

Minutes of the meeting of the CLLS Professional Rules & Regulation Committee

12 June 2013 4.30pm

Location: Allen & Overy

Present:

Heather McCallum (Allen & Overy LLP) (Chair)
Roger Butterworth (Bird & Bird LLP)
Raymond Cohen (Linklaters LLP)
Sarah de Gay (Slaughter and May)
Antoinette Jucker (Pinsent Masons LLP)
Jonathan Kembery (Freshfields Bruckhaus Deringer LLP)
Mike Pretty (DLA Piper UK LLP)
Jo Riddick (Macfarlanes LLP)
Tracey Butcher (Mayer Brown LLP)

In attendance:

David Hobart (Chief Executive, CLLS)

Apologies:

Chris Perrin (Clifford Chance LLP)
Clare Wilson (Herbert Smith LLP)
Douglas Nordlinger (Skadden, Arps, Slate, Meagher & Flom LLP)

1. Report on SRA International regulation

Raymond Cohen provided an update on discussions with the SRA on the drafting of the proposed new rules. There was an on-going debate on the definition of "connected practice". The SRA's view was that they were looking to catch downstream UK businesses; in relation to Vereins, if the HQ or a significant part was in the UK it should, in their view, be treated as connected; if not it would be an overseas practice and not a connected party. Their proposed use of the term "joint practice" and the reference to "sharing costs, revenue or profits" raised some concern. While this could, in theory, apply to, for example, jointly hosted seminars or the like, it was thought that in practice there would need to be some sustained and continuing sharing of costs and the like, for there to be a joint practice within this "connected practice" definition.

Raymond had proposed a definition of "excluded body" carve-out from the "connected practice" definition but the SRA were reluctant to go with that carve-out.

Agreed that Raymond submit the CLLS response circulated prior to the meeting.

2. Compensation Fund and costs

Response still awaited from Richard Collins. It was mentioned that there had been a revaluation of the Compensation Fund assets which might give rise to a £10m windfall.

3. Response to Red Tape Initiative Round 2

The Committee reviewed the draft response prepared by Jo and Clare.

After some discussion, it was agreed in relation to Proposal 1 that the CLLS should support the substantive amendment (dispensing with the requirement for annual reporting of minor compliance failures), notwithstanding the continuing requirement to keep a record of them and accordingly approved the first of the two proposed responses in the draft.

The draft response to Proposal 2 was also approved, for submission.

4. SRA officers

It was suggested that the Law Society would be objecting to Charles Plant serving an additional year. Antony Townsend, having resigned, would be continuing until October.

5. SRA/CLLS Quarterly meeting minutes

Noted.

6. Issues for the next SRA/CLLS Quarterly meeting (16 July)

We should continue to press with the query (para 3 Update: Red Tape Initiative in the Minutes of the last Meeting) as to why EELs were not included within proposal 3 (to include deemed approval of RELs and RFLs as new managers and owners). Any other issues to be raised should be passed to Chris. Roger agreed to accompany Alasdair, David and Chris to the meeting.

7. The Law Society "Future of Regulation Project"

Chris was going to attend the Law Society "reference group" on this, there now having been issued an MOJ statement for a "call for evidence" from stakeholders on what looks like potentially wide-ranging simplification of the regulatory framework for the legal sector. This was an important issue for our members and the Committee would need to engage in the process.

8. Auditors letters

Whether or not the Committee should ask the Law Society to refresh its guidance on audit enquiries which dated from the 1970s, was discussed. It was for firms to decide individually how to respond to audit requests. To the extent that they wanted to have regard to the guidance, the Committee felt that it was still adequate.

9. AOB

David encouraged Committee members to attend the meeting organised by the Law Society and being hosted by Robert Bourns of TLT on large firm governance.