

Monthly E-Briefing (Issue 47– July/August 2014)

Monthly E-Briefing (Issue 47– July/August 2014)

CLLS Twitter account

A reminder that all CLLS response papers are announced on Twitter as soon as they are published - follow us @TheCLLS.

Secured Transactions Reform Discussion Paper 2: Fixed and Floating Charges on Insolvency

The **Financial Law Committee** produced a note which summarised the main issues discussed at a meeting held at Norton Rose Fulbright LLP on 15 July to discuss fixed and floating charges on insolvency ([click here](#)). The meeting was held further to the Committee's second discussion paper on secured transactions reform. As the summary stated, there were three key conclusions from the meeting:

- "There is a problem with the existing law. It needs to be reformed."
- "The first thing to do is to decide whether (and, if so, to what extent) there needs to be a levy on secured creditors to fund administrations."
- "If such a levy is required, it needs to be decided how to impose it in a way which is both fair and certain."

BIS consultation "International interests in mobile equipment convention: aircraft"

The Committee responded to the above consultation ([click here](#) for the consultation paper and [click here](#) for the response). The consultation sought stakeholders' views on how the UK should implement the "Convention on International Interests in Mobile Equipment", and the "Protocol on Matters Specific to Aircraft Equipment" to achieve the greatest economic benefit for the UK. The submission stated *inter alia* that the secondary legislation (which is being proposed to implement the Cape Town Convention into the laws of the UK) could be used to define clearly the boundary between the sphere of application of the Convention and existing law and, in so doing, it could help mitigate the *Blue Sky* problem.

The **Insolvency Law Committee** also responded separately to the consultation ([click here](#) for the response).

Insurance Bill

The **Insurance Law Committee** recently commented on the draft *Insurance Contracts Bill* (as it was then titled) in response to an HMT consultation on the Bill ([click here](#)). HMT

consulted on whether the draft Bill had a broad consensus of support, in order to determine whether it would be suitable for consideration under the new House of Lords procedure for uncontroversial Law Commission Bills. Following many years of involvement in the Law Commission's consultation process on insurance law reform, the Committee also submitted comments separately to the Law Commission on the draft Bill ([click here](#)). The Bill was recently introduced into Parliament as the Insurance Bill.

CLLS Land Law Committee Certificate of Title (Seventh Edition 2012) Wrapper for Report on Title and Notes to Users

The above document can be found here: [click here](#)

Combar/CLLS specimen Agreement for the Supply of Services by a Barrister in a Commercial Case (Version 2.1), and updated guidance note.

Version 2.1 (dated 23 June 2014) of the specimen agreement has been published ([click here](#)) along with an updated guidance note ([click here](#)).

DECC consultation: "Underground drilling access: Consultation on Proposal for Underground Access for the Extraction of Gas, Oil or Geothermal Energy"

The **Planning & Environmental Law Committee** responded to the above consultation ([click here](#) for the consultation paper and [click here](#) for the response). The consultation sought views on proposals to reform the procedure for gaining underground access to oil or gas deposits and geothermal energy. The submission, which was made mainly in relation to oil and gas drilling, responded to the questions in the consultation paper. It also noted generally that, in light of the Government's policy decision to promote such exploration, the Members of the Committee were in favour of the proposed solution set out in the consultation paper. In conclusion, the Committee urged the Government to adopt the clear proposals in the consultation paper in order to remove one of the inappropriate hurdles, which currently presents delays and ambiguity in the consent process for on-shore exploration and extraction of both conventional and unconventional hydrocarbons.

HMT consultation: "Review of enforcement decision-making at the financial services regulators: call for evidence"

The **Regulatory Law Committee** responded to the above consultation ([click here](#) for the consultation paper and [click here](#) for the response). The consultation formed part of a Government review, led by the Treasury, of the fairness, transparency, speed and efficiency of the institutional arrangements and processes for enforcement decision making at the FCA and the PRA. The submission, which focussed on disciplinary enforcement action, responded to the specific consultation questions.

European Securities and Markets Authority's Discussion Paper on MiFID II/MiFIR

The Committee also responded to the above consultation ([click here](#) for the consultation paper and [click here](#) for the response). The Committee's submission responded to those sections of the ESMA paper where the Committee hoped that its comments may have a useful impact from a legal perspective.

HMRC consultation: "Direct Recovery of Debts"

The **Revenue Law Committee** responded to the above consultation ([click here](#) for the consultation paper and [click here](#) for the response). The consultation described a new power which will allow HMRC “to recover debts from the accounts of debtors”. The CLLS response raised two fundamental objections to the proposals: “the fact that it will be HMRC and not the Judiciary making decisions on the application of [Direct Recovery of Debts]; and “the real potential for mistakes to be made by HMRC and the adverse consequences that will have for taxpayers”.

Robert Leeder
Policy & Committees Co-ordinator

Useful links:

The Law Society

**The Solicitors Regulation
Authority**

Contacts:

Liz Thomas

Robert Leeder

Website:

**The City of London Law
Society**

If you no longer wish to receive this Alert, please click [unsubscribe](#)

© City of London Law Society 2013