

Minutes of the meeting of the CLLS Professional Rules & Regulation Committee (the Committee) held on Thursday 10 December 2020 at 4:00pm

Location: By video call

Present:

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

Raymond Cohen (Linklaters LLP) (Co-Vice Chair) (**RMC**)

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

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

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

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

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

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

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

Clare Wilson (Herbert Smith LLP) (Co-Vice Chair) (**CW**)

Sarah Boland (Freshfields Bruckhaus Deringer LLP) (Committee Secretary) (**SB**)

For part: Marco Cillario, International Policy Adviser – Europe, The Law Society of England and Wales (the **Law Society**) (**MC**)

Apologies:

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

.....

1. Minutes and matters arising

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

2. Ireland

2.1 The Committee welcomed MC to the meeting.

2.2 RMC confirmed that he had been trying to contact the Law Society of Ireland (**LSI**) following the guidance issued on 11 November 2020 with respect to Irish Practising Certificates.

2.3 A meeting had taken place earlier in the week which was encouraging in terms of the approach of the LSI. There were three substantive issues:

- (i) whether Practising Certificates would be issued to individuals in firms who were prepared to open an office in Ireland;
- (ii) the position of individuals who were practising without an Irish Practising Certificate but who wanted to register in the EU using the alternative

‘certification’ approach. On this the LSI had indicated that it was confident, based on what it was prepared to confirm, that this approach met the requirements of all EU Bars (notwithstanding the strict Directive requirements); and

- (iii) the position of individuals who were Irish qualified solicitors practising in the UK. The LSI had confirmed that it was expecting the alternative certificates to be available to those individuals.

2.4 The above matters were the subject of requests for further written clarification from the LSI.

2.5 The position remained, however, that without an Irish Practising Certificate doubts remained whether the advice of an Irish solicitor would be regarded as being privileged under ECJ case law.

2.6 MC also noted that the LSI has confirmed that the current approach to admission for UK solicitors would continue to apply for as long as the SRA reciprocated. MC confirmed that the issue of reciprocity between Ireland and the UK would probably not be resolved until sometime during 2021 when the new SQE route came in, although there was comfort that the SRA considered Ireland a priority in that regard such that anything that needed to be in place by September 2021 would be.

3. SRA guidance on confidential information

3.1 ACTION: It was agreed that the Committee should accept the invitation to be involved in the SRA’s consideration of further guidance on managing confidential information, particularly in relation to changes of firm. CW, AFS, IM and JAK confirmed that they would form a sub-group to take this forward.

4. Legal Fraud Sector Charter

4.1 A meeting in relation to the Charter had taken place between the Home Office, the Law Society and the SRA on 9 December 2020. Scepticism was expressed by the Committee regarding the need for a Charter and concerning its ambit. Liaison should be maintained with the Law Society AML Taskforce as this developed, particularly since it was also understood that the Home Office was considering a consultation regarding a criminal offence of failing to stop fraud/financial crime.

5. Decision in SRA v Beckwith

5.1 IM and FC confirmed that the decision did not provide meaningful clarity in relation to the key points in issue. It was to be expected that the Legal Services Board (LSB) would scrutinise the decision.

6. Succession planning

6.1 RMC confirmed that he was due to retire in April 2021.

6.2 ACTION: The Committee to look at advertising for one or two new members in 2021.

7. SRA Symposium on mental health

7.1 JAK reconfirmed the importance of the Committee publicising this important event within their respective firms.

8. Law Society of England and Wales work plan

8.1 ACTION: JAK to confirm the Committee's willingness to engage with this and welcomed confirmation from those members of the Committee who wanted to be involved.

8.2 ACTION: Thoughts in relation to the Committee's proposed work plan were welcomed with the intention of a plan being circulated next year.

9. AOB

9.1 JAK drew attention to the LSB's consultation on strategy and its business plan.

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