

COUNCIL FOR LICENSED CONVEYANCERS' INVESTIGATING COMMITTEE RULES 2004

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Council for Licensed Conveyancers' Investigating Committee Rules 2004

Made on the 5 May 2004 by the Council for Licensed Conveyancers with the concurrence of the Secretary of State pursuant to sections 24 and 38 and paragraph 5 of Schedule 3 to the Administration of Justice Act 1985 and section 53 and Part II of Schedule 8 to the Courts and Legal Services Act 1990.

Part I - Preliminary

1. Citation, Commencement and Interpretation

1.1 These Rules may be cited as the Licensed Conveyancers' Investigating Committee Rules 2004 and shall come into effect on the 19th day of July 2004 on which date Part II of the Licensed Conveyancers' Investigating Committee and Discipline & Appeals Committee Rules 2001 shall cease to have effect save that no prior decision of the Investigating Committee shall be invalidated by this repeal.

1.2 The terms of office of the existing members and of the Chairman of the Investigating Committee appointed under the Investigating Committee and Discipline and Appeals Committee Rules 2001 shall cease on the coming into effect of these Rules.

1.3 In these Rules: -

1.3.1 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;

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

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

"Chairman" means the Chairman of the Investigating Committee;

"the Committee" means the Investigating Committee established under Section 24 of the 1985 Act;

"the Council" means the Council for Licensed Conveyancers;

"the Discipline and Appeals Committee" means the Committee established under Section 25 of the 1985 Act;

"licensed conveyancer" means any person holding a licence in force granted by the Council;

"Secretary to the Committee" means an employee of the Council appointed by the Council to act as secretary to the Committee;

Other expressions shall have the meanings given by Section 39(1) of the 1985 Act.

Part II – Constitution and Powers of the Investigating Committee

2. Membership

- 2.1 The Council shall in accordance with rule 8 select the Committee consisting of five members who may or may not be members of the Council.
- 2.2 The members of the Committee shall include a minimum of two and a maximum of three licensed conveyancers.
- 2.3 Subject in each case to rules 2.2, 3.1 and 10.3: -
- (a) when the first members of the Committee are selected by the Council in accordance with Rule 8:-
 - (i) two members one of whom shall be a licensed conveyancer shall be selected to serve for an initial term of office of two years; and
 - (ii) the remaining three members shall be selected to serve for an initial term of office of three years; and
 - (b) thereafter all members selected shall have a term of office of three years from the date of their respective appointments.
- 2.4 The members of the Committee shall elect one of their number as Chairman in accordance with rule 9 who will hold that office until the expiry of his term as a member of the Committee unless a vacancy occurs under rule 3.1 or he resigns his office.
- 2.5 If he resigns his office as Chairman, subject to these Rules, the Chairman may remain a member of the Committee and may participate in the election of a new Chairman in accordance with rule 2.6.
- 2.6 A majority of members may elect a new Chairman in accordance with rule 9 at any time if the Chairman resigns his office, is suspended under rule 10.1 or where a vacancy otherwise occurs.
- 2.6 A member of the Committee shall be eligible for re-selection.

3. Vacancies

- 3.1 A vacancy in the office of Chairman or a member of the Committee shall automatically occur and his right to hold office shall cease immediately:
- (a) on his death;
 - (b) on receipt by the Council of his written resignation;
 - (c) on the expiration of his term of office as a member of the Committee;
 - (d) on his appointment as Chairman of the Council;
 - (e) if, without the consent of the Committee given in advance, he fails to attend more than three consecutive meetings of the Committee;
 - (f) if he is convicted of a criminal offence involving fraud,

dishonesty, deception or violence or a serious arrestable offence (as defined by section 116 of the Police and Criminal Evidence Act 1984);

- (g) if he is adjudged bankrupt or makes a composition or arrangement with his creditors;
- (h) if Part VII of the Mental Health Act 1983 (management of property and affairs of patients) applies;
- (i) if, being a licensed conveyancer member,
 - (i) he ceases to hold a licence;
 - (ii) an Order is made against him by the Council's Discipline and Appeal Committee pursuant to section 26 of the 1985 Act (other than an Order which provides only for the payment of costs by him) or a direction is made by that Committee pursuant to paragraph 17(2) of Schedule 8 to the 1990 Act;
 - (iii) his licence is suspended pursuant to section 24 of the 1985 Act; or
 - (iv) the Council's powers of intervention are exercised against him or his practice in accordance with Part I of Schedule 5 to the 1985 Act;
- (j) if 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/or the conduct of members of his profession (other than an Order which provides only for the payment of costs by him);
- (k) if he is or becomes an employee, self-employed officer or general consultant of any organisation having as its main object the protection or promotion of the interests of licensed conveyancers or the defence of its members;
- (l) if he has failed to disclose to the Council any matter referred to in rule 7.1 subparagraphs (c), (d), (e), (f), (g), (h) or (i).
- (m) if he is removed from office under rule 10.3.

3.2 In the event that a vacancy occurs by reason of the operation of rule 3.1, the Secretary to the Committee shall as soon as possible inform each member of the Committee of that fact and such fact shall be noted at the next meeting of the Committee and of the Council.

3.3 Where a vacancy occurs, the Council will as soon as possible select in accordance with rule 8 a member to serve on the Committee for the remainder of the term of office of the member he has replaced.

4. Remuneration

4.1 The Council will pay to the Chairman and members of the Committee attendance fees and reasonable expenses, such attendance fees to be determined by the Council and to be reviewed periodically.

5. Standing Orders

- 5.1 Proceedings of the Committee shall be governed by the Standing Orders made for the Investigating Committee by the Council pursuant to Paragraph 9(2) of Schedule 3 to the 1985 Act.

6. Delegated Powers of the Committee

- 6.1 In addition to the powers conferred on the Committee by sections 24, 31 and paragraph 3 of Schedule 6 to the 1985 Act and section 53 of the 1990 Act in relation to licensed conveyancers and recognised bodies there are hereby delegated to the Committee by the Council the powers set out in Paragraphs 14, 15, 16, 18, 19, 21 and 22 of Part II of Schedule 8 to the 1990 Act.

- 6.2 The Committee shall also consider or deal with cases specifically delegated to or referred to it by the Council or by any other Committee of the Council.

7. Disqualification

- 7.1 A person shall not be eligible for selection to the Committee if: -
- (a) as a person to be selected as a licensed conveyancer member he does not hold a current licence;
 - (b) he is Chairman of the Council;
 - (c) he has been convicted of a criminal offence involving fraud, dishonesty, deception or violence or a serious arrestable offence (as defined by section 116 of the Police and Criminal Evidence Act 1984) unless the conviction is spent within the meaning of the Rehabilitation of Offenders Act 1974;
 - (d) he is or has been an undischarged bankrupt 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 deeds of composition or arrangement are fulfilled.
 - (e) Part VII of the Mental Health Act 1983 (management of property and affairs of patients) applies;
 - (f) an Order has been made against him by the Council's Discipline and Appeals Committee (other than an Order which provides only for the payment of costs by him) or a direction is made by that Committee pursuant to paragraph 17(2) of Schedule 8 to the 1990 Act, unless in either case more than six years have passed since the Order was made;

- (g) the Council's power of intervention have been exercised against him or his practice in accordance with Part 1 of Schedule 5 to the 1985 Act unless more than six years have passed since such powers were exercised;
- (h) the Council 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/or 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; or
- (i) he is an employee, self-employed officer or general consultant of any organisation having as its main object the protection or promotion of the interests of licensed conveyancers or the defence of its members.

8. Selection of Members of the Committee

- 8.1 Subject to Rule 7.1, any nomination for membership of the Committee shall be made with the consent of the nominee in writing to the Director of the Council by at least one Council member (other than the nominee).
- 8.2 All members of the Council, including the Chairman of the Council, attending in person shall be eligible to vote in the selection of members of the committee. No member shall be entitled to vote by post or by proxy.
- 8.3 If the number of nominations received in accordance with rule 8.2 is less than or equal to the number of members to be selected any such nominee may be selected as a member of the Committee by a majority of Council members attending and voting at a meeting of the Council on a show of hands.
- 8.4 If there are no nominations for a vacancy for membership in accordance with rule 8.2 or the number of such nominations is less than the vacancies to be filled, a person may nevertheless be selected as a member of the Committee upon the nomination of the chairman of the Council by a majority of the Council members attending and voting at a meeting of the Council on a show of hands subject to the right of the person so nominated to decline nomination before the vote is taken.
- 8.5 If there are more nominations for membership of the Committee than vacancies available there shall be a selection by a paper ballot conducted in secrecy by each member of the Council voting making a mark on the ballot paper against the name of any nominee for whom he wishes to vote. The Secretary to the Committee shall collect and in the presence of the candidates count the votes and shall immediately announce to the Council the results of the selection. The nominees selected as members of the Committee will be those with the highest votes in descending order until all vacancies have been filled. In the event of an equality of votes for the last vacancy to be filled a second ballot will be taken but if the last vacancy is not then filled the selection shall be determined by lot, the draw being made by the Chairman of the Council.

8.6 Each member of the Committee so selected shall take office immediately after selection.

9. Election of Chairman to the Committee

9.1 At the first meeting of the Committee after the coming into force of these Rules or where there is a vacancy in the office of Chairman, the election of a Chairman shall be the first item of business at any meeting of the Committee.

9.2 All members of the Committee shall be eligible for election as Chairman.

9.3 All members of the Committee attending in person shall be eligible to vote in the election of Chairman. No member shall be entitled to vote by post or proxy.

9.4 Nominations for Chairman may with the consent of the nominee be made at the beginning of the meeting at which the Chairman is to be elected.

9.5 If there are two or more nominations for the office of Chairman there shall be an election by a paper ballot conducted in secret by each member of the Committee voting making a mark on the ballot paper against the name of any nominee for whom he wishes to vote. The Secretary to the Committee shall collect and in the presence of the candidates count the voting papers and shall immediately announce to the Committee the result of the election. The candidate with the highest vote will be Chairman. In the event of an equality of votes in the election of the Chairman a second ballot will be taken but if a clear winner is not established the election shall be determined by lot, the draw being made by a member of the Committee who is not a candidate.

9.6 The Chairman shall take office immediately after his election.

10. Suspension of a Committee Member

10.1 The Chairman or other member of the Committee is suspended with immediate effect in the event that: -

- (a) he is charged with any offence referred to in sub-paragraph (f) of rule 3.1; 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 sub-paragraph (i) (ii) or (j) of rule 3.1.

10.2 Any suspension imposed under rule 10.1 shall automatically be revoked in the following circumstances: -

- (a) under sub-paragraph 10.1(a) in the event that the charge is dismissed, discharged, discontinued or otherwise withdrawn;
- (b) under sub-paragraph 10.1(b) if the bankruptcy petition is disposed of without a declaration of bankruptcy being made against him;
- (c) under sub-paragraph 10.1(c) in the event that the application is withdrawn or dismissed or the only order made is for the payment of costs.

- 10.3 The Council may by a majority remove the Chairman or any member of the Committee who has breached the Council for Licensed Conveyancers' Investigating Committee's Standing Orders or the Code of Conduct for members of the Council for Licensed Conveyancers.

