

CLC Council Meeting
Minutes of the Council meeting held
on
Thursday 28 April 2016
at
CAN Mezzanine, East Road, London, N1 6AH
1100hrs – 1400hrs

Council Present

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

CLC in attendance

Ms S Kumar (SK)	Chief Executive
Mr S Ward (SW)	Director of External Relations
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 A Pearce (AP)

1. Welcome, Introductions, Apologies and Declarations of Interest

There were apologies from Andrea Pearce.

There were two changes in declarations for Jan Smith and John Jones as noted below. 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 and professional indemnity insurance discussions.

Jan Smith: retired as Vice Chairman/ SID and Chair of Remuneration Committee from the Board of Saffron Building Society and from all roles of associated companies – Crocus Home Loans and Saffron IFA Limited.

About to take up position of NED at Holmesdale Building Society, start date to be confirmed.

John Jones: offered post of External Verifier with SQA in relation to the CLC/SQA education scheme being developed with SQA and CLC. *These qualifications are not yet finalised therefore induction will not take place until summer 2016.*

2. Minutes of Previous Council meetings

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

Action Council/28 April/001

Committee secretary to update minutes as follows:

- **Item 4 para 2 – change from “members” – to “licence holders.”**
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Matters arising

Actions and matters arising were noted.

3. CEO Report

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

- I. **LSB Transparency Report:** all the changes CLC asked for have been made. We have not had sight of summary paper to the Report but after a long conversation with the LSB CEO, it was confirmed that LSB will be drawing on the details contained in the replies they received from us and others they sponsor on governance arrangements. Council discussed the idea of asking Mike Pitt and Neil Buckley (Chair and CEO at LSB) along to one of our meetings. Committee Secretary to tie into workplan at appropriate point in year.
- II. **Legal Services Consumer Panel:** following on from the roundtable discussion between CLC and LSCP senior teams on work programmes for 2016, LSCP have offered to come along to our September workshop to do a presentation on vulnerable clients. Council agreed and Committee Secretary to firm up on Council workplan.

Action Council/28 Apr/002 Committee secretary to update Council workplan to reflect LSCP workshop in September and the proposed invitation to LSB Chair and CEO

4. Management Reporting

a) Q4 Performance Out-turn

Council noted key issues contained in the reporting suite of papers. The Director of Finance reported a surplus over budget projections for the first quarter. The positive variance is due to revenue being higher than expected and operational expenditure being below expectation. It was anticipated that expenditure would even out by the end of the next quarter.

Council asked that a chart be added to the performance paper that shows what the LC market is worth, and how much of a share do CLC practices hold in the market and how that is broken down ie what size of practice accounts for what share.

Action Council/28 Apr/003 Chart on Compensation Fund claims to include all current cases to ensure institutional memory

Action Council 28 April/004 Chart to be added to show what the LC market is worth and what % CLC regulate.

b) Interventions and Watchlist

Council noted the contents of the watchlist. In particular Council noted:

- i) On case E which had been on Watchlist for 25 months, this was about to be removed
- ii) On base B, add the word “unknown” before dishonesty

Action Council 28 April/005: Update watchlist with amendments suggested

c) Principal Risk Register

Heather Foster informed the Council that the Audit and Risk Committee had scrutinised the risk register at their last meeting and were happy to recommend to Council for approval. Council noted that the trend column had been added since they were last updated. Council approved the risk register after discussion of the issues.

d) Property News round up

The property news round up was noted and Council found this a useful tool for keeping up to date with current issues.

5. CLC Review of Regulatory Arrangements

A commitment was made in our Business Plan 2016 to review the CLC Handbook during the course of the year - to seek out deregulatory opportunities for reducing the burden on conveyancers and probate practitioners and also to look for positive changes we can make to continue our mission to foster innovation and competition in legal services'. It will also take account of developments in the market place, the regulatory and risk environment and consumer behaviour.

The Council noted the timetable (Annex 1 of the paper).

Council agreed the direction of travel of this paper and in particular asked that consideration be given to the following:

- i) what are the SRA planned amendments eg on accounts code guidance, client balances etc.
- ii) ensuring that we refer to a “refresh or rewrite” of the codes not as a tidying up exercise.
- iii) build in the engagement piece to ensure it’s not a paper based exercise. Council were assured that surveys, round tables etc were planned and that we would be able to demonstrate the rationale for any improvements. Council would also like to attend the external events.

Council approved the direction of travel for the review.

6. Delivering the CLC’s Strategy

At the workshop session in March, the Council reviewed the CLC’s strategy to consider some points of detail about the Council’s preferences for the future of the regulatory framework.

Progress so far

There has been proactive engagement with lead officials at the Department for Business Industry and Skills on the conveyancing process reform and privatisation of the Land Registry and at the Ministry of Justice on the future framework for legal services regulation. Our standing in Whitehall has increased. HMRC support for our push to close the SDLT payment/Title Registration loophole demonstrates that we have secured good engagement there too. The results of the 2016 Stakeholder Perceptions Report will be available soon and will help to assess our current situation.

Engagement opportunities agreed:

- *Stakeholder reception*
- *Targeted approaches to parliamentarians*
- *Media partnerships*
- *Regulator stakeholder briefings*
- Two meetings a year, aligned to the CLC’s business planning and reporting cycle (September 16 and February 17) with representatives from key stakeholder organisations to discuss views, share intelligence and discuss concerns.

The Council noted the key messages for engagement with stakeholders which would help CLC seek to influence the future development of regulation of legal services.

Council members were mindful that the single regulator proposal should reflect the regulatory purpose, as opposed to promoting CLC activity. They felt it was the model of a specialist single regulator that should be promoted and should be less about specialism and more about targeted and appropriate regulation.

Council agreed that the paper should be re-drafted to support a single regulator but must have activity-based regulation within it. The re-drafted paper should also reflect on the recent stakeholders' perception report.

Action Council/28 Apr/006: a revised paper to be circulated to Council for June Workshop and set up meeting for September re 2017 BP)

7. Review of Education Arrangements Update

The education project is now entering a critical phase pre transition to the SQA. There is, however, no reason to assume the project should not continue, nor that the delivery date of September 2016 is unachievable.

The Council noted the progress in transfer to Scottish Qualifications Authority (SQA) and external providers, and next steps.

Proposed amendment to CLC Education Framework

Under the Legal Services Act 2007 the CLC is required to obtain the approval of the LSB to a change in its regulatory arrangements which includes its qualification regulation. The CLC Education Framework (Annex 2) gives effect to the decision made by Council at its meeting in June 2015 and confirmed at the meeting in July 2015 by setting out the respective responsibilities of the CLC (to set standards of education), the Awarding Organisation i.e. SQA (to determine how those standards are met) and the Education Institutions appointed by SQA (to determine and deliver the programme of study leading to assessment).

The Council agreed to a six-week consultation period with students, the profession and other stakeholders on the draft Framework before making an application to the LSB for approval of the Framework.

The Council noted that the following provisions in the current Student Training Framework are no longer applicable, since (to the extent they continue to be necessary) they will become the responsibility of the SQA:

- 1) Determination of Applications to be a Student
- 2) Annual Registration of Students (and the fee to offset the costs of processing and managing registration)
- 3) Management of Exams.

The Council also noted that the requirements for Practical Training (to be renamed Practical Experience) will move to the Licensed Conveyancer Licensing Framework on the basis that appropriate practical experience must be demonstrated at point of licence, and will not be a responsibility of the Awarding Organisation and approved the proposed draft for consultation, which reflects the decisions made by Council which was at Annex 2 of the paper.

8. Lunch

9. Financial Policy Amendment Papers

a) Transfer of intervention client account money to Compensation Fund

The Director of Finance presented a paper to ask the Council to agree the transfer the intervention accounts into the Compensation Fund.

The CLC has by virtue of the Administration of Justice Act 1985 and the provisions in the Compensation Fund Operating Framework the right to transfer client account funds of intervened practices into the Compensation Fund.

The CLC is currently holding £721,742 taken from practices that have been intervened in. The interventions associated with these balances are largely complete and we have not been able to identify or trace the rightful recipients of these funds.

Council passed the following resolution:

In accordance with paragraphs 7 and 8 of the Licensed Conveyancers Compensation Fund Operating Framework, the balances held by the CLC for more than 12 months from the client accounts of practices in respect of which it had exercised the powers of intervention be transferred to the CLC's Compensation Fund, and that the entitlements of those beneficially entitled to such monies be unaffected by the making of this resolution.

b) Amendment to the Aged Balance Policy

Summary and Recommendations

The CLC has an existing policy that allowing Practices to transfer aged balances that have not moved for more than 12 months to the CLC. The funds are brought into the Compensation Fund bank account and are recorded as a provision/(creditor).

These funds are however similar to Intervention client account balances as:

- They relate to practice clients that are dormant (no movement on their account for more than 12 months); and
- The rightful recipient cannot easily be identified or traced

The aged balances are however treated differently to Intervention client accounts as the funds are ring-fenced for the original client and thus not available to the compensation fund for the general benefit of consumers.

It was proposed that:

- 1) The policy for the treatment of aged balances received by the CLC is changed so that they are recognised as income and incorporated into the Compensation Fund (this treatment would be consistent with the existing policy applicable to Intervention Client Account monies).
- 2) The following resolution is passed:

In accordance with paragraphs 8 of the Licensed Conveyancers Compensation Fund Operating Framework, the accumulated proceeds of aged balances transferred by regulated practices to the CLC be transferred to the CLC's Compensation Fund, and that the entitlements of those beneficially entitled to such monies be unaffected by the making of this resolution.

c) Allocation of Costs to the Compensation Fund Summary and Recommendations

The Director of finance explained that there was no clear policy on the charging of expenditure to the Compensation Fund. Current practice has been to charge an overhead based on expenditure incurred in the practice fund and on an ad hoc basis charge specific direct expenditure to the Compensation Fund. The last overhead charge was made in 2014 and amounted to £68,748.

The Council approved a change in the policy on charging expenditure to the Compensation Fund as noted below:

- A recharge of general overhead charges will no longer be allowed.
- Specific direct costs of intervention and running the Compensation Fund will be charged to the Compensation Fund from 1 January 2016 in line with the recommendations in this paper.

10. Professional Indemnity Insurance Arrangements

The Council noted the paper on PII arrangements and approved the draft amendments to the CLC's Professional Indemnity Insurance Code and Guidance (Annex 1) and CLC's Professional Indemnity Insurance Framework

(Annex 2) (together the PII Arrangements), which would then be subject to a short Consultation.

Action /Apr 16/007: Transfers to be made and policies to be updated.

11. Committee Minutes for Approval

- a) ARC Chair's 2015 Committee Report**
- b) ARC minutes from 19 April**
- c) Rem Com Chair's 2015 Committee Report**
- d) Rem Com minutes from 3 March**

The Council noted the annual round up reports from the Remuneration and Audit and Risk Committee Chairs'. They also noted the contents of the last set of minutes for each Committee.

12. Council Workplan

The Council workplan was noted.

13. AoB

Council asked that a note be sent round detailing upcoming consultations, deadlines for reply and whether the CLC will be responding.

Action /Apr 16/ 008: update list to be sent round with CEO weekly update on Friday 29 April, and will be updated via the CEO quarterly report.