

Minutes of the meeting of the CLLS Professional Rules & Regulation Committee (the Committee) held on Thursday 11 March 2021 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**)

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**)

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

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

Apologies:

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

.....
1. Minutes and matters arising

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

2. SRA quarterly meeting

2.1 JAK reported that a webinar by the SRA was planned for 16 March 2021 on money laundering focusing on learnings from SRA firm visits. There was likely to be a greater focus on data and data driven management of firms in this area.

2.2 JAK reported that the SRA had appointed a professor from Said Business School to prepare a study on technology and legal services – in particular to address how quickly technology was intruding into the provision of legal services and whether this was facilitated or hindered by the regulatory regime. JAK had confirmed to the SRA that the Committee would likely be interested in discussing the work, including the ethical issues arising.

3. Negative interest rates

3.1 There had been some debate as to whether it would be possible or appropriate in regulatory terms to pass the cost on to clients. In part this followed comments attributed to the SRA at a recent conference. Whilst some European jurisdictions already regulate

this area, MP confirmed a call was scheduled with Juliet Oliver (**JO**) (General Counsel of the SRA) to obtain her views.

3.2 ACTION: MP to report back following the call with JO.

4. Conflicts working group

4.1 RMC confirmed that the group had previously dealt with JO on two issues – the first being the general SRA conflicts guidance and Case Study 1 (with respect to acting for financiers and bidders in auctions) and the second being lateral hires.

4.2 The first issue had been resolved and the changes suggested by the working group had now been incorporated in the guidance.

4.3 The second issue was in progress as it was interrelated with a separate workstream commenting on confidentiality guidance proposed by the SRA in the context of lateral moves.

4.4 On the confidentiality guidance regarding laterals, AFS confirmed that JAK had combined comments from the Committee which had been submitted to the SRA. A response was awaited.

5. Post-Brexit matters

5.1 Trade and Cooperation Agreement (**TCA**).

It was agreed that the implications across Europe would only likely be known in the longer term – and probably only when local regulations were challenged.

5.2 Ireland

The Law Society of Ireland had retreated to a more restrictive position in regulatory terms, including from the position it had been understood to have been proposing in early December 2020. It was a working assumption that, absent any other relevant factors, having an Irish Practising Certificate when practising from outside an establishment in Ireland would not be effective protection in terms of EU privilege for those wanting to provide EU law advice.

5.3 Belgium

RMC reported that there had been some further movement from the Belgian bar. UK qualified solicitors would now (even under the grandfathering provisions) be put on a special UK section of the B List. That was accepted as providing little benefit unless individuals were working full time in Brussels.

5.4 France

RMC reported that the biggest issue currently appeared to be that the Paris bar did not agree with the national bar (the CMB) with respect to the effect of the TCA. The Paris bar had not yet persuaded the CMB that UK solicitors established in France were entitled to practice through FLC status.

5.5 Luxemburg

RMC reported that Luxemburg appeared to be interested in the identities of members of LLPs with branches in Luxemburg and that no equivalence decision appeared to have been taken yet.

6. Succession planning and new members

6.1 JAK and the Committee thanked RMC for his contribution to the Committee as this was his last meeting before he was due to retire in April 2021.

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

7. SQE

7.1 The Committee discussed the approach to the SQE and in particular the approach to individuals who wanted to be considered via the two years' experience route.

7.2 ACTION: To invite a member of the CLLS Training Committee to attend the next Committee meeting to give a briefing.

7.3 ACTION: To raise this with the SRA at the next SRA quarterly meeting.

8. AOB

8.1 JR drew the Committee's attention to the new register of trusts requirements.

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.

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