

Minutes for CLLS Land Law Committee meeting on 25 September 2024 at 12.30pm by Teams and in person

Attendees: Jackie Newstead, (Chair), Colin Passmore (CLLS Chair), Andy Bruce, Jayne Elkins, Simon Kenley, Matt Hooton, Paul Kenny, Omer Maroof, Brigid North, John Nevin, Julian Pollock, Jeremy Shields and Emma Willoughby.

1 Apologies: David Hawkins (Vice Chair), Warren Gordon (Secretary), Kevin Hart (from the CLLS), Nick Barnes, Jamie Chapman, Caroline DeLaney, Adrian Footer, Vikki Hills, Franc Pena and Patrick Williams.

2 Approval of Minutes for July 2024 Committee meeting – The Minutes were approved and have been added to the new CLLS website.

3 Membership:

An advertisement was placed in the City Solicitor, with a return date of 20 September. There has been one application, which is being considered further, but Committee members are encouraged to suggest prospective members from firms that are members of CLLS but not represented on the Land Law Committee and who might be approached. All suggestions please to Jackie Newstead.

4 Law Society's Climate Change Risk Conveyancing Practice Note

There will be a Law Society organised meeting in October to discuss the Law Society's proposed new Climate Change Risk Conveyancing Practice Note. There will be a consultation on the note, but the current draft of the note is being circulated at this stage (and is attached) for comments from the Committee.

Thoughts on this from the meeting were that the draft overall was an improvement on the previous draft note. The following specific points were mentioned:

- Paragraph 3.1 refers to lettings and suggests that the solicitor advising a tenant should be checking the insurance policy for the premises to see whether it adequately covers climate change risks. The Committee considered that this was a step too far and that the solicitor should only be expected to advise the client that it should get the person responsible for its insurance (eg its broker) to check the policy.
- It was also not clear what risks are being referred to here – is it flood and storm risks or something more?
- There should be an acknowledgement that some clients are sophisticated professional investors and may have greater knowledge of climate risks than the solicitor advising.

5 Report on title review

Work has been continuing on the proposed new edition to be launched towards the end of 2024. See attached the latest version together with a comparison showing the changes from the 2018 Fourth edition [Short Form Report on Title 2023 \(doc\) \(clls.org\)](#). Please would Committee members send any final comments on this to Warren or other members of the sub-group (Julian, David, Adrian, John and Andy) by 31 October.

At the back of the attachment, as with the Fourth edition, there is a form of letter from the company confirming various points for the benefit of the solicitors providing the report. It was agreed that an alternative version of this letter for where the company is purchasing the property or there is a purchase of the shares in the company that owns the property would be a helpful addition to the report.

The new report is likely to be launched towards the end of 2024 together with the small number of Certificate of title/Wrapper changes mentioned previously. The Committee will work with the CLLS PR agency to get publicity about the launch of the new draft report and to encourage its use.

6 Registration gap protocol

Again work has continued and the draft is close to being agreed. The latest version is attached and Committee members are asked to send any final comments to Warren or other members of the sub-group (Jayne, Matt, Caroline and Brigid) by 31 October.

There was a discussion on whether the clauses should include obligations aimed at requiring the seller entity to be kept in existence until the buyer has been registered at the Land Registry. Alternatively there might be a provision requiring notice to be given to a buyer before the seller is wound up, to allow it to request the Land Registry to expedite its application. Unless the obligations are given by a suitable continuing entity they may not be of much worth, but it was considered helpful for draft wording to be suggested as an optional additional provision.

It is hoped that this can be launched towards the end of 2024 too and again publicity will be sought.

7 Updating of the Committee's service charge provisions

The RICS will be launching a new 2nd edition of its professional standard for Service charges in commercial property. This will probably be launched in 2025 and there will be a consultation. The intention is for the standard to refer to the Committee's service charge provisions (which were produced over 10 years ago for an earlier "service charge code"). Here are links to the Committee's service charge provisions. There are separate ones for a shopping centre and an office building. The Committee worked on them with Peter Forrester, who leads the working group for the service charge professional standard.

[CLLS Service Charge Provisions office 2013 \(doc\)](#)

[CLLS Service Charge Provisions shopping centre 2013 \(doc\)](#)

Peter and Jonathan Lovejoy of British Land (who also sits on the working group as do I) have provided comments on the provisions, which are included in an attached email from me.

It would be good publicity for the Committee's provisions to be referred to in the new professional standard, but the Committee did wonder whether it might be better for new provisions to refer to the service charge provisions in the MCL, which was not in existence at the time of the previous version of the service charge code. The Committee should establish a group to review the provisions and the comments from Peter and Jonathan. It makes sense for that review to take place when we have sight of the new standard once the consultation begins. Matthew Hooton and John Nevin have volunteered to take part in the sub-group and other volunteers are sought. Please let Jackie or Warren know if you would like to join it.

8 LinkedIn pages for the specialist committees

We should consider using a LinkedIn page for our Committee as another way of publicising the business of the Committee, and Colin Passmore suggested we look at the page for the Commercial Committee as an example. He would not expect it to be used to publicise the Committee minutes, as they properly sit on the website for members, but rather to be used for other documents produced by the Committee, such as the launch of the report or the registration gap drafting. The amount of work involved is expected to be minimal. It was agreed that Jackie would discuss further with Warren on his return.

9 Renters' Rights Bill

This is a very big and important piece of legislation (226 pages) [Renters' Rights Bill \(parliament.uk\)](https://www.parliament.uk).

See also [Guide to the Renters' Rights Bill - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

The Committee expressed concern on the potential for claims to clog up both the Courts in relation to possession claims and the Tribunal in relation to rent increase challenges and to cause substantial delays. It was agreed that this should be looked at in more detail at the next Committee meeting.

The Bill has its second reading in the House of Commons on 9 October. It will then move to Committee stage and if opportunities arise the Committee will consider making submissions.

10 King's Speech

The Committee considered if there was anything from the King's Speech that impacts the Committee e.g. the residential leasehold reform proposals. See Kevin's email below.

"The King's Speech 2024 -

https://assets.publishing.service.gov.uk/media/669791c549b9c0597fdafe63/King_s_Speech_2024_background_briefing_notes.pdf

Matters in which you and your committee might be interested include:-

Planning and Infrastructure Bill – pages 18 – 20.

This focuses on planning reforms and housing infrastructure.

Draft Leasehold and Commonhold Reform Bill – pages 75 – 77.

This Bill implements the provisions of the Leasehold and Freehold Reform Act 2024. The Government will further reform the leasehold system, enacting remaining Law Commission recommendations relating to leasehold enfranchisement and the Right to Manage, tackling unregulated and unaffordable ground rents, and removing the disproportionate and draconian threat of forfeiture as a means of ensuring compliance with a lease agreement. The Government will take steps to bring the feudal leasehold system to an end, reinvigorating commonhold through a comprehensive new legal framework and banning the sale of new leasehold flats so commonhold becomes the default tenure."

The Committee also suggested consideration should be given to the Terrorism (Protection of Premises) Bill at a future meeting.

11 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 \(betterbuildingspartnership.co.uk\)](https://www.betterbuildingspartnership.co.uk)

Property companies etc are considering whether to include Toolkit provisions in the light of their existing green lease drafting. Green lease provisions are very significant from a liquidity perspective for many properties, with the importance of benchmarking.

12 Building Safety Act 2022 – The PSL drafting project continues and there is nothing to add at this stage. The Committee will wait for the PSL group to propose drafting.

13 Update on Use of disclaimers for documents on Committee's webpages: Kevin Hart – for a future meeting. Jackie will follow up by email.

14 Length of meeting: 1.5 hours

15 Dates for remaining 2024 meeting, at 12.30pm and hybrid in person/virtual – 20 November.