

CITY OF LONDON LAW SOCIETY
CORPORATE CRIME COMMITTEE
MINUTES OF MEETING

Date: 10 April 2013

Venue: Kingsley Napley

Attendees: Michael Caplan QC, (Kingsley Napley) Chairman
Louise Delahunty (Sullivan & Cromwell)
Matthew Cowie (Skadden Arps)
Jonathan Pickworth (Dechert)
Satindar Dogra (Linklaters)
Rodney Warren (Rodney Warren & Co)
[Others]

Deferred Prosecution Agreements

Michael Caplan ("MC") reported that the latest estimate was that DPAs would be introduced in 2014. The Attorney General is to produce a code for Crown Prosecutors for the use of DPAs. The Sentencing Council of England and Wales will also publish guidelines to assist Judges. It was proposed that MC write to the Attorney General to offer the committee as an informal sounding board for his proposed code.

American Bar Association/CLLS – White Collar Conference

The ABA White Collar Crime Committee is holding another conference in London this year. It has been fixed for Monday 7 and Tuesday 8 October 2013 and will be hosted by Berwin Leighton Paisner. It was noted that the dates clash with the IBA conference in Boston. Committee Members are invited to write to MC if they would like to offer themselves as speakers.

New Sentencing Council Guidelines

MC reported that the Sentencing Council will review sentencing in fraud offences. There is a proposal that a multiplier should be applied for fines for companies. There was a discussion about experiences of use of revenue based formulae by the FSA and the Health and Safety Executive for calculating the level of corporate fines.

MC indicated that Bribery Act offences will come within the scope of the new guidelines. There will be a consultation launched in June 2013. The Committee discussed recent guidance to the effect that an earlier indication of a guilty plea should lower the starting point for the level of sentence to which the one third guilty plea discount will be applied.

Extradition

There is draft legislation in preparation to change the law extradition. It will address the issue of whether there should be rendition in circumstances where the conduct in question

could be prosecuted in the UK. The test to be applied will be that of whether it is in the interests of justice for the conduct to be tried abroad or in the UK. Factors such as the location of witnesses will be taken into account. The DDP will be able to certify that the UK will not try a case after discussions with overseas prosecutors. The new regime will apply to extradition requests from all states.

RSB