

CITY OF LONDON LAW SOCIETY
EMPLOYMENT LAW COMMITTEE
DWF Law LLP, 20 Fenchurch Street
London EC3M 3AG
on Wednesday 5 June 2019
at 12:45 pm

In Attendance:

Kate Brearley	Stephenson Harwood
Helga Breen	DWF Law LLP
Helena Derbyshire, Chair	Skadden, Arps
Kevin Hart	CLLS
Michael Leftley	Addleshaw Goddard
Jane Mann	Fox Williams

Apologies:

Elaine Aarons	Withers
Oliver Brettle	White & Case
William Dawson	Farrer
John Evason	Baker & McKenzie
Mark Greenburgh	TBC
Paul Griffin	Norton Rose Fulbright
Sian Keall	Travers Smith
Mark Mansell	Allen & Overy
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

Committee Membership

- (a) The Chair confirmed that an advertisement seeking new members had now been placed. If anyone knows of someone from another firm who might be interested, then could they please let the Chair or KH know.
- (b) There was discussion following on from the previous meeting around attendance at meetings and the appointment of proxies. KH confirmed that the rules stated that three non-attendances in succession could result in membership on the Committee being revoked, although this was not strictly enforced. It was agreed that if a member had not attended for a while (say, for a period of 18 months), then the Chair might try to contact that member before making a decision.

- (c) HD raised the issue about proxies attending meetings on behalf of Committee members. The general consensus was that this was a good idea but would not be ideal if proxies attended all the time.

4. Submission on NDA Consultation

The Chair thanked JM for heading the working group on this consultation.

JM said that she had obtained the views of six people, including Nick Robertson, and had obtained a good range of views on the matter, and particularly its importance in relation to the legal profession.

What JM had drawn from the conclusions of the discussions was that confidentiality was an integral part of the solicitor/client relationship.

The Chair commented that the SRA response to this issue had been similar to the Committee's response.

5. Speaker Events

HD said that a key topic would be employee engagement on corporate governance issues. JM stated that she would be interested in looking into corporate governance as the next topic, as this was a very "City" topic.

The Committee discussed the possibility of holding guest speaker/panel events, with governance issues possibly being the topic for one of those events. KH said that the Commercial Law Committee met with Adidas who had a good speaker and that the event was well attended.

Other topics considered were: employment law post-Brexit, the ethics of large firms defending claims brought by unrepresented claimants, and dealing with challenging clients.

6. Cases

- (a) *Federacion de Servicios de Comisiones Obreras (CCOO) v Deutsche Bank SA* (C-55/18) E:C:2019:402 (14 May 2019)

This case concerned the requirement by Member States to ensure that employers set up a system to measure the daily working time of its employees.

There was discussion around the difficulties of implementing and monitoring such a system, particularly where there are flexible working arrangements in place or for those employees who frequently work from home. There would also be difficulties in obtaining records, such as building access reports, which would be labour intensive. It was felt that employees would also object to this level of intrusion.

Whilst this issue may not directly impact the UK post-Brexit, it would be of concern to those companies who have employees elsewhere within the EU.

(b) *Kuteh v Dartford and Gravesham NHS Trust [2019] EWCA Civ 818*

This was a case where a nurse had been dismissed for inappropriately discussing religion with patients. Her claim for unfair dismissal was dismissed.

It was noted that different professions/employers especially in the private sector might take a different view and/or the outcome might have been different.

7. Report on independent review of the Modern Slavery Act 2015

The Chair questioned whether this was a relevant issue for the Committee to consider or whether it was an issue too remote from labour law. There was also a question around how this could be applied from a City perspective.

The Chair commented that there was no strict requirement on companies to produce statements in relation to Modern Slavery. She recommended that there should be an obligation on companies to produce statements on what they are doing to tackle this issue. There should also be sanctions where there is a failure to act if slavery is discovered.

ML said that this was an issue which fitted in with other topics, such as ethnicity and gender pay gaps and that the Committee needed to take ownership of this topic before others took the lead on this.

8. CLLS

(a) AGM: The AGM would be held on the 17 June at Tallow Chandlers' Hall from 6pm. There will be a champagne reception which is open to all.

(b) Lifetime achievement award: copies of the criteria were provided to the Committee. The award would be looking at outstanding contributions. It was confirmed that nominees did not have to be a member of CLLS, and could come from other areas of the legal profession. Nominations need to be in by the 2nd Friday of September.

9. AOB

The next meeting would be held on 26 September 2019. William Dawson will be hosting.