

MINUTES OF MEETING
CITY OF LONDON LAW SOCIETY
EMPLOYMENT LAW COMMITTEE

Norton Rose Fulbright LLP 3 More London Riverside London SE1 2AQ
on Wednesday 5 December 2018 at 12:45 pm

In Attendance:

Gary Freer, Chairman	Bryan Cave Leighton Paisner LLP
Helena Derbyshire, Secretary	Skadden, Arps
Kate Brearley	Stephenson Harwood
William Dawson	Farrer
Anthony Fincham	CMS Cameron McKenna LLP
Paul Griffin	Norton Rose Fulbright
Sian Keall	Travers Smith
Michael Leftley	Addleshaw Goddard
Jane Mann	Fox Williams

Absent:

Helga Breen	DWF
Oliver Brettle	White & Case
Mark Greenburgh	TBC
Mark Mansell	Allen & Overy
Nick Robertson	Mayer Brown
Kevin Hart	CLLS
Elaine Aarons	Withers
John Evason	Baker & McKenzie
Charles Wynn-Evans	Dechert

1. Apologies were received from those noted as absent.
2. The minutes of the last meeting were approved.
3. Matters arising
 - (a) Those present nominated HD to be the Chairman of the Committee. This would be proposed to the CLLS [main] Committee at their next meeting for approval.
 - (b) SRA Transparency Rules:

The SRA's Transparency Rules require that from December 2018, firms publish indicative fees for employment tribunal representation. The committee discussed the approaches that they are taking. A prevalent view was that the requirement arises if the firm advertises the provision of employment tribunal services. A number of firms in the City did not do so. Most firms were, however, proposing to publish indicative fees. Inevitably

these would involve a number of caveats. There was concern about client confidentiality, and also whether disbursements, such as counsels' fees, should be included. Some firms were proposing to publish ranges of fees comparing simple and complex cases. Due to the advertising requirement firms were reviewing their employment lawyers' CVs to limit the advertisement of tribunal services. Those present agreed that they would report on any problems encountered at our next meeting.

4. Committee Membership

(a) Appointment of new secretary:

We discussed further the appointment of a replacement secretary. Volunteers were invited to come forward.

(b) Recruitment:

With Gary's retirement and the likely retirement of at least two other members by the end of 2019 the committee would like to recruit new members. We discussed the possibility of two members from merged firms (which would be checked with the CLLS) and the requirement for experience in a City practice.

5. International Disputes Week

This was supported by CLLS.

6. Consultations (with a closing date 11 January, before the next committee meeting).

(a) Ethnicity pay reporting:

The consultation paper mirrored the questions on gender pay gap reporting. The committee discussed how ethnicity could be identified and that this would be a more difficult to determine than gender. It was commented that the ELA is preparing a submission on the consultation paper. As this consultation is still at the policy stage it was felt that the committee could more usefully become involved in the consultation on the body of the regulations. It was agreed that we would put in a response at the appropriate stage and would make enquiries as to how we may be able to engage with BEIS to assist with drafting issues as we had in relation to gender pay gap reporting.

(b) Law Commission consultation on the MOJ's reform of the employment tribunal system:

Over 50 questions had been posed in the consultation paper. Again the committee concluded that its input may be better at the next stage.

7. *James-Bowen v Commissioner of Police*. We had a general discussion of privilege in the context of investigations. It was agreed that this should be a full topic for discussion at the next meeting with a view to considering the merits of referring an investigation to firms that were not advising the employer, separation of interests, how possible it is to conduct an independent investigation within an organisation, and

the approach to using external counsel who might have limited knowledge of the workplace but would be able to address legal issues.

8. AOB

We thanked Paul Griffin for hosting the meeting at Norton Rose Fullbright and Gary Freer for his 10 year as Chair. He was presented with the committee's thanks.

The next meeting would be held on Wednesday 6 March at CMS Cameron McKenna Nabarro Olswang LLP, 78 Cannon Street London, EC4N 6AF