



Legal Services Board – decision notice issued under Part 3 of Schedule 4 to the Legal Services Act 2007

The Council for Licensed Conveyancers (CLC) application for approval of changes to the regulatory arrangements relating to the Adjudication Panel

The Legal Services Board (LSB) has granted an application from CLC for approval of the Adjudication Panel Rules 2013, the Adjudication Panel Procedure Rules 2013 and consequential changes to the Licensed Conveyancers Licensing Framework 2013, the Recognised Body Recognition Framework 2013, the Licensed Body (ABS) Framework, the Adjudication Panel Standing Orders 2013, the Adjudication Panel Terms of Reference and the Regulation and Enforcement Policy.

This decision notice sets out the basis for the LSB granting the application and the decision taken, including a brief description of the changes.

Introduction

1. The LSB is required by Part 3 of Schedule 4 to the Legal Services Act 2007 (the Act) to review and grant or refuse applications by approved regulators to make alterations to their regulatory arrangements. CLC is an approved regulator.
2. Paragraph 25 of Schedule 4 to the Act explains that the LSB may only refuse an application setting out a proposed change to the regulatory arrangements if it is satisfied that by granting the application one or more of the criteria specified in sub paragraph 25(3) (and listed in the footnote below¹) will be met. For example, the LSB's granting of the application to alter the regulatory arrangements must not be prejudicial to the regulatory objectives overall. Accordingly, if the LSB is not satisfied that one or more of the criteria for refusal are met, then it must approve the application in whole, or the parts of it that can be approved.
3. As provided for by paragraphs 20(1) and 23(3) of Schedule 4 to the Act, the LSB has made rules² about how the application to alter the regulatory arrangements must be made including the contents of that application. The rules highlight the applicant's obligations under section 28 of the Act to have regard to the Better Regulation Principles.

¹ The Board may refuse the application only if it is satisfied that—(a) granting the application would be prejudicial to the regulatory objectives, (b) granting the application would be contrary to any provision made by or by virtue of the Act or any other enactment or would result in any of the designation requirements ceasing to be satisfied in relation to the approved regulator, (c) granting the application would be contrary to the public interest, (d) the alteration would enable the approved regulator to authorise persons to carry on activities which are reserved legal activities in relation to which it is not a relevant approved regulator, (e) the alteration would enable the approved regulator to license persons under Part 5 to carry on activities which are reserved legal activities in relation to which it is not a licensing authority, or (f) the alteration has been or is likely to be made otherwise than in accordance with the procedures (whether statutory or otherwise) which apply in relation to the making of the alteration.

² Rules for Rule Change Applications – Version 2 (November 2010)

The rules also require that the applicant provides information about the nature and effect of each proposed change and of appropriate consultation undertaken. Sub paragraph 25(3)(f) of Schedule 4 to the Act requires that each proposed alteration has been made or is likely to be made in accordance with the procedures (whether statutory or otherwise) which apply in relation to the making of the alteration. This therefore includes the LSB's rules.

4. The chronology for the LSB's handling of this application can be found towards the end of this decision notice.

Background

5. Under the current CLC regulatory arrangements, appeals against CLC decisions are handled differently depending upon whether CLC is acting as an approved regulator or as a licensing authority. Appeals from determinations made by CLC acting as an approved regulator are heard by its Discipline and Appeals Committee (DAC) and from there, any appeal is to the High Court. Appeals from determinations made by CLC acting as a licensing authority are considered first by its Adjudication Panel, with appeals being heard by the General Regulatory Chamber of the First-tier Tribunal (with appeals on points of law heard by the Upper Tribunal).
6. CLC's intention is to streamline these arrangements so that a consistent process is used. To do this completely will require the functions of CLC to be modified through an order under section 69 of the Act. This is currently being considered and will be subject to later consultation.
7. As a stepping stone to complete alignment of arrangements, CLC seeks approval for the changes set out in this decision notice.

Proposed changes

8. The proposal is to move the functions of the DAC to the CLC Adjudication Panel. This will mean that recognised bodies and licensed conveyancers regulated by CLC will still have the ability to appeal CLC decisions but CLC will no longer have to maintain the separate DAC.
9. Going forward, it is proposed that the Adjudication Panel will determine how a conduct case should be investigated. Where it is determined that a case should be reviewed and completed by a CLC officer, the subject of the investigation will be able to appeal to the Adjudication Panel if they are not satisfied with the outcome; from there if they remain dissatisfied, there is an external appeal to the High Court.
10. In some cases, the Adjudication Panel itself may investigate and decide on a case; in these circumstances, the subject can ask for any decision to be reviewed by a differently constituted Adjudication Panel. The existing external appeal arrangements will remain.

11. The Adjudication Panel will also hear appeals against other (non-conduct) decisions made by CLC (for example, a decision not to grant a licence to a licensed conveyancer).
12. Additionally it is proposed that the penalty for a breach of CLC's regulatory arrangements by a licensed conveyancer and a recognised body (and a manager or employee of a recognised body) will be increased from £1 million in each case to £50 million for a licensed conveyancer or a manager or employee of a recognised body and £250 million for a recognised body. This is in line with the penalties currently available to the Adjudication Panel in respect of a licensed body or the owner, manager or employee of a licensed body.
13. The Adjudication Panel Procedure Rules are also to be amended. The revised rules have been modelled on the procedure rules of the General Regulatory Chamber; introducing an overriding objective for the Adjudication Panel that cases must be dealt with fairly and justly and give the Adjudication Panel Chair the discretion to decide whether a legal adviser is required to be present to assist the Adjudication Panel.

Assessment of the application

14. The LSB welcomes the steps that CLC is taking to streamline its arrangements which should contribute to greater consistency in decision-making and reduce regulatory costs.
15. The LSB's assessment is that the proposed arrangements provide an appropriate mechanism through which recognised bodies and licensed conveyancers can challenge CLC decisions if they are not satisfied with the outcome. The LSB has received assurance from CLC that in making these changes, a comprehensive gap analysis has been completed against current arrangements, with no adverse findings having been identified.
16. During its consideration of the application, the LSB looked at the impact of harmonising the penalties available when CLC is acting as an approved regulator with the current penalties available when acting as licensing authority. The LSB's view is that it is important to have the same deterrent no matter what ownership arrangements are in place. Any regulator has to set penalties that are proportionate and the LSB is satisfied that the appeals process in place can guard against regulatory excess.

Decision

17. The LSB has considered CLC's application against the criteria in paragraph 25(3) of Schedule 4 to the Act, and considers that there is no reason to refuse this application; accordingly, the LSB grants this application.
18. The Annex to this Decision Notice contains the Adjudication Panel Rules 2013 and the Adjudication Panel Procedure Rules 2013 approved by the LSB. [Link to rule changes that happened as a consequence of these changes can be found here.](#)

Chronology

- The LSB confirmed receipt of an application from CLC on 3 September 2013.
- The 28 day initial decision period for considering the application ends on 30 September 2013.
- This Decision Notice is effective from 27 September 2013.
- The Decision Notice will be published on the LSB's website on 30 September 2013.

Chris Kenny, Chief Executive

**Acting under delegated authority granted by the Board of the Legal Services Board
27 September 2013**

Annex

The CLC's

Adjudication Panel Rules 2013

Made on **[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 2013 and shall come into effect on **[30 October 2013]** on which date the CLC's Adjudication Panel (No 2) Rules 2011 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, 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 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 or 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 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.

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

3.5 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 3.5, 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 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 shall have this order of precedence:

- (a) the Adjudication Panel Rules 2013;
- (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) of 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 A Respondent may within 28 days after the determination has been made appeal to the First Tier Tribunal.

THE ADJUDICATION PANEL PROCEDURE RULES 2013

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Made on [DATE] by the Council for Licensed Conveyancers with the agreement of the Legal Services Board under section 30 and paragraph 1 of schedule 4 to the Administration of Justice Act 1985 and section 20 and part 3 of schedule 4 to the Legal Services Act 2007

PART 1

Introduction

Citation, commencement, application and interpretation

1.—(1) These Rules may be cited as the Adjudication Panel Procedure Rules 2013.

(2) These Rules come into force on 30 September 2013 on which date the Licensed Conveyancers' Discipline and Appeals Committee (Procedure) Rules 2011, the CLC's Approved Regulator (Disciplinary Procedure) Rules 2011 and the CLC's Licensing Authority (Disciplinary Procedure) Rules 2011 shall cease to have effect save as provided for in these Rules or otherwise where the same still subsist or are capable of subsisting.

(3) These Rules apply to proceedings before the Adjudication Panel.

(4) In these Rules—

“the 1985 Act” means the Administration of Justice Act 1985;

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

“the 2007 Act” means the Legal Services Act 2007; “Adjudication Chair” means the Chair or acting Chair of the Adjudication Panel

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

“Adjudicator” means the Adjudication Chair, any Deputy Chair or member of the Adjudication Panel, any employee of the CLC or any other person appointed by the Adjudication Panel;

“appellant” means a person who—

(a) commences Adjudication Panel proceedings, whether by making an appeal, an application, a claim, a complaint, a reference or otherwise; or

(b) is added or substituted as an appellant under rule 8 (addition, substitution and removal of parties);

“the CLC” means the Council for Licensed Conveyancers;

“document” means anything in which information is recorded in any form, and an obligation under these Rules or any direction to provide or allow access to a document or a copy of a document for any purpose means, unless the Adjudication Panel directs otherwise, an obligation to provide or allow access to such document or copy in a legible form or in a form which can be readily made into a legible form;

“hearing” means an oral hearing and includes a hearing conducted in whole or in part by video link, telephone or other means of instantaneous two-way electronic communication;

“the Legal Adviser” means a person appointed by the CLC to advise the Adjudication Panel;

“Licensed Conveyancer” means—

(a) means a person who holds a licence in force under Part II of the 1985 Act, and

(b) in relation to a particular allegation or complaint, includes a person who held such a licence at the time when the conduct to which the allegation or complaint relates took place;

“Licensed Conveyancer Member” means 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 Recognised Body regulated by the CLC;

“party” means—

(a) a person who is an appellant or a respondent;

(b) if the proceedings have been concluded, a person who was an appellant or a respondent when the Adjudication Panel finally disposed of all issues in the proceedings;

“recognised body”—

(a) means a body for the time being recognised under section 32 of the 1985 Act, and

(b) in relation to a particular allegation or complaint, includes a body corporate which was so recognised at the time when the conduct to which the allegation or complaint relates took place;

“respondent” means—

(a) in proceedings appealing against or challenging a decision, direction or order, the person who made the decision, direction or order appealed against or challenged;

(b) a person against whom an appellant otherwise brings proceedings; or

(c) a person added or substituted as a respondent under rule 8 (addition, substitution and removal of parties);

Overriding objective and parties’ obligation to co-operate with the Adjudication Panel

2.—(1) The overriding objective of these Rules is to enable the Adjudication Panel to deal with cases fairly and justly.

(2) Dealing with a case fairly and justly includes—

(a) dealing with the case in ways which are proportionate to the importance of the case, the complexity of the issues, the anticipated costs and the resources of the parties;

- (b) avoiding unnecessary formality and seeking flexibility in the proceedings;
 - (c) ensuring, so far as practicable, that the parties are able to participate fully in the proceedings;
 - (d) using any special expertise of the Adjudication Panel effectively; and
 - (e) avoiding delay, so far as compatible with proper consideration of the issues.
- (3) The Adjudication Panel must seek to give effect to the overriding objective when it—
- (a) exercises any power under these Rules; or
 - (b) interprets any rule.
- (4) Parties must—
- (a) help the Adjudication Panel to further the overriding objective; and
 - (b) co-operate with the Adjudication Panel generally.

PART 2

General powers and provisions

Delegation

3.—(1) In accordance with a scheme of delegation made by the Adjudication Panel in accordance with the Adjudication Panel Rules 2013, the Adjudicator may carry out functions of a judicial nature permitted or required to be done by the Adjudication Panel.

(2) The approval referred to at paragraph (1) may apply generally to the carrying out of specified functions of a specified description in specified circumstances.

(3) Within 14 days after the date that the Adjudication Panel sends notice of a decision made by the Adjudicator pursuant to an approval under paragraph (1) to a party, that party may apply in writing to the Adjudication Panel for that decision to be considered afresh by another member of the Adjudication Panel who may be the Adjudication Chair or a Deputy Chair, provided neither has already acted in relation to that matter as the Adjudicator.

Case management powers

4.—(1) Subject to the provisions of the 2007 Act and any other enactment, the Adjudication Panel may regulate its own procedure.

(2) The Adjudication Panel may give a direction in relation to the conduct or disposal of proceedings at any time, including a direction amending, suspending or setting aside an earlier direction.

(3) In particular, and without restricting the general powers in paragraphs (1) and (2), the Adjudication Panel may—

- (a) extend or shorten the time for complying with any rule or direction, unless such extension or shortening would conflict with a provision of another enactment containing a time limit;

- (b) consolidate or hear together two or more sets of proceedings or parts of proceedings raising common issues.
- (c) permit or require a party to amend a document;
- (d) permit or require a party or another person to provide documents, information or submissions to the Adjudication Panel or a party;
- (e) deal with an issue in the proceedings as a preliminary issue;
- (f) hold a hearing to consider any matter, including a case management issue;
- (g) decide the form of any hearing;
- (h) adjourn or postpone a hearing;
- (i) require a party to produce a bundle for a hearing;
- (j) stay proceedings;
- (l) suspend the effect of its own decision pending the determination by the Adjudication Panel or the First-tier Tribunal of an application for permission to appeal against, and any appeal or review of, that decision.

Procedure for applying for and giving directions

5.—(1) The Adjudication Panel may give a direction on the application of one or more of the parties or on its own initiative.

(2) An application for a direction may be made—

- (a) by sending or delivering a written application to the Adjudication Panel; or
- (b) orally during the course of a hearing.

(3) An application for a direction must include the reason for making that application.

(4) Unless the Adjudication Panel considers that there is good reason not to do so, the Adjudication Panel must send written notice of any direction to every party and to any other person affected by the direction.

(5) If a party or any other person sent notice of the direction under paragraph (4) wishes to challenge a direction which the Adjudication Panel has given, they may do so by applying for another direction which amends, suspends or sets aside the first direction.

Failure to comply with rules or Adjudication Panel directions

6.—(1) An irregularity resulting from a failure to comply with any provision of these Rules or a direction does not of itself render void the proceedings or any step taken in the proceedings.

(2) If a party has failed to comply with a requirement in these Rules or a direction, the Adjudication Panel may take such action as the Adjudication Panel considers just, which may include—

- (a) waiving the requirement;
- (b) requiring the failure to be remedied;
- (c) exercising its power under rule 7 (striking out a party's case); or
- (d) barring or restricting a party's participation in the proceedings.

Striking out a party's case

7.—(1) The proceedings, or the appropriate part of them, will automatically be struck out if the appellant has failed to comply with a direction that stated that failure by the appellant to comply with the direction would lead to the striking out of the proceedings or that part of them.

(2) The Adjudication Panel may strike out the whole or a part of the proceedings if—

- (a) the appellant has failed to comply with a direction which stated that failure by the appellant to comply with the direction could lead to the striking out of the proceedings or part of them;
- (b) the appellant has failed to co-operate with the Adjudication Panel to such an extent that the Adjudication Panel cannot deal with the proceedings fairly and justly; or
- (c) the Adjudication Panel considers there is no reasonable prospect of the appellant's case, or part of it, succeeding.

(3) The Adjudication Panel may not strike out the whole or a part of the proceedings under paragraph (2)(b) or (c) without first giving the appellant an opportunity to make representations in relation to the proposed striking out.

(4) If the proceedings, or part of them, have been struck out under paragraph (1) or (2)(a), the appellant may apply for the proceedings, or part of them, to be reinstated.

(5) An application under paragraph (4) must be made in writing and received by the Adjudication Panel within 28 days after the date on which the Adjudication Panel sent notification of the striking out to that party.

(6) This rule applies to a respondent as it applies to an appellant except that—

- (a) a reference to the striking out of the proceedings is to be read as a reference to the barring of the respondent from taking further part in the proceedings; and
- (b) a reference to an application for the reinstatement of proceedings which have been struck out is to be read as a reference to an application for the lifting of the bar on the respondent from taking further part in the proceedings.

(7) If a respondent has been barred from taking further part in proceedings under this rule and that bar has not been lifted, the Adjudication Panel need not consider any response or other submission made by that respondent, and may summarily determine any or all issues against that respondent.

Addition, substitution and removal of parties

8.—(1) The Adjudication Panel may give a direction adding, substituting or removing a party as an appellant or a respondent.

(2) If the Adjudication Panel gives a direction under paragraph (1) it may give such consequential directions as it considers appropriate.

(3) Any person who is not a party may apply to the Adjudication Panel to be added or substituted as a party.

Orders for costs

9.—(1) [Subject to paragraph (1A)], the Adjudication Panel may make an order in respect of costs — under the 1985 Act

(2) The Adjudication Panel may make an order under paragraph (1) on an application or on its own initiative.

(3) A person making an application for an order under this rule must—

(a) send or deliver a written application to the Adjudication Panel and to the person against whom it is proposed that the order be made; and

(b) send or deliver a schedule of the costs or expenses claimed with the application.

(4) The Adjudication Panel may not make an order under paragraph (1) against a person (“the paying person”) without first—

(a) giving that person an opportunity to make representations; and

(b) if the paying person is an individual, considering that person’s financial means.

(5) The amount of costs or expenses to be paid under an order under paragraph (1) may be ascertained by—

(a) summary assessment by the Adjudication Panel;

(b) agreement of a specified sum by the paying person and the person entitled to receive the costs or expenses (“the receiving person”); or

(c) assessment of the whole or a specified part of the costs or expenses incurred by the receiving person, if not agreed.

Representatives

10.—(1) A party may appoint a representative (whether legally qualified or not) to represent that party in the proceedings.

(2) If a party appoints a representative, that party must send or deliver to the Adjudication Panel and to each other party written notice of the representative’s name and address.

(3) Anything permitted or required to be done by or provided to a party under these Rules or a direction may be done by or provided to the representative of that party except—

(a) signing a witness statement; or

(b) sending or delivering a notice under paragraph (2), if the representative is not a person who, for the purposes of the 2007 Act, is an authorised person .

(4) A person who receives due notice of the appointment of a representative—

(a) must provide to the representative any document which is required to be sent to the represented party, and need not provide that document to the represented party; and

(b) may assume that the representative is and remains authorised until receiving written notification to the contrary from the representative or the represented party.

(5) At a hearing a party may be accompanied by another person whose name and address has not been notified under paragraph (2) but who, with the permission of the Adjudication Panel, may act as a representative or otherwise assist in presenting the party's case at the hearing.

(6) Paragraphs (2) to (4) do not apply to a person who accompanies a party under paragraph (5).

Calculating time

11.—(1) An act required by these Rules or a direction to be done on or by a particular day must be done before 5pm on that day.

(2) If the time specified by these Rules or a direction for doing any act ends on a day other than a working day, the act is done in time if it is done on the next working day.

(3) In this rule “working day” means any day except a Saturday or Sunday, Christmas Day, Good Friday or a bank holiday under section 1 of the Banking and Financial Dealings Act 1971.

Sending and delivery of documents

12.—(1) Any document to be provided to the Adjudication Panel under these Rules or a direction must be—

(a) sent by prepaid post or by document exchange, or delivered by hand to the address specified for the proceedings;

(b) sent by fax to the number specified for the proceedings; or

(c) sent or delivered by such other method as the Adjudication Panel may permit or direct.

(2) Subject to paragraph (3), if a party provides a fax number, email address or other details for the electronic transmission of documents to them, that party must accept delivery of documents by that method.

(3) If a party informs the Adjudication Panel and all other parties that a particular form of communication, other than pre-paid post or delivery by hand, should not be used to provide documents to that party, that form of communication must not be so used.

(4) If the Adjudication Panel or a party sends a document to a party or the Adjudication Panel by email or any other electronic means of communication, the recipient may request that the sender provide a hard copy of the document to the recipient. The recipient must make such a request as soon as reasonably practicable after receiving the document electronically.

(5) The Adjudication Panel and each party may assume that the address provided by a party or its representative is and remains the address to which documents should be sent or delivered until receiving written notification to the contrary.

Disclosure, evidence and submissions

13.—(1) Without restriction on the general powers in rule 4(1) and (2) (case management powers), the Adjudication Panel may give directions as to—

(a) the exchange between parties of lists of documents which are relevant to the proceedings, or relevant to particular issues, and the inspection of such documents;

(b) the provision by parties of statements of agreed matters;

(c) issues on which it requires evidence or submissions;

(d) the nature of the evidence or submissions it requires;

(e) whether the parties are permitted or required to provide expert evidence, and if so whether the parties must jointly appoint a single expert to provide such evidence;

(f) any limit on the number of witnesses whose evidence a party may put forward, whether in relation to a particular issue or generally;

(g) the manner in which any evidence or submissions are to be provided, which may include a direction for them to be given—

(i) orally at a hearing; or

(ii) by written submissions or witness statement; and

(h) the time at which any evidence or submissions are to be provided.

(2) The Adjudication Panel may—

(a) admit evidence whether or not—

(i) the evidence would be admissible in a civil trial in England and Wales or

(ii) the evidence was available to a previous decision maker; or

(b) exclude evidence that would otherwise be admissible where—

- (i) the evidence was not provided within the time allowed by a direction;
 - (ii) the evidence was otherwise provided in a manner that did not comply with a direction; or
 - (iii) it would otherwise be unfair to admit the evidence.
- (3) The Adjudication Panel may consent to a witness giving, or require any witness to give, evidence on oath, and may administer an oath for that purpose.

Summoning or citation of witnesses and orders to answer questions or produce documents

14.—(1) On the application of a party or on its own initiative, the Adjudication Panel may—

- (a) by summons (require any person to attend as a witness at a hearing at the time and place specified in the summons or citation; or
- (b) order any person to answer any questions or produce any documents in that person's possession or control which relate to any issue in the proceedings.

(2) A summons or citation under paragraph (1)(a) must—

- (a) give the person required to attend 14 days' notice of the hearing or such shorter period as the Adjudication Panel may direct; and
- (b) where the person is not a party, make provision for the person's necessary expenses of attendance to be paid, and state who is to pay them.

(3) No person may be compelled to give any evidence or produce any document that the person could not be compelled to give or produce on a trial of an action in a court of law in England and Wales.

(4) A summons, citation or order under this rule must—

- (a) state that the person on whom the requirement is imposed may apply to the Adjudication Panel to vary or set aside the summons, citation or order, if they have not had an opportunity to object to it; and
- (b) state the consequences of failure to comply with the summons, citation or order.

Withdrawal

15.—(1) Subject to paragraph (2), a party may give notice of the withdrawal of its case, or any part of it—

- (a) at any time before a hearing to consider the disposal of the proceedings (or, if the Adjudication Panel disposes of the proceedings without a hearing, before that disposal), by sending or delivering to the Adjudication Panel a written notice of withdrawal; or
- (b) orally at a hearing.

(2) Notice of withdrawal will not take effect unless the Adjudication Panel consents to the withdrawal.

(3) A party who has withdrawn their case may apply to the Adjudication Panel for the case to be reinstated.

(4) An application under paragraph (3) must be made in writing and be received by the Adjudication Panel within 28 days after—

(a) the date on which the Adjudication Panel received the notice under paragraph (1)(a); or

(b) the date of the hearing at which the case was withdrawn orally under paragraph (1)(b).

(5) The Adjudication Panel must notify each party in writing of a withdrawal under this rule.

Procedure for applying for a stay of a decision pending an appeal

16.— (1) A person who wishes the Adjudication Panel to decide whether the substantive decision should be stayed or suspended must make a written application to the Adjudication Panel which must include the grounds on which the person making the application relies.

(2) If the Adjudication Panel grants a stay or suspension following an application under this rule the Adjudication Panel may, where appropriate, grant the stay or suspension subject to conditions.

(3) Unless the Adjudication Panel considers that there is good reason not to do so, the Adjudication Panel must send written notice of any decision made under this rule to each party.

PART 3

Proceedings before the Adjudication Panel

CHAPTER 1

Before the hearing

References and complaints

17.—(1) A reference in the form of an allegation to the Adjudication Panel made under the Adjudication Panel Rules or the 1985 Act must—

(a) be made in writing, and

(b) set out the allegation or complaint and a summary of the facts relied on to support it.

(2) A copy of such a reference or complaint must be served on the respondent, together with a copy of these Rules, and a copy lodged with the Adjudication Chair, within 14 days of the making of the reference or the decision to make the complaint.

Revocation of licences and recognitions obtained through fraud or error

18.—(1) Where—

(a) it is considered that a licence was issued to any person as a result of error or of fraud on his part, and

(b) the CLC decide that there is any question of the Adjudication Panel exercising their powers under section 28(1) of the 1985 Act, the CLC must refer the matter to the Adjudication Panel.

(2) Where—

(a) it is considered that recognition was granted to any Recognised Body as a result of error or of fraud on its part, and

(b) the CLC decide that there is any question of the Adjudication Panel exercising their powers under paragraph 7(1) of Schedule 6 to the 1985 Act, the CLC must refer the matter to the Adjudication Panel.

(3) A reference under this rule must—

(a) be made in writing,

(b) state that it is made under this rule, and

(c) set out the allegation and a summary of the facts relied on to support it.

(4) A copy of such a reference must be served on the respondent, together with a copy of these Rules.

(5) On such a reference, the Adjudication Panel must hold a hearing to determine the allegation.

Applications after disqualification or revocation

19. An application to the Adjudication Panel under section 27(1) or 28(2) of, or paragraph 7(2) of Schedule 6 to, the 1985 Act must—

(a) be made in writing and sent to the CLC's principal place of business, and

(b) set out any facts which support the application.

The notice of appeal

20.—(1) An appellant must start proceedings before the Adjudication Panel by sending or delivering to the CLC's principal place of business a notice of appeal so that it is received within one month of the date on which notice of the act or decision to which the proceedings relate was sent to the appellant.

(2) The notice of appeal must include—

(a) the name and address of the appellant;

(b) the name and address of the appellant's representative (if any);

(c) an address where documents for the appellant may be sent or delivered;

(d) the statutory provision to which the proceedings relate;

(e) details of the decision or act, or failure to decide or act, to which the proceedings relate;

(f) the result the appellant is seeking; and

(g) the grounds on which the appellant relies;

(3) If the proceedings challenge a decision, the appellant must provide with the notice of appeal a copy of any written record of that decision, and any statement of reasons for that decision that the appellant has or can reasonably obtain.

(4) When the Adjudication Panel receives the notice of appeal, it must send a copy of the notice of appeal and any accompanying documents to each respondent.

CHAPTER 2

Hearings

Decision with or without a hearing

21.—(1) Subject to paragraphs (2) and (3), the Adjudication Panel must hold a hearing before making a decision which disposes of proceedings unless—

(a) each party has consented to the matter being determined without a hearing; and

(b) the Adjudication Panel is satisfied that it can properly determine the issues without a hearing.

(2) This rule does not apply to a decision under Part 4 (correcting, setting aside, reviewing and appealing Adjudication Panel decisions).

(3) The Adjudication Panel may in any event dispose of proceedings without a hearing under rule 7 (striking out a party's case).

(4) Notwithstanding any other provision in these Rules, if the Adjudication Panel holds a hearing to consider a preliminary issue, and following the disposal of that preliminary issue no further issue remains to be determined, the Adjudication Panel may dispose of the proceedings without holding any further hearing.

Entitlement to attend and take part in a hearing

22.—(1) Subject to rule 24(4) (exclusion of a person from a hearing) each party is entitled to—

(a) attend any hearing that is held; and

(b) send written representations to the Adjudication Panel and each other party prior to the hearing.

(2) The Adjudication Panel may give a direction permitting or requesting any person to—

(a) attend and take part in a hearing to such extent as the Adjudication Panel considers proper; or

(b) make written submissions in relation to a particular issue.

Notice of hearings

23. – (1) When the Adjudication Chair directs that a hearing before the Adjudication Panel is to be convened the Adjudication Chair shall select the Hearing Chairman and the two Adjudication Panel Members to constitute the Adjudication Panel for the purpose of that hearing, provided that at least one of the Adjudication Panel members shall be a Licensed Conveyancer Member. The Hearing Chairman shall determine the date, time and place for the hearing and notify the CLC.

(2) When he directs that a hearing be convened as provided by rule 17, the Adjudication Chair may at that time (and at any time up to and including the hearing) also select a Legal Adviser to attend the hearing to advise the Adjudication Panel if the Adjudication Chair is satisfied it is necessary for the fair and just disposal of the case.

3) The Adjudication Panel must give each person entitled, permitted or requested to attend a hearing (including any adjourned or postponed hearing) reasonable notice of the time and place of the hearing and any changes to the time and place of the hearing.

(4) The period of notice under paragraph (1) in relation to a hearing to consider disposal of the proceedings must be at least 14 days, except that the Adjudication Panel may give shorter notice—

(a) with the parties' consent; or

(b) in urgent or exceptional circumstances.

Public and private hearings

24.—(1) Subject to the following paragraphs, all hearings must be held in public.

(2) The Adjudication Panel may give a direction that a hearing, or part of it, is to be held in private if it appears to the Adjudication Panel in the interests of any child or for the protection of the private life of any party or in the interests of justice.

(3) Where a hearing, or part of it, is to be held in private, the Adjudication Panel may determine who is permitted to attend the hearing or part of it.

(4) The Adjudication Panel may give a direction excluding from any hearing, or part of it—

(a) any person whose conduct the Adjudication Panel considers is disrupting or is likely to disrupt the hearing;

(b) any person whose presence the Adjudication Panel considers is likely to prevent another person from giving evidence or making submissions freely; or

(c) any person where the purpose of the hearing would be defeated by the attendance of that person.

(5) The Adjudication Panel may give a direction excluding a witness from a hearing until that witness gives evidence.

Hearings in a party's absence

25. If a party fails to attend a hearing the Adjudication Panel may proceed with the hearing if the Adjudication Panel—

(a) is satisfied that the party has been notified of the hearing or that reasonable steps have been taken to notify the party of the hearing; and

(b) considers that it is in the interests of justice to proceed with the hearing.

Quality of evidence and standard of proof

26.—(1) In any proceedings before the Adjudication Panel —

(a) a fact is to be regarded as proved if the Adjudication Panel consider that it has been proved on the balance of probabilities, and

(b) the Adjudication Panel may consider any evidence which would be admissible in civil proceedings in England or Wales.

(2) This rule does not apply to an allegation to which rule 27 applies.

Proof of conviction

27.—(1) If—

(a) it is alleged that a respondent has been convicted of an offence, and

(b) the respondent denies the allegation or is deemed to have done so, the conviction must be proved by the CLC by the production of a certificate of conviction or the affidavit of a person who attended the trial.

(2) If the respondent denies a conviction, he may adduce evidence on the question whether he was convicted as alleged, and may address the Committee about that question.

(3) Only one address may be made by a respondent under paragraph (2) and, where the respondent adduces evidence, the address may be made either before that evidence is begun or after it is concluded.

(4) The CLC is entitled to reply to any submission made by the respondent under Paragraphs (1) to (3), and may call evidence in rebuttal.

(5) If the CLC does call such evidence, the respondent may make a further address limited to the rebutting evidence.

(6) At the conclusion of submissions and the calling of evidence, the Adjudication Panel must determine whether or not the conviction has been proved to their satisfaction.

(7) If they are not so satisfied, they must dismiss the allegation or complaint relating to the conviction.

(8) If they are so satisfied, the conviction is to be admitted in evidence against the respondent.

Announcements by the Adjudication Panel

28. The Adjudication Chair must announce the decisions, direction, determinations and judgements of the Adjudication Panel under these Rules in such terms and in such manner as the Adjudication Panel agree.

Parties' rights as to record of proceedings

29. Any party to the proceedings is entitled to a copy of any matters recorded concerning the proceedings and kept by the CLC, on payment of the cost of recording them and supplying the copy.

CHAPTER 3

Decisions

Consent orders

30.—(1) The Adjudication Panel may, at the request of the parties but only if it considers it appropriate, make a consent order disposing of the proceedings and making such other appropriate provision as the parties have agreed.

(2) Notwithstanding any other provision of these Rules, the Adjudication Panel need not hold a hearing before making an order under paragraph (1), or provide reasons for the order.

Decisions

31.—(1) The Adjudication Panel may give a decision orally at a hearing.

(2) The Adjudication Panel must provide to each party as soon as reasonably practicable after making a decision which finally disposes of all issues in the proceedings (except a decision under rules 32 or 33)—

(a) a decision notice stating the Adjudication Panel's decision;

(b) written reasons for the decision; and

(c) notification of any right of appeal against the decision and the time within which, and manner in which, such right of appeal may be exercised.

(3) The Adjudication Panel may provide written reasons for any decision to which paragraph (2) does not apply.

PART 4

Correcting, setting aside, reviewing and appealing Adjudication Panel decisions

Clerical mistakes and accidental slips or omissions

32. (1) The Adjudication Panel may at any time correct any clerical mistake or other accidental slip or omission in a decision, direction or any document produced by it, by—

(a) sending notification of the amended decision or direction, or a copy of the amended document, to each party; and

(b) making any necessary amendment to any information published in relation to the decision, direction or document.

Setting aside a decision which disposes of proceedings

33.—(1) The Adjudication Panel may set aside a decision which disposes of proceedings, or part of such a decision, and re-make the decision or the relevant part of it, if—

(a) the Adjudication Panel considers that it is in the interests of justice to do so; and

(b) one or more of the conditions in paragraph (2) are satisfied.

(2) The conditions are—

(a) a document relating to the proceedings was not sent to, or was not received at an appropriate time by, a party or a party's representative;

(b) a document relating to the proceedings was not sent to the Adjudication Panel at an appropriate time;

(c) a party, or a party's representative, was not present at a hearing related to the proceedings; or

(d) there has been some other procedural irregularity in the proceedings.

(3) A party applying for a decision, or part of a decision, to be set aside under paragraph (1) must make a written application to the Adjudication Panel so that it is received no later than 28 days after the date on which the Adjudication Panel sent notice of the decision to the party.

Power to treat an application as a different type of application

34. The Adjudication Panel may treat an application for a decision to be corrected, set aside or reviewed as an application for any other one of those things.

Panel voting

35.—(1) Any question put to the vote must be formulated and put to the Adjudication Panel members present by the Adjudication Chair.

(2) The Adjudication Chair must call on the Adjudication Panel members present to vote for or against the question and must declare the result.

(3) The Adjudication Chair is entitled to vote.

(4) If an equal number of votes is cast for and against the question, the question is deemed to have been determined—

(a) in the case of a hearing of an allegation or complaint within rule 17 or a reference under rule 18, in favour of the respondent,

(b) in the case of an application within rule 19, in favour of the applicant,

(c) in the case of an appeal, in favour of the CLC, and

(d) in the case of the question whether a hearing is to be postponed, in favour of postponement.

Absence of Adjudication Chair

36. Subject to paragraph 4 of Schedule 4 to the 1985 Act, anything authorised or required by these Rules to be done by the Adjudication Chair may, if he is absent or unable to act or continue to act, be done by any other member of the Adjudication Panel who is authorised for the purpose by the Adjudication Chair or, if no person is authorised, by the other members present.

Relaxation of rules

37.—(1) At the request of any appellant or respondent (including, in either case, the CLC), the Adjudication Panel may direct that any requirement of these Rules is not to apply or is relaxed in any manner they think fit; and such a direction may be given subject to such other requirements as they think fit.

(2) Where they have given such a direction, they may give a further direction that the requirement is again to apply or, as the case may be, to apply without the relaxation or with others.

