

**CITY OF LONDON LAW SOCIETY
CONSTRUCTION LAW COMMITTEE**

**Meeting held on Monday 6 March at 13.00
At Clifford Chance, 4 Coleman Street, London**

Present:

Alan Elias, Clifford Chance (*Chairman*)
John Hughes D'Aeth, Berwin Leighton Paisner
Stephanie Canham, Trowers & Hamlin
Patrick Holmes, Macfarlanes
John Scriven, Allen & Overy
David Metzger, Clifford Chance

Marc Hanson, Cameron McKenna
David Johnson, Kendall Freeman
Matthew Jones, Travers Smith
Terry Fleet, Nabarro Nathanson (*Deputy Chairman*)
Peter Brinley-Codd, Sir Robert McAlpine
Peter Hall, Norton Rose
Jane Jenkins, Freshfields

Apologies:

John Rushton, Mayer Brown Rowe
Miranda Ramphul, Denton Wilde Sapte
Lynne Freeman, Richards Butler

Bill Gloyn, AON
Jake Davies, Jones Day

1. Chairman's Report

Alan reported upon the formal division between the Livery Company and the CLLS and the continued individual membership for the former and new corporate membership for the latter. There are currently over 40 corporate members of the CLLS. We have been urged to keep the membership of the Construction Committee under review and to retain only active members, whilst encouraging new members from the new corporate members.

Alan announced that he is stepping down as Chairman of the Construction Committee in June after serving for 3 years. The election is to take place at the next meeting of the Committee on 5th June. Nominations are invited by 30 May for the roles of Chairman and Deputy Chairman for a three year term commencing June 2006.

It was agreed that the current practice of appointing ad hoc working groups to consider specific issues in detail and then reporting back to the main Committee was working well. Therefore, it was agreed that all the main business will continue to be dealt with at the quarterly meetings of the main Committee, with ad hoc working groups meeting in the interim as and when appropriate. The UK Developments, Projects/PPP/PFI and litigation working groups were formally abolished.

2. Construction Act Review

The results of the initial DTI consultation exercise have been published and the formal consultation on the RRO proposals will follow. It was noted that there is no proposal to address the change the status of PFI/PPP sub-contracts (as suggested by the CLLS submission), even following the Midland Express

Limited case. It was proposed that an ad hoc group is set up to consider the implications of that case and whether the CLLS might issue guidance. The working group will report to the main Committee at its meeting on 5 June 2006.

3. **New Products/Issues**

(a) *Adjudication Bond*

On reflection, the Committee did not feel that there was a need in the market for a CLLS standard adjudication bond.

(b) *Third Party Rights*

We considered whether the CLLS Construction Committee should have a "position" on using third party rights in place of funder warranties incorporating "step-in" rights. Those present confirmed that funders generally still preferred collateral warranties. It was not felt that there was a need for an official CLLS view on the issue and that market practice would develop naturally.

(c) *Competitive Dialogue*

This has been recently introduced in the UK for publicly procured projects. Agreed to keep under review.

Alan Elias
Chairman
24 April 2006