

**CITY OF LONDON LAW SOCIETY LAND LAW COMMITTEE**

**Minutes of a meeting held on 25 September 2019 at Hogan Lovells LLP, Atlantic House, 50 Holborn Viaduct, London EC1A 2FG**

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

**1. APPROVAL OF MINUTES AND COMMITTEE MATTERS**

The Minutes for the May 2019 meeting were approved and will be added to the Committee's webpage.

Jon Pike has announced that he is stepping down from the Committee. The Committee thanks Jon for all his hard work for the Committee over the years. The Committee approved Brigid North of Reed Smith to replace Jon on the Committee.

There are 2 other vacancies on the Committee and the CLLS will advertise this. However, if Committee members are aware of anyone who they consider would be suitable for the Committee, please let Jackie Newstead know.

**2. UPDATE ON ELECTRICITY SUB-STATION LEASE PROJECT**

The project is making good progress. Probably, one more drafting meeting is needed for the lease and once finalised it will be circulated to the Committee for any last comments and then launched on the Committee's webpage probably early 2020. The plan may be to launch the lease before other lease variants and accompanying documents are produced, to ascertain industry reaction to the lease and enthusiasm for the project generally.

**3. GLA MOBILE WAYLEAVE PROJECT**

The GLA Mobile Wayleave templates have been published and will launch Friday 27 September 2019. The Committee agreed that the templates and guidance can be added to the Committee's webpage, but it should be made clear that they were produced under the auspices of the GLA.

**4. DOCUMENTS ON CLLS WEBSITE**

Kevin Hart from the CLLS to advise on whether a disclaimer should be included on each Committee's page and the Precedents page of the CLLS website in relation to the use of CLLS standards/precedents. By way of illustration, there is the following link <https://modelcommerciallease.co.uk/conditions-of-use/> to the MCL's Conditions of Use and something similar may be appropriate for the CLLS. Here is a link to the CLLS's current legal notice which focuses more on information than precedents <http://www.citysolicitors.org.uk/clls/legal-notice/> and query whether this could be expanded.

**5. NEW RICS CODE FOR LEASING BUSINESS PREMISES**

The new RICS Code for Leasing Business Premises is almost concluded and will hopefully be published by the year end.

**6. PROPERTY MANAGEMENT AGREEMENT**

The Committee commented on the draft Property Management Agreement sent to the Committee. Daniel McKimm kindly agreed to send through TUPE wording for consideration – the Committee's view was that the starting position in the drafting is the Agent indemnifies the Client for TUPE risk, but a footnote should highlight that particular circumstances may lead to a different approach.

A footnote should be included referring to the possibility of a cap on the Agent's liability under the PMA. On GDPR for the PMA, Jayne Elkins kindly agreed to send through suggested drafting, which can be sent to the CLLS Data Law Committee for comments – the Committee's view was that most "Clients" would want the Agent to take responsibility for GDPR, although there may be circumstances, perhaps somewhat unusual, where the

Agent will want obligations from the Client. There should also be a contents page. The PMA will be worked on and brought back to the November Committee meeting for final sign-off.

**7. NEW CERTIFICATE OF TITLE**

The Committee agreed that the time was right for the production of a new 8th edition. The original version of the 7th dated back to 2012. In addition to updating, the process should also include a review of structural issues such as should it cover agreements for lease/development, residential, more detailed construction treatment? There also needs to be a further discussion concerning limitation of liability as this is frequently raised. The following have volunteered for the working group – Jackie, Warren, Tom Pedder, Anthea Bamford, Jayne, David Hawkins, John Nevin and Daniel. Do let Warren know if anyone else is interested.

The working group will have an initial meeting before the November Committee meeting, to highlight key points on the Certificate for the full Committee to discuss and agree before the more detailed process begins. Whilst a couple of Committee members have accumulated comments on the Certificate, to assist with the project, please can Committee members seek comments on the Certificate and accompanying documents from colleagues at respective firms etc and send them to Warren.

**8. BORROWER'S SOLICITORS' UNDERTAKINGS PROJECT AND DISCHARGE PROTOCOL**

The Committee considered it will be helpful to have a form of standard undertaking from the borrower's solicitors for the benefit of the lender's solicitors/lender in relation to priority searches, title deeds, registration at the Land Registry, SDLT filing etc. Thanks to Vikki Hills and Franc Peña for providing their firm's respective examples. The Committee considered it would be great if Vikki and Franc can form a working group to produce for the Committee a standard set of undertakings and Ian and Martin also volunteered for the working group. Please can they organise a meeting, if possible, before the November Committee meeting to enable an update to be provided at the latter. Do let Warren know if anyone else is interested in being involved.

The Committee mentioned the CLLS's Protocol for discharge of commercial mortgages which was launched in 2014 and should be reviewed. This can be a project for 2020. The Protocol was prepared by a sub-group of the Land Law Committee, incorporating input from the Association of Property Lenders and the CLLS Financial Law Committee.

**9. STANDARD UNDERTAKING TO HOLD MONEY TO ORDER**

The Committee considered this would be a useful document. It is aimed at problems with the law firm's bank. Wording was circulated to the Committee and comments were sought. Assuming it is not controversial, it would be good to add this document, as amended by the Committee, to the Committee's webpage before the November meeting.

10. **NOTE ON TENANT'S WORKS AND BUILDINGS INSURANCE**

Mention was made of the proposed extensive changes to the Construction Law Committee's note on Tenant's works and buildings insurance. The Committee was asked to provide any comments to Jackie who will collate these and send to the Construction Law Committee. The revised note was circulated to the Committee.

11. **AOB**

The Data Law Committee will be reminded to provide GDPR wording for asset/property management agreement.

The Committee will continue to keep a watching brief on Brexit.

The Law Commission has issued its report on the electronic execution of documents.

Kevin Hart to provide info on results of survey of firms who use the City fixed line wayleave and on up-to-date hits to the Committee's precedents on the CLLS website.

The Committee noted Client Earth's potential legal challenge to local authorities, unless they force developers to make new homes more energy efficient.

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

13. **Date for remaining 2019 Committee meeting** - 27 November at 12.30pm at Hogan Lovells LLP, Atlantic House, 50 Holborn Viaduct, London EC1A 2FG.

2020 meeting dates will be circulated in due course, but it was agreed that the number of meetings will be reduced from 6 to 5 a year, 3 in the first part of the year pre-summer and 2 after the summer.