

THE CITY OF LONDON LAW SOCIETY CONSTRUCTION COMMITTEE AGM

Minutes of a meeting of the members of the City of London Law Society Construction Committee (the "Committee") held on 28 September 2012 at 12.30 p.m. at Berwin Leighton Paisner LLP, Adelaide House, London Bridge, London, EC4R 9HA.

PRESENT:

Marc Hanson	Berwin Leighton Paisner LLP (Chairman)
David Hobart	Chief Executive, CLLS
Robert Leeder	Policy & Committees Co-ordinator, CLLS
John Hughes-D'Aeth	Berwin Leighton Paisner LLP
Gillian Thomas	Lovells LLP (Vice Chairman)
Martin Potter	Canary Wharf Contractors
Matthew Jones	Nabarro LLP
Peter Brinley-Codd	Sir Robert McAlpine
Doug Wass	Macfarlanes LLP
Richard Hill	Norton Rose LLP
John Scriven	Allen & Overy LLP
Oliver Wiseman	Berwin Leighton Paisner LLP (minutes)

1. Apologies for absence

The Chairman began the meeting by reporting the apologies he had received from the following members of the Committee for their absence:

Stephanie Canham, Trowers & Hamlin
Miranda Ramphul, Herbert Smith LLP
William Gloyn, JLT Group
Paul Cowan, White & Case LLP
Victoria Peckett, CMS Cameron McKenna
Lynne Freeman, Reed Smith

2. Chairman and Deputy Chairman

Marc Hanson noted that, following his election to the main committee of the CLLS he would, from the close of the meeting, step down as Chairman of the Committee. He agreed to remain an associate, non-voting member of the Committee to provide liaison with the main CLLS committee. He was thanked for his contribution over the past six years.

Gillian Thomas and John Hughes D'Aeth were elected unopposed as the new Chairman and Deputy Chairman subject to the approval of the main committee of the CLLS.

3. Priorities of the CLLS

The Chairman invited David Hobart to comment on the current priorities of the CLLS. These were stated to be threefold: firstly, to encourage the SRA to reengage and realign themselves with the needs and priorities of City firms; second, to support the 18 specialist committees of the CLLS – in particular to prevent conflict and duplication; and thirdly to engage with the current review of legal education and training, the findings of which are to be released in December. The Committee agreed that following the outcome of the review, the long-term significance of the SRA's subsequent education and training choices could not be understated. The Committee discussed the drive for greater diversity in the legal profession and its consequent effect on entry into it, noting in particular the potential of such an initiative to produce a broader pool of talent from which to select candidates.

David Hobart also commented on the increasing popularity of membership of the main committee of the CLLS, noting the likelihood of next year's election being contested.

4. Constitutional Issues

The Chairman stated that since the formalisation, in 2010, of the Committee Terms of Business, the CLLS have produced a new document which sets out procedures and guidelines for specialist committees (the "central document"). The Chairman noted that the majority of the Committee's Terms of Business were in line with the central document, but highlighted two differences: firstly, the central document contains a requirement for the main CLLS committee formally to approve membership of the Committee; secondly, the central document has a more rigorous approach to the removal of members who fail to attend meetings or to provide apologies. It was agreed that the central document would in future govern the operation of the Committee and the Chairman agreed to circulate a copy of the same to members. Following discussion it was also agreed to remove from the Committee members who had failed to meet the attendance requirements set out in both the central document and the old Terms of Business.

The Committee agreed to seek new members via advertisements on both the CLLS website, and in the 'City Solicitor' publication.

It was agreed that the Committee would continue its practice of keeping non-voting membership of the Committee open to non-solicitor 'associate' members.

5. Training Sessions

The Chairman noted that a successful training session had been held in March 2012, attended by approximately 50 people, comprising trainees, newly-qualified, and one year post-qualified solicitors. The Chairman noted that the subject matter split of the sessions was approximately 30% contentious and 70% non-contentious.

The Committee agreed that the sessions provide an invaluable training resource for entry-level legal staff, especially for firms with small construction departments. It was agreed that another training session should be held next year. A date in March 2013 was considered suitable. David Hobart noted that he would like to attend the session with a view to trialling the idea within some of the other CLLS committees.

6. Future Work Streams

6.1 Escrow Agreement

The Committee discussed the increasing use of escrow agreements as security for payment in construction projects. To help promote consistency and to reduce negotiation, it was agreed that the Committee would produce a standardised escrow agreement. It was noted that, as with previous precedents created by the Committee, the key to the document would be the simplicity of its drafting. The Committee agreed that John Hughes D'Aeth would draft heads of terms and circulate the same to a working group comprised of Gillian Thomas, Richard Hill and Peter Brinley-Codd, prior to a full agreement being drafted and circulated to the wider Committee.

6.2 Certificates of Title

The Committee discussed the inappropriate use of certificates of title in construction due diligence. It was agreed that there was a need to consider whether this was appropriate and, if not, what a certificate of title in relation to construction issues should cover. The Committee agreed that Gillian Thomas and Matthew Jones would raise the issue with Jackie Newstead, Chairman of the Land Law Committee.

6.3 Update on previous work streams

The Chairman commented on two previous work streams – third party rights and tenant fit-out contractor buildings insurance – and noted that general awareness of the two issues across the industry had been improved by the work the Committee had undertaken with the Land Law and Insurance Committees. The Chairman noted, however, that acceptance by certain lawyers advising banks of the benefits of third party rights remained a challenge.

7. Other business

The Committee discussed the industry's appetite for contractor funding, but noted that interest would likely diminish over time as more traditional sources of debt became available.

The Committee also discussed the impenetrability of some of the SRA's communications, and it was agreed that the concern would be raised with the SRA by the main committee of the CLLS.