

Chair of the Adjudication Panel's Report to the Council of the CLC

Overview of the year 2023/2024

1. Over the preceding year the Adjudication Panel ("the panel" has heard six cases, including cases of some complexity, and has been effective in upholding the regulatory standards of the profession to protect consumers and the public interest.
 - a. Taylor – Eleven allegations relating to dishonesty to a client and to her employer. Ms Taylor did not attend the hearing but provided the panel with written submissions admitting the allegations and making points in mitigation. The panel found all the allegations proved. The panel concluded that Ms Taylor's misconduct amounted to a pattern of dishonest behaviour, which included dishonesty in interactions with a client, her colleagues and her regulator. There were two separate incidents where there were multiple dishonest acts carried out by Ms Taylor. The Panel therefore found that the conduct found proved was very serious. The client was left with a financial liability about which he had not been advised by Ms Taylor. The practice who had employed Ms Taylor took responsibility for that financial liability and indemnified the client, but nonetheless the panel concluded there was significant stress and distress suffered by the client, and financial harm to the practice, as well as the potential detriment to the reputation of the profession by Ms Taylor's actions. Ms Taylor had surrendered her licence before the hearing and was not employed in the field of conveyancing. The panel found her misconduct so serious that the only sanction appropriate was disqualification. It fell short of permanent disqualification, but the panel imposed disqualification for a period of 10 years and a fine of £1,500. The panel was satisfied this sanction, as well as matching the seriousness of the misconduct, would also act as a deterrent message to the wider profession.
 - b. Webb - this was a Compensation Fund review. The panel upheld the CLC decision not to make an award from the Fund. (The right to request review of CLC Compensation Fund Determinations by the Adjudication Panel was removed from the CLC Compensation Fund Operating Framework that has been in place since February 2022, however at the time that this particular claim was lodged, there was a right of appeal to the Adjudication Panel).
 - c. Stratega and Keogh – in the period 2022/2023, the panel had heard a lengthy hearing concerning Stratega, where it found a number of the allegations laid by the CLC proven and imposed permanent disqualifications and fines on the directors of the practice. Mr Keogh had been involved as a director of the practice but was not a party in that earlier substantive hearing, although there had been extensive work undertaken by the CLC in relation to concerns relating to Mr Keogh, who had previously withdrawn his appeal against the CLC's allegation. The issue of costs remained outstanding, and during this

year the same panel who had heard the substantive matter also made a determination in relation to costs, awarding costs in favour of the CLC.

- d. McLean – this was an appeal against an Enforcement Notice. Mr McLean was the Head of Legal Practice, Head of Finance and Administration, Money Laundering Reporting Officer, a Manager and Director of the former practice of NML, which was an Alternative Business Structure authorised and regulated by the Council for Licensed Conveyancers at all material times until its closure on 31 October 2023. In essence, there were two areas of misconduct – firstly Mr McLean was purporting to act in litigation for a client in relation to matters outside of scope (debt recovery) and misleading members of the public with whom he communicated on behalf of a client by suggesting he was authorised to do so under the regulation of the CLC, and secondly he failed to comply with the Anti Money Laundering Code in relation to identification and funds checks. Mr McLean was made subject to an Enforcement Notice imposing disqualification and a financial penalty of £18,400 being £13,000 in relation to the misleading of members of the public, and £5,000 in relation to the breaches of Anti Money Laundering Codes. The panel upheld the Enforcement notice but reduced the financial penalty to £15,400 (maintaining the disqualification) because it found that there had effectively been some double counting of the aggravating factors in the CLC’s rationale for imposing the fine of £13,400 in relation to misleading.
 - e. There are two other cases which have begun in this year but are ongoing.
2. This year has continued to build on the increased intensity of workload. Whilst the number of cases heard by the panel is slightly down on the 2022-2023 period, this year has seen an increased appetite in challenge by Respondents, with some complex legal issues being raised, requiring a greater degree of case and hearing management and the setting of directions. The high level of quality of advocates appearing before the panel has continued, with the CLC instructing a KC on a current case, and senior junior counsel being instructed on behalf of the Respondents. Most Respondents are now represented in panel hearings.
 3. Inevitably, the costs incurred by parties appear to have increased. The panel is applying a close degree of scrutiny to all costs applications, both in principle and in quantum, and requires a detailed costs schedule to accompany any application for the award of costs.
 4. Over this year there has been a change to the administrative support provided to the panel. In line with the increased complexity of case management, and the involvement of independent advocates, there is a need for more administrative and clerking support for the panel.
 5. Correspondence with the panel is now through a separate email address, the Adjudication Panel email address rather than through the email address of the admin support member of staff. This is a great improvement, as it underlines and reinforces the independence of the panel, and is more professional.

6. The Remote Hearings Guidance has been updated this year, to confirm that remote hearings are now the default position, with requests being able to be made for face-to-face hearings, which are considered by me as Chair on a case by case basis. All hearings this year have been conducted remotely, and there have been no issues in relation to technology or participation. Pre-hearing checks are undertaken with parties to ensure connectivity, and resolve any technological issues. The hearings are held over Zoom, and recorded through the system itself, with recordings being available approximately an hour after the hearing.
7. Decisions of the panel continue to be published on the CLC website.
8. Further work has been undertaken on the website to increase accessibility to the panel's work, and profiles are being made available so that members of the public will be able to see the backgrounds and expertise of the panel members, as well as being able to read its decisions.
9. We are in the process of arranging a training day for the panel which will take place in December 2024. That training will include refreshers on Diversity and Inclusion, and on the Anti Money Laundering Codes and Regulations and conscious and unconscious bias. Appraisals will be undertaken in November 2024. I also be work with the panel members on consistency of decision making, and application of the relevant legal tests. This is ongoing throughout the year, reflecting on case work both of the CLC and developments elsewhere. Relevant statements and circulars that are issued by the LSB and other bodies such as OPBAS which are of relevance to the Adjudication Panel's work are cascaded so that the Panel can reflect on them in its decision making examples of which include Professional Ethics and the Rule of Law and Counter-inclusive behaviour.
10. The pipeline of work continues to be shared with me, so that I can ensure that there is sufficient availability of panel members and resources to meet the panel's overriding objective. I would like to recruit at least one more licensed conveyancer member in the coming year, to avoid the potential for conflict of interests as well as managing pressure on our existing licensed conveyancer members who are also in busy practices (one is a sole practitioner). We are well served with lay members and do not need to recruit anyone else at this time into that role.
11. As you will see, this has again been a very busy and effective year for the panel, where the importance of upholding the professional standards set by the CLC has been paramount and underlined by the decisions reached by the panel. The panel has imposed the range of sanctions including disqualification and continued to impose the payment of costs in appropriate cases. Fairness to all parties has been paramount in the hearings, as has transparency, and I am satisfied that the panel has continued to keep its overriding objective at the forefront of its collective mind.

VICTORIA GOODFELLOW

ADJUDICATION PANEL CHAIR

10 September 2024