

City of London Law Society

Corporate Crime Committee

Minutes of Meeting 19 September 2023

(Held as a hybrid meeting)

Attendees (in-person):

Louise Hodges (Chair)
Jonathan Cotton
Judith Seddon
Michelle de Kluyver
Nick Benwell
Elly Proudlock
Sarah Wallace
Hannah Laming
Davina Given
Kevin Hart (CLLS)

Attendees (online):

Alistair Graham
Daren Allen
Jonathan Pickworth
David Corker
Andrew Katzen
Johanna Walsh
Eve Giles
Phil Taylor (Secretary to the Committee)

1. **The Chair** welcomed the members.
2. **Apologies** were received from Matthew Rous, Pamela Reddy, Jeremy Summers, Rosanne Kay, Tom Epps, Simon Joyston-Bechal, Satnam Tunami, Rita Mitchell, Neill Blundell.
3. **Minutes of the previous meeting** were circulated, and amendments invited within 24 hours. There were no additional **matters arising** from the minutes.
4. **CLLS / Committee business**
 - a. Kevin Hart provided an update on the **CLLS's activities**:
 - Colin Passmore and Kevin Hart recently held a working party with partners and associates who are interested and expert in AI matters, and it was concluded that there was scope for an AI specialist committee. This committee will be slightly different to others in that the membership will be broadened to include partner, associate, and non-law AI experts. The committee is due to be in place by early November. A members' advertisement will be published shortly.

- The Intellectual Property committee has been dormant for a period of time but it is felt that it should be revived; potential candidates for the post of Chair of the committee are being sought.
 - *All Members to consider any specialist colleagues who may be interested in membership of either of these committees and ask them to contact Kevin Hart.*
 - Two current keywords for the CLLS are ‘bridges’ and ‘shadows’. Under ‘bridges’, the CLLS main committee is trying to increase contact and communications with its specialist committees and will therefore be sending representatives to sit in on committee meetings. It will shortly be confirmed who will be visiting this Committee, it being important that there is a good personality fit. Under ‘shadows’, the CLLS suggests that that each specialist committee might wish to invite a small team of non-partner level solicitors to sit in on its meetings and shadow its work.
 - *Members to provide their feedback, via the Chair/Secretary on these two ideas.*
 - Upcoming Events. Members’ attention was drawn to the **8th November** as the date of the annual (free) Gray’s Inn Lecture, this year a panel discussion on the rule of law with respect to the commercial sector. The **21st November** is the next of the City of London Solicitors’ Company’s panel events, discussing ethical issues affecting members
- b. The Chair led a discussion on **guest speakers**:
- Contact has been made with the SFO regarding an invite for Nick Ephgrave the new Director; it is not likely he could attend until the New Year. Contact is ongoing.
 - Satnam Tunami is in the process of contacting the Lord Chancellor with the view to his attendance at the next, or a subsequent, meeting. A Member noted that the current meeting date clashes with the IBA conference and so may need to be changed, and it was also noted that Parliament is likely to be prorogued during the first week of November. Kevin Hart noted that the CLLS Chair is meeting with the Lord Chancellor and this may also open a channel for an invitation.
 - The Chair has spoken with the DPP-elect who is very open to meeting the Committee. The question will be timing. The idea of inviting him before taking up his post was mooted; Members agreed this could also be valuable although it will depend on the DPP’s schedule and how much control he will have over his schedule once in post. The Chair agreed to speak with him again.

- The Chair proposed inviting Sam Tate of RPC to address the Committee in relation to compensation for foreign states with respect to large corruption cases. The point was discussed further; *Davina Given to speak with Mr Tate.*
 - The Chair noted that contact has continued with the Shadow Attorney General's office; a reminder of the Committee's invitation will be sent shortly.
 - Kevin Hart proposed the new Shadow Lord Chancellor as a potential guest. Other Members noted Lord Garnier in relation to the ECCT Bill, although it was discussed whether he would be better as a panel speaker at an event.
 - The departing Director of the SFO was also proposed. *Davina Given to speak with Mr Tate in relation to this point also.*
 - It was discussed whether a speaker or speakers in relation to sanctions and the risks to lawyers – again it was suggested this may be something for a round table to be organised by the Events Committee, potentially in conjunction with the CLLS Professional Rules and Regulations Committee.
- c. The Secretary noted that **survey responses** were received from between one-half and one-third of Members. The results were varied, but on average there was support for meetings on a quarterly basis; a mix of morning and evening meetings; and a mix of in-person/remote/hybrid meetings. A number of Members volunteered for sub-committee membership and to host meetings and/or events, for which the Chair is grateful. The survey is now closed.
- *The Secretary to circulate a draft schedule of meetings for 2024, bearing in mind dates to avoid including school holidays and significant legal market events.*

5. Committee Membership

- a. The Chair noted the retirement of Roger Best, and noted thanks for his contributions to the Committee.
 - b. Membership applications have been received from three individuals. The Members confirmed they had received and read their applications. Kevin Hart noted that the Committee does not have a fixed membership quota, and asked if there were any objections to the applications. There being no objections raised, the three applications were approved.
- *The Secretary to write to the new Members to confirm their admission and provide them with initial information and gauge interest in sub-committee membership.*
- c. Neill Blundell (Macfarlanes) has applied for the position of Vice Chair. Kevin Hart led a Members' vote on the question of whether the application should be approved. There being

unanimous support for the question from the present Members, Mr Blundell's election was confirmed.

- *The Secretary to write to the new Vice Chair to confirm his position.*

6. Sub-committee Business

a. The Secretary set out the current composition of the four sub-committees and asked that any other Member with interest in a sub-committee contact him accordingly.

b. AML and Sanctions Subcommittee

a. The relevant Member being absent, this sub-committee's update was postponed. The Chair thanked Susannah Cogman for the hard work that she has committed to this so far and noted that documents had been circulated to the Committee.

c. Disclosure Subcommittee

a. A Member noted the paper recently circulated regarding the AGO's roundtable, the main point of that meeting being block listing and engagement with the defence at an early stage (pre-charge) and the fairness of any consequence if there is not early engagement. There was discussion around the need for meaningful detail on unused disclosure schedules from the prosecution to enable engagement with the defence in any meaningful way.

b. Another Member provided a short update on a meeting held with the SFO's General Counsel and members of the Fraud Lawyers Association. The main aim appeared to be to galvanise support from the defence community to proposals made by the SFO to the resident judge at Southwark about managing electronic material. When the 'big picture' issue was raised, one key objection from the SFO seemed to be the cost to the public purse. There was discussion among Members as to the extent to which SFO cases involved legally-aided defendants. A Member suggested that there could be an opportunity for this Committee to hold a roundtable with the judiciary, covering disclosure from different perspectives. *To be noted by the Disclosure Subcommittee (possibly in conjunction with Events Subcommittee).*

c. The Chair passed on an account of the SFO's remarks at the recent Cambridge Symposium on Financial Crime.

d. Law Reform/Legal Practice

- a. It was noted that the Shadow Attorney General had requested a paper from the Committee on corporate liability. A Member suggested that this should wait until the Economic Crime and Corporate Transparency Bill had been finalised.
- b. Kevin Hart noted that SLAPPs provisions are being looked at by the professional rules and regulations specialist committee (which is due to have a new Chair) and therefore it would be good to have some joint discussions.
- c. Kevin Hart also noted that the arbitration specialist committee is leading work on a draft Bill to replace the Arbitration Act.

e. Events

- a. The Chair noted that it would be useful for this subcommittee to consider future dates in the light of other external events, so that we had something to work towards. Originally London Disputes Week had been considered but this is biannual. It was suggested that an event coinciding with the finalisation of the ECCT Bill would be useful. The next reading is in October 2023, so potentially a date in January may work.

7. Practice / Legal Updates:

- a. The Secretary noted that an online (Google Docs) version of the legal updates tracker document has been created and the link circulated.
- *On an ongoing basis, all Members to review the tracker and give any comments or suggestions to the Secretary.*
- b. The Secretary provided a brief update on the progress of the Economic Crime and Corporate Transparency Bill through Parliament, noting that proposals on a new corporate criminal offence of failure to prevent fraud are yet to be agreed, and that this will be debated again in the House of Lords on 18th October.
- 8.** There was a short discussion among Members on the topic of **Pre-interview Disclosure & Interview Practices**, including the extent to which individual and corporate suspects may have the right to anonymity, and remedies available in the case of media publicity.

9. Volunteer for next meetings

Members noted that the International Bar Association conference occurs around the date of the next proposed meeting date (31st October), and that Parliament will likely be prorogued at the beginning of November. The Chair will confirm arrangements for the next meeting date in due course. It was proposed that the meeting on 12th December should take place later in the day, to include a social gathering. *The December meeting to be hosted by Alistair Graham (Mayer Brown).*

- *The Secretary to confirm details regarding the final meeting(s) of 2023 as soon as reasonably possible.*

10. There being **no other business**, the Chair called a close to the meeting with thanks to the Members for their contributions.