

CITY OF LONDON LAW SOCIETY LAND LAW COMMITTEE

Minutes of a meeting held on 26 September 2018 at CMS Cameron McKenna Nabarro Olswang LLP, Cannon Place, 78 Cannon Street, London EC4N 6AF

In attendance	Jackie Newstead (Chair) Warren Gordon (Secretary) Kevin Hart (CLLS) Jeremy Brooks Caroline DeLaney Martin Elliott Alison Hardy David Hawkins Laurie Heller Paul Kenny Pranai Karia Tom Pedder Ian Waring
Apologies	Nick Brent Jamie Chapman James Crookes Bruce Dear Jayne Elkins Victoria Hills Matthew Hooton Daniel McKimm John Nevin Franc Peña Jon Pike Sangita Unadkat

1. COMMITTEE MATTERS

The CLLS has decided that all committees should have a Vice Chair, in addition to a Chair and Secretary. The purpose of the Vice Chair is to stand in for the Chair if they cannot attend and being Vice Chair does not mean that person will become Chair when the incumbent steps down. If any member would be interested in being Vice Chair, please let Jackie Newstead know. If there is more than one candidate, the Committee will decide who becomes Vice Chair.

The Committee has advertised for new members and an excellent candidate has applied. The Chair briefed the Committee on the candidate and the Committee approved the appointment.

The Chair will review members' attendance records and in the case of protracted poor attendance, consideration will be given to a replacement.

2. APPROVAL OF MINUTES

The minutes for the June 2018 meeting were approved and will be added to the Committee's webpage.

3. UPDATE ON GDPR FOR PROPERTY

Jon Bartley, Chair of the CLLS Data Law committee, notified Warren Gordon that he would shortly supply suggested GDPR changes for a property/asset management agreement, having discussed these with other members of his committee. The Committee remains of the view that GDPR is unlikely to be required for leases unless replacing existing data protection wording.

4. UPDATE ON NEW CITY OF LONDON WAYLEAVE AGREEMENT FOR NEW ELECTRONIC COMMUNICATIONS CODE

The City of London fixed line wayleave for the new Electronic Communications Code has now been launched on the City's website and it is also on the Land Law committee's webpage. Updates will be provided on the number of hits to those webpages. There will be a review of any comments received on the wayleave at the January committee meeting. The wayleave appears to have been well received and thanks go to the City of London and Alison Hardy, Laurie Heller and Warren Gordon. A link to the wayleave follows -

<http://www.citysolicitors.org.uk/attachments/article/114/City%20of%20London%20Digital%20Fixed%20Line%20Infrastructure%20Wayleave%20Agreement%20for%20new%20Electronic%20Communications%20Code%202018.pdf>

5. RESPONSE TO REGISTRATION OF OVERSEAS ENTITIES BILL

The Committee submitted a response to the Government's consultation on the draft Registration of Overseas Entities Bill. Many thanks to Committee members who contributed and for input from the CLLS Company Law committee. A good example of CLLS committees working together.

6. COMMITTEE'S APPROVAL TO UPDATED DEVELOPMENT MANAGEMENT AGREEMENT

The proposed new Development Management Agreement is in close to final form. The Committee was happy with it, but Ian Waring will forward it to the Chair of the Construction Law Committee for that committee's comments (to be limited to comments

of substance). Any changes will be circulated to the Land Law Committee and the agreement will be added to the CLLS website shortly afterwards.

7. NEW RICS PROFESSIONAL STATEMENT, SERVICE CHARGES IN COMMERCIAL PROPERTY 1ST EDITION SEPTEMBER 2018

The RICS has published the new Professional Statement on Service Charges in Commercial Property 1st edition September 2018. This goes live from April 2019. There are more serious regulatory consequences for RICS surveyors and regulated organisations which breach the Statement. Parts of the Statement are mandatory.

8. UPDATE ON ELECTRICITY SUB-STATION LEASE PROJECT

There was a successful meeting of the Committee sub-group on creating a process and documents for electricity sub-stations. There is an enthusiasm about the benefits of this project. The next meeting is on 8 October 2018. Paul Kenny will seek to have a property finance lawyer at future meetings of the group.

9. IMPLICATIONS OF DREAMVAR DECISION

Reacting to the Dreamvar decision, the Law Society is working on changes to the Code for Completion (no launch date as yet). One of the PSL groups has been working up a protocol that puts responsibility onto the seller's solicitor for undertaking that it is authorised to receive the completion funds on the (genuine) seller's behalf. There will be a contractual obligation on the seller to procure their solicitor provides this and it will be a pre-condition to completion. This is intended to reduce queries from the buyer's solicitor on identity checks carried out by the seller's solicitor on its client. However, some clients will want KYC/AML information on the other side and any such protocol needs to take account of this exception.

10. LAW COMMISSION CONSULTATIONS ON ELECTRONIC EXECUTION OF DOCUMENTS AND ON REFORMING LEASEHOLD ENFRANCHISEMENT

Electronic execution - <https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2018/08/Electronic-execution-of-documents-Summary.pdf>

The Law Commission has issued a couple of consultation documents. The first is on Electronic Execution of documents and the deadline for response is 23 November 2018. Key points include that the Commission provisionally concludes that the current law already accommodates electronic signatures. The paper also highlights difficulties around the witnessing of deeds. A response to the consultation requires a technology input/perspective. The Commission endorses the Law Society's note on virtual signing/exchange and does not propose legislative reform in that area.

Kevin Hart will find out if other CLLS committees are proposing to respond to the Consultation (this is of particular interest to the Company Law and Finance Law committees) and the Committee can contribute to that response.

The second consultation is on reforming leasehold enfranchisement with a deadline of 20 November 2018. Whilst this impacts on certain clients of member firms, it does not form a large part of many firms' work and the Committee will probably endorse a response from a member firm with greater exposure to this type of transaction.

<https://www.lawcom.gov.uk/project/leasehold-enfranchisement/>

Post-meeting note: The deadline for responding has been deferred to 7 January 2019.

11. **AOB**

- *Brexit*: Whilst the CLLS has been doing some work on Brexit, nothing has impacted on real estate.
- The Law Commission has issued its report on Updating the Land Registration Act 2002 https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2018/07/Updating-Land-Registration-final_WEB_230718.pdf
- *Certificate of title*: There have been over 4,200 hits to the Certificate of title on the CLLS website in the last 6 months. This is the CLLS's most popular document. There was a brief discussion on whether there should be guidance in the Certificate on how liability is limited, for example, should it relate to the value of the property? The Committee did not want to include such guidance considering the issues were often complex and depended on the particular circumstances. As and when an 8th edition is produced, consideration should be given to including a residential tenancy report (for example for student accommodation), provisions on agreements for lease and elaborating the provisions on sale of shares in a company.
- *Chairs' meeting*: The CLLS will look to improve publicity of its committees' work. It wants to acknowledge the excellence of the committees. Also it will vigorously scrutinise membership for example in relation to poor attendance at meetings. Also there will be closer working together of CLLS and City of London Solicitors' Company. The proceedings for committees guide will be updated.
- *Date for diary*: CLLS Annual Committees' Dinner **21 January 2019**.

12. **Length of meeting: 1 hour 30 minutes.**

13. **Date for remaining 2018 Committee meeting** - 21 November at 12.30pm at Hogan Lovells LLP, Atlantic House, 50 Holborn Viaduct, London EC1A 2FG. For November meeting, there will be discussion of a Construction Law Committee project on a note on tenant's contractor's insurance.

2019 meeting dates to follow.