

**MINUTES OF THE
CLLS ARBITRATION COMMITTEE MEETING
ON 18 JANUARY 2023, 10:00-11:30**

Attendees: Michael Davison (Chair, Hogan Lovells), Kevin Hart (CLLS), Matthew Saunders (Vice-Chair, Ashurst), Karen Birch (for James Freeman, A&O), Stuart Dutson (Simmons & Simmons), Phillip Chong, DLA Piper, Alejandro Garcia (Stewarts Law), Marie Berard (Clifford Chance), Robert Price (Latham Watkins), Oliver Brown (Latham Watkins), Chloe Edworthy (Macfarlanes), James Freeman (A&O), Matthew Skinner (Shearman Sterling)

Via Zoom: Lisa Dubot (Mayer Brown), Hannah Ambrose (HSF)

1. WELCOME

Michael Davison took the role as Chair and welcomed the Committee members to the meeting.

2. APPROVAL OF THE MINUTES OF THE MEETING ON 8 DECEMBER 2022

The committee agreed to the following amendments to the minutes:

- Lisa Dubot apologies – ***actioned***
- Partner or equivalent – ***actioned***

3. LAW COMMISSION – ARBITRATION ACT REFORM

Michael Davison spoke to the need to the Committee's response in relation to the Equality Act which was discussed with the Law Society.

The Committee discussed the position of the Law Society on the Equality Act. The Law Society had initially agreed with the Committee's point of view, however, the paper that was submitted by the Law Society seemed to diverge from that opinion.

Whilst some points suggested by the Law Society were taken into account for the Committee's submission, not all of them were incorporated.

The Committee wanted to clarify that the Committee is, of course, not against Equality but that the opinion on the question posed by the Law Commission needs to be seen more nuanced than just being in favour of Equality. The Committee agreed that the submission was nuanced enough compared to the Law Society's consultation response.

The Committee discussed whether to further elaborate on the Committee's response to make it clearer what the intention is.

The Committee agreed that further explanation would not be helpful but would rather deflect from the points already made. Should another opportunity arise in the future to provide a more in-depth opinion (e.g. a second consultation round) it should be considered to provide further details on the thinking as well as use informal ways of explaining that the Committee is supporting Equality but with the nuanced approach as set out in the consultation response.

The Committee agreed on the following next steps:

ACTIONS:

1. Speak to the Law Society to clarify the diverging opinions – Kevin Hart
2. Prepare a short paragraph to clarify the Committee's position on Equality in a concise way – Michael Davison

3. [Enquire whether there will be a second consultation to clarify views – Kevin Hart](#)

4. [Review individual firm's submissions as far as they are public – Kevin Hart](#)

The Committee agreed that there was no need to address the merit point further as the response given was sufficient.

Section 39 should cover both award and orders. The Law Society only wanted to cover orders. The Committee agreed to add a few bullet points to clarify the Committee's position.

5. [Lisa to prepare a few bullet points to add to the response in relation to section 39](#)

4. NEXT STEPS FOR ADR

Matthew Saunders raised the question on whether arbitration practitioners should be treated the same way as litigators. From an arbitration perspective, one is aware of the options as an arbitrator but these options do not serve the same purpose as the courts. The Committee made it clear, however, that ADR is not arbitration and the Committee should look at educating the public on the differences between Arbitration, Litigation and ADR.

The Committee agreed that Kevin Hart, Michael Davison and the Chair of the Litigation Committee should have a conversation to see how this can be taken forward.

Should any member of the Committee attend the event on ADR, any feedback of the direction of travel would be appreciated.

6. [Kevin Hart and Michael Davison to discuss with the Chair of the Litigation Committee](#)

5. COMMITTEE'S ROLE IN SELLING LONDON AS A SEAT

The Committee discussed the roles within law firms who decide on choosing seats for an arbitration. The interest in London could be more successful if the Committee were able to play a role to have a greater chance to establish London as the seat of choice. It was agreed that the Committee should be looking at ways to promote London.

The Committee discussed how they could use governmental channels (e.g. FCO) to use channels which individual law firms potentially cannot use. The Committee discussed which channels are currently used and could be used in future.

It was proposed that the Ministry of Justice could be an option to discuss this topic further. Also the London Disputes Week offers an arbitration day which could be used to showcase London there.

There is a Parliamentary Group for ADR but there could also be a group of MPs on legal affairs etc..

7. [Michael Davison to ask the HL internal Public Affairs team to see which governmental sub-committees might be there and who could be spoken to.](#)

8. [Kevin Hart to speak to the Law Society to see if they are in discussions with any of the groups and see if the Committee could get involved.](#)

The Committee agreed to support the new CLLS Chair in his discussions with external organisations under consideration to be mindful of the disadvantages of London as a seat too in order to advise the public accordingly. The Committee discussed who the target audience is and how to target these cohorts (local law firms, local Law Societies etc.)

9. Matthew Saunders to put together an “elevator pitch” for London from the Committee’s point of view.

The Commission agreed that it is best placed to lead on a campaign with government with a PR piece around it to reach local law firms and smaller cohorts of decision makers.

The Committee discussed that the MoJ hosted different events with British embassies. This could be a good opportunity to make the MoJ aware of the Committee and to see if events could be organised together.

10. Stuart Dutson to provide details of events previously held.

11. Michael Davison to speak with Robert Gardner at Hogan Lovells to speak about potential governmental contacts that could be utilised.

If targeting end users, Committee members could liaise with the external organisations that they liaise with on a daily basis where conversations can also be had.

12. Hannah Ambrose to give it further thoughts who could be contacted in this regard.

6. COMMITTEE MEMBERSHIP

Whilst the Committee approaches senior firm members for their memberships, Michael Davison and Kevin Hart made it clear that membership is open to any senior members of a firm and not just partners. Membership is usually for three years but this is an informal term. There is also no maximum number of members for the Committee.

With regards to the application received to join the Committee, the Committee agreed to accept the application. Kevin Hart will inform the applicant that her application was successful.

13. Reminder of the dinner – Patricia Irigei to send reminder to Committee - *actioned*