

**Minutes of the meeting of the CLLS Professional Rules & Regulation Committee held on
Monday 24 September 2018**

Location: Herbert Smith Freehills, Exchange House, Primrose St, London EC2A 2EG

Present:

Jonathan Kembery (Freshfields Bruckhaus Deringer LLP) (Chair)
Julia Adams (Slaughter and May)
Tracey Butcher (Mayer Brown International LLP)
Roger Butterworth (Bird & Bird LLP) (by telephone)
Fergal Cathie (Clyde & Co LLP)
Raymond Cohen (Linklaters LLP) (by telephone)
Annette Fritze-Shanks (Allen & Overy LLP) (by telephone)
Iain Miller (Kingsley Napley LLP)
Mike Pretty (DLA Piper UK LLP) (by telephone)
Clare Wilson (Herbert Smith Freehills)
Maja McCarron (Freshfields Bruckhaus Deringer LLP) (Committee Secretary)

Apologies:

Sonya Foulds (Cleary Gottlieb Steen & Hamilton LLP)
Jo Riddick (Macfarlanes LLP)

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1. Solicitors Regulation Authority Consultation – Reporting Concerns

- 1.1 Julia Adams, with input from a working group of the Committee, had prepared a draft response to the “Reporting Concerns” consultation relating to reporting of serious breaches to the SRA. The draft had been circulated in advance to the Committee and also to the CLLS’s member firms’ mailing list of Compliance Officers for Legal Practice (*COLPs*).
- 1.2 After much discussion, Jonathan Kembery summarised the conclusions as:
- (a) In respect of the SRA’s options for amending the reporting obligation set out in the forthcoming Codes of Conduct. On balance, between Option 3 and Option 4, the Committee favoured Option 4. This was in favour of introducing a standard for reporting requiring “reasonable belief” of a serious breach. This is on the basis that “reasonable belief” reflects the need for firms and COLPs to have some opportunity to begin to investigate a potential issue and to develop a balanced view in order to make a decision about whether it is reportable;
 - (b) The SRA should be asked to clarify what is meant by “serious breach”;
 - (c) The SRA should be asked to clarify how firms and COLPs should have regard to the SRA Character and Suitability Test alongside the definition of “serious breach” when considering their reporting obligations.

1.3 ACTION: Julia to reflect the discussion in the draft response and re-circulate to the Committee for final comment.

2. SRA approach to information sharing between law firm corporate entities

2.1 Roger Butterworth reported on his experience of seeking SRA authorisation of a new LLP entity. In the course of this, the SRA raised questions around client consent to sharing client information between a law firm's corporate entities.

2.2 It was discussed that such information sharing was common practice for large law firms and seemed to be necessary for compliance with regulatory requirements which necessitate auditing across a corporate group.

2.3 ACTION: Jonathan to raise this issue with Miles Alexander, who is also currently considering the matter of firms receiving confidential information for the purpose of lateral hire conflicts checks.

3. Requirement for Vice-Chair

3.1 Jonathan recently attended a meeting of Chairs of the specialist committees of the CLLS where he was informed of the requirement for the Committee to have a Vice-Chair. This is not intended as an appointment of a successor to the Chair, but to help with the administration and day-to-day running of the Committee.

3.2 ACTIONS:

- (a) Jonathan to circulate information about the expectations of the Vice-Chair role once this is received from the CLLS;
- (b) Committee members to contact Jonathan if they wish to put themselves forward for the Vice-Chair role.

4. Meetings with the SRA

4.1 Jonathan noted that he meets with the SRA on a quarterly basis on behalf of the Committee. Jonathan proposed that he is joined by one other member of the Committee for these meetings, on a rotation basis.

4.2 The next meeting will take place on 13 November at BLP Brian Cave. This meeting will be followed by the next SRA/CLLS symposium, which will be about the Solicitors Qualifying Examination and will be led by Hannah Kozlova Lindsay of BLP Brian Cave, as Chair of the CLLS Training Committee.

4.3 ACTIONS:

- (a) Jonathan to circulate to the Committee the proposed agenda for his next meeting with the SRA;
- (b) Committee members to contact Jonathan if they would like to attend the forthcoming or any future meetings;
- (c) Committee members to encourage their Learning and Development colleagues to attend the SRA/CLLS symposium on 13 November.

5. AOB

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