**Future Law Society**

**Governance Review – Final Stage**

**Council 3 July 2019**

**Item 18**

**Future Law Society**

**Governance Review – Final Stages**

 Council Meeting 3rd and 4th July 2019
 (Revision 13/7/19)

**Council Membership Committee**

**Reforming Council to secure a more representative and effective Council**

**Discussion paper July 2019**

Four years ago the Law Society began a major Governance Review looking at reforming the role and function of the Main Board, the subsidiary boards and Council. The final and outstanding aspect of that review is Council reform.

Under the Law Society Regulations and Bye-Laws the Council Membership Committee **(**CMC) is charged with keeping under review the representative nature of Council, the size of Council, the geographical constituencies and their boundaries and recommending necessary revisions.

This is a revised position paper which emerged following meetings of CMC and meetings of a Law Society Council-CMC joint working party established to look at CMCs initial proposals for reform and which over the period April 2018- May 2019 through three working groups developed those and presented them in outline to Council on 29 May 2019.

The CMC, the Joint TLS-CMC working party and the three working groups support the position set out in this paper, subject to some individual reservations and to discussion with the relevant CM (Council Members) constituencies. It is now offered for initial discussion within and contribution by Council, but principally in order to permit CMs to take time to consult with their constituents, as part of a consultation programme being undertaken by CMC with a view to a reform position being put to Council for debate and decision in the latter part of 2019.

This paper sets out those proposals for reform and the practical impact of the changes proposed. Although a number of current seats will not be retained/cease and others will be reclassified under the present proposal, the intention is that no current Council member whose seat is affected would be required to leave Council ahead of the due expiry of their current term. All current solicitor interests will continue to be fairly represented in the new structure.

The paper also reaffirms the key issues of ensuring proper job descriptions for CMs and the need for adequate support in the discharge of their function within an environment of proper accountability. As requested by Council at the May 2019 meeting, we have recirculated the proposed CM job descriptions which were circulated to Council for comment in early in 2018.They had since then been slightly amended. Council’s comments on those are awaited.

The proposal recognises the excellent work that the current Council does and the contribution that individual CMs make. Its purpose is not to deny or undermine that, but to give a fair and able voice also to the large part of the profession that is not currently being heard sufficiently or at all.

In making these proposals to improve the representational basis of Council the CMC acknowledge the key role played by Local Law Societies in maintaining links between Council and the wider membership. It is CMC’s wish that these links be maintained and strengthened by our reform proposals. Nor is anything in these proposals intended to detract from the good work done by various regional networks of local law societies some of which are very long standing. These proposals are intended to work alongside those groupings even where we suggest new and different regional structures for Council’s organisational and electoral purposes.

We also acknowledge the role in supporting Council provided by various communities and groups some of which are external to the Law Society. In these reforms we do affirm that the privilege of representation on the Law Society Council should be limited to bodies which are formally identified with the Law Society. In the case of those external bodies identified within this paper as not retaining seats because of the absence of that link we intend to have specific discussions with them to see if a way forward can be found. In the case of those external bodies representing exclusively solicitors interests we have modified our proposals but will also meet and discuss with those.

In respect of what is commonly called the "City" we recognise the importance and contribution made by the significant numbers of solicitors and their firms who undertake traditional City work. The City geographically now however also embraces many practices who would not consider themselves to be "City firms" and increasing number of City firms are located outside the historical boundaries. To ensure that this important area of the solicitors' profession is is best represented and heard on Council we propose seats specifically for the practice type rather than the geographical area, such as Major Corporate, Banking and International Business and In-house Corporate.

**The need for reform**

Council has been described as the eyes, ears and mouth of the solicitor’s profession. TLS annual data over the last four years has confirmed the significant and continuing change in the profession which has taken place in particular over the last 10 years. This change has not been replicated in the composition of Council, which, by and large, reflects the profession as it was 20 years ago when Council was last reformed.

In particular there is now significant underrepresentation as follows:

|  |  |  |
| --- | --- | --- |
| Characteristic | Representation in the profession | Representation on Council |
| In-house | 20% | 7% (most of those work in the public sector) – 26,000 solicitors working in house and the private sector are evidenced by two CMs. |
| Less than 10 years qualified | c.60% (72% are less than 20 years qualified) | 12% |
| Women | Over 50% | 34% (less than two years ago) |
| Business Law | Over 50% | 20%  |

Moreover, the most recent SRA data identifies that although almost half the profession now works in just 200 firms only 17 CMs work in those firms.

This democratic deficit must be urgently addressed if we are to assert with credibility that Council is a representative body of our profession as it now is and, looking forward, the future profession. We do not accept that these major deficiencies can be properly reflected or represented by the existing structure. Nor do we wish to increase the size of Council even in the short term. Council should be smaller and CMC believe that can be achieved without sacrificing the objective of a better representative balance.

At the same time, we need to

* Improve engagement with our members
* Produce a Council that will be of a size and competence to best set the policy agenda, interface with the Board and actively influence and direct the decision-making process
* Deliver changes that make sense to the current Council

Below, we set out a proposed representative structure embodying a practical level of proportionality. We believe this structure will secure a more representative Council and so complete the final stage of the TLS Governance Review aimed at delivering more effective governance.

The dilemma in securing the correct outcome in reform of Council is introducing the right balance without giving rise to an even larger Council. The current size of Council is 100 but in practice with unfilled seats is 95. Only a minority of CMs (usually about 35) have time to speak. The Council sub structures (Board, PRAC, MCC) engage just 28 CMs and another 42 CMs are active on various Council and technical committees. Even 95 is too large for Council to be effective in the sense of facilitating an effective, representative contribution by all CMs.

In order to deliver the necessary representative contributions, there is no practical alternative to reducing the current number of geographical seats. This does not equate to loss of geographical influence, as all CMs have a regional identification and our proposals do not limit that. Further in making the proposal below, we have not focussed on the size of Council, but on the need for fairer representation of the modern practising profession. Our proposals maintain the current number of seats.

**Nonetheless, the CMC wish Council to support a progressive and planned reduction to no more than 70 seats over the 3 years following the introduction of the changes proposed below. This could be achieved without materially affecting the underlying proportionality of the new structure by simply reducing one seat from each proposed multi seat constituency, as the first vacancies arise. We strongly recommend that be adopted as a subsequent step. We anticipate that CMC will continue to press for Council to be progressively reduced in size, so it is better fit for its role under the new governance structure.**

Our proposals are subject to two essential requirements. We recognise that all CMs will need a clearer definition of their role within a formal job description. More importantly, if they are to deliver their responsibilities effectively, they also need better support than they now have. The support network we propose will also encourage those who aspire to be CMs. Delivering an enhanced ‘My Law Society’ platform that better facilitates identification of all members’ interests and communication with members must also be an utmost priority for the Law Society

We believe support for CMs can be achieved on a regional basis without significant cost. The cost of Council is very modest in terms of overall TLS spend. Properly structured, Council is a potential resource. Properly resourced, it can become an important tool in securing the relationship with the profession.

Support for CMs in the regional seats we propose should be delivered by a new and dedicated CM regional support staff group, not dissimilar to the current TLS regional Relationship Managers, but distinct from them.

Support for CMs in the non-geographical seats will be achieved by enhancing the support currently available to the technical committees and to the TLS groups, divisions and sections. These can and should be strengthened by more CM focussed links within the terms of reference/constitutional structures/protocols of committees and groups and by linking CMs with their constituencies more closely. Liaison with the Membership and Communications Committee (MCC) is required to deliver this. We are aware MCC is focussing on maximising engagement within communities both generally and specifically and strongly support the work they are doing to achieve that.

We see more dynamic constituencies as central to invigorating the CM-Member relationship and that must also strengthen the member-TLS link. At present, several non-TLS bodies have CM seats. Under our proposals, no non-TLS bodies will have a seat. TLS groups/communities will be allocated more seats, with a view to ensuring that CMs are a close part of the TLS family and bond with the relevant TLS division or section. If necessary, TLS committees should be constituted in a way that ensure a voice from non-TLS bodies on those committees, APIL/FOIL being one example. We hope in any event that external groups who are multi professional will continue their links with TLS by actively supporting their solicitor members to participate in the CM electoral process by advertising, standing and voting in relevant seats. We recognise that at least some of those external bodies may currently have stronger links with their communities than some of the corresponding TLS communities but the objective must be to make the TLS communities stronger.

We propose that all CM seats be determined by self-nomination, by election and by electronic voting. We should move to facilitating and securing this as soon as possible. To secure this, we will need assistance from both members and from the SRA and it cannot be achieved overnight. First, we need to rapidly enhance and extend My Law Society. Solicitors who wish to participate in characteristic and practice sector communities must be encouraged to identify with the characteristics when completing their My Law Society as well as the SRA data requests and to join the relevant TLS community. We need a data sharing arrangement with the SRA so that we will continue to have access to the data whatever way the relationships between ourselves and the SRA may develop. It will be important for solicitors to correctly identify their contact postcodes as these are by far the most effective way to determine the electorate for the purposes of electing Council members in regional seats. Further, in geographical/regional seats, the qualification for nomination should be by practising at a location within the area and no other factor. We are not persuaded that community executive committees should exclusively nominate or appoint persons to Council seats Any member of the community should be entitled to stand and the full community be entitled to vote*.* That does not prevent an executive persuading a preferred candidate to stand and supporting that candidate, but that fact of the preference should not be identified to the voters.

As noted, these proposals would not require that any current CM who wishes to remain on Council would have to vacate Council ahead of the expiry of their current terms of office. In any event, we believe that those who may be affected can be reasonably identified temporarily, for the duration of their current term, with another appropriate position in the revised structure and we would encourage affected CMs to adopt that option.

The reforms proposed preserve the three broad types of CM that currently constitute Council namely (1) geographical seats, (2) technical or work sector seats, and (3) characteristic community seats. In all three cases, we propose changes to the current profiles.

We make recommendations on other core issues including limiting CMs’ terms of office and on accountability by linking CMs more closely with the constituencies they represent, through CMs’ attendance at regional forums, work sector technical and similar committees and engagement with TLS Divisions and Sections. CMs would be expected to actively engage with their constituency structures. We recommend that Council should formally recognise a route through which an electorate would have the right, in appropriate circumstances, to indicate loss of confidence in a CM requiring an election.

Certain assumptions in the proposals may be marginally affected by the outcome of the recent elections. Any relevant impacts will be reflected if required.

**Practice Sector** **Representative Seats and their electoral base**

We believe it to be demonstrably the case that the characteristic with which solicitors most identify is their technical practice area and it would be easy to propose a Council entirely reflective of that factor. We also recognise that Council’s remit goes well beyond such issues and that in the practice sector such representation need is being met, in part if not largely, by the excellent technical committees we have in place.

Of the present 35 non-geographical seats on Council, there are 11 which represent specific technical/practice areas.

Those are childcare, civil litigation, commercial property, EU, housing law, immigration law, residential conveyancing, personal injury (2), employment and private client. However, four other seats are work sector specific. These are the CPS, criminal defence, APIL and FOIL seats. Further, some of the non-TLS body seats, the ELA, SPG and LAPG seats for example - are/can also be described as practice based. We see Government Legal Service and Local Government solicitors as industry sectors, rather than work type sectors, and so we place them in the In House community.

The current total work sector seats are 18.

However, within the TLS body, there are 22 technical committees, many of which are not aligned with a CM and/or do not have a Council seat. The SRA offers 62 practice area options for practitioners to identify with. While some clearly cross refer, e.g. general litigation, it is more than evident that the principal practice areas of most solicitors are one or more of business law, civil litigation, wills and trusts, family, personal injury, property, employment, crime and intellectual property. There is evident blurring is some areas such as between property and landlord and tenant and housing.

We propose to largely maintain the current practice sectors seat types but add three. Those are Major Corporate, Banking and International Business sector (BIB), Business, and Corporate Counsel. The finer points of the definitions of these need to be considered. The first will assist in the perennial problem of defining what constitutes the City and the reality is that it is now not conveniently geographical.

The basis of selection of the current technical CMs seats varies. Most of them are by ballot, but some are by nomination of an “executive group”. The basis of representation of all work sector seats on Council should be based solely on a person practising in those areas identified by SRA registration and being elected by that peer group.

All persons elected to work sector seats should be a member of the most relevant TLS technical committee, ex officio, and attend all such committee meetings.

Based on the SRA self-selected data of the number of solicitors working in the main technical and practice sector areas, CMC suggests the “Work Sector” representational basis should be as below.

Where it may not be self-evident, we identify in brackets the TLS Committee or Community with which the Work Sector CM should actively engage.

We do not specify criminal prosecution as a work sector seat as within our proposal this is a Community seat - In House Division.

The other significant changes are that we have made International and EU a geographical seat. The current International seat is largely an “issues” seat rather than a practice area and we suggest its practice function can be dealt with within the new BIB seats. To the extent international engages with human rights issues we believe that can be adequately covered within Council. We have also created a Welsh cross border seat.

Note that we have generally proposed one seat where currently there are two, such as property and personal injury. Apart from business law, the main practice areas are significantly represented on Council over and above the work sector seat. For example, there are 16 property solicitors, 15 civil litigators, 12 criminal practitioners and 8 who practise primarily employment. Nonetheless, we think there should still be an identified lead specialist whose role is linked the relevant TLS technical committee. The relevant practice seat CM would be expected to lead debate in Council on practice area issues.

We propose the following Work Sector seats:

Private Client (Wills, Trusts, Estates and Mental Capacity) - 1 seat (Private Client Section, Wills and Equity Cttee)

Civil Litigation non - PI-1 seat (Cttee and Section)

Housing Law (incl. Landlord & Tenant) - 1 seat

Property - 1 seat (Conveyancing and Land Law and Property Section)

Business Law - 1 seat (Company Law and/or Competition Section)

Family - 1 seat

Childcare - 1 seat (Children Law Cttee)

Criminal - 1 seat

Personal Injury - 1 seat (Civil Lit)

Employment - 1 seat (Employment) The CM would be encouraged to be a member of ELA and form a distinct solicitors group within ELA

Intellectual Property and IT Law - 1 seat (IP and/or Technology and Law)

Legal Aid Practitioner - 1 seat (Access to Justice and Mental Health Ctee) CM would be encouraged to be a member of LAPG and form a distinct solicitors group in LAPG

Immigration - 1 seat

Welsh/English cross border - 1 seat (Wales)

Major Corporate, Banking, International Business - 3 seats (Competition section and/or Company
 Law Committee and/or Taxation
 and/or IP committee)

In House Corporate Counsel - 6 seats (In house solicitors representing the non-law business they work in)
 (Company Law Committee and/or
 Taxation Committee and/or IP
 committee and would be required to
 be members of the IHD)

 **We suggest 23 work sector seats are required.**

This represents an increase attributable to the three new classifications. The other major change is that the non-TLS body seats become TLS body seats. (This also occurs in the Communities sections.)

As an observation, we suggest that technical committees should engage in succession planning well ahead of committee members’ and the incumbent chairs’ departures and, as part of this, have additional seats for junior lawyers/more recently qualified solicitors.

We would prefer there to be more business law seats and for there to be both a Residential and a Commercial property seat, but without further reducing geographical seats neither is possible. However as quite a number of geographical seat holders are one or other property practitioners the position is not currently prejudicial. It would be desirable if more business law solicitors were elected in regional seats.

**Geographical Representative Seats, a possible regional structure and the electoral base.**

At present, there are 61 regional CM seats representing 42 constituencies. These constituencies have been in place for many years, probably since the early 60s. They are based upon local authority regions and associations, some of which no longer exist. In many instances, the borders of the constituencies are obscure. As these govern the process of nomination and election, this creates considerable difficulty, particularly for those aspiring to be elected to Council for the first time.

In some of the smaller constituencies, it is becoming increasingly difficult to find candidates. In 2017, there were no contested elections in any of the due for election geographical seats. In 2013 and up to and including 2018 (six years), there were, in total, only 11 contested geographical seats. The 2019 election takes that to only 15 in seven years. Electoral colleges vary enormously between 8,405 and 844 at the extremes. 39 of the seats have fewer than 2,000 constituents. Turnout in the few contested geographical constituency elections hovers around 14%. This contrasts with the turnout in nongeographical contested seats, which is consistently higher, though not spectacularly different.

Further, the current geographical constituencies are isolated. While some have successfully adopted regional structures, such as in the south-west, Wales and in Yorkshire, that is not the norm. Delivering support for CMs in liaison with individual constituents is a challenge that technology alone will not solve. The need for more local support is clear, but that can only be effectively delivered if we put in place a regional structure within which individual constituencies are more likely to thrive and can more effectively be supported. The current TLS regional structure, with its relationship managers focusing on delivering TLS needs rather than Council members’ constituency needs, would soon be overburdened if it was extended to cover CM support. Also, as it currently works reasonably well, it should not be disturbed.

This paper therefore proposes a new regional support structure for Council, based on 13 regions. Each should have a Regional Forum (RF) of CMs and Local Law Societies (LLS) and any other relevant regional structures, including cross regional structures, if that is desired. These should meet in tandem with Council, so six times per annum, and be independent of but financially supported by TLS with RF meeting and attendance expenses being covered. Some existing Local Law Society groupings could become the Regional Forum.

Delivering support to CMs on a cost-effective basis will be a challenge requiring a new structure, properly costed, budgeted and approved but we believe that the RFs will assist with delivering that support.

New constituencies that avoid splitting the major national post code system are also highly desirable. This can be largely achieved as below, with only SY and CH significantly split. Though there will have to be other more minor adjustments, under the proposal there will be no part full post codes such as at present, with “WC2A part” and many others. These make it challenging to identify seats and secure supporting nominations. Further the primary working place location, or if none the residency location, should be the only basis of eligibility. It is not appropriate to include membership of an LLS alone as an alternate when there is no effective control on who LLS allow to join.

We suggest the 13 Council Regions as the constituency seats for which CMs will stand and which CMs will represent save in London where we envisage 5 sub regions. There will be specific seats for some major cities. In allocating numbers of CMs to constituencies the paper has recognised as far as it reasonably can the balance that has to be drawn between solicitor numbers and geographical size. Given the new opportunities for engagement and communication with members that technology now offers we have tended more to the former.

We recognise the value of the geographical link in the member engagement process, but reducing the overall numbers is a necessity if we are to secure a more representative body that is effective and manageable.

Note that the postcodes proposed are not final and, in some cases, will require finer adjustment. Also, where “part” is identified that part will be specified after consultation for example in East Midlands, SK part will probably be SK 17,22 and 23.

 *London Region*. In London, there are currently 17 CMs spread over 9 constituencies which vary enormously in numbers and geographical reach. We believe these should be reduced to 9 CMs. As above, there should be a nongeographical sector seat representing solicitors working in the major corporate, banking and international business sector (BIB) and Corporate Counsel (In- house) seats. In practice, these seats will likely be London based so overall the reduction in London would not be as large as first seems:

 *Central London* (EC/WC/ W(part)/SW part 5 seats (was 10)

 *West and* *South West London* (W(part)KT/SM/TW/ UB/SW (part) 1 seat (was 2)

 *East and* *North East London* (IG/RM/E/N) 1 seat (was 1)

 *South and* *South East London* (CR /BR/ DA/SE) 1 seat (was 2)

 *North and North West London* (EN/HA/WD/NW) 1 seat (was 2)

This will total 9 seats for London Region.

There will be 12 other regional groupings:

*Wales*: LL part/SY/SA/LD/HR part/NP/CF/SY part/CH part for solicitors practicing in Wales with 3 (was 4 but one now is a new cross border seat)

*North West*: CA/LA/PR/FY/L/CH/BB/WA /WN/BL/M/OL/SK/CW/CH part with 5 seats; one of those seats is for Manchester and one for Liverpool (was 6 with 1 vacant)

*North East*: NE/DL/TS/DH/SR with 2 seats (no change)

*South West*: TR/EX/PL/TQ/TA/DT/BS/BA/SN/SP/ with 4 seats; one of those seats is for Bristol (was 6)

*West Midlands*: CV/ B/|GL/WR/DY/ WV/W/ST/TF/SY part with 3 seats; one of those seats is for
 Birmingham (was 4)

*East Midlands:* LE/NN/NG/DE/SK part/S part/MK with 2 seats (was 3)

*Yorkshire and Humberside*: YO/HU/LS/DN (part)/HG/S part/WF/HX/HD/BD/ with 3 seats; one of those seats is for Leeds (was 4)

 *East:* NR/IP/LN/PE/CB/CO/DN (part) with 3 seats (was 4)

 *Home Counties North*: OX/CM/HP/AL/LU/CM/SL/RG/SG/SS with 2 seats (was 4)

 *South East*: ME/CT/TN/RH/BN/GU/ with 3 seats (was 5 excl. Hants and IoW)

 *South:* SO/SP/PO/SN/BH with 1 seat

 *International and EU* (outside E&W) 1 seat

As above our proposal encourages and assumes the establishing of Regional Forums (RF) in each regional grouping along the lines of the successful Association of South-Western Law Societies, the Yorkshire Union of Law Societies and other models. This will strengthen links with local law societies (LLS).

CMC believe it should be for each Regional Forum to discuss and agree how each region’s CMs’ constituency responsibilities should be allocated within the region, save for the reserved seats for major urban areas.

Regional forums will need a formal committee structure, which would include all CMs working within the region and representatives active LLS in the Region. Elections would be by vote of all practitioners practising and holding PCs in the defined postcodes and working in the areas.

**We suggest 40 regional/geographical seats.**

 We believe that this will deliver effective and proportionate regional representation.

The numbers of geographical constituencies will reduce from 42 to 22 by merging existing constituencies into regions and city seats. The approach has been broadly to reduce geographical seats proportionally, so that the current ratios of representations are largely respected. This is a reduction of 20 seats.

The previous SE region (now proposed to be split into 3) was significantly overrepresented on Council relative to the number of practitioners working there. This now reduces to a more proportionate 6. London has been over reduced in proportionate terms. This is in recognition of the reality that new In House and BIB seats are likely to be based there and in the South East.

We appreciate that both Home Counties North and South East are large areas, but don’t support further dividing those between East and West. In practical terms we would hope Regional Forums would ensure that burdens were fairly shared between CM in all regions. In some regions where there is a proliferation of small local law societies we suggest that expectations of personal attendances will need to be managed and skype/conference calls more often used

There is also disproportionate over representation of Wales, which retains 3 seats rather than being reduced to 2 but supported by a cross border work practice seat in recognition of the unique cross border aspect. However, in the new CM regions, Chester solicitors will now be in N West not N Wales; Shropshire solicitors will be in West Midlands region not Welsh Marches; Gwent solicitors will be in Wales. It would be for the Wales Regional Forum to decide on any identification issues in the region’s allocation.

**Communities Representative Seats, regularising structures and electoral base**

All TLS linked bodies need common constitutional structures with closer links to Council. CMC do not believe that non-TLS bodies should have automatic/reserved seats on Council. TLS communities should exist within which all community seats can be identified. This is less challenging for those external bodies which focus on representing just solicitors’ interests.

There are presently several types of non-technical community seats. These are broadly split between 12 who represent characteristics, and 12 in sectors which are part technical.

The 12 specific characteristic seats are: junior lawyers (3); Ethnic minorities 3+1BSN (4); Women (3); Solicitors with Disabilities (1); and LGBT+(1).

The 12 sector characteristic seats are: legal aid practitioners (1); sole practitioners (2); lawyers in local government (2); government legal service (1); voluntary sector (1); law management (1); crown prosecution (1); criminal defence (1); commerce and industry (2).

The basis of selection of the current 25 Community CMs varies with some elected by ballot, others by nomination by and/or from within an “executive group”.

The seats not based around TLS “owned” communities are those reserved for APIL/ FOIL/ELA/SPG/Local Government/LAPG/C&I/BSN These bodies are not necessarily aligned with the TLS on policy issues, nor subject to any TLS influence as to the electoral college or the process of appointment/election.

These external bodies are, in effect, closed entities. Persons working within the sector with that characteristic, but not members of the closed entity, are not represented by it and cannot stand in the designated seats nor vote. Further, there are instances when the external groups hold Council seats which are parallel, or similar, to a TLS group which does not have seats. These groups may compete for members such as happens with the TLS Small Firm’s division and the TLS In-House solicitor’s division. In our view, TLS Council seats should not be closed off in this way. All practitioners should be able to stand for and to vote in elections to relevant Council seats. We stress that we do not want to end association with external groups and hope that, for example, the independently funded C&I Group can align with the TLS In-House Division, even if it continues with an individual identity and we hope the Sole Practitioners Group will re-enter the TLS fold.

So external bodies should no longer have exclusive access to CM seats but should all be encouraged to integrate within restructured TLS communities. The profile of the TLS communities within the wider membership needs to be improved and strengthened.

We propose that communities which are non-technical/practice sector based should be represented on Council on the following basis, given the relevant numbers in the profession in those sectors.

All seats would be elected by those who were members of the relevant identified TLS community which we identify with an \*.

CMC believe it is essential that all our Communities are revitalised urgently, and we note that MCC is working to secure this.

Our proposal is: -

*Sole practitioners -* 2 seats (SP being, we suggest, those practising in whatever format, but with no more than one other non-proprietor qualified solicitor in the business) - would be required to engage actively with the SP Division if it returns to the TLS fold, as we hope. If it does not then we suggest that one of the two SP seats should be or encouraged to be a member of the SPG

*Small Firm Division\** – 2 seats (not for SPs and being we suggest for solicitors working in firms with between 2 and 4 proprietors) -who would be required to engage actively with the SFD\*.

*Junior Lawyers Division 6 years and under PQE -* 6 seats (to be elected for three years for a maximum two terms) - who would be required to engage actively with the JLD\* We do not provide for a trainee seat.

*Lawyers 6 and over up to 12 yrs. PQE –* 5 seats (to be elected for three years for a maximum two terms).

*Women Lawyers Division -* 5 seats -who would be required to engage actively with the WLD\*.

Note: It has been suggested in consultation that the SP and SFD seats should be gender split. This is for further discussion. A further suggestion is that at least one WLD / JLD/ +6PQE seat should be for solicitors practising business law .

*Ethnic Minority Division -* 4 seats who would be required to engage actively with the EMD\* It is suggested one would be a member of the BSN.

*In-House Non Corporate -* 4 seatsof which *Local Gov* - 1 seat; *Central Government and Agencies -*1 seat; the other two seats preferred for those working in house in the *CPS* and in the *Voluntary sector (*including academia) These would be for practitioners in non-commercial operations. All would be required to engage actively with the IHD\*. In respect of the relevant community the external body might consider forming a distinct solicitors group for representational purposes.

*Solicitors with Disabilities -*1 seat -who would be required to engage actively with the SDD\*.

 *LGBT+ -*1 seat -who would be required to engage actively with the LGBT+ D.

*Law Management -*1 seat- who would be required to engage actively with the LMS\*.

In all Community seats, if the elected CM is not able to attend a scheduled Council meeting, then that CM could be represented at that meeting by a member of the relevant TLS division/section Executive with that division’s/section’s approval. This substitution right should be used sparingly.

The only previous interests not covered are the FOIL/APIL seats which we do not propose be maintained. Both FOIL and APIL should have reserved seats on the Civil Litigation Committee.

The current Residential and Commercial property seats will be merged but both are represented on the Land Law committee with who the Property CM will engage.

**We propose 32 characteristic Community seats.**

**The total size of Council would be 95** (but see also below).All CMs should eventually (and hopefully soon) be elected by an electoral college. This would be comprised of all solicitors with Practising Certificate / Levy paid (see below), working in the geographical region/ technical-practice work sector/ a member of the relevant community.

There would be provision for filling any casual vacancy of all three types by facilitating appointment from within the relevant TLS community. This would be made up of TLS division /technical committee-section group/regional forum.

As above, we believe this can be achieved, pending the full election cycle, by identifying existing CMs coming up for election with an appropriate proposed seat for the remainder of their current term.

**Other issues**

Practising certificates (PC)

All CMs will have a PC or pay an alternative “representational levy” if they do not otherwise normally pay the PC but wish to be or are a CM and/or who wish to vote for a CM (in-house solicitors, including GLD and Local Government solicitors only). The requirement to be “in practice” would not apply to CMs temporarily not in practice nor to current CMs who do not have a PC but pay the levy. The levy would be paid by a deduction from the amount of annual CM allowance otherwise payable to such persons. We do not see these as “charging for democracy”, but as proper recognition that Council is a cost centre and has to be funded and as it will going forward be more truly represent all solicitors, all solicitors should contribute to it and the TLS overall costs (as will have to happen if S.51 funding is lost)

Support for CMs with care responsibilities and career vulnerability

Council should consider alternative timings for meetings, providing childcare/creche facilities, as well as facilitating streaming of meetings, with dial in for all Council meetings.

CMs’ terms of office

There is consensus amongst CMC that the terms of office for council members should be a maximum 12 years save for JLD seat holders where it would be 6 years. The 12 years should comprise three terms of four years, after which a person would not be eligible to stand again for Council. In any 12-year period, a person could move from one seat to another, but all seats would count towards the 12-year period. A CM at some point filling a casual vacancy would be deemed to have commenced their 12-year period from the date they first took up a CM seat.

Office Holders

Office holders, if a single seat representative once elected, would stand down from their constituency at the time of taking DVP office. That vacant seat would then be filled as a casual vacancy. After completing their Presidential year, an office holder would remain an ex officio member of Council, without a vote, for one year. They could then stand as an ordinary council member for any further period, not exceeding a total of 12 years’ service as a CM, so not counting their 3 years as an office holder. This proposal will mean Council could technically be 3 more persons than at present and so 98 – a further impetus to reduce the overall size.

Extended leave of absence

We welcome Council’s views on how geographical seats can remain represented where it is anticipated that their CM will have an extended leave of absence (i.e. for more than one Council meeting). As aforementioned, we propose that the Work Sector and characteristic community seats can agree to nominate a member from their community/division/section to attend in a CM’s place if they are temporarily unable to attend.

Former CMs Long Service Forum

CMs who retire from Council after reaching their maximum term would be entitled to participate, for up to six years, in an online forum. The online forum would be entitled to send representatives to participate (but not vote) in the annual Council Policy and Strategy meeting.

Council Members Job Descriptions and Peer Review and Accountability

In earlier papers to Council, CMC stressed the need for a formal job description. It set out a proposal which stressed the importance of identification with the regional forum/ technical committee/ community. We also believe each CM should be paired with another, for peer review.

It is apparent that not all constituencies are happy with the engagement level with members post-election. There must be a measure in place to facilitate the removal of CMs who irregular attenders /regular early leavers are and/or do not engage with their LLS or Community where possible.

Freelance solicitors

We have not made suggestions about freelance solicitors working in unregulated entities. These should be perhaps included as a single seat, in due course, when the numbers opting for those routes and their profile justify it. Consultants might be a part of that group.

Remaining Council meeting dates in 2019 are:

3 October

5 December

And in 2020 are:

12 February

27-28 March (S/P)

3 June

15-16 July (including AGM)