standards
Mr H Hinrichsen (JH) Interim Director of Finance
Mr J Hindmarsh(JH) Director of Operations
Mrs S Reynolds (SR) Head of Executive Office – minute taker

Apologies

Ms J Smith (JS)
Ms A Pearce (AP)
Mr S Ward (SW) Director of External Relations

1. Welcome, Introductions, Apologies and Declarations of Interest

There were apologies from Jan Smith and Andrea Pearce, as well as Stephen Ward.

There were no other declarations of interest, excluding the standing one where trade members of the Council have a declared interest in the Compensation Fund discussions.

2. Minutes of Previous Council meetings

Minutes of previous meeting were approved, subject to the following changes noted below.

Action Council/28 Jan/001

Committee secretary to update minutes as follows:

- **Item 4 para 2 – change from “we have managed to make significant costs ...” – to “we have made significant reductions.”**
- **Item 5 para 3 – change from “both principal and strategic risks” to “principal and operational risks”**
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Matters arising

Actions and matters arising were noted. Going forward, one list of Action Points to be produced.

Action Council/28 Jan/002 - Committee Secretary to produce one list of Actions going forward.

3. CEO Report

The Council noted the contents of the CEO report, the following updates were given at the meeting:

- a) Sale of **Buckingham Court Unit** – exchange is expected to take place by the end this week (29/1) – an asbestos report had been provided to the prospective purchasers and the Council had confirmed outstanding issues relating to previous planning permissions received on the Unit.
- b) **RFS/Blueprint – page 5.** It was noted that CLC had currently spent around £10k on legal advice and it was anticipated that another £10k of advice would be required to ensure protection of the Compensation Fund. If a Court Declaration is required that will incur further costs and approval of those costs will be sought from Council. It was noted that these legal costs would be charged directly to the Compensation Fund in accordance with agreed Council policy, as the advice relates directly to protecting the Fund.

Decision Jan 16/001 – Council agreed to the spend on legal advice to protect Compensation Fund and should a Declaration from Court be required, further approval would be sought from Council.

- c) It was noted that 4 new practices had been issued with licenses from CLC during January 2016 – 3 recognised bodies and 1 ABS.

Action Council/28 Jan/003 - Further details on these practices will be including in this week’s CEO round up.

Action Council/28 Jan/004 –Committee secretary to set up meeting with Chair/CEO on financial and other delegations

- d) There had been a number of Consultations announced in early 2016 by stakeholders and government Departments, and quite a few were directly related to the future of regulation and single regulator themes.

In particular, on the BiS Failed Transactions consultation – Council asked about the evidence base that informed this consultation. SK confirmed that research indicates around 30% of house purchase transactions fail between offer and exchange – with a selection of reasons being cited as the cause eg failure of financing, gazumping, change of minds. The market was seeing an increase in insurance products offered to mitigate these losses and secure funding at point of offer. **Many in the licensed community** have found that offering these products is often not in the best interests of their clients. Bank of England reporting shows that the UK has a very low completion rate compared to many other countries, the Government will be looking to improve these completion rates.

A request was made to circulate copies of the latest organisation design to Council members – this will be send with this week's CEO weekly roundup.

Action Council/28 Jan/005 - Committee Secretary to send round OD in next CEO weekly roundup.

4. Management Reporting

a) Q4 Performance Out-turn

Council noted key issues contained in the reporting suite of papers. For the 2016 reporting – SMT will look at the key targets and measures and ensure that they relate back to individual pieces in each area.

CPD is outside the scope of the Education Project. A CPD review is planned for the end of this year.

On page 6 of the report it was noted that there was a post examination dip on course manuals purchased. The target line on the graph is wrong and would be updated. We are currently averaging about 30 new student registrations per month – but not all students purchase course manuals straight away.

On page 8 of the report it was noted that the language had changed to planning and random visits to planned and others (intelligence lead) visits.

It was noted that the funding on special projects has been absorbed into the operating budget – and that even with this spend included, the year-end budget was showing a small surplus.

b) 2015 Business Plan: Year-end report

It was noted that a version of this paper had already been seen in the October Council papers – this paper was the update on full year achievements. A list of explanations for uncompleted items was shown on pages 3 and 4 and most were planned for January completion and a couple of the items had been incorporated into the full 2016 Business Plan.

It was noted that there had been no downtime or drop in service during the 2015 office move to London and all costs had been absorbed into the operating budget. The office move had taken place in 2015 but had not been planned until 2016, and Council were pleased that SMT had managed to complete this additional action without disruption to budget or service.

It was noted that the end column on pages 5 to 18 should be updated to show Quarter 4.

DECISION/JAN 16/002 – Council noted the paper and approved the year end results.

c) CLC WATCHLIST AND INTERVENTION

The Watchlist contents were noted. The information contained within this paper provides a gateway for SMT to begin enforcement action on practices that are not complying with the CLC rulebook. The Director of Operations and his team of 3 Regulatory Supervision Managers were in the process of reviewing the enforcement process.

SMT have the Watchlist as a standing item on their weekly agenda, discussing issues eg:

- what progress practices are making on achieving results;
- what sanctions can be put in place on each practice if not achieving required level of improvement;
- reviewing how long individual practices have been on the Watchlist and if progress is good – likelihood of removal;
- what measure in place after removal for monitoring;
- there are many other methods to ensure compliance eg summoned to interview with CEO; issuing of a licence for a shorter period eg 3 months then review; or managed closedown of a practice.

The interests of the consumer are always paramount in SMT minds when reviewing the Watchlist and any decisions are taken with that in mind. If an Intervention is deemed necessary – this will be acted upon swiftly to ensure interest of that practice's clients are protected.

SMT are also looking at whether there are lower level sanctions that can be referred to the Adjudication Panel – this is currently being worked through and will return to Council for approval.

Council noted the process of reviewing of the Watchlist and were reminded that the review of the CLC handbook which is scheduled into the 2016 Business Plan would help to clarify these procedures.

Council asked that these processes be updated for public consumption and published on our website using flowcharts. We could also think about a way to weave these issues into our Annual Report.

Action Council/28 Jan/006 – add a column to distinguish where monitoring is in place or the practice is still a cause for concern.

Action Council/28 Jan/007 – a paper on lower level sanctions referral to Adjudication Panel to return to Council at July meeting.

d) Compensation Fund

Council noted the contents of the paper.

On page 2 it was noted that the positive variance against budget was due to income being higher due to practice contributions and MPS premium rebate. The net provision for compensation grants has reduced during 2015. This could be attributed to very few new claims being registered and a reclassification of probable provisions to possible. There had been no new claims on list in 2015. Cash reserves of £4.9m were noted - this was well in excess for reserve level.

Page 3 - RFS and Blueprint provisions – £520K figure was on the assumption that the Master Policy would pay out. We now know that not to be the case and therefore the liability is now on the Compensation Fund insurer, which has a £2m pay out limit. This development equates to a revised additional provision of £983k on the Compensation Fund. CLC are taking all steps to ensure that the Compensation Fund Insurer will accept claim. Due process is currently being followed, which could take a further 2 years to reach the endpoint. The result in increase of provision will put CLC year-end financial statements into net deficit for the year on paper as it is a probable claim – therefore this will require a note in the 2015 Financial Statements.

Decision/28 Jan/003 – the Council approved the additional Compensation Fund provision

e) Budget and Business Plan 2016

This paper had been seen at various Council and Committee meeting towards the end of last year.

The contents of the final version were noted and formal approval for the 2016 plan was given.

It was noted that 2 deadlines for January were not reported at this meeting and it was agreed that an update note would be sent round to Council.

Decision/Council/28 Jan/004 – Budget and Business Plan for 2016 approved by Council.

Action Council/28 Jan/008 – Committee Secretary to send round end January Business Plan update to Council members.

f) Property News Round UP

Council found this paper a useful tool to keep up-to-date with research, news and current thinking.

It was noted that it would be useful to publish this report on our website.

Action Council/28 Jan/009 – Director of External Affairs to explore options for publishing Property Round up on Website.

5. Narrative for Annual Report 2015

It was noted that this is a separate report from the financial statements. A draft had been provided and Council members' comments were sought on style and content:

- Page 1 and 2 of Chairs Foreword it was agreed that some issues could be expanded on – this will be looked again for overall messaging outcomes.
- It was agreed that a fuller explanation on AML was required.
- On page 4 – it was agreed to take out the work “simply” and under page 5 - conduct complaints – it was agreed to add in explanatory text and mitigation details.
- A paragraph to be added to Chair’s Foreword on the successful move to London – professional and regulation did not suffer, made significant savings for profession etc.
- It was agreed that text of CEO section could be more upfront about what we did and continue to work on in 2016 on legislative changes, who CLC key stakeholders are etc, pulling out key data into visuals.

Action Council/28 Jan/010 – a final version would be work up taking into consideration Council’s suggestions and this would be finalised by the Chair and CEO for publication.

6. Guidelines for Adjudication Panel

Council noted the appointment of Carolyn Tetlow as the new independent member of the Adjudication Panel, following a competitive interview process chaired by Emma Boothroyd, with Sheila Kumar and Heather Foster sitting on the panel. Ms Tetlow is a Justice of the Peace, has been an Ombudsman and is a member of various other panels.

HF reported that she had found sitting on the panel a useful vehicle to gain a better understanding of the issues and concerns the Adjudication Panel faced.

The Council noted the contents of the sentencing guidelines paper.

Council members were in agreement that Annex B – the fuller guidelines should be recommended to the Adjudication Panel for discussion, with the undernoted amendments.

- On the question of mitigation on page 7 – under no explanation for actions - it was agreed to remove the personal mitigation factors on the basis – was it ever appropriate to cite personal circumstances with dealing with the misappropriation of funds. During representation at Panel personal mitigating circumstances can still be made – but should not be specifically set out in the guidelines.
- On the timescales given for misappropriation of funds sentencing – it was agreed to give a maximum about of time eg 10 years, but with discretion to give less.

Council asked for clarification on what would happen once this paper was finalised and where would it be published.

It was agreed that the discussion today had highlighted to requirement to set out the journey the paper had taken, the requirement to publish it and have it in various accessible formats for different audiences. This will be picked up in the review of regulatory arrangements which is taking place during 2016.

Council noted that in the review of regulatory arrangements, it would be necessary to address the section in the Act that requires CLC to pass to HMT monies derived from any penalties imposed on entities.

This should be wrapped up in the argument for further modernisation and streamlining of regulation . This can be addressed through the various responses to Consultations that are planned for Spring 2016 – and SMT need to ensure we use these vehicles as an opportunity to secure changes to Act.

The paper was agreed, subject to the changes above to go to the adjudication panel for discussion and finalisation.

Action Council/28 Jan/011 - CLC Review of Regulatory arrangements update in 2016 to take account of guidelines and thought to be given about how to publish them for different audiences.

Action Council/28 Jan/012 – SMT to ensure Review of Regulatory Arrangements takes into account changes required in legislation.

7. High level update and draft minutes from 15 October Audit and Risk Committee

a) Minutes from 19 January meeting

The Chair of the Audit and Risk Committee presented the overview and minutes of the January meeting to Council to note. Council noted the draft minutes.

b) Risk

The Chair of the Audit and Risk Committee (ARC) confirmed that at their meeting of 19 January they had reviewed risk – and had agreed that the Risk Matrix was in a much easier format for reviewing. ARC were satisfied that suitable controls are in place and were effective.

Decision/Council/28 Jan/005– after formal recommendation from ARC, the Council approved the Principal Risk Register.

The Chair of the ARC also updated the Council of the appointment of Richard Cryer as Independent Member of the Audit and Risk Committee. He attended his first meeting on 19 January. Council formally noted the appointment.

8. Workplan

The workplan was tabled at the meeting and a revised version would be issued once key deadline areas from the 2016 Business Plan had been agreed by SMT.

Action Council/28 Jan/013 – it was noted that there were 2 January 16 deadlines in the business plan and agreed that a note would be circulated separately on progress of these issues.