

CITY OF LONDON LAW SOCIETY LAND LAW COMMITTEE

Minutes of a meeting held on 28 September 2016 at Hogan Lovells, Atlantic House, 50 Holborn Viaduct, London EC1A 2FG

In attendance	Jackie Newstead (Chair) Warren Gordon (Secretary) Jeremy Brooks Jamie Chapman Caroline DeLaney Martin Elliott David Hawkins Laurie Heller Victoria Hills Nick Jones Anthony Judge Pranai Karia Daniel McKimm Tom Pedder Jon Pike Jeremy Shields Sangita Unadkat Ian Waring
Apologies	James Barnes Nick Brent James Crookes Bruce Dear Jayne Elkins Alison Gowman Alison Hardy John Nevin Peter Taylor Nicholas Vergette

1. WELCOMES

Welcome to Jeremy Shields from Nabarro who joins the Committee and Jeremy Brooks from KWM who re-joins.

2. **MINUTES**

The Minutes for the 13 July 2016 Committee meeting were approved and have been added to the Committee webpage.

3. **FINAL APPROVAL TO 2016 UPDATE OF 7TH EDITION OF CERTIFICATE OF TITLE AND ANCILLARY DOCUMENTATION**

The 2016 Update of the Certificate of title was discussed, particularly the issues of Addressees and access. Warren Gordon will make minor changes to the Certificate and Wrapper and re-circulate the Certificate and supplemental documents for final comments to be provided within a fortnight.

The documentation will then be added to the CLLS website and there will be publicity for the launch. It was agreed that there would be a key points article for Estate Gazette and a more technical one for the Law Society Gazette (Anthony Judge, Pranai Karia and Warren Gordon will lead on this, but the drafts will be sent to the Committee).

The Committee would be grateful if Kevin Hart of the CLLS can consider publicity for the launch. The Committee will also look to publish the Certificate in the Encyclopaedia of Forms and Precedents and please can Kevin liaise with Lexis Nexis. Pranai kindly agreed to mention the Certificate to his Scottish colleague, since there is usually an equivalent Scottish version of the Certificate.

The relevant sub-committee will consider the existing Report on title, which the Committee at a previous meeting had considered was worth keeping and improving. Re-launching an updated Report on title will provide good publicity for the CLLS and will be a useful document for many.

4. **DIGITAL INFRASTRUCTURE WAYLEAVE AGREEMENT**

There had been little adverse comment on the new standard digital infrastructure wayleave agreement, but an update will be provided at the January 2017 Committee meeting.

5. **LAW COMMISSION'S CONSULTATION ON ITS 13TH PROGRAMME OF LAW REFORM**

There was discussion about the Leasehold aspect of the Law Commission's Consultation on its 13th Programme of Law Reform. The Committee agreed to endorse the Property Litigation Association's response (which does not appear to have been finalised yet), but will also include in its response Anthony Judge's suggestion that the contracting out warning notice and declaration mechanism under the Landlord and Tenant Act 1954 be scrapped and replaced by a requirement for a contracted out lease to have a clear warning at the top of the lease as to the statutory rights that the tenant loses.

The Committee wished for greater clarity that the right of first refusal provisions in the Landlord and Tenant Act 1987 do not apply to commercial transactions. The Law

Commission has said that multiple responses are more effective from an Impact Assessment perspective and, therefore, member firms are encouraged to send the Law Commission a response supporting or replicating the Committee's response if they agree with it.

6. ELECTRONIC SIGNATURES

The Committee agreed that at this stage there was no need to obtain further advice from real estate Counsel in relation to the LSEW/CLLS Joint working party note on the execution of a document using an electronic signature. As the note acknowledges, it is inapplicable to documents registered at Land Registry which require a wet ink signature.

Mention was made that Land Registry may be looking into electronic signatures and the Committee would wait to see what if anything was proposed before deciding whether to seek Counsel's advice.

The note does touch on the relevant property legislation such as section 2 of the Law of Property (Miscellaneous Provisions) Act 1989 and it was also noted that while virtual signings of property contracts are very common, other types of electronic signature are less so. The Committee would review the position again in 6-12 months' time.

7. CODE FOR LEASING BUSINESS PREMISES

Stakeholders had had an initial meeting to discuss the possibility of revising the Code for Leasing Business Premises. It was agreed that the Code should be reviewed and revised and made shorter and snappier. There will be a Technical group meeting in a couple of weeks. Jackie Newstead represents the Committee and Tom Pedder also kindly agreed to volunteer.

8. SEARCH PROVIDERS' TERMS AND CONDITIONS

There was a concern that the profession was insufficiently aware about whether or not the terms and conditions of search providers permitted the passing on of search results obtained by a seller's solicitor for the benefit of a buyer etc. If the terms do not allow for this, consideration should be given to the relevant contract requiring the seller to assign the benefit of the searches to the buyer. Jackie Newstead, Jeremy Shields and Pranai Karia will consider this issue with a view to a possible note of advice on the pitfalls and what to do.

9. HMRC'S CONSULTATION ON CHANGES TO PROCESS FOR FILING SDLT RETURNS AND PAYING SDLT

Martin Elliott expressed concern about HMRC's proposals in its SDLT consultation to reduce the filing and payment periods from 30 to 14 days. This will cause difficulties where the complexity of the transaction makes it difficult to file the return within the reduced period. Martin kindly agreed to provide a suggested response on this issue which will be sent to HMRC.

CPD – 1 HOUR 20 MINUTES: NB CPD REFERENCE IS CRI/CLS

**NEXT COMMITTEE MEETING 23 NOVEMBER 2016 AT 12.30PM AT HOGAN
LOVELLS LLP, ATLANTIC HOUSE, HOLBORN VIADUCT, LONDON EC1A 2FG.**