



Schedule 4 Rules Change Application – Adjudication Panel

LSB Application Requirement	Case for amendment of CLC Regulatory Arrangements relating to the Adjudication Panel
<p>a. Contact</p>	<p>Simon Blandy Email address: simonb@clc-uk.org Tel no: 01245 349599 CLC, 16 Glebe Road, Chelmsford, Essex. CM1 1QG</p>
<p>b. Details of the proposed alteration/regulatory arrangements</p>	<p><u>Overview</u></p> <p>The purpose of the proposed amendments to the Adjudication Panel Rules (at Attachment A, pages 6-16) is to:</p> <ul style="list-style-type: none"> (a) Remove the requirement for the Chair of the Adjudication Panel to be legally qualified; and (b) Relax the requirement for the Adjudication Panel to comprise Lay Members who exceed by one the number of LC Members. <p>Amendments are also made which reflect changes introduced to the CLC's statutory framework by the coming into force of ss.86-89 and schedule 19-20 Deregulation Act 2015.</p> <p><u>Background</u></p>

So far as is relevant for the purpose of this application, the CLC has transferred the functions of the Investigating Committee and the Discipline and Appeals Committee to the Adjudication Panel which comprises:

- a. a Chair and up to two Deputy Chairs. Each of the Chair and Deputy Chairs is required to have a ten year general qualification (within the meaning of s.71 of the Courts and Legal Services Act 1990); and
- b. Up to six Panel members.

The total number of Lay Members must currently exceed 'by one' the number of Licensed Conveyancer Members.

The amendments made by the Deregulation Act 2015 permit the CLC to issue licences to 'licensed CLC practitioners' licensed by the CLC to provide probate and other reserved and non-reserved legal activities, but not conveyancing services and route appeals from disciplinary determinations made by the Adjudication Panel to the First Tier Tribunal, rather than, as currently, to the High Court.

Extent of the proposed amendments

Definitions (rule 1.2)

The term 'CLC Lawyer' is introduced to include both a Licensed Conveyancer and a Licensed CLC Practitioner, which is separately defined. Similarly, the term 'Licensed Conveyancer Member' is replaced by 'CLC Lawyer Member'.

No amendment is specifically required to introduce 'CLC practitioner services bodies' since, as with 'conveyancing services bodies', they are licensed as 'Recognised Bodies' under s.32 Administration of Justice Act 1985.

Rule 3

	<p>3.2 the requirement for Lay Members to exceed ‘by one’ the number of CLC Lawyer Members is amended by deletion of the phrase ‘by one’.</p> <p>3.3 the requirement for the Chair and Deputy Chairs to have a ten year general qualification under the Courts and Legal Services Act 1990 is deleted.</p> <p>Rule 13</p> <p>13.5 is amended to provide for appeals against determinations made by the Adjudication Panel relating to CLC Lawyers and Recognised Bodies to be made to the First Tier Tribunal, rather than to the High Court (as is now required).</p>
<p>c. How and why the alteration will help to promote, be neutral towards or be detrimental to the Regulatory Objectives</p>	<p><u>I. Protecting and promoting the public interest/improving access to justice/ increasing public understanding of the citizen’s legal rights and duties</u> - the CLC does not believe that the alterations proposed will have any detrimental effect on these Regulatory Objectives and may on balance help to promote them.</p> <p><u>II. Supporting the constitutional principle of the rule of law</u> – a demonstratively fair process for exercising the CLC’s powers of enforcement and for ensuring that the CLC exercises its powers fairly and justly clearly supports the constitutional principle of the rule of law.</p> <p><u>III. Protecting and promoting the interests of consumers</u> – effective procedural arrangements ensure that the CLC is able with confidence to police compliance with its Code of Conduct and supporting codes and guidance and so protect and promote the interests of consumers.</p> <p><u>IV. Promoting competition of services provided by Authorised Persons/ encouraging an independent, strong, diverse and effective legal profession</u>– the regulatory arrangements set out a fair and proportionate process for the determination of matters by a panel with a majority of members who are not licensed conveyancers (none of whom are members of the Council or employees of the CLC). This enables the CLC effectively to ensure the regulated community complies with its regulatory</p>

	<p>arrangements and provides checks to ensure the CLC does not apply those regulatory arrangements unfairly.</p> <p><u>V. Promoting and maintaining adherence to the professional principles</u> – the regulatory arrangements as amended provide an effective way for the CLC to enforce its Code of Conduct and for applicants to challenge decisions made by the CLC.</p>
<p>d. Compliance with Better Regulation Principles</p>	<p>Proportionate: the CLC is able to appoint to the Adjudication Panel a Chair and members who have appropriate skills for their respective roles.</p> <p>Targeted: these regulatory arrangements apply only for the conduct of disciplinary proceedings and appeals against determinations made by the CLC.</p> <p>Transparent: the revised regulatory requirements are published on the CLC website. In addition, respondents to disciplinary proceedings are provided with access to the Adjudication Panel Procedure Rules. The CLC responds to queries raised from the regulated community on the applicable procedure frankly referring to the applicable rules where appropriate.</p> <p>Accountable: the Adjudication Chair is currently required (Adjudication Panel Terms of Reference) to report to Council about key issues arising (though details of individual matters remain confidential to the Adjudication Panel and to relevant members of the CLC staff).</p> <p>Consistent: Decisions are made by a tribunal of three selected from the Adjudication Panel, comprising a Chair, Deputy Chair and five members. Determinations will continue to be made in writing.</p>
<p>e. Desired outcome of the alteration and how we will assess whether this has been achieved.</p>	<p>The rules for the appointment of the Chair and members of the Adjudication Panel mirrors the provisions of the Appointment Regulation 2015 (when they are made) in that:</p> <ol style="list-style-type: none"> 1. The requirement for the Lay Members to exceed by one the number of CLC Lawyer Members (currently the Licensed Conveyancer Members) is amended to remove the numeric specificity of the lay majority.

	<p>2. The term ‘CLC Lawyer’ and ‘CLC Lawyer Member’ extends the equivalent terms ‘Licensed Conveyancer’ and ‘Licensed Conveyancer Member’ to incorporate ‘Licensed CLC Practitioner’.</p> <p>Further, the requirement for the Chair and Deputy Chair to have 10 year general qualification is removed (ie they will not need to be advocates trained to appear before a Judge in Court). This will give the opportunity for individuals who may not be legally trained, but who are experienced in sitting as a member or chair of a tribunal, to be appointed as Chair or Deputy Chair. The CLC believes that a suitably experienced lay person will be able properly and fairly to discharge the functions and responsibilities of Chair. The Panel may appoint a Legal Adviser if it considers the issues raised in a matter justify the Panel obtaining its own legal advice. Both the request for specific advice and any advice given must be made or given in the presence of the parties. Whether the Chair appointed is or is not legally qualified will be one of the factors a matter for the CLC to determine when it reviews the applications for Chair.</p>
<p>f. Effect on areas regulated by other Approved Regulators.</p>	<p>We do not believe that our proposals will have any direct effect on any of the other Approved Regulators.</p>
<p>g. Implementation timescale.</p>	<p>Following LSB approval of this application we aim to bring the new rules into effect by 1 August 2015 in good time before the current terms of office of the Chair, Deputy Chair and members of the Adjudication Panel come to an end on 31 August 2015. The rules will be published on the CLC’s website and CLC practices will be notified of the changes.</p>
<p>h. Consultation processes undertaken and responses received.</p>	<p>The CLC published its Consultation (attachment B, pages 17-33) on 27 May 2015. The consultation ended on 26 June 2015 (a consultation period of just over 4 weeks). The consultation paper was promoted in the CLC newsletters for May and June 2015 and on social media. It was posted on the current consultation page of our website and listed as a news item.</p> <p>The consultation set out the CLC’s proposals on the amendments proposed (as explained above). Stakeholders were directed to a secure online survey facility. Attachment C (page 34) provides an overview of the responses received. This was published on the CLC website in June 2015.</p>

	<p>There were 2 responses to the consultation. One respondent agreed with the proposal that the CLC should require the Chair to have 10 year general qualification, the other opposed it. Both respondents agreed to removal of the bare lay majority requirement.</p>
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Attachment A
The CLC's Adjudication Panel Rules 2015



The CLC's
Adjudication Panel Rules 2015~~3~~

Made on ~~2 September 2013~~[DATE] by the Council for Licensed Conveyancers with the approval of the Legal Services Board pursuant to sections 24, 24A, 25 and 26 and paragraph 5 of Schedule 3 and paragraphs 3 and 4 of Schedule 6 to the Administration of Justice Act 1985, Part II of Schedule 8 to the Courts and Legal Services Act 1990 and section 20 and Part 3 of Schedule 4 to the Legal Services Act 2007.

1. Citation, Commencement, Interpretation and Saving

1.1 These Rules may be cited as the CLC's Adjudication Panel Rules 2015~~3~~ and shall come into effect on ~~30 September 2013~~[DATE] on which date the CLC's Adjudication Panel ~~(No 2) Rules 2013~~1~~ and the Licensed Conveyancers' Discipline and Appeals Committee Rules 2009~~ shall cease to have effect save that:

(a) no prior decision of the Investigating Committee, the Discipline and Appeals Committee nor the Adjudication Panel shall be invalidated by this repeal,

(b) any case referred for determination in accordance with the Discipline and Appeals Committee Rules 2009, ~~or~~ the CLC's Adjudication Panel (No 2) Rules 2011 or the Adjudication Panel Rules 2013, which has not been finally determined on the coming into force of these Rules, shall continue and shall be determined in accordance with these Rules, and

(c) the terms of office of the Adjudication Chair and members of the Adjudication Panel appointed in accordance with the CLC's Adjudication Panel Rules 2011, ~~or~~ the CLC's Adjudication Panel (No 2) Rules 2011 or the Adjudication Panel Rules 2013 shall continue in effect until expiry of their terms of office unaffected by the coming into force of these Rules. These persons shall be deemed to be appointed in accordance with these Rules.

1.2 In these Rules: -

Unless the contrary intention appears, words importing the masculine gender include the feminine, words in the singular include the plural and words in the plural include the singular;

"the 1985 Act" the Administration of Justice Act 1985;

“the 1990 Act” the Courts and Legal Services Act 1990;

“the 2007 Act” the Legal Services Act 2007;

“the Adjudication Chair” the chair of the Adjudication Panel;

“the Adjudication Procedure Rules” the rules made by the CLC currently in force for the conduct of disciplinary proceedings referred to the Adjudication Panel for determination;

“the Adjudication Panel” the committee established by the CLC by which the functions conferred on the Investigating Committee and the Discipline Appeals Committee under Part II of the 1985 Act are to be discharged;

“the CLC” the Council for Licensed Conveyancers established under section 12 of the 1985 Act;

“CLC Body” a Licensed Body or a Recognised Body;

“CLC Lawyer” a Licensed Conveyancer or a Licensed CLC Practitioner;

~~“Licensed Conveyancer Member”~~ “CLC Lawyer Member” an individual appointed as a member to the Adjudication Panel who is ~~a Licensed Conveyancer, who~~ has at any time held a Licence to practise as a Licensed Conveyancer-CLC Lawyer, or any individual who is or has at any time been a Manager of a CLC Body;

“CLC’s Rules” the CLC’s Code of Conduct and any other codes or rules made by the CLC;

“Company” has the meaning given by section 1(1) of the Companies Act 2006;

“Disciplinary Order” in the case of a ~~Licensed Conveyancer~~ CLC Lawyer an order made against him pursuant to section 24A or 26 of the 1985 Act (other than an order which provides only for the payment of costs by him);

“Lay Member” a person appointed as a member of the Adjudication Panel, who is not eligible to sit as a ~~Licensed Conveyancer Member~~ CLC Lawyer Member;

“Licensed Body” a body regulated by the CLC which provides legal services to the public and in which a non-lawyer is a Manager and/or owner as provided at s.72 of the 2007 Act;

“Licensed CLC Practitioner” a person, other than a Licensed Conveyancer, holding a licence in force issued by the CLC under s.53 of the 1990 Act to provide **probate** and other legal services regulated by the CLC, but not **conveyancing services**;

“Licensed Conveyancer” a person who holds a licence in force issued by the CLC under Part II of the 1985 Act to provide **conveyancing** and other legal services regulated by the CLC;

~~“Licensed Conveyancer Member”~~ an individual appointed as a member to the Adjudication Panel who is a Licensed Conveyancer, who has at any time held a Licence to practise as a Licensed Conveyancer or any individual who is or has at any time been a Manager of a CLC Body;

“Limited Liability Partnership” a body corporate formed by being incorporated under the Limited Liability Partnerships Act 2000;

“LLP Member” a member of a Limited Liability Partnership;

“Manager” in relation to a CLC Body, means a person who is

(a) a member of the CLC Body, if the CLC Body is a Company and its affairs are managed by its members;

(b) a director of the CLC Body, if the CLC Body is a Company and paragraph (a) does not apply;

(c) a partner, if the CLC Body is a partnership;

(d) a LLP member, if the CLC Body is a Limited Liability Partnership;

(e) a member of its governing body, if the CLC Body is an unincorporated body (other than a partnership); and

(f) a ~~Licensed Conveyancer~~ CLC Lawyer, if sub-paragraphs(a)-(e) do not apply and the affairs of the CLC Body are not managed by another ~~Licensed Conveyancer~~ CLC Lawyer;

“Panel Member” a person appointed as a member of the Adjudication Panel in accordance with rule 3.1;

“Party”

(a) the CLC (and includes the CLC’s Representative); or

(b) the Respondent;

“Recognised Body” a body recognised by the CLC under section 32 of the 1985 Act to provide Regulated Services to the public (“Recognised Body” is an entity regulated by the CLC and includes, without limitation, a partnership, a sole principal, a limited company and a Limited Liability Partnership);

“Regulated Services” conveyancing services and such other services, including probate services, regulated by the CLC;

“Respondent” the ~~Licensed Conveyancer~~ CLC Lawyer, Manager, employee or CLC Body about whom the reference is made or treated as made;

“Standing Orders” the Standing Orders made for the Adjudication Panel by the CLC pursuant to paragraph 9(2) of schedule 3 to the 1985 Act.

Other expressions shall have the meanings given by the 1985 Act, the 1990 Act and the 2007 Act.

2. Delegation of Powers

2.1 In accordance with paragraph 12(2) schedule 8 to the 1990 Act the functions conferred on the Investigating Committee under Part II of the 1985 are to be discharged by the Adjudication Panel which for these purposes is a committee established by the CLC under paragraph 12 schedule 8 to the 1990 Act.

2.2 In accordance with paragraph 12(2) schedule 8 to the 1990 Act the functions conferred on the Discipline and Appeals Committee under Part II of the 1985 are to be discharged by the Adjudication Panel which for these purposes is a committee established by the CLC under paragraph 12 schedule 8 to the 1990 Act.

2.3 The Adjudication Panel shall consider or deal with such other matters specifically delegated to or referred to them by the CLC, the Council of the CLC or by any other committee of the CLC.

2.4 The Adjudication Panel may arrange its own scheme of delegation provided that any Adjudication Chair, Deputy Chair or member participating in the preliminary investigation of a case does not act in relation to that case as a member of the Adjudication Panel determining that case.

3. Membership of the Adjudication Panel

3.1 The CLC shall in accordance with rule 4 appoint the Adjudication Chair, up to two Deputy Chairs and up to six Panel Members none of whom shall be a member of the Council of the CLC.

3.2 The Lay Members shall exceed ~~by one~~ the number of ~~Licensed Conveyancer~~ CLC Lawyer Members.

~~3.3 The Adjudication Chair and each of the Deputy Chairs must have a ten year general qualification within the meaning of section 71 of the 1990 Act.~~

3.34 If he resigns his office as Adjudication Chair, subject to these Rules, the Adjudication Chair may remain a member of the Adjudication Panel.

3.45 If the Adjudication Chair resigns his office or is suspended under rule 8.1, the CLC may in its absolute discretion appoint a new Adjudication Chair:

- (a) from among the Deputy Chairs or the Panel Members; or
- (b) in accordance with rule 4.

4. Appointment of Adjudication Chair and Panel Members

4.1 The posts of the Adjudication Chair, Deputy Chairs and Panel Members shall be advertised in such manner as the CLC shall determine.

4.2 Other than as provided at rule 3.45, the appointment of the Adjudication Chair, Deputy Chairs and Panel Members shall be made by an appointment panel, comprising no less than three persons, chosen by the CLC after considering the advice of the Chief Executive Officer of the CLC.

4.3 A person shall not be eligible for appointment to the Adjudication Panel if:

- (a) he is, or has been within the immediately preceding 18 months, the Chair or an employee or member of the CLC;

(b) he has been convicted of a criminal offence involving fraud, dishonesty, deception or violence or an indictable offence unless the conviction is spent within the meaning of the Rehabilitation of Offenders Act 1974;

(c) he is or has been an undischarged bankrupt, is or has been the subject of a bankruptcy restrictions order or has made a composition or arrangement with his creditors unless:

(i) the bankruptcy order is annulled either on the ground that he ought not to have been adjudged bankrupt, or that his debts have been paid in full, on the date of the annulment;

(ii) in the case of a composition or arrangement with his creditors, he pays his debts in full on the date on deeds which payment is completed or on the expiration of five years from the date on which the terms of the composition or arrangement are fulfilled.

(d) if he lacks capacity (within the meaning of the Mental Capacity Act 2005) and powers in relation to sections 15-20 or section 48 of that Act have been exercised in relation to him;

(e) the CLC is satisfied that, in respect of the following, the circumstances of the particular case make that person ineligible for appointment to the Adjudication Panel:

(i) a Disciplinary Order has been made against him, unless more than six years have passed since the Order was made;

(ii) the CLC's power of intervention have been exercised against him or his practice in accordance with part 1 of schedule 5 to the 1985 Act, against a Recognised Body of which he is a Manager in accordance with schedule 6 to the 1985 Act or against a Licensed Body of which he is a Manager in accordance with schedule 14 to the 2007 Act unless in any case more than six years have passed since such powers were exercised; or

(iii) the CLC is satisfied that as a member of another profession an adverse determination has been made against him by a disciplinary tribunal or committee established to regulate the activities and the conduct of members of his profession (other than an order which provides only for the payment of costs by him), unless more than six years have passed since the Order was made and if he has been disqualified from holding a licence or practising certificate (as the case may be) for a period longer than six years, his licence or practising certificate has been restored.

5. Tenure of Office

5.1 Subject in each case to rules 5.2, 6.1 and 9.1 the term of office of each Adjudication Chair, Deputy Chair and Panel Member appointed takes effect on the date specified in the letter of appointment for a term of office not exceeding four years.

5.2 An Adjudication Chair, Deputy Chair or Panel Member shall be eligible subject to review for re-appointment, once only, for a further term of office not exceeding four years.

6. Vacancies

6.1 A vacancy in the office of Adjudication Chair, Deputy Chair and Panel Member shall automatically occur and his right to hold office shall cease immediately:

(a) on his death;

- (b) on receipt by the CLC of his written resignation;
- (c) on the expiry of his term of office as a Panel Member;
- (d) on his appointment as Chair or member of the CLC;
- (e) if appointed as a Lay Member, he becomes a ~~Licensed Conveyancer~~ CLC Lawyer or a Manager of a Recognised Body or a Licensed Body regulated by the CLC;
- (f) if, without the consent of the Adjudication Chair or (in the absence of the Adjudication Chair) a Deputy Chair, he fails to attend more than three consecutive meetings of the Adjudication Panel;
- (g) if he is convicted of a criminal offence involving fraud, dishonesty, deception or violence or an indictable offence;
- (h) if he is adjudged bankrupt, is the subject of a Bankruptcy Restrictions Order or makes a composition or arrangement with his creditors unless:
 - (1) the bankruptcy order is annulled either on the ground that he ought not to have been adjudged bankrupt, or that his debts have been paid in full, on the date of the annulment;
 - (2) in the case of a composition or arrangement with his creditors, he pays his debts in full on the date on which payment is completed or on the expiration of five years from the date on which the terms of the deeds of composition or arrangement are fulfilled.
- (i) if he lacks capacity (within the meaning of the Mental Capacity Act 2005) and powers in relation to sections 15-20 or section 48 of that Act have been exercised in relation to him;
- (j) if, being a ~~Licensed Conveyancer Member~~ CLC Lawyer Member,
 - (1) a Disciplinary Order is made against him;
 - (2) his Licence is suspended ~~pursuant to section 24 of the 1985 Act~~; or
 - (3) the CLC's powers of intervention are exercised against him in accordance with Part I of Schedule 5 to the 1985 Act, against a Recognised Body of which he is a Manager in accordance with schedule 6 to the 1985 Act or against a Licensed Body of which he is a Manager in accordance with schedule 14 to the 2007 Act;
- (k) if as a member of another profession, an adverse determination is made against him by a disciplinary tribunal or committee (other than an Order which provides only for the payment of costs by him);
- (l) if he has failed to disclose to the CLC any matter referred to in rule 4.3 subparagraphs (b), (c), (d) or (e).
- (m) if he is removed from office under rule 9.1.

6.2 In the event that a vacancy occurs by reason of the operation of rule 6.1, the CLC shall inform the Adjudication Chair, or one of the Deputy Chairs (if the office of the Adjudication Chair has been vacated).

6.3 Where a vacancy occurs, the CLC will as soon as possible make an appointment in accordance with rule 4.

7. Remuneration

7.1 The CLC will pay to the Adjudication Chair, Deputy Chairs and Panel Members attendance fees and expenses reasonably incurred, such fees to be determined by the CLC and to be reviewed periodically.

8. Suspension of the Adjudication Chair, a Deputy Chair or a Panel Member

8.1 The Adjudication Chair, Deputy Chair or Panel Member is suspended with immediate effect in the event that: -

- (a) he is charged with any offence referred to in rule 6.1(g); or
- (b) he is served with a bankruptcy petition or issues a bankruptcy petition on his own behalf; or
- (c) he receives notice of any application against him for an order under rule 6.1(k).

8.2 Any suspension imposed under rule 8.1 shall automatically be revoked in the following circumstances: -

- (a) under sub-paragraph 8.1(a) in the event that the charge is dismissed, discharged, discontinued or otherwise withdrawn;
- (b) under sub-paragraph 8.1(b) if the bankruptcy petition is disposed of without a declaration of bankruptcy being made against him;
- (c) under sub-paragraph 8.1(c) in the event that the application is withdrawn or dismissed or the only order made is for the payment of costs.

9. Removal of the Adjudication Chair, a Deputy Chair or a Panel Member

9.1 The Council may by a majority remove the Adjudication Chair, a Deputy Chair or a Panel Member who has breached the Standing Orders or the Code of Conduct applicable to the Adjudication Chair, Deputy Chairs and Panel Members.

10. Composition of hearings of the Adjudication Panel

10.1 In consultation with the CLC the Adjudication Chair shall direct the date, time and place for the hearing under the Adjudication Panel Procedure Rules 2013 in consultation with the CLC when the Adjudication Panel shall meet to determine proceedings.

10.2 The CLC shall as soon as reasonably possible send notice of the hearing to each member of the Adjudication Panel nominated by the Adjudication Chair to attend the hearing and to the appropriate Parties in the manner prescribed by the Adjudication Panel Procedure Rules 2013.

10.3 When the Adjudication Panel direct that a new hearing date be fixed to hear or continue to hear and determine the matter before them, the Adjudication Chair shall determine the date, time and place for the hearing in consultation with the CLC.

10.4 The CLC shall as soon as reasonably possible send notice of the hearing to every member of the Adjudication Panel who is to attend the hearing and to the appropriate Parties in the manner prescribed by the applicable procedure rules.

10.5 If a case has been part heard on the expiry of the term of office of one or more members of the Adjudication Panel under rule 6.1(c) (but for no other reason), that Panel Member may with

the agreement of the Adjudication Chair be treated as remaining a member of the Adjudication Panel and hear the case until its conclusion even though for all other purposes that individual has ceased to be a Panel Member.

10.6 If an individual sitting as a member of the Adjudication Panel ceases to be a Panel Member under rule 6.1 (other than as a result of the operation of rule 6.1(c)) where a case has been part heard and as a result the hearing is not quorate, the Adjudication Chair may nominate another Panel Member to attend the hearing to enable the hearing of that case to continue until its conclusion provided he is satisfied that it is in the interests of natural justice.

11. Standing Orders

11.1 Save as modified by these Rules and by the Adjudication Panel Procedure Rules 2013 as provided for under rule 10.1, proceedings of the Adjudication Panel shall be governed by the Standing Orders.

11.2 The CLC's regulatory arrangements (and any subsequent arrangements) shall have this order of precedence:

- (a) the Adjudication Panel Rules 201~~3~~⁵³;
- (b) the Adjudication Panel Procedure Rules 2013;
- (c) the Adjudication Panel Standing Orders ~~2013~~;
- (d) the Adjudication Panel Terms of Reference.

11.3 Where there is a conflict or inconsistency between the regulatory arrangements listed in rule 11.2, the provisions of those named higher in the list are preferred over those listed lower in the list.

11.4 Where there is a conflict or inconsistency between the provisions of any of the CLC's regulatory arrangements (other than those listed at rule 11.2) and the regulatory arrangements listed at rule 11.2, the provision of the CLC's regulatory arrangements (other than those listed at rule 11.2) is preferred.

11.5 Where there is a conflict or inconsistency between the provisions of any statute or statutory instrument and any of the CLC's regulatory arrangements, the provision of the statute or statutory provision is preferred.

12. Penalty

12.1 The amount of any penalty required to be paid must be fair and proportionate, and (a) in the case of a penalty imposed on a CLC Body under paragraph 4(2)(b) of schedule 6 to the 1985 Act, alternatively under the CLC's Licensed Body (ABS) Licensing Framework, must not exceed £250 million; and

(b) in the case of a penalty imposed on a manager or employee of a CLC Body under section 26(2) of and paragraph 4(2B)(a) of schedule 6 to the 1985 Act, alternatively under the CLC's Licensed Body (ABS) Licensing Framework, must not exceed £50 million.

13. Disciplinary Powers of the CLC as an Approved Regulator

13.1 Rule 13 applies when the Respondent is regulated by the CLC acting as an Approved Regulator.

13.2 The Adjudication Panel must carry out a preliminary investigation of any case in which it is alleged that:

(a) a ~~Licensed Conveyancer~~ CLC Lawyer:

(i) has (whether as a ~~licensed conveyancer~~ CLC Lawyer or not) been convicted by any court in the United Kingdom of a criminal offence which renders him unfit to practise as a ~~licensed conveyancer~~ CLC Lawyer; or

(ii) has, while holding a licence in force under Part II of the 1985 Act, failed to comply with any condition to which that licence was subject; or

(iii) has failed to comply with any rules made by the Council under Part II of the 1985 Act;

(b) a Recognised Body:

(i) has (while a Recognised Body) been convicted of a criminal offence which renders it unsuitable to be recognised under section 32 of the 1985 Act; or

(ii) has failed to comply with any rules applicable to it by virtue of section 32 of the 1985 Act; or

(iii) has (while a Recognised Body) failed to comply with a condition subject to which its recognition has effect;

(c) a manager or employee of a Recognised Body who is not a ~~Licensed Conveyancer~~ CLC Lawyer has failed to comply with any rules applicable to him by virtue of section 32 of the 1985 Act;

with a view to determining whether such case ought to be referred for hearing and determination by the Adjudication Panel.

13.3 The Adjudication Panel may make the following orders or directions

(a) in respect to a ~~Licensed Conveyancer~~ CLC Lawyer

(i) an order revoking any licence held by the ~~licensed conveyancer~~ CLC Lawyer;

(ii) an order directing that the ~~licensed conveyancer~~ CLC Lawyer shall be disqualified (either permanently or during a specified period) from holding a licence under this Part;

(iii) an order suspending any licence held by the ~~licensed conveyancer~~ CLC Lawyer;

(iv) an order that any such licence shall have effect subject to such conditions as may be specified in the order;

(v) an order directing the payment by the ~~licensed conveyancer~~ CLC Lawyer of a penalty which must be fair and proportionate, and not exceed £50 million to be forfeited to Her Majesty;

(vi) an order reprimanding the ~~licensed conveyancer~~ CLC Lawyer;

(b) in respect of a Recognised Body

(i) an order revoking the recognition under section 32 of the 1985 Act of that Recognised Body;

(ii) an order directing the payment by that Recognised Body of a penalty which must be fair and proportionate, and not exceed £250 million, to be forfeited to Her Majesty;

(iii) an order reprimanding that Recognised Body;

(iv) an order that the recognition of that Recognised Body under section 32 is to have effect subject to such conditions as may be specified in the order;

(c) in respect of the manager or employee of a Recognised Body

(i) an order directing the payment by the manager or employee of a penalty which must be fair and proportionate, and not exceed £50 million, to be forfeited to Her Majesty;

(ii) an order requiring the CLC to consider taking such steps as the Adjudication Panel may specify in relation to the manager or employee;

(iii) an order requiring the CLC to refer to an appropriate regulator (as specified at paragraph 4(2C) of schedule 6 to the 1985 Act) any matter relating to the conduct of the manager or employee.

13.4 The Adjudication Panel may make such order as it thinks fit as to the payment of costs by the CLC or the Respondent in accordance with s.24A(2), s.26(2A) or schedule 6 of the 1985 Act.

13.5 Unless otherwise directed by the First Tier Tribunal, a Respondent may within 28 days after the determination has been made under rule 13.3 appeal to the First Tier Tribunal. ~~A Respondent may within 28 days after the determination made under rule 13.3 appeal to the High Court.~~

14. Disciplinary Powers of the CLC as a Licensing Authority

14.1 Rule 14 applies when the Respondent is regulated by the CLC acting as a Licensing Authority.

14.2 The Adjudication Panel may in respect of:

(a) a Licensed Body:

(i) reprimand the body;

(ii) direct the issue of a licence subject to conditions it may specify;

(iii) direct the payment of a fine which is fair and proportionate, not exceeding £250million;

(iv) suspend the licence of the body;

(v) revoke the licence of the body;

(vi) intervene;

(b) a Licensed Body owner:

(i) place conditions on the owner's material interest;

(ii) object to the owner's material interest, and initiate the application to the High Court to divest the owner of their material interest;

(iii) direct the payment of a fine which is fair and proportionate, not exceeding £50 million;

(c) a Head of Legal Practice (HoLP) or Head of Finance & Administration (HoFA):

(i) require the CLC to take such steps as it may specify in relation to the HoLP or HoFA;

(ii) direct the payment of a fine which is fair and proportionate, not exceeding £50 million;

(iii) withdraw approval of the individual for the role;

(iv) disqualify the individual from a role within a Licensed Body;

(d) a manager or employee:

(i) direct the payment of a fine which is fair and proportionate fine, not exceeding £50 million;

(ii) require the CLC to take such steps as it may specify in relation to the manager or employee;

(iii) require the CLC to refer to an appropriate regulator any matter relating to the conduct of the manager or employee;

(iv) disqualify the individual from a role in the Licensed Body.

14.3 Unless otherwise directed by the First Tier Tribunal, a Respondent may within 28 days after the determination has been made [under rule 14.2](#) appeal to the First Tier Tribunal.



Proposed amendments to the Adjudication Panel Rules 2013
CLC Consultation Paper
May 2015

Submission Deadline: 26 June 2015

Responding to this Consultation

1. You are invited to respond to the question at page 2. The CLC also welcomes comments on the proposals as a whole including alternative proposals to achieve the policy objectives outlined in this Consultation Paper.
2. When you respond could you please give your name and address and whether you are a licensed conveyancer. If you are not a licensed conveyancer, could you please state, if relevant, your status or professional qualification. The CLC reserves the right to publish any response and to refer to it specifically in any further document it publishes following this Consultation. If you wish your response to be treated as confidential could you please let us know when you respond.
3. You can respond online here **INSERT LINK**, by email to consultations@clc-uk.org or by post to

The Council for Licensed Conveyancers
16 Glebe Road
Chelmsford
Essex CM1 1QG

Or by to DX 121925 CHELMSFORD 6

Submission Deadline: 26 June 2015

Amending Adjudication Panel Rules 2013

4. The CLC intends to amend the Adjudication Panel Rules to delete the requirement for the number of lay members of the Panel to exceed by one the number of Licensed Conveyancer members, and to remove the requirement for the Chair and Deputy Chair of the Adjudication Panel to be legally qualified.
5. The amendments proposed are shown by tracked changes in the draft amended rules at Schedule 1 to this consultation paper:
 - a) Deletion of 'by one' at 3.2 to reflect the change applicable to the composition of the Council which is being introduced when the Deregulation Act 2015 comes into force
 - b) Deletion of 3.3 in its entirety, so there is no requirement in the rules for the chair or deputy chair to be legally qualified.
6. The terms of office of the current members of the Adjudication Panel are due to come to an end shortly and the Council is about to embark on a recruitment process. Their view is that the Adjudication Panel should be made up of more lay members (ie members without a legal qualification), and specifically not to require the Chair and Deputy Chair to be legally qualified.
7. Rule 23 of the Adjudication Panel (Procedure) Rules 2013 (at http://www.conveyancer.org.uk/CLCSite/media/Corporate-Docs/Adjudication_Panel_Procedure_Rules_2013.pdf) which requires at least one member of the Adjudication Panel hearing a matter to be a Licensed Conveyancer member is not being changed.

Questions

1. Do you agree to removal of the the requirement for the Chair of the Adjudication Panel Chair to be legally qualified?
2. Do you agree to removal of the requirement for the number of lay members on the Adjudication Panel to exceed by one the number of Licensed Conveyancer members?

Respond online here [INSERT LINK](#)

Background

Statutory Framework

7. The CLC was established by the Administration of Justice Act 1985 (AJA) to regulate licensed conveyancers in the provision of conveyancing services. With effect from November 2008 the CLC has regulated probate services (which includes the administration of estates). It has no representative function. It was the first Approved Regulator to be designated as a Licensing Authority authorised to license Alternative Business Structures from October 2011.
8. As an approved regulator the CLC “must, so far as is reasonably practicable, act in a way.., which is compatible with the regulatory objectives”¹ as follows:

Protecting and promoting the public interest;

 - a. Supporting the constitutional principle of the rule of law;
 - b. Improving access to justice;
 - c. Protecting and promoting the interests of consumers;
 - d. Promoting competition in the provision of services by ‘authorised persons’²;
 - e. Encouraging an independent, strong, diverse and effective legal profession;
 - f. Increasing public understanding of the citizen’s legal rights and duties;
 - g. Promoting and maintaining adherence to the professional principles³.
9. The “professional principles” are—
 - (a) that authorised persons should act with independence and integrity,
 - (b) that authorised persons should maintain proper standards of work,
 - (c) that authorised persons should act in the best interests of their clients,
 - (d) that persons who exercise before any court a right of audience, or conduct litigation in relation to proceedings in any court, by virtue of being authorised persons should comply with their duty to the court to act with independence in the interests of justice, and
 - (e) that the affairs of clients should be kept confidential.⁴

¹ S.28(2) LSA 2007

² defined at s.18 LSA

³ s.1(1) LSA

⁴ s.1(3) LSA

10. The CLC is also required to “have regard to...the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed”⁵.

CLC’s Approach to Regulation

11. The CLC’s role is to safeguard the public interest and consumers by regulating providers to deliver high quality and accessible legal services.
12. The CLC fulfills its responsibilities by undertaking a range of activities:
 - Set educational and training standards for entry to the profession;
 - Issue licences to practise to those qualified to provide conveyancing and probate services to consumers;
 - Maintain a register of all Licensed Conveyancers and approved Regulated Entities;
 - Set standards to regulate the professional practice, conduct and discipline of Licensed Conveyancers and Regulated Entities;
 - Set standards to maintain adequate professional indemnity insurance and a compensation fund to protect consumers;
 - Monitor the work and conduct of Regulated Entities and to determine whether they are meeting the required standards.
 - Provide guidance and advice to Regulated Entities to maintain compliance with the standards and those regulations relevant to our duty of consumer protection;
 - Investigate allegations of misconduct against a Licensed Conveyancer, Manager and/or Regulated Entity and where appropriate take disciplinary proceedings;
 - Collaborate with key stakeholders in the legal services market to monitor and shape the impact of proposed regulations on the conduct of Licensed Conveyancers and Regulated Entities in order to maintain adequate consumer protection.

⁵ s.28(3) LSA (the Better Regulation Principles)

Adjudication Panel Rules

13. The AJA requires the CLC to establish a committee to determine disciplinary proceedings and to hear appeals from some decisions made by the CLC.
14. The Adjudication Panel has been established to perform that function. The procedure for the appointment, terms of office and removal of the Chair and members of the Adjudication Panel is set out in the Adjudication Panel Rules. The procedure for making referrals to the Adjudication Panel and for it to determine cases are set out in its Procedure Rules (at http://www.conveyancer.org.uk/CLCSite/media/Corporate-Docs/Adjudication_Panel_Procedure_Rules_2013.pdf).
15. At no time has there been a statutory requirement for the Chair of the Adjudication Panel to be legally qualified. However, until 2009, when the requirement was removed, the Discipline and Appeals Committee (whose functions are now undertaken by the Adjudication Panel) was required to sit with a Legal Assessor. Whilst it may choose to sit with a Legal Adviser, in practice the Adjudication Panel has not done so since 2013. However, it will still be open to the Adjudication Panel to sit with a Legal Adviser if it considers that the issues or law raised in a particular matter justify it doing so.
16. In most cases heard by the Adjudication Panel, the issues raised are relatively contained and no contentious issues of law are raised. The view of the Council of the CLC is that a Panel Chair does not need to be legally qualified (but may be). A Licensed Conveyancer member will be on the Panel to advise the other members of the Panel about technical legal issues and it will still be possible for a Legal Adviser to sit with the Panel.
17. Appeals against disciplinary determinations may continue to be made either to the First Tier Tribunal or to the High Court for some cases (until amendments made by the Deregulation Act 2015 comes into force when all appeals will be determined by the First Tier Tribunal).
18. The CLC is very conscious of the requirement for the Adjudication Panel to deal with cases 'fairly and justly'⁶ and of the broader considerations of natural justice. Equally, it is concerned that all cases are dealt with efficiently and effectively. In the view of the CLC, the amendments proposed are proportionate and will not prejudice the rights of a party to a hearing.
19. The Submission Deadline for this Consultation is 26 June 2015.
20. Once the rules have been made, an application for approval will be made to the LSB with a view to the Adjudication Panel Rules 2015 coming into force by early August 2015.

⁶ Rule 2 Adjudication Panel (Procedure) Rules 2013 (at http://www.conveyancer.org.uk/CLCSite/media/Corporate-Docs/Adjudication_Panel_Procedure_Rules_2013.pdf)

Schedule 1



The CLC's Adjudication Panel Rules 201~~3~~⁵³

Made on ~~2 September 2013~~ [DATE] by the Council for Licensed Conveyancers with the approval of the Legal Services Board pursuant to sections 24, 24A, 25 and 26 and paragraph 5 of Schedule 3 and paragraphs 3 and 4 of Schedule 6 to the Administration of Justice Act 1985, Part II of Schedule 8 to the Courts and Legal Services Act 1990 and section 20 and Part 3 of Schedule 4 to the Legal Services Act 2007.

1. Citation, Commencement, Interpretation and Saving

1.1 These Rules may be cited as the CLC's Adjudication Panel Rules 201~~3~~⁵³ and shall come into effect on ~~30 September 2013~~ [DATE] on which date the CLC's Adjudication Panel (~~No 2~~) Rules 201~~3~~⁵³ and the Licensed Conveyancers' Discipline and Appeals Committee Rules 2009 shall cease to have effect save that:

(a) no prior decision of the Investigating Committee, the Discipline and Appeals Committee nor the Adjudication Panel shall be invalidated by this repeal,

(b) any case referred for determination in accordance with the Discipline and Appeals Committee Rules 2009, ~~or~~ the CLC's Adjudication Panel (No 2) Rules 2011 or the Adjudication Panel Rules 2013, which has not been finally determined on the coming into force of these Rules, shall continue and shall be determined in accordance with these Rules, and

(c) the terms of office of the Adjudication Chair and members of the Adjudication Panel appointed in accordance with the CLC's Adjudication Panel Rules 2011, ~~or~~ the CLC's Adjudication Panel (No 2) Rules 2011 or the Adjudication Panel Rules 2013 shall continue in effect until expiry of their terms of office unaffected by the coming into force of these Rules. These persons shall be deemed to be appointed in accordance with these Rules.

1.2 In these Rules: -

Unless the contrary intention appears, words importing the masculine gender include the feminine, words in the singular include the plural and words in the plural include the singular;

"the 1985 Act" the Administration of Justice Act 1985;

"the 1990 Act" the Courts and Legal Services Act 1990;

“the 2007 Act” the Legal Services Act 2007;

“the Adjudication Chair” the chair of the Adjudication Panel;

“the Adjudication Procedure Rules” the rules made by the CLC currently in force for the conduct of disciplinary proceedings referred to the Adjudication Panel for determination;

“the Adjudication Panel” the committee established by the CLC by which the functions conferred on the Investigating Committee and the Discipline Appeals Committee under Part II of the 1985 Act are to be discharged;

“the CLC” the Council for Licensed Conveyancers established under section 12 of the 1985 Act;

“CLC Body” a Licensed Body or a Recognised Body;

“CLC’s Rules” the CLC’s Code of Conduct and any other codes or rules made by the CLC;

“Company” has the meaning given by section 1(1) of the Companies Act 2006;

“Disciplinary Order” in the case of a Licensed Conveyancer an order made against him pursuant to section 24A or 26 of the 1985 Act (other than an order which provides only for the payment of costs by him);

“Lay Member” a person appointed as a member of the Adjudication Panel, who is not eligible to sit as a Licensed Conveyancer Member;

“Licensed Body” a body regulated by the CLC which provides legal services to the public and in which a non-lawyer is a Manager and/or owner as provided at s.72 of the 2007 Act;

“Licensed Conveyancer” a person who holds a licence in force under Part II of the 1985 Act;

“Licensed Conveyancer Member” an individual appointed as a member to the Adjudication Panel who is a Licensed Conveyancer, who has at any time held a Licence to practise as a Licensed Conveyancer or any individual who is or has at any time been a Manager of a CLC Body;

“Limited Liability Partnership” a body corporate formed by being incorporated under the Limited Liability Partnerships Act 2000;

“LLP Member” a member of a Limited Liability Partnership;

“Manager” in relation to a CLC Body, means a person who is

(a) a member of the CLC Body, if the CLC Body is a Company and its affairs are managed by its members;

(b) a director of the CLC Body, if the CLC Body is a Company and paragraph (a) does not apply;

(c) a partner, if the CLC Body is a partnership;

(d) a LLP member, if the CLC Body is a Limited Liability Partnership;

(e) a member of its governing body, if the CLC Body is an unincorporated body (other than a partnership); and

(f) a Licensed Conveyancer, if sub-paragraphs(a)-(e) do not apply and the affairs of the CLC Body are not managed by another Licensed Conveyancer;

“Panel Member” a person appointed as a member of the Adjudication Panel in accordance with rule 3.1;

“Party”

(a) the CLC (and includes the CLC’s Representative); or

(b) the Respondent;

“Recognised Body” a body recognised by the CLC under section 32 of the 1985 Act to provide Regulated Services to the public (“Recognised Body” is an entity regulated by the CLC and includes, without limitation, a partnership, a sole principal, a limited company and a Limited Liability Partnership);

“Regulated Services” conveyancing services and such other services, including probate services, regulated by the CLC;

"Respondent" the Licensed Conveyancer, Manager, employee or CLC Body about whom the reference is made or treated as made;

“Standing Orders” the Standing Orders made for the Adjudication Panel by the CLC pursuant to paragraph 9(2) of schedule 3 to the 1985 Act.

Other expressions shall have the meanings given by the 1985 Act, the 1990 Act and the 2007 Act.

2. Delegation of Powers

2.1 In accordance with paragraph 12(2) schedule 8 to the 1990 Act the functions conferred on the Investigating Committee under Part II of the 1985 are to be discharged by the Adjudication Panel which for these purposes is a committee established by the CLC under paragraph 12 schedule 8 to the 1990 Act.

2.2 In accordance with paragraph 12(2) schedule 8 to the 1990 Act the functions conferred on the Discipline and Appeals Committee under Part II of the 1985 are to be discharged by the Adjudication Panel which for these purposes is a committee established by the CLC under paragraph 12 schedule 8 to the 1990 Act.

2.3 The Adjudication Panel shall consider or deal with such other matters specifically delegated to or referred to them by the CLC, the Council of the CLC or by any other committee of the CLC.

2.4 The Adjudication Panel may arrange its own scheme of delegation provided that any Adjudication Chair, Deputy Chair or member participating in the preliminary investigation of a case does not act in relation to that case as a member of the Adjudication Panel determining that case.

3. Membership of the Adjudication Panel

3.1 The CLC shall in accordance with rule 4 appoint the Adjudication Chair, up to two Deputy Chairs and up to six Panel Members none of whom shall be a member of the Council of the CLC.

3.2 The Lay Members shall exceed ~~by one~~ the number of Licensed Conveyancer Members.

~~3.3 The Adjudication Chair and each of the Deputy Chairs must have a ten year general qualification within the meaning of section 71 of the 1990 Act.~~

3.34 If he resigns his office as Adjudication Chair, subject to these Rules, the Adjudication Chair may remain a member of the Adjudication Panel.

3.45 If the Adjudication Chair resigns his office or is suspended under rule 8.1, the CLC may in its absolute discretion appoint a new Adjudication Chair:

- (a) from among the Deputy Chairs or the Panel Members; or
- (b) in accordance with rule 4.

4. Appointment of Adjudication Chair and Panel Members

4.1 The posts of the Adjudication Chair, Deputy Chairs and Panel Members shall be advertised in such manner as the CLC shall determine.

4.2 Other than as provided at rule 3.45, the appointment of the Adjudication Chair, Deputy Chairs and Panel Members shall be made by an appointment panel, comprising no less than three persons, chosen by the CLC after considering the advice of the Chief Executive Officer of the CLC.

4.3 A person shall not be eligible for appointment to the Adjudication Panel if:

(a) he is, or has been within the immediately preceding 18 months, the Chair or an employee or member of the CLC;

(b) he has been convicted of a criminal offence involving fraud, dishonesty, deception or violence or an indictable offence unless the conviction is spent within the meaning of the Rehabilitation of Offenders Act 1974;

(c) he is or has been an undischarged bankrupt, is or has been the subject of a bankruptcy restrictions order or has made a composition or arrangement with his creditors unless:

(i) the bankruptcy order is annulled either on the ground that he ought not to have been adjudged bankrupt, or that his debts have been paid in full, on the date of the annulment;

(ii) in the case of a composition or arrangement with his creditors, he pays his debts in full on the date on deeds which payment is completed or on the expiration of five years from the date on which the terms of the composition or arrangement are fulfilled.

(d) if he lacks capacity (within the meaning of the Mental Capacity Act 2005) and powers in relation to sections 15-20 or section 48 of that Act have been exercised in relation to him;

(e) the CLC is satisfied that, in respect of the following, the circumstances of the particular case make that person ineligible for appointment to the Adjudication Panel:

(i) a Disciplinary Order has been made against him, unless more than six years have passed since the Order was made;

(ii) the CLC's power of intervention have been exercised against him or his practice in accordance with part 1 of schedule 5 to the 1985 Act, against a Recognised Body of which he is a Manager in accordance with schedule 6 to the 1985 Act or against a Licensed Body of which he is a Manager in accordance with schedule 14 to the 2007 Act unless in any case more than six years have passed since such powers were exercised; or

(iii) the CLC is satisfied that as a member of another profession an adverse determination has been made against him by a disciplinary tribunal or committee established to regulate the activities and the conduct of members of his profession (other than an order which provides only for the payment of costs by him), unless more than six years have passed since the Order was made and if he has been disqualified from holding a licence or practising certificate (as the case may be) for a period longer than six years, his licence or practising certificate has been restored.

5. Tenure of Office

5.1 Subject in each case to rules 5.2, 6.1 and 9.1 the term of office of each Adjudication Chair, Deputy Chair and Panel Member appointed takes effect on the date specified in the letter of appointment for a term of office not exceeding four years.

5.2 An Adjudication Chair, Deputy Chair or Panel Member shall be eligible subject to review for re-appointment, once only, for a further term of office not exceeding four years.

6. Vacancies

6.1 A vacancy in the office of Adjudication Chair, Deputy Chair and Panel Member shall automatically occur and his right to hold office shall cease immediately:

(a) on his death;

(b) on receipt by the CLC of his written resignation;

(c) on the expiry of his term of office as a Panel Member;

(d) on his appointment as Chair or member of the CLC;

(e) if appointed as a Lay Member, he becomes a Licensed Conveyancer or a Manager of a Recognised Body or a Licensed Body regulated by the CLC;

(f) if, without the consent of the Adjudication Chair or (in the absence of the Adjudication Chair) a Deputy Chair, he fails to attend more than three consecutive meetings of the Adjudication Panel;

(g) if he is convicted of a criminal offence involving fraud, dishonesty, deception or violence or an indictable offence;

(h) if he is adjudged bankrupt, is the subject of a Bankruptcy Restrictions Order or makes a composition or arrangement with his creditors unless:

(1) the bankruptcy order is annulled either on the ground that he ought not to have been adjudged bankrupt, or that his debts have been paid in full, on the date of the annulment;

(2) in the case of a composition or arrangement with his creditors, he pays his debts in full on the date on which payment is completed or on the expiration of five years from the date on which the terms of the deeds of composition or arrangement are fulfilled.

(i) if he lacks capacity (within the meaning of the Mental Capacity Act 2005) and powers in relation to sections 15-20 or section 48 of that Act have been exercised in relation to him;

(j) if, being a Licensed Conveyancer Member,

(1) a Disciplinary Order is made against him;

(2) his Licence is suspended pursuant to section 24 of the 1985 Act; or

(3) the CLC's powers of intervention are exercised against him in accordance with Part I of Schedule 5 to the 1985 Act, against a Recognised Body of which he is a Manager in accordance with schedule 6 to the 1985 Act or against a Licensed Body of which he is a Manager in accordance with schedule 14 to the 2007 Act;

(k) if as a member of another profession, an adverse determination is made against him by a disciplinary tribunal or committee (other than an Order which provides only for the payment of costs by him);

(l) if he has failed to disclose to the CLC any matter referred to in rule 4.3 subparagraphs (b), (c), (d) or (e).

(m) if he is removed from office under rule 9.1.

6.2 In the event that a vacancy occurs by reason of the operation of rule 6.1, the CLC shall inform the Adjudication Chair, or one of the Deputy Chairs (if the office of the Adjudication Chair has been vacated).

6.3 Where a vacancy occurs, the CLC will as soon as possible make an appointment in accordance with rule 4.

7. Remuneration

7.1 The CLC will pay to the Adjudication Chair, Deputy Chairs and Panel Members attendance fees and expenses reasonably incurred, such fees to be determined by the CLC and to be reviewed periodically.

8. Suspension of the Adjudication Chair, a Deputy Chair or a Panel Member

8.1 The Adjudication Chair, Deputy Chair or Panel Member is suspended with immediate effect in the event that: -

(a) he is charged with any offence referred to in rule 6.1(g); or

(b) he is served with a bankruptcy petition or issues a bankruptcy petition on his own behalf; or

(c) he receives notice of any application against him for an order under rule 6.1(k).

8.2 Any suspension imposed under rule 8.1 shall automatically be revoked in the following circumstances: -

- (a) under sub-paragraph 8.1(a) in the event that the charge is dismissed, discharged, discontinued or otherwise withdrawn;
- (b) under sub-paragraph 8.1(b) if the bankruptcy petition is disposed of without a declaration of bankruptcy being made against him;
- (c) under sub-paragraph 8.1(c) in the event that the application is withdrawn or dismissed or the only order made is for the payment of costs.

9. Removal of the Adjudication Chair, a Deputy Chair or a Panel Member

9.1 The Council may by a majority remove the Adjudication Chair, a Deputy Chair or a Panel Member who has breached the Standing Orders or the Code of Conduct applicable to the Adjudication Chair, Deputy Chairs and Panel Members.

10. Composition of hearings of the Adjudication Panel

10.1 In consultation with the CLC the Adjudication Chair shall direct the date, time and place for the hearing under the Adjudication Panel Procedure Rules 2013 in consultation with the CLC when the Adjudication Panel shall meet to determine proceedings.

10.2 The CLC shall as soon as reasonably possible send notice of the hearing to each member of the Adjudication Panel nominated by the Adjudication Chair to attend the hearing and to the appropriate Parties in the manner prescribed by the Adjudication Panel Procedure Rules 2013.

10.3 When the Adjudication Panel direct that a new hearing date be fixed to hear or continue to hear and determine the matter before them, the Adjudication Chair shall determine the date, time and place for the hearing in consultation with the CLC.

10.4 The CLC shall as soon as reasonably possible send notice of the hearing to every member of the Adjudication Panel who is to attend the hearing and to the appropriate Parties in the manner prescribed by the applicable procedure rules.

10.5 If a case has been part heard on the expiry of the term of office of one or more members of the Adjudication Panel under rule 6.1(c) (but for no other reason), that Panel Member may with the agreement of the Adjudication Chair be treated as remaining a member of the Adjudication Panel and hear the case until its conclusion even though for all other purposes that individual has ceased to be a Panel Member.

10.6 If an individual sitting as a member of the Adjudication Panel ceases to be a Panel Member under rule 6.1 (other than as a result of the operation of rule 6.1(c)) where a case has been part heard and as a result the hearing is not quorate, the Adjudication Chair may nominate another Panel Member to attend the hearing to enable the hearing of that case to continue until its conclusion provided he is satisfied that it is in the interests of natural justice.

11. Standing Orders

11.1 Save as modified by these Rules and by the Adjudication Panel Procedure Rules 2013 as provided for under rule 10.1, proceedings of the Adjudication Panel shall be governed by the Standing Orders.

11.2 The CLC's regulatory arrangements (and any subsequent arrangements) shall have this order of precedence:

- (a) the Adjudication Panel Rules 201~~5~~³;
- (b) the Adjudication Panel Procedure Rules 2013;
- (c) the Adjudication Panel Standing Orders ~~2013~~;
- (d) the Adjudication Panel Terms of Reference.

11.3 Where there is a conflict or inconsistency between the regulatory arrangements listed in rule 11.2, the provisions of those named higher in the list are preferred over those listed lower in the list.

11.4 Where there is a conflict or inconsistency between the provisions of any of the CLC's regulatory arrangements (other than those listed at rule 11.2) and the regulatory arrangements listed at rule 11.2, the provision of the CLC's regulatory arrangements (other than those listed at rule 11.2) is preferred.

11.5 Where there is a conflict or inconsistency between the provisions of any statute or statutory instrument and any of the CLC's regulatory arrangements, the provision of the statute or statutory provision is preferred.

12. Penalty

12.1 The amount of any penalty required to be paid must be fair and proportionate, and
(a) in the case of a penalty imposed on a CLC Body under paragraph 4(2)(b) of schedule 6 to the 1985 Act, alternatively under the CLC's Licensed Body (ABS) Licensing Framework, must not exceed £250 million; and

(b) in the case of a penalty imposed on a manager or employee of a CLC Body under section 26(2) of and paragraph 4(2B)(a) of schedule 6 to the 1985 Act, alternatively under the CLC's Licensed Body (ABS) Licensing Framework, must not exceed £50 million.

13. Disciplinary Powers of the CLC as an Approved Regulator

13.1 Rule 13 applies when the Respondent is regulated by the CLC acting as an Approved Regulator.

13.2 The Adjudication Panel must carry out a preliminary investigation of any case in which it is alleged that:

(a) a Licensed Conveyancer:

- (i) has (whether as a licensed conveyancer or not) been convicted by any court in the United Kingdom of a criminal offence which renders him unfit to practise as a licensed conveyancer; or
- (ii) has, while holding a licence in force under Part II of the 1985 Act, failed to comply with any condition to which that licence was subject; or
- (iii) has failed to comply with any rules made by the Council under Part II of the 1985 Act;

(b) a Recognised Body:

(i) has (while a Recognised Body) been convicted of a criminal offence which renders it unsuitable to be recognised under section 32 of the 1985 Act; or

(ii) has failed to comply with any rules applicable to it by virtue of section 32 of the 1985 Act; or

(iii) has (while a Recognised Body) failed to comply with a condition subject to which its recognition has effect;

(c) a manager or employee of a Recognised Body who is not a Licensed Conveyancer has failed to comply with any rules applicable to him by virtue of section 32 of the 1985 Act;

with a view to determining whether such case ought to be referred for hearing and determination by the Adjudication Panel.

13.3 The Adjudication Panel may make the following orders or directions

(a) in respect to a Licensed Conveyancer

(i) an order revoking any licence held by the licensed conveyancer;

(ii) an order directing that the licensed conveyancer shall be disqualified (either permanently or during a specified period) from holding a licence under this Part;

(iii) an order suspending any licence held by the licensed conveyancer;

(iv) an order that any such licence shall have effect subject to such conditions as may be specified in the order;

(v) an order directing the payment by the licensed conveyancer of a penalty which must be fair and proportionate, and not exceed £50 million to be forfeited to Her Majesty;

(vi) an order reprimanding the licensed conveyancer;

(b) in respect of a Recognised Body

(i) an order revoking the recognition under section 32 of the 1985 Act of that Recognised Body;

(ii) an order directing the payment by that Recognised Body of a penalty which must be fair and proportionate, and not exceed £250 million, to be forfeited to Her Majesty;

(iii) an order reprimanding that Recognised Body;

(iv) an order that the recognition of that Recognised Body under section 32 is to have effect subject to such conditions as may be specified in the order;

(c) in respect of the manager or employee of a Recognised Body

(i) an order directing the payment by the manager or employee of a penalty which must be fair and proportionate, and not exceed £50 million, to be forfeited to Her Majesty;

(ii) an order requiring the CLC to consider taking such steps as the Adjudication Panel may specify in relation to the manager or employee;

(iii) an order requiring the CLC to refer to an appropriate regulator (as specified at paragraph 4(2C) of schedule 6 to the 1985 Act) any matter relating to the conduct of the manager or employee.

13.4 The Adjudication Panel may make such order as it thinks fit as to the payment of costs by the CLC or the Respondent in accordance with s.24A(2), s.26(2A) or schedule 6 of the 1985 Act.

13.5 A Respondent may within 28 days after the determination made under rule 13.3 appeal to the High Court.

14. Disciplinary Powers of the CLC as a Licensing Authority

14.1 Rule 14 applies when the Respondent is regulated by the CLC acting as a Licensing Authority.

14.2 The Adjudication Panel may in respect of:

(a) a Licensed Body:

(i) reprimand the body;

(ii) direct the issue of a licence subject to conditions it may specify;

(iii) direct the payment of a fine which is fair and proportionate, not exceeding £250million;

(iv) suspend the licence of the body;

(v) revoke the licence of the body;

(vi) intervene;

(b) a Licensed Body owner:

(i) place conditions on the owner's material interest;

(ii) object to the owner's material interest, and initiate the application to the High Court to divest the owner of their material interest;

(iii) direct the payment of a fine which is fair and proportionate, not exceeding £50 million;

(c) a Head of Legal Practice (HoLP) or Head of Finance & Administration (HoFA):

(i) require the CLC to take such steps as it may specify in relation to the HoLP or HoFA;

(ii) direct the payment of a fine which is fair and proportionate, not exceeding £50 million;

(iii) withdraw approval of the individual for the role;

(iv) disqualify the individual from a role within a Licensed Body;

(d) a manager or employee:

(i) direct the payment of a fine which is fair and proportionate fine, not exceeding £50 million;

(ii) require the CLC to take such steps as it may specify in relation to the manager or employee;

(iii) require the CLC to refer to an appropriate regulator any matter relating to the conduct of the manager or employee;

(iv) disqualify the individual from a role in the Licensed Body.

14.3 Unless otherwise directed by the First Tier Tribunal, a Respondent may within 28 days after the determination has been made appeal to the First Tier Tribunal.

Attachment C

Analysis of Responses – Adjudication Panel Rules 2015



CLC Consultation Adjudication Panel Rules 2015 Analysis of Responses

Between May 2015 and June 2015 we consulted on proposed amendments to the Adjudication Panel Rules. The CLC received 2 completed responses. This document sets out the findings of that consultation exercise. Whilst the response rate is disappointing, it does, perhaps, reflect the fact that the amendments proposed are not seen as particularly controversial:

The amendments proposed can be summarised as follows:

1. The Chair of the Adjudication Panel does not need to be legally qualified. One respondent agreed the proposal, and the other disagreed stating “it is important that the chair has knowledge of the law and can direct accordingly”. The CLC agrees. However, it differs from the Respondent in taking the view that a suitably experienced lay person will be able properly and fairly to discharge the functions and responsibilities of Chair. The Panel may appoint a Legal Adviser if it considers the issues raised in a matter justify the Panel obtaining its own legal advice. Both the request for specific advice and any advice given must be made or given in the presence of the parties. Whether the Chair appointed is or is not legally qualified will be one of the factors a matter for the CLC to determine when it reviews the applications for Chair.
2. Removal of the requirement that the Panel should have a bare lay majority (ie the number of lay members exceeds the number of licensed conveyancer members by one). The CLC wishes to appoint those who are most appropriately qualified and experienced to sit as chair and members of the Panel without being narrowly constrained by quorum issues. The requirement remains for a licensed conveyancer member (now referred to as a CLC Lawyer Member) to be included as a member of any hearing of the three person Panel.

The remainder of the amendments made to the Adjudication Panel Rules reflect amendments to the Administration of Justice Act 1985 and the Courts and Legal Services Act 1990 introduced by the ss.86-89 and schedules 19 and 20 Deregulation Act 2015.