

Annex A – CLC’s Adjudication Panel Rules 2011

**The CLC’s
Adjudication Panel Rules 2011**

Made on [date] by the Council for Licensed Conveyancers with the approval of the Legal Services Board pursuant to sections 24, 24A and 38 and paragraph 5 of Schedule 3 and paragraph 3 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 2011 and shall come into effect on [date] on which date the Licensed Conveyancers’ Investigating Committee Rules 2004 shall cease to have effect save that no prior decision of the Investigating Committee shall be invalidated by this repeal.

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 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 under Part II of the 1985 are to be discharged;

“Authorised Officer” An employee of the CLC appointed to exercise the functions delegated to him by these Rules;

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

“CLC’s Rules” the Licenced Conveyancers’ Conduct Rules and any other 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) or a direction made pursuant to paragraph

		17(2) of schedule 8 to the 1990 Act;
“the Discipline and Appeals Committee”	and	the Committee established under section 25 of the 1985 Act;
“Lay Member”		a person appointed as a member of the Adjudication Panel, who is not eligible to sit as a Licensed Conveyancer Member;
“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 Committee 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;
“Limited Partnership”	Liability	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 Recognised Body, means a person who is: <ul style="list-style-type: none"> (a) a member of the Recognised Body, if the Recognised Body is a Company and its affairs are managed by its members; (b) a director of the Recognised Body, if the Recognised Body is a Company and paragraph (a) does not apply; (c) a partner, if the Recognised Body is a partnership; (d) a LLP member, if the Recognised Body is a Limited Liability Partnership; (e) a member of its governing body, if the Recognised 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 Recognised 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”		<ul style="list-style-type: none"> (a) the CLC (and includes the CLC’s Representative); (b) the Respondent; or (c) the complainant;

“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, Recognised Body about whom the reference is made or treated as made;
“Standing Orders”	the Standing Orders made for the Adjudication Panel and the Adjudicating Committee 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 and the 1990 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 and by the Authorised Officer.
- 2.2 The Adjudication Panel and the Authorised Officer 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.

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 If he resigns his office as Adjudication Chair, subject to these Rules, the Adjudication Chair may remain a member of the Adjudication Panel.
- 3.4 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 The appointment of the Adjudication Chair, Deputy Chairs and Panel Members shall be made by an appointment panel, comprising of 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 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 deeds of 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 or against a Recognised Body of which he is a Manager in accordance with schedule 6 to the 1985 Act unless in either 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