

CITY OF LONDON LAW SOCIETY

EMPLOYMENT LAW COMMITTEE

**At BCLP Law, Governors House, 5 Laurence Pountney Hill, London, EC4R 0BR
a hybrid meeting
on Wednesday 6 March 2024
at 1pm**

MEETING MINUTES

In person:

1.	Katherine Pope (Host)	BCLP
2.	Helena Derbyshire (Chair)	Skadden Arps
3.	Damian Babic (Minutes)	Skadden Arps
4.	Sian Keall	Travers Smith
5.	Nicholas Robertson	Keystone Law
6.	David Sims	DAC Beachcroft
7.	Elaine Aarons	Withers
8.	Paul Griffin	Norton Rose Fullbright

Remote:

1.	Anne Pritam	Stephenson Harwood
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Apologies:

1.	Vicky Wickremeratne	Allen & Overy LLP
2.	Matthew Rous	CLLS (The City of London Law Society)
3.	Kevin Hart	CLLS (The City of London Law Society)
4.	John Evason	Baker & McKenzie
5.	Rebecca Harding-Hill	BCLP
6.	Jane Mann	Fox Williams
7.	Michael Leftley	Addleshaw Goddard
8.	Mark Greenburgh	Greenburgh & Co
9.	Colin Leckey	Lewis Silkin

1. Apologies were noted from those who were absent.
2. The minutes from the last meeting were approved.
3. Matters arising

The Chair explained that the new Chair of the CLLS was looking at procedure as to how the various specialist Committees are run and how they elect their members. This includes more formal roles for the Vice Chair and the Chair and succession planning for the Committee. The Chair explained that EA, after 15 years as Vice Chair, was stepping down as Vice Chair. The Chair and the Committee thanked EA for her time

as Vice Chair. The Chair said that she would email the Committee after the meeting regarding the process for selecting the new Vice Chair. EA agreed that she would stay on as Vice Chair until that process was complete.

The Chair noted that there was a 5 year limit on the tenure of the Chair and therefore she would also need to stand down at the end of this year.

The Chair also noted the Court dinner that was coming up on 20 March and that there were around 8 members of the Committee who would be attending.

4. Discussion of whistleblowing

EU Whistleblowing Directive

The Chair opened the discussion with a consideration of the new EU Whistleblowing Directive and its impact on the City of London.

The Committee had some experience of this, particularly in the context of multinationals trying to comply with the tighter processes outlined in the new EU Whistleblowing Directive while also trying to standardize whistleblowing policies globally.

A member of the Committee noted that there was some frustration from individuals around the time that it often takes to deal with complaints and transparency with complainants and the accused around the process.

The Committee noted that this was also causing issues for multinationals who have one whistleblowing hotline and the approach to take around maintaining a central hotline, including issues around transferring personal data cross border.

Anonymity in whistleblowing cases

There was a discussion around the real practical issues for employers when managing anonymity and dealing with whistleblowing complaints, particularly in cases of sexual harassment, as opposed to general complaints around workplace culture.

The Committee also considered the FCA's guidance on this issue and non-financial misconduct and whether to deal with a matter as a grievance or a whistleblowing complaint.

Regulatory references

There was a discussion around regulatory references and the extent to which there was so much that was now disclosed on them that some financial institutions were becoming less cautious around hiring individuals with impaired references given the number of impacted individuals, although the Committee had varied views on this. Some members of the Committee noted that an impaired regulatory reference had a significant impact on individuals and often very minor matters would result in individuals pivoting their careers away from regulated roles altogether.

The Committee considered the extent to which employers in financial services were consulting with departing employees regarding their regulatory reference. The

Committee had differing experiences of the extent to which employers were prepared to do this.

5. The Chair briefly noted recent changes to the Corporate Governance Code in relation to malus and clawback provisions in service agreements. The Committee agreed that in most instances malus and clawback provisions are generic.
6. The Committee discussed the new proposed £55 fee on Employment Tribunal claims. The consensus among the Committee was that this level of fee was unlikely to have much impact on Employment Tribunal timings and process.
7. The Chair noted that the next meeting in June would be a virtual meeting. The Chair said that she would email the Committee regarding a host for the meeting in September.