



# **COUNCIL for LICENSED CONVEYANCERS**

**Regulations for the Appointment and**

**Service of Council Members 2019**

# **THE COUNCIL FOR LICENSED CONVEYANCERS'**

## **REGULATIONS FOR THE APPOINTMENT AND SERVICE OF COUNCIL MEMBERS 2019**

Made 31 October 2019 by the Council for Licensed Conveyancers with the approval of the Legal Services Board under paragraph 4 of Schedule 3 to the Administration of Justice Act 1985.

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#### **1. Citation, Commencement and Interpretation**

- 1.1 These Regulations may be cited as the Regulations for the Appointment and Service of Council Members 2019.
- 1.2 These Regulations shall come into force on 31 October 2019 on which date the Regulations for the Appointment and Service of Council Members 2015 shall cease to have effect save that the terms of office of the Lay Chair and members of the Council appointed in accordance with the Regulations for the Appointment and Service of Council Members 2015 shall continue in effect until expiry of their terms of office unaffected by the coming into force of these Regulations. These persons shall be deemed to be appointed in accordance with these Regulations.
- 1.3 In these Regulations:

"the 1985 Act"	the Administration of Justice Act 1985;
"the 1990 Act"	the Courts and Legal Services Act 1990;
"the 2007 Act"	the Legal Services Act 2007;
"Authorised Person"	as defined at section 18 of the 2007 Act
"Lay Chair"	the chair of the Council who has never been a Licensed Conveyancer, a Licensed CLC Practitioner nor an Authorised Person in relation to an activity which is a reserved legal activity;

“CLC Body”	a Recognised Body or a Licensed Body in either case regulated by the CLC;
“Company”	as defined at section 1(1) of the Companies Act 2006;
“the Council”	the Council for Licensed Conveyancers established under section 12 of the 1985 Act;
“Chief Executive Officer”	the Chief Executive Officer of the Council;
“Disciplinary Order”	an order is made against a person by an Approved Regulator (other than an order which provides only for the payment of costs by them);
“Lay Member”	a person who has never been a Licensed Conveyancer, a Licensed CLC Practitioner nor an Authorised Person in relation to an activity which is a reserved legal activity;
“LC Member”	a Licensed Conveyancer, a Licensed CLC Practitioner or any other Authorised Person;
“Licensed Body”	a body which provides legal services to the public and in which a person who is not an Authorised Person is a Manager and/or owner as provided at section 72 of the 2007 Act;
“Licensed CLC Practitioner”	any person, other than a Licensed Conveyancer, holding a licence in force granted by the Council under s.53 of the 1990 Act to provide <b>probate</b> and other legal services regulated by the <b>CLC</b> , but not <b>conveyancing services</b>
“Licensed Conveyancer”	any person holding a licence in force granted by the Council under Part II of the 1985 Act to provide <b>conveyancing</b> and other legal services regulated by the <b>CLC</b> .
“Limited Liability Partnerships Act 2000”	the Limited Liability Partnerships Act 2000, the Limited Liability Partnerships Regulations 2001 and any other regulations made under that Act;
“LLP Member”	a member of a Limited Liability Partnership;
“Manager”	in relation to a CLC Body, means a person who is: <ul style="list-style-type: none"> <li>(a) a member of the CLC Body, if the CLC Body is a Company and its affairs are managed by its members;</li> <li>(b) a director of the CLC Body, if the CLC Body is a Company and paragraph (a) does not apply;</li> <li>(c) a partner, if the CLC Body is a partnership;</li> </ul>

- (d) a LLP member, if the CLC Body is a Limited Liability Partnership;
- (e) a member of its governing body, if the CLC Body is an unincorporated body (other than a partnership); and
- (f) a Licensed Conveyancer, if sub-paragraphs (a)-(e) do not apply and the affairs of the CLC Body are not managed by another Licensed Conveyancer;

“Recognised Body” a body recognised by the Council under section 32 of the 1985 Act to provide Regulated Services to the public;

1.3.3 Other expressions in these Rules shall, except where otherwise stated, have the meanings given to them by the 1985 Act and the 2007 Act.

## **2. Composition of the Council**

2.1 The Council (including the Lay Chair) shall consist of up to nine members appointed in accordance with regulation 3 provided the total number of Lay Members appointed exceeds the sum of the total number of LC Members appointed and the Chief Executive Officer.

2.2 In addition to the nine members appointed in accordance with regulation 3, the Chief Executive Officer shall also be a member of the Council, but may not be the Lay Chair.

## **3. Appointment**

3.1 With the exception of the Chief Executive Officer who is a Council member under regulation 2.2, the Lay Chair and members of the Council shall be appointed in accordance with regulations 3.2 to 3.6.

3.2 Where a vacancy occurs by virtue of the operation of regulation 5.1 (but not regulation 5.1(c)) in any year the vacancy shall be filled as soon as may be convenient.

3.3 The posts of the Lay Chair and members of the Council shall be appointed following an open recruitment process conducted by the Council taking into account good practice guidance for public appointments.

3.4 The appointment of the Lay Chair and members of the Council shall be made by a selection panel and ratified by the Council.

3.5 The selection panel shall comprise up to five individuals, chosen by the Council after considering the advice of the Chief Executive Officer.

3.6 In making appointments under rule 3.4 the selection panel shall take into account the desirability that (between them) the Lay Chair and members of the Council have experience in or knowledge of:

- (a) the provision of conveyancing services, probate services and other legal services regulated by the Council;
- (b) legal education and legal training;
- (c) consumer affairs;
- (d) competition matters;
- (e) market sectors related to services regulated by the Council;
- (f) the maintenance of the professional standards of persons who provide legal services;
- (g) the maintenance of standards in professions other than the legal profession;
- (h) the handling of complaints;
- (i) commercial affairs;
- (j) non-commercial legal services;
- (k) the differing needs of consumers.

3.7 A person shall not be eligible for appointment to the Council if:

- (a) they have been convicted of a criminal offence involving fraud, dishonesty, deception or violence or an indictable offence unless the conviction is spent within the meaning of the Rehabilitation of Offenders Act 1974;
- (b) they are or have been an undischarged bankrupt or have made a composition or arrangement with their creditors unless:
  - (1) the bankruptcy is annulled either on the ground that they ought not to have been adjudged bankrupt or, where they are not subject to a Bankruptcy Restrictions Order or interim order, on the ground that their debts have been paid in full, on the date of the annulment; or
  - (2) in the case of a composition or arrangement with their creditors, they pay their debts in full on the date on which payment is completed or on the expiration of five years from the date on which the terms of the deeds of composition or arrangement are fulfilled.
- (c) they lack capacity (within the meaning of the Mental Capacity Act 2005) and powers in relation to sections 15-20 or section 48 of that Act have been exercised in relation to them;
- (d) a Disciplinary Order is made against them;

- (e) the Council's power of intervention have been exercised against them or their practice in accordance with part 1 of schedule 5 to the 1985 Act, or against a CLC Body of which they are a Manager;
- (f) the Council is satisfied that (other than as provided by regulation 3.7(d)) an order has been made against them by their professional body (other than an order which provides only for the payment of costs by them);
- (g) They are an employee, self-employed officer or general consultant of any organisation having as its main object the protection or promotion of the interests, or of the defence, of Licensed Conveyancers or any other Authorised Persons.

#### **4. Tenure of Office**

- 4.1 Subject to regulations 4.2 and 4.3, the term of office of the Lay Chair and any Council member takes effect on the date specified in the letter of appointment for a period not exceeding four years.
- 4.2 The retiring Lay Chair and members of the Council may offer themselves subject to review for re-appointment once only, for a further period not exceeding four years.
- 4.3 Since they are appointed by virtue of their office, the Chief Executive Officer continues as Council member until they cease to be employed in that capacity by the CLC, and is not subject to regulation 4.1 or 4.2.

#### **5. Vacancies**

- 5.1 A vacancy in the office of Lay Chair or of a Council member shall automatically occur and their right to hold office shall cease immediately:
  - (a) on their death;
  - (b) on the receipt by the Council of their written resignation;
  - (c) on the expiration of their term of office;
  - (d) where a person ceases to be employed as Chief Executive Officer, that person ceases to be a Council member;
  - (e) if, without consent, they fail in any Council year to attend in aggregate more than 60% of the meetings of the Council and of any Committee of which they are a member;
  - (f) if they are convicted of a criminal offence involving fraud, dishonesty, deception or violence or an indictable offence;
  - (g) if they are adjudged bankrupt, are the subject of a Bankruptcy Restrictions Order or interim order, or make a composition or arrangement with their creditors;

- (h) if they lack capacity (within the meaning of the Mental Capacity Act 2005) and powers in relation to sections 15-20 or section 48 of that Act have been exercised in relation to them;
- (i) if, being a Licensed Conveyancer,
  - (1) they cease to hold a licence;
  - (2) a Disciplinary Order Act is made against them;
  - (3) their licence is suspended pursuant to section 24 of the 1985 Act; or
  - (4) the Council's powers of intervention are exercised against them or their practice in accordance with part I of schedule 5 to the 1985 Act or against a CLC Body of which they are a Manager;
- (j) if the Council is satisfied that as a member of another profession an adverse determination has been made against them by a disciplinary tribunal or committee established to regulate the activities and the conduct of members of their profession (other than an order which provides only for the payment of costs by them);
- (k) if they are or become an employee, self-employed officer or general consultant of any organisation having as its main object the protection or promotion of the interests, or the defence, of Licensed Conveyancers or any other approved persons;
- (l) if they have failed to disclose to the Council any matter referred to in regulation 3.7 subparagraphs (a), (b), (c), (d), (e), (f) or (g);
- (m) if they are removed from office under regulation 8.1.

5.2 In the event that a vacancy occurs by reason of the operation of Regulation 5.1, the Chief Executive Officer shall inform the Council of that fact at the next meeting of the Council.

## **6. Remuneration**

6.1 The Council will pay to the Lay Chair, other members of the Council and members of the selection panel fees and reasonable expenses, such fees to be determined by the Council and to be reviewed periodically.

## **7. Suspension**

7.1 The Lay Chair or a Council member is suspended with immediate effect in the event that:-

- (a) they are charged with an offence which is the subject of subparagraph (f) of Regulation 5.1;
- (b) they are served with a bankruptcy petition, are the subject of a Bankruptcy Restrictions Order or issues a bankruptcy petition on their own behalf; or

- (c) they receive notice of any application against them for an Order under sub-paragraph (i)(2) or (j) of Regulation 5.1.

7.2 Any suspension taking effect under Regulation 7.1 shall automatically be revoked in the following circumstances: -

- (a) under sub-paragraph 7.1(a) if no conviction ensues;
- (b) under sub-paragraph 7.1(b) if the bankruptcy petition issued is disposed of without a declaration of bankruptcy being made against them; or
- (c) under sub-paragraph 7.1(c) in the event that the application against the Council member is withdrawn or dismissed or the only order made is for the payment of costs.

## **8. Removal**

8.1 The Council may declare a vacancy in the office of the Lay Chair or of a Council member who has breached the Standing Orders of the Council, the Standing Orders for Committees or the Code of Conduct applicable to members of the Council, if at least three-quarters of the Council members are present at the relevant meeting and at least three-quarters of the members present agree in which event the Lay Chair or Council member's right to hold office shall cease immediately.

## **9. Standing Orders**

9.1 Proceedings of the Council shall be governed by the Standing Orders made for the Council by the Council in accordance with paragraph 9(2) of schedule 3 to the 1985 Act.