

CLC Council Meeting

**Minutes of the Special Council meeting held
on
Thursday 4 December 2014
at
CML, Bush House, Aldwych, London
at
1100hrs – 1600hrs**

Council Present

Ms A Bradley (AB) Chair
Mr H Foster (HF)
Mr G Kidd (GK)
Ms A Pierce (AP)
Mr R Gurney (RG)
Mr A Clark (AC)
Mr George Kidd (GK)

CLC in attendance

Mr S Kumar (SK) Chief Executive
Mr S Blandy (SB) Director of Regulatory Standards
Mr S Ward (SW) Director of External Relations
Mr S Faraway (SF) Interim Director of Finance
Ms C Richardson (CR) Education Project Manager (item 4 only)
Ms V Swan (VS) Policy Adviser (item 7 only)
Ms S Thomson (ST) Head of Executive Office – minute taker

Apologies

Mr J Jones
Ms T Perchard

1. Introduction and apologies

There were apologies received from Mr J Jones and Ms T Perchard.

2. Minutes of previous Council meeting of 30 October 2014

Mr A Clark and Ms J Smith to be added onto the attendees list.

Council asked specific follow up questions on item 7:

- update on where we were on the changes to Adjudication Panel – had changes been put in place on how they operate with reduced numbers, following chair’s resignation?

It was reported that there was no requirement to change terms of reference following the Chair’s resignation – an existing member of the panel had been asked to step into the Chair’s position and the panel met on 11 November and that they agreed how the temporary situation would work. The ToR state that one member can decide what to investigate. The interim Chair will attend the April 2015 Council meeting to give the formal report of the panel’s activities.

It was agreed that Council members would receive both full minutes and redacted versions that were prepared for publication on the CLC website in line with the CLC’s published policy. SMT to consider Item 11 for redaction purposes.

It was agreed to amend wording of Item 14 to read “..... clearer financial reporting at the point of when Council make financial decisions more financial info required.”

Item 20 – Business Continuity plan – Council asked when the final version of the BCP would return to Council. It was confirmed that it would return to the January 2015 Council meeting for final sign off.

Decision: The minutes were approved subject to adding the 2 missing Council names to the attendee list and one amendment to item 14.

Actions:

- a) ST to add Jan Smith and Alex Clark to attendees list of 30 October minutes
- b) St to schedule Adjudication Panel update to April 2015 meeting planner
- c) SW to look at final version of 30 October minutes for redaction purposes then ST to send round full version of 30 October full and redacted version of minutes for info to Council members
- d) ST to add Business Continuity Plan to 2015 meeting planner – to return to Council in January 2015.

3. Declarations of interest

Compensation fund – industry interest for commercial Council members was noted.

4. Education – Standards Setting Proposals

Claire Richardson, Education Project Lead, joined the meeting.

The Council were asked to discuss the development of a new education framework. The paper proposed 2 models for discussion:

- i) Model 1: the CLC is separated entirely from the business of education and in effect delegates the construction of the components of awards to meet the educational standards; and alternatively
- ii) Model 2: the CLC is no longer involved directly in the delivery of education, but continues to be responsible for setting standards of education and determining the training content.

Council agreed that a lot of work had been done about what needs to be put in place – and the 2 models proposed would help pave the way the future of licenced conveyancing training. Council were asked to discuss and select one of the 2 models that would be formulated into a detailed plan for discussion at the January 2015 Council meeting.

There followed a wide-ranging discussion on the current arrangement; what the appetite in the market place was for the two new models; and how providers would provide practical training to students who were not employed by a practice.

The Council were keen to ensure that the training was not de-valued going forward and would want to be involved in the construction of the qualification with the awarding bodies and would enable CLC to determine if the outcome met our standards.

Decision – Council agreed that Model 1 be taken forward and the detail of how this would be achieved to be worked up into a paper for the January 2015 Council meeting, taking into account the CILEX model.

Model 1 would involve the CLC delegating the development of the framework for standards in education to Awarding Organisations (AO) (eg OCR, City & Guilds, professional organisations). Once developed, the CLC would approve a range of qualification outcomes in order to set the educational standard. Training Providers (TP) (eg universities, Further Education Colleges) would need to meet the standards set by the Awarding Organisations. This approach is likely to reduce the CLCs resource requirements.

There were specific questions posed to Council in taking forward model 1 as noted below:

Q1 - as a consequence of becoming more removed from the final assessment of qualified status the CLC will need to determine whether at the point of licence CLC should carry out its own independent assessment of the qualified individual, or rely on the assessment and final determination by the Awarding Organisation;

Council agreed that final determination assessment would be for the Awarding organisation to determine.

Q2 - leaving the construction of the components required to meet educational standards (the point of award) to an Awarding Organisation raises questions about whether the CLC should itself make any determination on the nature or balance of the components used to form the award, for example, should the CLC:

- i) set the qualification in line with the national benchmark for professional qualifications at Level 5 or above, thus ensuring its future transferability;*

Council agreed that the level should support the current Professional Standard for LCs, and were happy for the Awarding Organisations to assess and make recommendations on the absolute base line needed to meet CLCs professional standards, and also include further levels of examinations over and above that required of the professional standard for licence – perhaps for more academic purposes, eg teaching.

- ii) make rules about the mix of theoretical and practical training components as individual requirements at the point of licensing. or rely on the Awarding Organisation to determine these issues;*

Council agreed that a mix of theoretical and practical training MUST be a requirement of the training provided.

- iii) keeping to a minimum any restrictions that CLC should impose on the nature of the combination of theoretical and practical is more likely to foster interest from Awarding Organisations and result in the emergence of a boarder range of routes to qualify;*

Council agreed to restricting requirements.

- iv) authority to award and quality assurance will need to be protected by a range of existing robust educational regulatory arrangements;*

Council agreed this route.

Action – worked up paper using Model 1 as a basis to return to January 2015 Council meeting.

5. Compensation Fund – Operating Framework

Council agreed on 16 October to cancel the CLC’s compensation fund insurance policy with effect from 31 October 2014 resulting in an immediate saving of £44k for November and December, and an annual saving thereafter of £265k.

Council agreed to the recommendations set out in the paper for overseeing the compensation fund, including setting aside the fund into a separate account – calling it a war chest and can use the money for other compensation fund related activities.

Council also agreed to the revisions to the framework - working in the following additional points:

- a) add in section of service standard
- b) add in reference to vulnerability toolkit
- c) on paragraph 2 of framework add in word “compulsory” before purchase
- d) on paragraph 6 of framework – take out exceptional circumstances and say “refer to paragraph 8 for explanation of the circumstances”
- e) on para 8 – move (a) down to (c) – which enables the 2 positive paragraphs to come before the more negative one
- f) change the wording on paragraph 9 of the framework to say “total max £1m grant may be available”.

Decision: Council agreed the next steps should be to send out the framework for consultation early in the January 2015.

6. Regulatory Scope

The CLC is authorised to license and regulate conveyancing and probate services. Since 2009 it has licensed non-reserved legal activities, principally will drafting services. The CLC issues licences and regulates on an activity basis (ie a licensed conveyancer or CLC firm may only provide services which have been specifically approved by the CLC).

The Council has been asked to give guidance as to the scope of non-reserved legal activities which the CLC should license and regulate.

Decision: After discussion Council agreed:

- (a) to continue to license and regulate non-reserved legal activities allied to probate services, such as will drafting and lasting powers of attorney.
- (b) to license and regulate commercial and company legal services, such as:
 - sale and purchase of businesses eg where the main asset is property
 - standard form contracts
 - sale and purchase of shares
- (c) that the CLC should not license and regulate:
 - insolvency transactional work
 - employment law.
- (d) that the regulation of non-reserved legal work should continue to be subsidiary to the provision of conveyancing and probate services, and that the Executive should monitor carefully the level of non-reserved legal activity carried out by the profession.
- (e) CLC would consider making grants out of the compensation fund in respect of any service provided by the CLC practice provided that at the time the loss was suffered the CLC practice was licensed and regulated to provide that service by the CLC.

Council also recommended that the CLC should review the way in which businesses closely allied to CLC practices carried out non-regulated legal services to ensure that clients were being advised properly of the more limited safeguards available for the provision of those services.

Council noted that as yet the CLC had not received an application by a multi-disciplinary practice to be licensed as an ABS and commented that any application was likely to need to be referred back to Council for decision on a case by case basis.

7. Report on Publication of Regulatory Information

Victoria Swan, Policy Adviser, joined the meeting.

As part of the new CLC Publication Policy, formal determinations and pending hearings were discussed at recent Council meetings. Council were asked to discuss and agree of the final set of issues for determination in this series:

- i) regulatory information – what type of information regarding monitoring activities and delegated powers should be publicly available: and
- ii) any other information – following the suggestions received through the Determinations Consultation.

Council discussed and agreed:

Regulatory information:

1. The CLC **to publish** a Regulatory Activity Information Report (RAIR) which includes anonymised data on licensing and inspection activity; including a narrative summarising frequent errors and lessons learned, triggers for inspection and usage of staff delegated powers such as fines and directions;
2. The identity of individuals/firms with licence conditions **is published** (but do not extend publication of the identity of individuals/firms subject to other delegated powers); and
3. The CLC **does not** publish inspection findings and risk profiles for individual practices at this time.

Other information (suggestions made through consultation):

4. All consultation responses are published (in addition to the summary of responses published after every CLC consultation);
5. The CLC's management structure is published; and
6. Quality information – such as speed, accuracy and registration timeliness of conveyancing transactions – **is not** published at this time.

Council would see reports on a quarterly basis and following interrogation of those reports in 2015, it was agreed that we would actually publish the all of the above information towards the end of 2015. This will ensure we are get the tone and texture right before we publish on a regular basis.

Council also agreed to publish the Q&A from the adjudication panel towards the end of 2015 to keep regulated communicated informed.

8. Business Plan Sign off

Council members liked the new style of business plan where business as usual items sat alongside special projects for the year.

SMT to ensure the Business plan is fully aligned to budget for 2015 - in particular BPO Item no's 3/ 5 and 7.

Decision: Revised paper to be emailed to Council by Friday 12 December for approval. Council agreed to the publication of revised business plan without timeline.

9. Budget 2015 sign off

Revised figures were tabled to ensure budget was running at a surplus next year.

Council would like to see a list of projects tied down with budgets to enable agreement of the figure that will come out of reserves for next year. This should be sent round for approval, along with a revised budget (some of the figures will require revising and checking).

Council also agreed that to look at comms budget in year to ensure sufficient budget is allowed for marketing.

Action: revised paper and extra information to be emailed to Council by Friday 12 December for approval.

10. Executive Report

The Task and finish group discussed in their November meeting how to streamline format the management report. Main points were to concentrate on revised reporting for:

- Finance
- Business plan
- Reserves

The September 2014 figures had been used to populate revised style reporting presented for comment to Council.

Council comments of revised format:

- on reserves – given fact decision about selling property – set out value of property in reserves
- contingency reserve – set up for particular occurrence eg closing down costs - £1m is total and £300 contingency is within that.
- Council felt the revised style gives lots of information but did not give answers to why things have, for example, gone over budget. A narrative of what the salient points for the month eg Prosect Soft started with less than £100k budget but now looking at spend of nearly £200k on actual spend – Council have approved additional spend but narrative needs to set out reasons for the extra spend. This is the case for a lot of the report – new style is

easier to interrogate and throws up lots of questions, which need a narrative attached to give full picture.

Action: address comments above from Council members in revised September 2014 report and re-circulate by Friday 12 December.

11. Archiving Project

It was reported that the pilot Archiving Project had now successfully been running for past 3 months. There had been a slight pause due to the RFS warehouse having to be emptied and contents scanned but on the whole the project was on target, scans were of good quality and the search facility worked well.

The information being scanned in is backed up on a daily basis by two mirrored copies being stored and also backed up on the CLC main system. Important documentation, eg deeds were scanned and original being kept – this type of information will be stored at Glebe Road. In due course we will look at registering all existing unregistered title deeds.

Decision: Council agreed the pilot project had been a success and agreed to the continuation of the project to ensure that all current files are electronically stored to reduce storage space for the future. Registering of non-registered title deeds to be undertaken in due course.

12. Business Case for relocation

SMT to ensure Business Case for location emailed to Council members for approval.

Action: Business Plan to be emailed to Council members for approval by Friday 12 December.

13. Council Work plan for 2015

Council agreed new format for work plan – this was a live document that would be continually updated and brought to every Council meeting.

Signed

Anna Bradley
Chair