

**MINUTES OF THE
CLLS ARBITRATION COMMITTEE MEETING
ON 16 APRIL 2024, 10:00-12:00**

Attendees: Michael Davison (Chair, Hogan Lovells), Kevin Hart (CLLS), Matthew Saunders (Vice-Chair, Ashurst), Lisa Dubot (Mayer Brown), Robert Price (Latham Watkins), Colin Passmore (CLLS)

Via Zoom: James Freeman (A&O), Chloe Edworthy (Macfarlanes), Hannah Ambrose (HSF), Marie Berard (Clifford Chance), Oliver Browne (Paul Hastings), Stuart Dutson (Simmons & Simmons), Alejandro Garcia (Stewarts Law),

Apologies: -

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 30 JANUARY 2024

The committee approved the minutes with the following comments from Lisa Dubot:

Replace this current wording:

Lisa Dubot flagged that when the new law comes into force there will be a dual legal jurisdiction when cases fall within the current law position as well as within the new law. The new law will not apply to any pending arbitrations and the dual system is expected to be in place for a few years.

Lisa Dubot asked the Committee to confirm that there will not be a specific cut-off date but rather that no pending arbitrations will be impacted by the new law but only new cases.

With this wording:

Lisa Dubot described the territorial extent of the new Act and also highlighted that the new default rule in relation to the arbitration agreement will have retrospective effect and apply to all arbitration agreements whenever made. The aim is to avoid longstanding dual regimes (under the old law and new law) but the new law would not impact pending arbitration cases or arbitration related court proceedings. The committee members agreed with the proposed position.

3. VACANCIES / NEW COMMITTEE MEMBERS

Kevin Hart and Michael Davison confirmed that the advertisement for new Committee members is now online:

<https://clls.org/resource/arbitration-law-committee---committee-advertisement---08-04-24-pdf.html>

<https://www.linkedin.com/feed/update/urn:li:activity:7183784549863063552>

<https://twitter.com/TheCLLS/status/1778019621011911118>

Matthew Saunders made the point that it would be useful for any new Committee member to have a background in shipping or insurance law to broaden the Committee's specialist areas.

James Freeman also mentioned that a specialist in the international law / treaty space would be useful to allow a more focussed response to topics raised in the Arbitration space (see item 4, Response from Lord Bellamy to clause 1 of the Arbitration Act below).

Kevin Hart mentioned that Richard Bamforth (CMS) was suggested as a new Committee member.

- [Patricia Irigei to send the advertisement to Committee members so to pass it on to others they might think would be interested.](#)
- [Kevin Hart to prepare a communication to contact Richard Bamforth.](#)

4. RESPONSE FROM LORD BELLAMY TO CLAUSE 1 OF THE ARBITRATION ACT

James Freeman shared the response received by Allen & Overy from Lord Bellamy who raised the following two questions in relation to clause 1 of the Clause 1 of the Arbitration Bill ('Law applicable to arbitration agreement') which provides a new default rule that the law of the seat will govern the arbitration agreement unless the parties expressly agree otherwise. Clause 1 also says that a choice of law to govern the main contract does not count as an express choice of law to govern the arbitration clause.

1. What law currently governs the substantive terms of a bilateral investment treaty (BIT) or foreign domestic investment legislation?
2. In such cases, do you foresee significant problems or risks resulting from the law of the seat governing arbitration agreement as a default rule?

The Committee discussed the need for it and raised whether this opportunity could be used to promote London as arbitration seat. It would be also help to provide certainty in the tribunal proceedings. If the location of the arbitration decides on the underlying law in each case, this could have implications with interpreting the provisions applied by the law according to the seat. It would therefore be problematic to have a law that determines the underlying law of the tribunal according to the seat of the proceedings.

Whilst the Arbitration Committee has not directly received the response letter, Michael Davison is planning to formulate a response for the Committee. The deadline for the response is Friday, 26 April.

- [Michael Davison to work with Markus Burgstaller \(HL\) to provide a response to the Committee with a view to see if there is consensus amongst Committee members which would warrant a common response.](#)

5. NEW SHADOW COMMITTEE – MEMBERS

The Committee discussed the suggested members for the Shadow Committee:

- [Melissa Hollenders-Brown](#) - Clifford Chance
- [Basil Woodd-Walker](#) - Simmons
- [Annabel Maltby](#) - Hogan Lovells
- [Sarah Morreau](#) - Allen & Overy
- [Sang Joon Park](#) - Mayer Brown
- [Nishant Nath Singh](#) - Stewarts Law

- [Joel Halliday](#) - HSF
- [Maanas Jain](#) - Paul Hastings
- [Harsh Hari Haran](#) – Ashurst
- Alice Zhou – Latham Watkins

Kevin Hart suggested to organise different sub-committees within the Shadow Committee to focus on different areas where the Arbitration Committee needs support and for Shadow Committee members to monitor what other arbitration seats are doing to inform the Committee's conversations with decision makers.

- [Patricia Irigei to provide contact details to Kevin Hart of each Shadow Committee members for him to contact them](#)
- [Patricia Irigei move the next CLLS Arbitration Committee meeting to the afternoon and invite the Shadow Committee to join followed by a networking reception](#)

6. ENGAGEMENT WITH OTHER ORGANISATIONS (LCIA, ARBITRATORS' COMPANY)

Kevin Hart updated the Committee of ongoing conversations with the Arbitrators' Company and Marie Berard confirmed that she had contacted Jackie van Haersolte-van Hof of the LCIA but will need to follow up with her to see if she is able to attend the next meeting on 23 July.

- [Marie Berard to contact Jackie van Haersolte-van Hof to see if she can attend the meeting on 23 July](#)

7. WELCOME COLIN PASSMORE AND CLLS RELATED TOPICS

The Committee welcomed Colin Passmore, Chair of CLLS.

Colin Passmore mentioned that in his conversations with the MoJ and other policy makers, it has become clear that the various CLLS Committees do have an influence on the decision makers. Colin, therefore, encouraged the Committee to liaise more with the MoJ and to feed back the Committee's opinion on important topics.

It is important to promote the work of CLLS to get the credit it deserves and to ensure that policy thoughts coming out of government are met by a response from the Committee.

Colin also encouraged Committee members to help the next generation to get involved with what the Arbitration Committee. This is one of the reasons why the new Shadow Committee was created.

Colin raised diversity issues within the legal industry in the City also as a point that the Committee can support on. He also agreed the importance to promote England as the seat of arbitration (not from an underlying law point of view but as a seat) which will tie in with a meeting on Promoting English Law, organised by the City of London Corporation on 22 April at the Guildhall.

Matthew Saunders made the point that law firms who have a broad international outreach often have a better standing in different jurisdictions. However, for others this is a concern as there is not the same understanding of the governing law in different jurisdictions.

The Committee agreed to ensure that England is promoted in the same way as other jurisdictions are. Michael Davison made the point that it is important to take the lead on this as it is one of the underlying reasons of the Committee.

Colin Passmore also encouraged the Committee to be more vocal on various social media platforms and Kevin Hart can provide examples of what other committees do in the social media space. This should also include to make contact with the Labour Party and to encourage younger lawyers to get involved with the Committee's work and the CLLS as a whole.

Michael Davison asked how the relationship with the Law Society works and Colin Password confirmed that the cooperation is working well and that the Law Society does have a range of individuals working for them who have good contacts to government and other policy makers and the CLLS can work together with the Law Society to engage others who could help.

Matthew Saunders raised if there are any other topics on the horizon that would offer the opportunity to access a wider audience as well as the media. Colin Passmore mentioned that there is a dedicated press contact who will be able to liaise with journalists to promote the Committee. Members are encouraged to work with the press contact to have topics raised in the media.

Michael Davison mentioned that certain topics, even if controversial, come out of different meetings (e.g. Labour Party) which Colin Passmore confirmed can be worked with

8. LINKEDIN – OVERSIGHT PARTNER

Michael Davison raised that whilst the Shadow Committee will be used to help with the Committee's engagement with LinkedIn, somebody from the Arbitration Committee needs to keep an eye on current topics to be put on LinkedIn and monitoring any potential issues on LinkedIn.

- [The Committee agreed that Patricia Irigei should monitor the LinkedIn page and to inform Michael Davison and the Shadow Committee of any topics / issues etc. arising from the page.](#)

9. PROCEDURE GUIDE

Kevin Hart informed the Committee that a procedure guide has been put in place for any engagement with CLLS.

Kevin pointed out that there are restrictions to those who are individual members where their member firms do not want to join CLLS.

Michael Davison raised the CLLS newsletter and enquired who the recipients are as in the case of Hogan Lovells only the Managing Partner received the newsletter. Colin Passmore confirmed that there are no general restrictions and that he will ask the team to expand the list of recipients.

10. PRESS UPDATE

Michael Davison mentioned the conversations he had with Adam Mawadi of the Telegraph (adam.mawardi@telegraph.co.uk). He is very interested in the Arbitration space.

[Adam Mawardi | LinkedIn](#)

Michael Davison also had a conversation with Suzie Ring from the Financial Times (suzi.ring@ft.com) who is a good contact to have with a view to promote the Committee's views.

[Suzi Ring \(ft.com\)](#)

For any media engagement, it is recommended to speak with George at CLLS to help with the PR side of things. Kevin Hart can provide contact details if needed.