

**Minutes of the meeting of the CLLS Professional Rules & Regulation Committee held on
Thursday 21 June 2018 at 3:30pm**

Location: Freshfields Bruckhaus Deringer LLP, 65 Fleet Street, EC4Y 1HS

Present:

Jonathan Kembery (Freshfields Bruckhaus Deringer LLP) (Chair)

Annette Fritze-Shanks (Allen & Overy LLP) (by telephone)

Julia Adams (Slaughter and May)

Mike Pretty (DLA Piper UK LLP)

Raymond Cohen (Linklaters LLP)

Roger Butterworth (Bird & Bird LLP) (by telephone)

Sonya Foulds (Cleary Gottlieb Steen and Hamilton LLP)

Michael Burns (Herbert Smith LLP) (by telephone, on behalf of Clare Wilson)

Maja McCarron (Freshfields Bruckhaus Deringer LLP) (Committee Secretary)

Apologies:

Jo Riddick (Macfarlanes LLP)

Tracey Butcher (Mayer Brown)

Clare Wilson (Herbert Smith LLP)

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1. SRA reporting requirements and proposed consultation

1.1 Over the course of a number of meetings between Juliet Oliver (SRA) and a group representing the Committee (Jonathan Kembery, Tracey Butcher, William Glassey (Mayer Brown), Sarah Clover and Fergal Cathie (both Clyde & Co)), a number of considerations had been discussed around what should be set out in guidance relating to reporting requirements. The discussions had focused on the magnitude of issues that were reportable and the certitude of the person making the report.

1.2 Juliet had now provided for the Committee's consideration two drafting options for the wording of reporting requirements. The Committee reviewed the options and agreed to revert with some minor amendments. The SRA had also shared its draft consultation on reporting concerns to the SRA, which would be discussed by the Committee at a future date.

1.3 **ACTIONS:**

- (a) Jonathan and Sonya to circulate suggestions for amendments to the wording.
- (b) Jonathan to clarify with Juliet whether this wording was intended to apply to the current or new reporting obligations.
- (c) Committee to provide to Jonathan with comments on the draft over the next few working days.

2. Revised SRA Rule 14.5 warning notice

- 2.1 Mike and Jo had been liaising with the SRA on the revised warning notice concerning Rule 14.5 of the SRA Accounts Rules 2011. The revised notice had been finalised but the case studies were still in draft.
- 2.2 ACTION: Committee to provide comments to Mike on the case studies by Monday 25 June.

3. SRA Consultation – “Protecting the Users of Legal Services”

- 3.1 The Committee’s response to the SRA’s consultation had been submitted.
- 3.2 ACTION: Jonathan to raise with the SRA at its next quarterly meeting with the CLLS that the Committee would welcome more reporting by the SRA on the outcomes of its regulatory initiatives and whether market intervention by the SRA had succeeded in meeting the professed outcomes or not.

4. SRA transparency proposals

- 4.1 The SRA had published its post-consultation position on transparency reforms. Firms would now be required to publish additional information on their websites: certain pricing information and descriptions of services; information about regulatory status, including use of an SRA “digital badge”; consumer protection information including Compensation Fund, professional indemnity insurance and complaints procedure details.
- 4.2 ACTION: Jonathan to raise with the SRA the scope of the requirement that was proposed to be imposed by reference to previous indications from the SRA.

5. Draft SRA Overseas and Cross-border Practice Rules

- 5.1 Raymond reported that Juliet Oliver had of his all comments on the draft Rules. However, the supporting guidance had not yet been seen by the Committee.
- 5.2 ACTION: Jonathan to ask Juliet to involve the Committee in reviewing the draft guidance.

6. Tokyo rules regarding combinations with entities involving non-lawyer partners – Clare

- 6.1 Michael discussed the enquiries by the Japan Federation of Bar Associations (*Nichibenren*) of foreign law firms established in Japan. Foreign firms were being required to complete a form answering questions about whether they were organised as alternative business structures (*ABS*). The initial approach of the Nichibenren had been to expect all UK-registered firms to indicate that they were able to grant equity interest or voting rights to non-lawyers who are not engaged in the provision of legal services – on the basis that they were in theory permitted to do so under Part 5 of the Legal Services Act 2007. Firms without ABS licences had pushed back on this approach on the basis that they were not permitted to grant such rights without having first obtained the necessary regulatory status.
- 6.2 The Committee discussed that some firms had reached a compromise with the Nichibenren by submitting the forms together with a rider or an annex explaining their regulatory position and what equity and voting rights they grant to non-lawyers, if any.

7. New Committee members

- 7.1 Further to the retirement from the Committee of Hilary Foulkes, Antoinette Jucker and Chris Vigrass, Jonathan proposed Iain Miller (Kingsley Napley) and Fergal Cathie (Clyde & Co) as new Committee members. The Committee approved the proposal.
- 7.2 Jonathan had recently been involved in discussions regarding the Committee's representation of smaller City firms. The Committee agreed that it will have regard to Committee candidates from smaller firms which are City of London Law Society members.

8. SRA guidance on lateral hire conflict checks

- 8.1 Jonathan briefed the Committee on the work that Miles Alexander (Director of Regulatory Management, SRA) was undertaking on this guidance. The Committee discussed potential solutions and noted that lateral hire checks would be more difficult for smaller firms without centralised conflicts checking functions.

9. SRA thoughts on AML supervision

- 9.1 Jonathan had received feedback that, following the establishment of The Office for Professional Body Anti-Money Laundering Supervision (*OPBAS*) as the new supervisory regulator for anti-money laundering, the SRA is expected to increase the frequency of its 'deep-dive' AML supervisory visits to firms.

10. AOB

- 10.1 There being no further business, the Chair brought the meeting to an end.