

CITY OF LONDON LAW SOCIETY

EMPLOYMENT LAW COMMITTEE

**MINUTES OF MEETING HELD AT THE OFFICES OF CAMERON MCKENNA,
MITRE HOUSE, 160 ALDERSGATE STREET
LONDON EC1A 4DD**

on 10th September 2008 at 12:45 pm

In Attendance:

Raymond Jeffers (Chairman)	Linklaters
Elaine Aarons (Vice Chairman)	Withers
Gary Freer (Secretary)	McGrigors
Catherine Brearley	Stephenson Harwood
David Harper	Lovells
Alan Julyan	Speechly Bircham
Julian Roskill	Mayer Brown International
Geoffrey Tyler	Pinsent Masons
Elizabeth Adams	Beachcrofts
Helga Breen	Lawrence Graham
John Farr	Herbert Smith
Anthony Fincham	CMS Cameron McKenna
Paul Griffin	Norton Rose
Jane Mann	Fox Williams
Mark Mansell	Allen & Overy
Charles Wynn-Evans	Dechert

Absent with Apologies

Oliver Brettle	White & Case
William Dawson	Farrers
Ian Hunter	Bird & Bird
Laurence Rees	Reed Smith

1 Apologies for absence

These were received as noted above.

2 Minutes of Meeting and Matters Arising

These were approved. There were no matters arising.

3 Attendance of future meetings by Associates

Raymond Jeffers reported that the Society is keen to try to attract younger members and had asked each Committee to consider whether this could be encouraged by inviting an associate – not necessarily a specialist in the relevant discipline – to attend future meetings.

Although the aim of encouraging participation is laudable, there were some concerns that an attendance of an Associate, no matter how well equipped to participate in a particular discussion, might inhibit the liveliness of the Committee's discussions.

4 **Publicity**

Raymond Jeffers reported that a PR agency had been appointed by the Society to publicise its activities – future submissions made by the Committee will be more widely circulated in the future.

5 **The EWC Directive**

The Commission has proposed to revive this legislation. A Revised Council Directive has been published, about which ELA will be making submission.

After discussion it was agreed that there was no need to submit a separate submission on the Committee's behalf.

6 **Team Moves – Recent Cases**

The Committee noted the outcome of recently reported cases such as *Kynixa v Hynes*, and *UBS v Vestra*. There appears to be a trend which makes a lawful "team move" ever more difficult to achieve. The willingness of the Court to grant springboard injunctions pending trial even in cases not involving the alleged misuse of confidential information greatly strengthens an existing employer's hand. The pendulum has now arguably swung too far in the direction of the existing employer.

7 **Age Discrimination and Redundancy**

Recent discussions in such cases as *MacCulloch v ICI* and *Loxley v BAE Systems* had focused on the need to demonstrate proportionality in the justification defence. There was concern that this may lead to inconsistency in the law, all the more so because the Tribunal members may apply their own experience of industrial relations to this issue.

8 **Any Other Business**

Julian Roskill, our former Chairman, informed the meeting that he is leaving full time practice and that the next meeting will be his last.

9 **Next Meeting**

10th December at Farrers