

**Council for Licensed Conveyancers
Minutes of the Council meeting held on
Thursday 28 July 2022
By Video Conference
10.00 a.m. – 1.30 p.m.**

Council Present

Dame Janet Paraskeva
Sarah Debney
Jenny Quirke
Colin Wilby

Alan Cogbill
Sheila Kumar
Victoria MacGregor

In attendance

Ms. A. Cosens
Mr. J. Hinrichsen
Ms. C. Richardson

Head of Executive Office
Director of Finance and Operations
Deputy Director of Authorisations and New
Business

Apologies for absence

Sarah Ryan
Sally Szarka
Victoria Goodfellow
Stephen Ward

Council member
Council Member
Chair, Adjudication Panel
Director of Strategy and External Relations

1. Welcome and Introductions

The Chair welcomed Victoria MacGregor to her first CLC Council meeting.

Apologies for absence were noted.

No requests to discuss information items at 24-26 had been received.

2. Declarations of Interest

The Council was advised of the following interests:

- Item 22 (*Any Other Business*) – Dame Janet Paraskeva
- Item 18 (*Annual Review of Terms of Reference*) - All Council members.

3. Minutes and Matters Arising

a) Minutes of the meeting held on 12 May 2022

The Council **AGREED** that minutes of the meeting of the Council held on 12 May 2022 be approved as a correct record.

b) Ratification of decisions taken outside of Council Meetings

The Council was requested formally to ratify decisions which had been taken outside of Council meetings.

The Council **AGREED** the following decisions, approval for which had been obtained outside of scheduled Council meetings:

Appointments Committee

- (1) That Sarah Debney is appointed to a vacancy on the Appointments Committee

Adjudication Panel Appointment

- (2) To appoint Rachel Forster MBE as a lay member of the Adjudication Panel.

c) Actions arising from previous meetings

The Council was informed that the LSB had agreed an exemption application to enable the CLC to increase the size of Adjudication Panel membership and that proposed changes to the Adjudication Panel Rules would be submitted to the LSB for consideration shortly.

The Council **NOTED** progress with actions arising from previous meetings.

4. Chief Executive's Report

The Chief Executive introduced the report, which included updates on the following:

- PII Renewal
- A review by CILEx of its regulation arrangements
- OLC Annual Report, Levy and performance

The Council **NOTED** the Chief Executive's report.

5. Education and Training 2021-22 Annual Review

The Deputy Director of Authorisations and New Business introduced the Annual Review of Education and Training, which included the following:

- Trends in student uptake of CLC qualifications
- The agreement with the SQA for the provision of CLC qualifications
- Following the de-approval by the SQA of the Conveyancing Academy, the transfer of students to other course providers

The Council was informed that entry to the profession and uptake of CLC qualifications continues to be stable; most student conveyancers enter at Level 4, with a good amount progressing to Level 6. Data from a large National Apprenticeship also shows continuing demand for Apprenticeships.

The Council **NOTED** the Annual Review of Education and Training.

6. Continuing Professional Development (CPD)

The Deputy Director of Authorisations and New Business introduced proposals to promote ongoing competency and consult on expansion of the CLC's CPD requirements, including extension of the current framework to include obligations on practices and individuals. A revised Appendix to the report, setting out the study units of the Level 4 and Level 6 Conveyancing and Probate Law and Practice had been circulated .

The proposed revised framework will:

- Increase the level of mandatory evidence and reporting requirements for licence holders
- Provide qualitative and quantitative data to assess profession-wide competency
- Assist practices with alignment of their training and development and risk management processes with a compliance and competency strategy
- Introduce a mandatory practice level responsibility for ongoing competency.

It was suggested that the inclusion of specific training courses for HoLP's and HoFA's is included within the consultation.

The outcome of the consultation would be reported to the Council's meeting on 10 November 2022.

The Council **AGREED** to consult on proposed changes to the CPD Framework in September 2022.

Action: July 22/01: To consult on proposed changes to the CPD Framework in September 2022

7. Ethical Principles

The Chief Executive introduced proposed new Ethical Principles, which taken together should form the basis of the Code of Conduct, following review and challenge by the Professional Reference Group and a Council Workshop.

The revised principles would link to the forthcoming review of Disciplinary Sanctions, in particular decisions on action to take for breach of ethical principles.

The Council **AGREED** the proposed approach to consultation on Ethical Principles.

Action: July/22/02: To consult on proposed Ethical Principles within the Code of Conduct

8. Reserving Policy Review and Update

The Director of Finance and Operations introduced proposed amendments to the Reserving Policy. The Audit and Risk Committee had reviewed the proposed amendments at its meeting on 19 July 2022 and was recommending the proposed revisions to the Council for adoption.

The amendments proposed include:

- Changing the criteria for calculating the minimum reserve and reduction of the funds held to approximately 3 months of operating costs
- The addition of an OLC levy cashflow reserve on the basis that there have been no changes to the OLC's levy plans
- Exclusion of the OLC levy provision from the Market Uncertainty reserve.

No changes to the Compensation Fund Reserving Policy or any of the other provisions included within the policy were proposed.

With regard to the provision for the OLC levy within the proposed reserves, the Council was advised that the cash reserve would build up as the recharges for the OLC are recovered and the continued separation of recovery of the cost of the OLC levy from the Practice Fees promotes an increase awareness of usage of the OLC's service in the context of a reduction in complaints which has not been reflected within the cost of the OLC levy.

The Council was informed that the proposed Reserving Policy had been prepared on the basis of a Going Concern.

Following consideration of the proposed Practice Fee and Compensation Fund contributions at item 9 of the Agenda,

The Council **AGREED** to revise the Reserving Policy as follows:

- (1) To amend the Practice Fund Minimum reserve to an amount of 25% of the operating Budget excluding OLC costs, to be amended annually following approval of the Budget by the Council;
- (2) To create and set a new OLC cashflow reserve annually in June on the basis of the value of the estimate received from the OLC;
- (3) To adjust the Market uncertainty reserve
To rebalance the reserves held into the minimum reserve, OLC levy cash flow reserve and the market uncertainty reserve.

Action July/22/03: To incorporate the above revisions within the CLC Reserving Policy.

9. Practice Fee and Compensation Fund Contributions for the 12 months commencing 1 November 2022

The Director of Finance and Operations introduced the report, which set out the assumptions and key developments that have been used with regard to setting the fee rates.

Following the expansion of fee bandings from 4 to 9 bands in 2021, a review of the number of practices in each of the 9 bands demonstrated that there continues to be a good spread across each of the bands, with an average 23% increase in turnover. It was therefore agreed that no changes to the current Practice Fee bands would be required.

The Council discussed the practicing fee rate and expenditure in the context of adequately resourcing its business plan, staff recruitment and retention while also limiting the additional financial burdens on practices under CLC regulation. It was agreed that no cost of living increase would be applied to Non-Executive Director remuneration in 2022 and to adopt a phased approach for recruitment to currently vacant posts.

The Council **AGREED** to submit application to the LSB to set the Practice Fee and Compensation Fund Fee rates for the period November 2022 - October 2023 on the following basis:

- (a) That no changes to the 9 Practice Fee Bands are made;
- (b) That no change to the Practice Fee rates are made and to move to a cashflow positive budget in the next cycle;
- (c) That no change to the Compensation Fund contribution rates are made;
- (d) That no change to the current OLC levy arrangements are made;
- (e) To apply current licence and administration fee rates.

Action: July/22/04: To submit application to the LSB for Practice Fee and Compensation Fund contributions on the above basis.

At this point in the proceedings (12:00 p.m.), the Council adjourned and resumed at 12:10 p.m.

10. 2022 Business Plan Q2 Progress Report

The Chief Executive introduced a report setting out progress against the 2022 Business Plan.

The following amendments since the previous quarter were highlighted:

- Decommissioning of the existing database and a move to a new database supporting Management Information and online register as agreed by the Senior Management Team and Council by the current year end
- The focus of work on the Customer Charter would be incorporated within the Secure Badge mechanism and promoted to practices as part of ongoing work around ethical principles and Know Your Client
- The introduction of a new arrangement for consumer research facilitated by Teresa Perchard who will be running engagement with key individuals and organisations with consumer affairs expertise to create a consumer reference group
- Review of the Code of Conduct will address issues around Know Your Client
- Following the success of an initiative championed by the CLC to provide cross sector guidance on the use of digital ID tools, there will be a focus on using LawTech as a platform to produce guidance for lawyers on other tools jointly with other front-line regulators
- Alignment of the CLC's Annual Report with the final outturn for report in January 2023. An information sheet on 2021 and 2022 will be issued in Autumn 2022
- Exploration of the potential for advertising and/or sponsorship of CLC newsletters and conference.

The Council **NOTED** progress against the 2022 Business Plan.

11. CILEx Regulation Update

The Council discussed the recently media reported review by CILEx of its delegation of regulation, currently undertaken by CILEx Regulation and proposed transfer of regulation to the SRA.

The Council **AGREED** to seek clarity on the CILEx proposals and transparency of communications from the LSB and Ministry of Justice.

Action July/22/05: to seek clarity on the CILEx delegation of regulation and transparency of communications from the LSB and the Ministry of Justice.

12. Strategy Development: Next Steps

The Chief Executive summarised progress with development of strategy and a proposed consultation over the Summer on areas for development, including:

- Areas for growth
- Confirmation of the scope of CLC regulation
- Promotion of all aspects of improvement within conveyancing and probate practice
- Ethical standards

- The CLC's approach to regulation and the relationship with its regulated community
- Opportunities for training and progression.

The Council **AGREED** to undertake a consultation on development of its strategy over the Summer.

Action July/22/06: To consult on strategic areas for development during Summer 2022

13. Principal Risk Register

The Director of Finance and Operations advised Council that the Principal Risk Register had been discussed and reviewed by the Senior Management Team and then by the Audit and Risk Committee at its meeting on 19 July 2022, who were recommending the Register to Council.

It was observed that Risk 1, which relates to Practice Fee income, had been mitigated by the Council's decision on Practice Fee setting at Minute 9 above.

The Council **AGREED** to adopt the Principal Risk Register as proposed.

14. Risk Management Policy Review

The Director of Finance and Operations introduced an annual review of the Risk Management Policy, which had been considered by the Audit and Risk Committee on 19 July 2022, whose recommendations had been incorporated.

The Council **AGREED** the proposed amendments to the Risk Management Policy.

Action July/22/07: To amend the Risk Management Policy

15. CLC Watchlist and Interventions

The Director of Finance and Operations introduced the report.

The Council **NOTED** the Watchlist and Interventions report.

16. Compensation Fund Operating Framework Review – Progress Discussion

The Chair of the Compensation Fund Operating Framework Review Group outlined progress with review of the Framework, including the following:

- A drafting brief with a legal service provider
- Arrangements for improved navigation of the Compensation Fund Operating Framework from the website, including filtering of eligible applications

A future Council Workshop would consider any arising questions on the scheme.

The Council **NOTED** progress with review of the Compensation Fund Operating Framework.

17. Compensation Fund Determination

The Council considered a draft Compensation Fund determination for an application for a grant in excess of £50k to be rejected

The Council:

- (1) **AGREED** the Compensation Fund Determination;
- (2) **NOTED** that a draft Compensation Fund Determination in respect of another claim in excess of £50k would be submitted to its next meeting for consideration.

Action: July/22/08: To consider a proposed Compensation Fund determination at the Council's next meeting on 10 November 2022

18. Annual Review of Council Terms of Reference

All Council members had declared an interest in this item (*Minute 2 above refers*).

The Council conducted an annual review of its Terms of Reference and agreed to make no changes at the current time.

The Council **AGREED** that no changes to its Terms of Reference be made.

19. Published Indicators and Metrics

The Council considered the indicators and metrics for Quarter 2 of the current year for publication.

The Council **AGREED** to publish the indicators and metrics detailed at Appendix A of the report.

Action July/22/09: To publish the Q2 Indicators and Metrics

20. Adjudication Panel Chair's Annual Report to Council

Victoria Goodfellow, independent Chair of the Adjudication Panel was unable to attend the meeting to present her Annual Report and had submitted her apologies.

The report provided an overview of cases presented to the Adjudication Panel in 2021/22, recent recruitment to the Panel and plans for the forthcoming year, including new procedures and improvements to the Panel's website pages and the recent submission for amendment of Adjudication Panel Rules.

The Council was advised that the Adjudication Panel Chair would be willing to attend a Council meeting and to contribute to outreach work with the profession around the Panel's work and it was suggested that this might include a webinar/blog to enhance understanding of what happens at a disciplinary hearing.

The Council:

- (1) **NOTED** the Annual Report of the Chair of the Adjudication Panel; and
- (2) **AGREED** to invite the Adjudication Panel Chair to attend a future Council meeting.

Action July/22/10: To invite the Chair of the Adjudication Panel to a future Council meeting

21. Committee Chairs' Reports

(a) *Audit and Risk Committee*

The Chair of the Audit and Risk Committee presented a summary of business considered by the Committee at its meeting on 19 July 2022, which had included:

- Governance Statement and Quarterly Statements on Internal Control
- Q2 Performance Outturn, 2022
- Principal Risk Register
- Review of Risk Management Policy
- Annual Review of Audit and Risk Committee Terms of Reference, following which no changes were recommended
- Annual Review of Anti-Corruption Policies
- Internal Audit Progress Report and Internal Audit Review of Enforcement, which had focussed on assurance that cases are presented to the Adjudication Panel in a timely manner and which had attained a Substantial Assurance
- The outcome of an Internal Audit Review of KPIs and Management Information was not yet available and would be reported to its next meeting.

The Council **NOTED** the report of the Chair of the Audit and Risk Committee

(b) *Appointments Committee*

The Chair of the Appointments Committee presented a summary of business considered by the Committee at its meeting on 29 June 2022, which had included:

- Annual Review of the Appointments Committee's Terms of Reference, following which no changes were recommended

- Consideration of Adjudication Panel membership (*Minute 3(b) above also refers*)
- Consideration of Audit and Risk Committee membership, following which the Committee was recommending recruitment of a new Independent Audit and Risk Committee member to the vacancy that will arise in January 2023
- An item on succession planning, during which Colin Wilby was in the Chair (*Part B Minute 22 below refers*)

The Council:

- (1) **NOTED** the report of the Chair of the Appointments Committee; and
- (2) **AGREED** to recruit a new Independent Member with recent financial, accounting and/or auditing experience to the Audit and Risk Committee.

Action July/22/11: To recruit an Independent Member of the Audit and Risk Committee on the above basis

22. Any Other Business

There was one other item of business. Dame Janet Paraskeva declared an interest in this item and was not present during the discussion.

At this point in the proceedings (1:30 p.m.), Colin Wilby in the Chair

[REDACTED]

23. Date of Next Council Meeting

Thursday, 10 November 2022, 11.00 a.m.

Council members were reminded that the next Council Workshop at 11.00 a.m. on Thursday 29 September 2022 would take place in person.

INFORMATION ITEMS

24. Q2 Performance Outturn

The Council **NOTED** the Performance Outturn report for Q2, which had been reviewed and discussed in detail by the Audit and Risk Committee at its meeting on 19 July 2022.

25. Property and Law News Round Up

The Council **NOTED** the round up review of major developments and the economic outlook that will affect the conveyancing market.

26. Council Workplan

The Council **NOTED** its forthcoming Workplan, which included rescheduling of a Review of Key Performance Indicators to enable it to take account of an internal audit of KPIs and Management Information, the final report of which had been delayed.