

**Minutes of the meeting of the CLLS Professional Rules & Regulation Committee held on
Thursday 6 December 2018**

Location: by telephone conference

Present:

Jonathan Kembery (Freshfields Bruckhaus Deringer LLP) (**JK**) (Chair)

Julia Adams (Slaughter and May) (**JA**)

Tracey Butcher (Mayer Brown International LLP) (**TB**)

Roger Butterworth (Bird & Bird LLP) (**RB**)

Fergal Cathie (Clyde & Co LLP) (**FC**)

Raymond Cohen (Linklaters LLP) (**RC**)

Sonya Foulds (Cleary Gottlieb Steen & Hamilton LLP) (**SF**)

Annette Fritze-Shanks (Allen & Overy LLP) (**AFS**)

Iain Miller (Kingsley Napley LLP) (**IM**)

Mike Pretty (DLA Piper UK LLP) (**MP**)

Jo Riddick (Macfarlanes LLP) (**JR**)

Clare Wilson (Herbert Smith Freehills) (**CW**)

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

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1. Minutes and matters arising

1.1 The previous meeting's minutes were accepted as approved.

1.2 JK acknowledged that RC and CW had been approved as the Committee's Joint Vice-Chairs.

1.3 JK suggested that, further to the Joint Vice-Chair appointments, there was an opportunity to reflect on how the Committee operates and how this could be improved. JK invited the Committee to submit their ideas or observations on this and asked that any feedback is provided by e-mail to MM, RC or CW. Members observed that JK carries out a lot of liaison with third parties on behalf of the Committee and so it was suggested that in order to reduce his time commitment other Committee members should become more involved with this.

1.4 JK notified the Committee that MM would be on maternity leave from early March 2019. In MM's absence the Committee Secretary role would be covered by Sarah Boland of Freshfields Bruckhaus Deringer LLP.

2. Update on SRA quarterly meeting

2.1 JK reported back from the quarterly meeting with the SRA, held on 13 November 2018. The discussion had included:

- (a) the Solicitors Qualifying Exam;

- (b) next steps on new SRA Handbook (implementation was likely to be in April, May or June 2019 with guidance and resources published ahead of implementation);
- (c) sexual harassment and NDAs;
- (d) professional indemnity insurance consultation (the SRA's intention being to look at changes again in spring/summer 2019);
- (e) anti-money laundering (further to a recent visit by the Office for Professional Body Anti-Money Laundering Supervision to the SRA);
- (f) Brexit;
- (g) the review of the regulatory framework for legal services by Professor Mayson of University College London.

3. SRA approach to information transfer within international firms

- 3.1 The Committee discussed the SRA's expectations around client consent to sharing client information between a law firm's corporate entities. It is understood that the SRA's approach is based to a significant degree on an interpretation of data protection principles. It was agreed that there was merit in exploring the differences between the law and principles applicable to the protection of personal data and of client confidential information.
- 3.2 ACTION: RC to consider example scenarios for how law firms may share client information within their corporate groups, with or without client consent, with a view to putting these to the SRA.

4. SRA Reporting Consultation update

- 4.1 The SRA had provided an update to the Committee having analysed responses to its Reporting Concerns consultation. The Committee discussed the SRA's proposed drafting of a new standard for reporting serious breaches of regulatory arrangements, which had been set out in the update.
- 4.2 ACTIONS:
 - (a) Committee members to provide FC with comments on the proposed new reporting obligation;
 - (b) FC to liaise with SRA to provide consolidated feedback.

5. Price transparency update

- 5.1 MM and JAK provided an update to the Committee further to discussions with the SRA and the Employment Lawyers Association on the issue of what it means to be a firm which "publishes as part of its usual business the availability of any of the services" set out in the SRA Transparency Rules and therefore to be required to publish related costs information. The SRA had indicated it is a question of what services a firm actually provides to clients as part of its usual work. The SRA had given an indication that it would not accept that a firm was outside of the scope of the Rules if its website was worded so as to admit references to particular service types that were in practice offered to clients on a routine basis. The Committee discussed that not all firms had interpreted the drafting of the Rules in this way.

6. SRA Brexit guidance for RELs and EELs

- 6.1 MM provided an update to the Committee further to the SRA's information sessions held in London earlier in the week. The SRA had confirmed that EU-qualified lawyers who are Registered European Lawyers (**RELs**) or Exempt European Lawyers (**EELs**) will continue to be eligible to be owners or managers of SRA recognised bodies until 31 December 2020. After this date, EU-qualified RELs and EELs will need to become Registered Foreign Lawyers (**RFLs**) to continue to be owners/managers of SRA recognised bodies.
- 6.2 The SRA plans to automatically passport all RELs and EELs who are owners or managers of SRA recognised bodies to become RFLs at the end of 2020. There will be no fee or application form for this process (although the individuals' RFL status will then be subject to annual renewal in the usual way). The SRA will be in touch with firms' Organisation Contacts to check that all of their manager/owner EELs and RELs should have their status converted to that of RFL. Guidance about RELs was already available on the SRA website and it was understood that guidance about EELs would also be shortly posted on the SRA website.

7. Mayson Review

- 7.1 The CLLS had been approached by Professor Mayson of University College London in relation to his review of the regulatory framework for legal services. David Hobart in his capacity CEO of the CLLS was in discussion with Professor Mayson and with the PR&RC about the review and it was agreed the Committee was happy for David to initiate the dialogue regarding the review on behalf of the CLLS.

8. Update from regulatory conference

- 8.1 JK and IM provided a brief update from their attendance at a conference concerning transatlantic issues in legal ethics and law firm regulation in Washington D.C. last month.

9. AOB

- 9.1 RC suggested that the Committee should consider looking at the SRA's approach to regulating insurance distribution activities, further to the new Insurance Distribution Directive and the SRA's update to the SRA Financial Services (Scope) Rules 2001. MM said that she believed the CLLS Insurance Law Committee may already be looking at this with a view to liaising with the SRA.
- 9.2 ACTION: MM to check whether CLLS Insurance Law Committee was considering the SRA's approach to regulating insurance distribution activities, with a view to the Committee providing feedback to the SRA with or alongside the Insurance Law Committee.

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