

CITY OF LONDON LAW SOCIETY LAND LAW COMMITTEE

Minutes of a meeting held on 28 January 2019 at Hogan Lovells LLP, Atlantic House, 50 Holborn Viaduct, London EC1A 2FG

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

1. APPROVAL OF MINUTES

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

2. UPDATE ON ELECTRICITY SUB-STATION LEASE PROJECT

The sub-group electricity sub-station project is progressing very well with enthusiasm from the power companies and property owner representatives. The sub-group is in the course of working through a form of lease and the Committee's views will be sought when that process is complete. Please let Warren Gordon know if anyone has any

comments at this stage on the lease which has been circulated to the Committee (thanks to Jayne Elkins for her comments).

3. TENANT'S WORKS AND BUILDING INSURANCE NOTE

The CLLS Construction Law Committee has updated its note on Tenant's works and building insurance that was circulated to the Committee. Please feedback to Warren Gordon any comments by Friday 8 February. Mention will be made of the potential usefulness of consulting an insurance broker on the form of note.

4. DREAMVAR PROTOCOL

In view of the general support among the PSL community for the LPSLG's Dreamvar Protocol circulated to the Committee, the Committee gave further consideration to the document. While the Committee saw merits in the Protocol, adoption should be a matter for each firm. There is no change to the Committee's position set out in the November 2018 Minutes.

5. LAW COMMISSION CONSULTATION ON COMMONHOLD

The Committee decided to produce a short response to the Law Commission's consultation on commonhold, focusing on the need to implement the "Making Land Work" recommendations on positive land obligations; concerns that commonhold should not be made compulsory; concerns around the impact on existing mortgages of charges in favour of the commonhold association; and what happens to tenants who do not want to be part of the commonhold. A proposed Committee response will be circulated and signed off by email since the deadline precedes the next Committee meeting.

6. IPF STREAMLINING TRANSACTIONS NOVEMBER 2018

The Committee was encouraged to consider the IPF's Guide to Streamlining Transactions - Improving liquidity in commercial real estate, November 2018 – <https://www.ipf.org.uk/publications/streamlining-transactions.html>. This covers both asset and corporate transactions. The IPF's NDA and Exclusivity agreements are also popular in the industry and can be accessed via the link.

7. IMPLICATIONS OF IFRS 16 FOR REAL ESTATE

The IFRS 16 accounting change from 1 January 2019 may impact on lease lengths and profits tests in real estate documentation. Affected tenants may raise concerns when negotiating such tests.

8. CODE FOR LEASING BUSINESS PREMISES – UPDATE ON 13 NOVEMBER 2018 MEETING

The latest draft of the RICS Code for Leasing Business Premises will shortly be consulted on. The Code (which will be an RICS Professional Statement) is likely to go live in the second half of 2019.

9. **COMMITTEE'S RESPONSE TO GOVERNMENT CONSULTATION ON ENSURING TENANTS' ACCESS TO GIGABIT-CAPABLE CONNECTIONS**

Many thanks to Alison Hardy for writing the Committee's response to the Government consultation on Ensuring tenants' access to gigabit-capable connections <http://www.citysolicitors.org.uk/attachments/article/114/CLLS%20response%20to%20DCMS%20consultation%20on%20warrants%20for%20telecoms%20-%202020-12%2018.pdf>.

10. **UPDATE ON GLA PROJECT FOR MOBILE WAYLEAVE TEMPLATE**

The Greater London Authority's project for a mobile wayleave template is ongoing and there is shortly to be a consultation on the form of document.

11. **THOUGHTS ON NEW RICS PROFESSIONAL STATEMENT ON COMMERCIAL SERVICE CHARGE**

The property industry is still considering how to change service charge drafting for the new RICS Professional Statement on Commercial Service Charge. There is likely to be particular focus on compliance with the mandatory requirements.

12. **DEVELOPMENT MANAGEMENT AGREEMENT**

The Committee's Development Management Agreement, circulated to the Committee, will shortly be added to the Committee's webpage. The CLLS Construction Law Committee has provided some minor comments which will be incorporated. The final form Agreement will be circulated to the Committee.

13. **STANDARD OVERVIEW REPORT FOR CERTIFICATE OF TITLE**

The Committee did not consider it appropriate to create a standard overview report on a certificate of title produced by another firm. Banks and others have their particular requirements and the overview would also contain specific advice on issues highlighted by the certificate, so it is therefore difficult to standardise.

The PSG group that produces Scottish real estate standards was interested in producing a Scottish version of the Committee's Protocol on discharging Commercial property mortgages – the Committee was very happy with the PSG doing this.

Later in 2019 the Committee is likely to start reviewing its certificate of title with a view to a possible 8th edition. Questions had been raised about the treatment of limitations on liability and this will be considered as part of that review.

14. **AOB**

- The CLLS Data Law Committee will be asked to provide suggested GDPR drafting for asset and property management agreements.
- The new City of London fixed line wayleave will be considered at the March Committee meeting.

15. **Length of meeting: 1 hour 30 minutes.**
16. **Dates for remaining 2019 Committee meetings** - 15 May, 26 June, 25 September and 27 November. All at 12.30pm at Hogan Lovells LLP, Atlantic House, 50 Holborn Viaduct, London EC1A 2FG.