

1.0 Purpose of the Ministry Paper

The purpose of the Ministry Paper is to inform Parliament and the public of the reports of the General Legal Council for the periods April 1, 2014 – March 31, 2015 and April 1, 2015 – March 31, 2016.

2.0 The General Legal Council

The General Legal Council was established in January 1972 by the Legal Profession Act. Its statutory function is concerned with the legal profession and in particular the organisation of legal education and the upholding of standards of professional conduct. By virtue of the Legal Education Act the Council functions as the Legal Education Authority and this is vested in the Council of Legal Education, which is established by Agreement among several Commonwealth Caribbean countries.

Except for Law Officers of the Crown and Legal Officers of Government who are ex officio members entitled to practise as such, no person can lawfully practise as an Attorney-at-Law who does not hold a practising certificate issued by the General Legal Council. Practising Certificates are issued annually on payment of an annual fee.

The General Legal Council is required to appoint from among its members or former members, Judges or retired Judges and Attorneys-at-Law of not less than 10 years standing to the Disciplinary Committee, which adjudicates on complaints of misconduct by Attorneys-at-Law in any professional respect.

The General Legal Council is authorised to make rules prescribing the standards of professional etiquette and professional conduct for Attorneys-at-Law and to direct that any specified breaches of such rules constitute misconduct in a professional respect.

One of the most significant developments in 2013 was the implementation of mandatory Continuing Legal Professional Development pursuant to the amendment to the Legal Profession Act in December 2012.

In November 2013, the Minister of National Security executed the Proceeds of Crime (Designated Non-Financial Institution) (Attorneys-at-Law) Order. Effective June 1, 2014 Attorneys-at-Law in various areas of practice, including those who practice conveyances, will be brought within the “regulated sector” for the purposes of the Proceeds of Crime Act. However, the operation of the order was stayed by an order of the Supreme Court, pending the delivery of judgment arising from action brought by the Jamaican Bar Association.

3.0 The Report

3.1. *The General Legal Council*

During 2014/15 the General Legal Council consisted of seventeen (17) members chaired by B. St. Michael Hylton, O.J. Q.C. who was elected Chairman on December 14, 2010.

On May 14, 2014 Mr. Maurice Bailey resigned from the Council. Mrs. Carla-Anne Harris-Roper was subsequently appointed in September and she resigned in December 2014. Ms. Gillian Johns was appointed to the Council in May 2015. She resigned and Mr. N. Patrick McDonald was subsequently appointed in September 2015.

When the term of the Council ended on February 24, 2016, Mr. Allan Wood Q.C. was elected Chairman of the General Legal Council. The membership is as follows:

Mr. Allan Wood, Q.C. Chairman	
Mr. Richard Ayoub	Mrs. Denise Kitson
Mrs. Pamela Benka-Coker, Q.C.	Mr. N. Patrick McDonald
Mr. Ransford Braham, Q.C.	Mr. Lowel Morgan
Hon. Mr. Justice Patrick Brooks, C.D.	Mrs. Janet Morrison
Miss Saverna Chambers	Miss Hilary Reid
Mr. Adley George Duncan, Snr.	Mrs. Jeanne Robinson-Foster, C.D.
Mrs. Nicole Foster-Pusey, Q.C.	Mr. Walter Scott, Q.C.
Mr. Linton P. Gordon	Mrs. Donna Scott-Mottley
The Hon. B. St. Michael Hylton, O.J. Q.C	

The General Legal Council has ten (10) subcommittees and on February 24, 2016 the life of the previous committees expired and new committee chairpersons were appointed. **See table below.**

COMMITTEE	CHAIR PERSON 2014/15	CHAIR PERSON 2015/16
Accounting Reports	Hilary Reid	Hilary Reid
Accreditation	Donna Scott-Mottley	Denise Kitson
Advertising Regulatory	Daniella Gentles-Silvera	Daniella Gentles-Silvera
Continuing Legal Professional Development (CLPD)	Lloyd Barnett	Justice C. D. Morrison
Compensation Fund	John Bassie	John Bassie
Finance and Accounting	Lowel Morgan	Lowel Morgan
Information Technology	Denise Kitson	Denise Kitson
Proceeds of Crime Act	Allan Wood	Allan Wood
Protection of Client's Assets	Ransford Braham	Ransford Braham
Regulatory Reform	Lowel Morgan	Lowel Morgan

Ten (10) meetings of the General Legal Council were held during the periods under review.

Consequent on the Council's additional statutory functions, and based on the advice in a PricewaterhouseCoopers' report, the staff complement has been increased to a total of eighteen (18) persons.

3.2. General Legal Council Offices

During 2014/15 the Council rented temporary office space at 40 Duke Street pending the availability and refurbishing of the space previously occupied by the Offices of the Public Defender at 78 Harbour Street. Refurbishing of the space, which started in February 2016, was completed in March 2016 and the office of the General Legal Council was relocated to that space.

Three hearing rooms were also created for the hearings of the Disciplinary Committee.

3.3. Practising Certificate Fees

The following fee structure remained in effect:

Period of Practice	Fees
Less than five years' standing	\$10,000.00
Five years' standing but less than fifteen	\$20,000.00
Fifteen years standing and over	\$30,000.00
Attorney-at-law who has retired from practice	\$10,000.00
Attorney-at-law in the first year of practice who applies for a practising certificate after September 1 in that year	\$5,000.00

It is estimated that there are approximately 2,966 Attorneys on the roll. In 2015/2016 a total of 2,075 Attorneys held Practising Certificates. Approximately 2,749 Attorneys were estimated to be on the roll in 2014/2015 and a total of 1,785 Attorneys held Practising Certificates. The Council has published on its website a list of Attorneys-at-Law, who are entitled to practise by virtue of having paid their Practising Certificate fees and is collaborating with the Supreme Court, the Registrar of Titles, and other relevant Agencies and Departments to ensure that persons who are not entitled to practice are not allowed to do so.

3.4. Continuing Legal Professional Development

The Continuing Legal Professional Development (CLPD) Committee held 6 meetings since the beginning of 2015. It continued with the organising of regular seminars on a variety of legal subjects, primarily in the area of ethics and client welfare.

During 2015/16 thirty-eight (38) CLPD seminars were held as follows:

Two (2) in Mandeville, ten (10) in Ocho Rios, six (6) in Montego Bay, three (3) in Westmoreland and seventeen (17) in Kingston.

During 2014/15 Nine (9) CLPD seminars were held in Mandeville, five (5) in Ocho Rios, nine (9) in Montego Bay, two (2) in Portland and eighteen (18) in Kingston.

The Committee also successfully conducted its first Weekend Conference in May 2015. The Conference was held in collaboration with the Caribbean Court of Justice (CCJ) under the theme "*Ten years of Adjudication by the CCJ*". Legal Practitioners from the Caribbean and North America attended this Conference.

3.5. Proceeds of Crime Act

The Proceeds of Crime (Designated Non-Financial Institutions) (Attorneys) Order 2013 came into effect on 1st June 2014 to regulate the activities of attorneys who engage in financial and other specified activities as non-financial institutions under Part V of the Proceeds of Crime Act. By that date the Council had enacted consequential rules and regulations and had recruited personnel to enable the Council to monitor the specified activities of attorneys in keeping with the Council's designation as the competent authority.

On 13th October 2014, the Jamaican Bar Association instituted action in the Supreme Court against the Attorney General and the General Legal Council challenging the legality of the Order and seeking inter alia declarations as to the unconstitutionality of the legislation insofar as it applied to attorneys-at-law.

On 4th November 2014, pending the determination of the action, a Judge of the Supreme Court granted exemption from the Order and restrained the General Legal Council from exercising its functions as competent authority under Section 91A(2) of the Proceeds of Crime Act. This prevented the Council from carrying out inspections to verify whether attorneys were complying with the Act. On 11th December 2014 an appeal was filed by the Attorney-General to set aside the grant of the injunction.

The substantive action was heard in the period 23rd to 26th March 2015 and judgment has been reserved. Pending the delivery of judgment, the injunction granted on 4th November 2014 remains in place and the Council is restrained from taking any steps to regulate or monitor the activities of attorneys under the Proceeds of Crime Act.

3.6. Information Technology

The website of the General Legal Council continues to provide immediate and reliable information to members of the profession as well as to the public at large on matters concerning lawyers. A review of the statistics shows increased use of the site with visitors increasing exponentially over the period. Jamaicans comprise the largest grouping of visitors with the most frequently searched page continuing to be that which indicates the names of attorneys who are licensed to practice in the jurisdiction. However it is significant that there are visitors to the site from every corner of the globe, with the USA, Canada, England and the Caribbean region accounting for the most frequent visitors outside of Jamaica.

The website being the principal communication tool between the Council and the legal profession, provides current data on Continuing Legal Professional Development seminars provided by the Council, and updates on all issues of concern whether it be reports on court and disciplinary decisions or changes to legislation pertaining to practitioners and the practice of law.

3.7. Advertising Regulatory Committee

The Advertising Regulatory Committee was established to address a wider range of issues. These include reviewing and making recommendations for the changes to the Canons of Professional Ethics, as well as monitoring and reviewing possible breaches by Attorneys-at-Law of the existing advertising rules.

The Committee also wrote letters to Attorneys-at-Law to advise that their websites, advertising of their practice in the Yellow Pages of the telephone directory, and / or their letterheads are in breach of the Canons of the Legal Profession (Canons of Ethics) Rules and they should take steps to rectify these breaches.

Most of the breaches relate to claims by Attorneys to be specialists and experts in certain areas of practice in the absence of a certificate of accreditation from the General Legal Council, and situations where the Attorneys are practising as sole practitioners but misleading the public by naming their practices as themselves and company or themselves and associates. Some Attorneys have been incorporating their law practices and practising as companies, which is not permissible under the law.

The Committee reviewed the proposed amendments to the Legal Practice (Professional Ethics) Regulations 1999. The amendments were sent to the General Council in October, 2014.

During the period of review, the Advertising and Publicity Committee met eight (8) times.

3.8. Applications for entry

During 2015/16 the Legal Council received two hundred and seventeen (217) applications for enrolment, an increase over the two hundred and fifteen applications for entry and approved during 2014/15.

The GLC, in its 2014 report, also sought to act on that which was reported in the General Legal Council Annual Report for the period 013 to March 31, 2014, wherein the figure of 166 was reported as the number of applications received for qualifying certificates during that period. Applications for entry were in fact, received from 166 persons, which were approved.

3.9. Disciplinary Committee

The Disciplinary Committee of the General Legal Council has specific responsibility for the maintenance and enforcement of discipline in the profession by the examining and hearing of complaints laid against Attorneys-at-Law.

During 2014/15, the Disciplinary Committee of the Legal Council made orders against five (5) Attorneys-at-Law found guilty of professional misconduct and four (4) Attorneys-at-Law for breaches of the Legal Practice (Accounts and Records) Regulations 1999. The names of four (4) Attorneys were also struck off the Roll of Attorneys-at-Law entitled to practise in the Island of Antigua.

One Attorney-at-Law was ordered suspended, while another was reprimanded. Five of the Attorneys-at-Law against whom orders were made by the GLC's Disciplinary Committee have since applied for re-hearings or appeals.

During 2015/16, the Disciplinary Committee made orders against six (6) Attorneys-at-Law found guilty of professional misconduct and two Attorneys-at-Law for breaches of the Legal Profession (Accounts and Records) Regulations 1999. The names of three

(3) of these Attorneys were struck off the Roll of Attorneys-at-Law entitled to practice in the Jamaica

3.10. Complaints to the General Council

During the period review Council dealt with several complaints of professional misconduct by attorneys-at-law. They were as follows:

Subject	2015-2016	2014-2015
Complaints pending at commencement of the year	419	402
Complaints filed during the year	224	163
Complaints in which no case found	142	92
Complaints in which no case found	57	49
Complaints withdrawn	2	43
Complaints dismissed	30	43
Complaints upheld at which sanctions imposed	9	13
Complaints struck out of prosecution	0	3
Decisions appealed to Appeal	2	7
Complaints pending at the year	500	414

4. Accounts of the General Council

The audited statement of the Council's Income and Expenditure for the year ending 31st March 2016 recorded a total of \$66,024,807.00 of which \$48,603,778.00 represented income from Legal Certificate Fees, \$1,122,257.00 from Interest on Fixed Deposit, \$14,601,988.00 from Continued Legal Profession Development Fees, and \$1,361,790.00 from Miscellaneous Income.

The total expenditure of the General Council was \$63,055,506.00. At the end of the year 2015/16 the General Council had a surplus of \$2,969,301.00.

For the year ending 31st March 2015 the General Legal Council had an income of \$49,713,551.00 of which \$39,250,965.00 represented income from Practising Certificate Fees, \$2,088,564.00 from Interest on Fixed Deposit, \$7,575,615.00 from Continued Legal Profession Development Fees, and \$798,407.00 from Miscellaneous Income.

The total expenditure of the General Legal Council was \$65,609,176.00. At the end of the year 2014/15 the General Legal Council had a deficit of -\$15,895,625.00.

A handwritten signature in cursive script, appearing to read "Delroy Chuck".

Delroy Chuck, QC, MP
Minister of Justice
January 25, 2017
M. P. No. OPS/143/1

