

# CITY OF LONDON LAW SOCIETY

## LITIGATION COMMITTEE

### MINUTES OF MEETING

**Date:** 24 March 2020, at 4.00pm, continued 31 March 2020 at 4.00pm.

**Location:** Virtual (Teams video / teleconference)

#### **Present (24 March 2020):**

Gavin Foggo (Chair)	Fox Williams LLP
Mark Lim (Vice Chair)	Lewis Silkin LLP
Jan-Jaap Baer	Travers Smith LLP
Patrick Boylan	Simmons & Simmons LLP
Richard Dickman	Pinsent Masons LLP
Angela Dimsdale Gill	Hogan Lovells International LLP
Geraldine Elliott	Reynolds Porter Chamberlain LLP
Richard Foss	Kingsley Napley LLP
Jonathan Isaacs	DWF Law LLP
Gary Milner-Moore	Herbert Smith Freehills LLP

**In attendance:** Kevin Hart (CLLS), Evie Meleagros (Fox Williams LLP)

**Apologies:** Andrew Denny (Allen & Overy LLP), Hardeep Nahal (McGuireWoods London LLP), Patrick Swain (Freshfields Bruckhaus Deringer LLP)

#### *Minutes of previous meeting*

1. The minutes of the meeting held on 27 January 2020 were approved, save that they should not attribute discussion points to individuals, in line with CLLS standard practice.

#### *Litigation Committee*

#### Appointment of new members

2. The Chair had received, and circulated to the Committee, applications to join the Committee from the following:
  - (a) Daniel Haywood – Fieldfisher LLP;
  - (b) Lois Horne – Macfarlanes LLP;
  - (c) Richard Jeens – Slaughter and May;
  - (d) Jeremy Kosky – Clifford Chance LLP;

(e) James Levy – Ashurst LLP;

(f) Daniel Spendlove – Signature Litigation LLP.

3. The Committee approved the appointment of all the candidates. Daniel Spendlove's appointment is subject to the approval of his application for membership of the CLLS by the main Committee, as neither he nor his firm are yet approved members of the CLLS.
4. The CLLS is committed to the principles of equality, diversity and inclusion. Despite the advertisement on the CLLS website encouraging applications from all members of the profession irrespective of age, disability, gender, race, religion or sexual orientation, the Committee noted that only one of the six applicants is female, and will give further consideration as to how to attract a greater diversity amongst its membership for future applications.

*Representation at other forums*

5. It was agreed that the Committee would wait until the new candidates had joined the committee before deciding upon the CLLS representative on the Committee of the London Solicitors Litigation Association, replacing Gavin Foggo.
6. Further enquiries would be made regarding CLLS representation on other bodies.

**Meeting adjourned due to technical difficulties**

**Meeting reconvened:** 31 March 2020, 4.00pm

**Location:** Teleconference

**Present (31 March 2020):**

Gavin Foggo (Chair)	Fox Williams LLP
Jan-Jaap Baer	Travers Smith LLP
Andrew Denny	Allen & Overy LLP
Richard Dickman	Pinsent Masons LLP
Angela Dimsdale Gill	Hogan Lovells International LLP
Geraldine Elliott	Reynolds Porter Chamberlain LLP
Jonathan Issacs	DWF Law LLP
Hardeep Nahal	McGuireWoods London LLP

**In attendance:** Kevin Hart (CLLS). Evie Meleagros (Fox Williams LLP)

**Apologies:** Mark Lim (Lewis Silkin LLP), Patrick Boylan (Simmons & Simmons LLP), Richard Foss (Kingsley Napley LLP), Gary Milner-Moore (Herbert Smith Freehills LLP), Patrick Swain (Freshfields Bruckhaus Deringer LLP)

### *Subcommittees*

7. Interest was expressed by the following members for the following sub-committees at the meeting, or previously by email.
8. Disclosure: Jan-Jaap Baer, Richard Dickman, Gary Milner-Moore.
9. Damages Based Agreements and Litigation Funding: Patrick Boylan, Hardeep Nahal.
10. Technology and Court Procedure: Jan-Jaap Baer, Andrew Denny, Jonathan Isaacs, Mark Lim, Gary Milner-Moore.
11. Diversity and Inclusion: Angela Dimsdale Gill, Geraldine Elliott, Mark Lim, Hardeep Nahal.
12. Pro Bono: Andrew Denny, Angela Dimsdale Gill.
13. It was considered that the issue of mental health would be better addressed by the CLLS main Committee as it was relevant across the profession and not just to litigators. It was decided not to form sub-committees for areas such as witness statements or the implementation of the Briggs Report at the moment. The Committee may decide in future to form additional sub-committees or to disband any if they have achieved their purpose.
14. It was suggested that each subcommittee should consist of at least 3 people in order for it to have sufficient critical mass. It was recognised that, at any particular time, some sub-committees would be active, whilst others would not need to do anything other than keep a watching brief for developments. However, the intention behind forming the sub-committees was to enable the Committee to take a more proactive role in future, and help drive change in appropriate areas rather than being mostly reactive.
15. With regard to diversity and inclusion, it was noted that there will be greater focus on the issue of disability in the profession and in terms of access to the courts, following the report by Professor Deborah Foster of Cardiff University in January 2020 entitled, *Legally Disabled? The career experiences of disabled people working in the legal profession*.

### *Legal developments / consultation paper responses*

16. The Committee noted that Professor Mulheron's Third Interim Report, on the Disclosure Pilot, with recommended amendments to the disclosure pilot scheme, is expected to be published soon.
17. It is understood that the recommendations of the Witness Evidence Working Group report of 6 December 2019 are in the course of being implemented. In addition, it was reported that there is a working group in place which is due to prepare a new Chancery Court Guide.
18. It was understood that for the Damages Based Agreements Reform Project Professor Mulheron and Nick Bacon QC were in the process of producing a further report with revised draft rules. It was agreed that the Committee would comment on the revised draft when it was released. Hardeep Nahal will make enquiries as to progress.

19. There were no volunteers in the meeting to prepare a draft response to the Ministry of Justice Consultation paper, *Proposed rule changes relating to contempt of court* (deadline 1 May 2020). The Chair will ask for a volunteer after the meeting.

*Coronavirus – virtual hearings*

20. The experience of members' firms of the new arrangements being put in place by the judiciary and the court service for virtual hearings was discussed. Whilst there had been some resistance from certain judges, most appeared to be embracing the policy of holding court hearings by video conference.
21. It was noted that Skype for Business appears to be the default technology being used by the courts, although other applications such as Zoom have been used on occasion. Some firms had experience of cross-examination over Skype; although not ideal, it had worked well enough.
22. Views were expressed that the experience of practitioners and the courts during the current lockdown due to the pandemic should be used constructively when the lockdown ends with regard to the use of technology for hearings going forward. For more routine hearings it is likely to be far more efficient for there to be video and telephone hearings and electronic document bundles, which should reduce travel time, administration and printing costs. This will require investment in the technology and a willingness by the courts and the profession to adapt.

*Any other business*

23. The Ministry of Justice has approached the Law Society and the CLLS asking for feedback as to what support is required to assist the legal profession and courts to continue to deliver a litigation service to clients. The Chair and Kevin Hart will prepare a short draft response for input by the Committee.
24. It was noted that London Disputes Week is currently still going ahead in early September 2020. It is being kept under review. The CLLS is supporting it and has been assigned "Friend" status. It was hugely successful last year. Individuals and corporate memberships can sign up, see [www.lidw.co.uk](http://www.lidw.co.uk).
25. The next meeting of the Committee will take place on a date to be fixed.