

## **Minutes for CLLS Land Law Committee meeting on 20 March 2024 at 12.30pm by Teams and in person**

**1 Attendees:** Jackie Newstead, (Chair), David Hawkins (Vice Chair), Warren Gordon (Secretary), Andy Bruce, Jamie Chapman, Jayne Elkins, Matt Hooton, Stephen Josephides, Simon Kenley, Paul Kenny, John Nevin, Brigid North, Franc Pena, Julian Pollock, Jeremy Shields and Sangita Unadkat.

**Apologies:** Kevin Hart (from the CLLS), Adrian Footer, Caroline DeLaney, Alison Hardy, Vikki Hills, Daniel McKimm, Sangita Unadkat and Patrick Williams.

**Welcome:** The Committee is delighted to welcome Simon Kenley and looks forward to his contributions to the work of the Committee.

Jeremy Brooks has stepped down from the Committee and the Committee wishes to thank Jeremy for all his work for the Committee over the years. Jeremy suggested that Omer Maroof, a RE partner at DLA, replaces him. The Committee was happy for Omer to become a member of the Committee and the Chair will liaise with the CLLS in relation to any required processes in that regard.

## **2 CLLS matters**

For info here are some CLLS events coming up over the next few months, to which members of the CLLS and City of London Solicitors' Company are invited.

Wednesday 27th March - the CLLS AI Committee is hosting an evening event to look at AI and insurance, and its impact upon the profession and their clients. It is at Simmons & Simmons. Further details are in the 1<sup>st</sup> attachment. Bookings should be sent to Liz Thomas at the CLLS at [liz.thomas@ccls.org](mailto:liz.thomas@ccls.org). The closing date is 20th March.

Thursday 16th May - the Annual Service for members of the City of London Law Society and the City of London Solicitors' Company is being held at the Chapel Royal of St Peter ad Vincula in HM Tower of London. It is open to those of all faith and none. It is usually followed by a dinner.

Wednesday 26th June - the Annual General Meeting of the CLLS and its Summer Drinks Reception is being held at 6.00pm at The Worshipful Society Of Apothecaries, Apothecaries Hall, Black Friars Lane, London, EC4V 6EJ. This is an opportunity for all members of the committees to meet and to have a drink together hopefully in the courtyard outside in the sun! The CLSC Distinguished Service award will be presented at this evening event.

**3 Approval of Minutes for January 2024 Committee meeting** – The Minutes have been approved and will be added to the new CLLS website. The minutes for previous meetings are in the course of being migrated to the website.

## **4 Impact of recent changes to registration of overseas entities –**

A number of changes have been made to the legislation relating to Companies House's register of overseas entities from 4 March 2024.

### *Overseas nominee*

The changes mainly relate to the information about the registrable beneficial owners of the overseas entity that is given to Companies House. A particularly noteworthy change relates to where an overseas entity **nominee** is the registered proprietor. Where the nominee became registered proprietor on or after 1 January 1999 and holds the relevant property as nominee for a 3<sup>rd</sup> party or an entity of which the 3<sup>rd</sup> party is a beneficial owner by virtue of paragraph 6 of the Economic Crime Act, then the 3<sup>rd</sup> party is to be treated as a registrable beneficial owner of the overseas entity.

This is a significant change because for the first time, information is required about the beneficiaries of the property and not just the beneficial owners of the overseas entity itself. The beneficiaries of the property in a nominee situation are treated as a registrable beneficial owner of the overseas entity.

For an overseas entity that is allocated an overseas entity ID on or after 4 March 2024, there needs to be disclosure of the party/parties for whom the nominee holds the relevant property and, as mentioned, this would catch beneficiaries of the property. There is a transitional provision in relation to this change - for an overseas entity which was allocated an overseas entity ID before 4 March 2024, the additional information required in a nominee situation is to be delivered to Companies House when the overseas entity first complies with its updating duty after 4 June 2024.

#### *Legal entity trustees*

There are also changes relating to when a legal entity trustee is a registrable beneficial owner of the overseas entity. The Companies House form to be used for Beneficiaries under trusts for an overseas entity is a paper form (OE-02) and the form is not currently available on-line. There are similar transitional provisions to those for the nominee situation.

#### *Additional requirement to be a registered overseas entity*

An entity is not a registered overseas entity if, among other matters, it has failed to comply with the duty to provide information to the registrar of companies in accordance with a notice under section 1092A of the Companies Act 2006 (power of registrar to require information). This change may be caught by the conditionality drafting for sale contracts and agreements for lease (there is industry standard drafting produced by the PSL community that requires evidence from Companies House that the seller etc is a registered overseas entity as at the "Completion Date" and this is intended to capture s1092A).

Warren Gordon has had email confirmation from Companies House that it will not be obvious on the face of the Companies House register if a s1092A notice has been issued and any response will also not be on the register. However, for the register of overseas entities Companies House will clearly mark the register to show where an entity has failed to comply with the notice, precisely so that searchers can be sure whether the entity registration is valid. Companies House will also make general enquiries with the entity in advance of issuing a formal notice given the potential consequences for an offence.

Companies House doesn't appear to have publicised this more generally.

**5 Approach to Green Lease Toolkit** [PM Amends 15.05.2023 202304 GLT - consolidated draft clauses - V5 May 22-4 compared with PM Amends 15.05.2023 202304 GLT - consolidated draft clauses - V5 May 22-4-1 \(betterbuildingspartnership.co.uk\)](#)

A new Green Lease Toolkit from the Better Buildings Partnership was launched at the end of January 2024. Here is the link to the website with the toolkit: [GREEN LEASE TOOLKIT | Better Buildings Partnership](#)

While the Green Lease Clauses refer to how the drafting can be incorporated in the Model Commercial Lease (as this is one of the most popular industry standard leases), the MCL Committee itself has yet to finalise its decision on what changes will be made to the MCL to take account of the Toolkit.

There are a variety of clauses in the Toolkit and many of the clauses offer light, green and medium versions. This reflects different levels of obligations on the parties, ranging from a flexible agreement, through obligations that must be commercially reasonable, to more stringent obligations. The user of the Toolkit can decide which approach is most suitable,

taking account of its own attitudes and policies and the particular property and transaction. A mixture of light, medium and dark provisions may well be appropriate in a lease.

There is considerable interest in the property industry about the Toolkit, especially in relation to new buildings and also about what changes will be made to the MCL.

Among the points mentioned were the importance of the data sharing provision (for which there is only one version); drafting to take account of the MEES consent exemption is not one of the drafting options under the Toolkit (the tenant has to be reasonable in providing consent, or the landlord has the right to enter the premises without needing consent); there is a social impact provision which extends beyond the property itself to the wider community; biodiversity and emissions from travel to and from the property are included under Environmental Performance.

It was noted that on one transaction the Toolkit provisions were requested for considerably longer term leases than those leases at which the Toolkit was primarily aimed.

The Toolkit will be a standing item for future meetings as a better understanding is gained of its impact.

## **6 Topics for discussion with HM Land Registry at May Committee meeting**

It is hoped that a senior representative of the Land Registry will attend the May Committee meeting.

The Committee agreed that the discussions should include the following items – delays in processing applications, which delays are not improving and are generally worsening; the requisitions being raised by the Land Registry are increasingly fussy and for example if 5 requisitions are raised on an application, 4 are fully dealt with and one isn't, members have had experience of cancellation rather than dealing with the outstanding requisition; requisitions are raised a long time (sometimes years) after the application was submitted when relevant fee earners may have left the firm making it much more difficult and costly to deal with the requisition; the greater focus on powers of attorney sometimes up a chain (presumably because of general concerns around fraud); the need for more helpful identifying information about applications on the daylist; the Land Registry sometimes takes actions without the consent of the parties, for example, merging titles; the consultation on Land Registry fees – some members said that they would be happy to pay higher fees to provide resources to improve the service; the possibility of a separate Land Registry service for more complex real estate transactions perhaps for a higher fee; errors in search of the index map, for example, including neighbouring properties and there being missing titles; and no telephone line on Fridays.

**7 Committee response to Government consultation on contractual control on land** – the Committee's response to this consultation was submitted and will be added to the Committee's page on the CLLS website.

## **8 Registration gap protocol – an update on the meeting on 13 March.**

The Protocol working group had a really useful meeting on 13 March and the draft clauses and guidance notes are well-progressed.

Further comments are awaited from the group and the next meeting will be towards the end of April. The group will then decide who else they wish to consult before launching this. This will include this Committee and it was hoped that the Protocol could be discussed at the May Committee meeting.

## 9 Report on title review

The first meeting to review the report will be on 22 April. Members of the drafting group are David Hawkins, Adrian Footer, John Nevin, Julian Pollock, Andy Bruce and Warren Gordon.

## 10 Government consultation on capping existing ground rent for residential long leasehold properties in England and Wales

A response from the Committee was submitted – [CLLS Land Law Committee response to Consultation on Capping Ground rents](#)

## 11 Certificate of title – small change

The change on residential tenancies has been included in the Certificate and supplemental documents and has been publicised among the PSLs network. This is awaiting publishing on the CLLS website.

## 12 Changes to statements as a result of Charities Act 2022

The Charities Act 2022 has amended the Charities Act 2011, which is the main piece of primary legislation governing charity law. The Land Registry has updated Practice Guide 14 [Practice guide 14: charities - GOV.UK \(www.gov.uk\)](#). Sections 18 and 23 of the 2022 Act are of particular relevance to land registration and came into force on Thursday **7 March 2024**.

The key changes affecting land registration are that:

- (1) Section 18 will amend the general restrictions on dispositions and mortgages of charity land set out in sections 117(3) and 124(9) of the 2011 Act.
- (2) Section 23 will change the wording to be included in instruments effecting dispositions, and in mortgages, of charity land.
- (3) There are also changes to standard form E restriction.

The main changes in practice relate to the statement which a non-exempt charity must give when making a registrable disposition (or a disposition which triggers registration) of charity land, or when granting a mortgage of charity land. Dispositions of charity land made on or after 7 March 2024 need to include the new statements. The previous forms of statement remain relevant to dispositions of charity land made before 7 March 2024. A few points to note:

- For dispositions by a non-exempt charity made on or after 7 March 2024 but pursuant to a contract made before 7 March 2024, either the new or the old statements can be used. If using the old statements, the disposition must itself state, or the applicant must certify, that the disposition is pursuant to a contract for the sale or for a lease or other disposition of the land entered into before 7 March 2024.
- Because of the change in the wording of standard restriction E, dispositions by a non-exempt charity made on or after 7 March 2024 no longer need to include a certificate to satisfy the form E restriction. The disposition instead requires (just) the new statement. Provided that the disposition contains the new statement, the requirements of the restriction in Form E (even in the old form requiring the certificate) will be met.
- The reference to paragraph (b) in the new statements is required (where appropriate) in instruments made before 19 May 2025, but not from that date.

### **13 Rogue MR04s – now apparently resolved**

An issue was flagged a few weeks ago about the filing of what appear to be rogue MR04 (Statement of satisfaction in full or in part of a charge) forms at Companies House (for companies and LLPs). The filings were made without the knowledge of the chargor or chargee and seemed to be widespread, affecting companies/LLPs at random.

The forms MR04 appeared to have been filed by the same unknown individual with an address in Northern Ireland. It looked like some sort of cyber breach.

The issue now appears resolved. It is understood that the message below has been added to the filing history of affected companies, and the affected charges appear to have been reinstated as "outstanding" in the charges register.

"Rectified The material was formerly considered to form part of the register but is no longer considered by the registrar to do so."

As of the last week or so there hasn't been confirmation from Companies House that all of the affected charges have been rectified, so continuing vigilance may be needed in case not all of the affected charges have yet been "rectified" by Companies House.

### **14 Building Safety Act 2022 – any developments? PSL drafting project.**

The PSL community's drafting project is progressing focusing on different aspects of the Act. It is hoped that some standardised drafting will be available during the course of this year.

### **15 AOB**

In view of the next Committee meeting being with a senior person from the Land Registry, members were requested to attend in person if possible.

**16 Length of meeting** - 1 hour 20 minutes

**17 Dates for remaining 2024 meetings, at 12.30pm and hybrid in person/virtual – 15 May, 17 July, 25 September and 20 November**