

CITY OF LONDON LAW SOCIETY DATA LAW COMMITTEE
(THE “COMMITTEE”)

Meeting Date 25 November 2021, 9.30am

Location Virtual Meeting Room

Present Jon Bartley, RPC LLP, Chair
Cynthia O'Donoghue, Reed Smith LLP
Luke Dixon, Freeths LLP
Sam De Silva, CMS Cameron McKenna Nabarro Olswang LLP
Rhiannon Webster, Ashurst LLP
Eve-Christie Vermynck, Skadden, Arps, Slate, Meagher & Flom LLP
Barry Fishley, Weil Gotshal & Manges LLP
Jonathan Kirsop, Pinsent Masons LLP
Giles Pratt, Freshfields Bruckhaus Deringer LLP
Miriam Everett, Herbert Smith Freehills LLP
Kevin Hart CLLS
David Hobart CLLS

1. Welcome

The Chair welcomed all in attendance to the meeting of the Committee.

2. Apologies

3. Jonathan McDonald, Charles Russell Speechly LLP, Kate Brimsted, Bryan Cave Leighton Paisner LLP, Rebecca Cousin, Slaughter and May LLP and Ross McKean, DLA Piper sent apologies ahead of the meeting.

4. Previous minutes

It was reported that draft minutes from the previous meeting held on 16 September 2021 had been circulated.

5. Consultations

The Committee was updated by the Chair on the two consultation responses it had been involved in. The first pertained to the transfers consultation and the second on data law reform which had been submitted to the Department for Digital, Culture, Media and Sport. The Chair expressed that there were no further consultations immediately anticipated.

6. Specific Issues Discussed

6.1 *Solicitor's Indemnity Fund*

The Committee discussed the possible end of the solicitor's indemnity fund following the SRA's suggestion that they would pass funding and responsibility onto the Law Society. The Committee considered the consequences of this and the potential negative burden on the Law Society.

6.2 *Lugano Convention*

The Committee discussed the UK's future engagement with other jurisdictions and whether it would continue to be able to have its judgments enforced in the EU under the Lugano Convention. It was noted that the French had opposed the UK's accession.

6.3 *ESG*

The Committee briefly touched upon ESG and Justine Greening and Seema Kennedy's drive to increase social mobility within the legal industry. One example given was the prompting of conversations between non-Russell Group students and city law firms.

6.4 *David's Departure*

David Hobart told the Committee that he would be stepping down from CLLS.

6.5 *Post-Brexit Legal Advice*

The Committee discussed the best approach to advising clients post-Brexit. There was general agreement that clients preferred a streamlined approach as opposed to a 'dual-track' following European and non-European (UK) requirements.

Clients were reportedly worried about the UK retaining its EU adequacy status and about the incoming EU AI regulations.

6.6 *Data Breach Cases and Distress*

The Committee discussed data breach cases including the recent *Lloyd v Google* decision. Several members suggested that the case was too general to be helpful. One member noted that if the case had come before the courts under the new GDPR (as opposed to the DPA), the claim may have succeeded.

The general direction of claims appeared to be that courts were not willing to imply distress easily. Two cases were discussed by the Committee. In the first, emails about school fees had been sent to the wrong recipients and in batch rather than via the bcc option. The judge had noted that this was an exaggeration of distress.

6.7 *Admission of Jade Kowalski to the Committee*

A proposal and representations were made on behalf of Jade Kowalski to represent DAC Beachcroft on the Committee. The Committee expressed that it would be in favour of her admission. The motion therefore passed.

6.8 *New Information Commissioner*

The Committee discussed inviting the new ICO Commissioner, John Edwards, to a future meeting and/or inviting him to speak at an open event. A member suggested that the General Counsel could also be invited.

6.9 *Law Society Questionnaire*

The Committee heard that the Law Society was working with Barrister's chambers to create a questionnaire about chambers' processing of personal data. The work product was to come out in 2022.

6.10 *Advising on EU Law Post-Brexit*

The Committee briefly discussed whether UK law firms could continue advising on EU law and general practice. Several members suggested that they were already outsourcing EU law advice to other offices or to external counsel. The Committee was asked to think about this going forward, and to provide feedback at the next meeting.

7. **AOB**

The Committee would meet for a social event in the new year and would prepare for the ICO Commissioner event. The Secretary agreed to reach out to Jade Kowalski.