

**Minutes and actions arising from the CLLS Professional Rules & Regulation
Committee held on 3 July 2017**

- Location:** Bird & Bird
- Present:** Jonathan Kembery (Freshfields, Chair)
Antoinette Jucker (Pinsent Masons)
Annette Fritze-Shanks (Allen & Overy)
Chris Vigrass (Ashurst)
Clare Wilson (Herbert Smith Freehills)
Crispin Passmore (SRA)
Hilary Foulkes (Skadden, Arps, Slate, Meagher & Flom)
Jo Riddick (MacFarlanes)
Julia Adams (Slaughter & May)
Juliet Oliver (SRA)
Raymond Cohen (Linklaters)
Roger Butterworth (Bird & Bird)
Tracey Butcher (Mayer Brown)
Sonya Foulds (Freshfields, Committee Secretary)
- Apologies:** David Hobart (CLLS)
Mike Pretty (DLA Piper)

1. Handbook Phase II

Juliet Oliver and Crispin Passmore of the SRA informed the Committee that the SRA Board had decided to go ahead with its plans for Phase I of Handbook reform. This covered having separate codes for a firm and for individuals, as well as permitting solicitors working in unauthorised organisations to provide reserved legal services. These rules were not in force yet.

They then gave an overview of Phase II of the Handbook review. They informed the Committee that they would likely consult the profession around the end of September for a three-month period, leading to an SRA Board decision whether or not proceed in March/April 2018. The LSB would need to approve any rule changes thereafter. In addition, the SRA would be working on the professional indemnity rules and would consult on changes in January 2018.

In relation to Phase II, the aim was for a shorter, simplified and high-level rulebook. The consultation with the profession will include draft new rules to allow comment on

drafting as well as themes. The SRA also hopes to make draft examples, guidance or a 'toolkit' available at around the same time.

The SRA is intending to review existing guidance materials, consider if they need to be kept or removed and look at format and consistency. The SRA requested that the Committee nominate existing guidance that should be kept or deleted. In order to aid simplification, the SRA did not intend to repeat other legislation in the new rule book. They took on board a request that any such legislation be referenced so it was clear what people should comply with.

In terms of wider policy changes, the SRA highlighted some of their early stage thinking. They were considering, for example, making approval processes simpler, the idea of a lifetime practicing certificate, and reforming the suitability test. The Committee raised some issues the SRA should consider, for example, rules relating to non-managing partners and the inter-relation between rehabilitation of offenders and the SRA's Suitability Test.

The SRA then discussed information requirements in the light of the CMA's report on market access. The SRA was considering how to craft the rules so that they adequately protected individual consumers while not imposing unnecessary regulation on large commercial firms to whom the CMA report was not directed. As part of this process, the SRA was looking to implement a digital register which would include the following:

- Regulatory data and published findings
- Whether an entity was a regulated/unregulated business (and what client protection regime available to the consumer)
- An option to advertise "regulated by the SRA" with a suitable logo for regulated firms (not individuals)
- Complaints data
- Pricing for some areas of practice in relation to relevant client groups
- Details of insurance cover (not amounts).

The Committee suggested that it would be helpful if the SRA established a definition of "a complaint".

2. Brexit

The CLLS has participated in a committee working with BEIS and other government departments on mutual market access in the legal sector. A paper will shortly be provided to the government on the complexities involved if no deal is agreed in relation to on-going mutual recognition. The paper will make recommendations as to how an appropriate regulatory settlement could be created.

3. Rule 14.5 Guidance

A meeting would be held with the SRA on 25th July to discuss SRA guidance in this area.

4. AOB

The Committee agreed to liaise with the SRA in relation to a letter from the SRA to an individual at a member firm the content of which, in the Committee's view, was difficult to reconcile with current SRA rules and market practice. It was resolved that Raymond Cohen and Jonathan Kembery would speak to the SRA about this.

The Committee resolved to reconvene once the SRA had circulated its initial thoughts on the Part II consultation and establish a working group for the purposes of engagement.