

THE CITY OF LONDON LAW SOCIETY

Minutes of a hybrid meeting of the ESG Committee (the “Committee”) held both in person
and over video call

at 16:30 on 23 April 2024

1. Welcome and apologies

- 1.1 In attendance: Roger Leese (Chair) (Clifford Chance), Mindy Hauman (White & Case), Harry Hecht (Slaughter and May), Peter Wickham (Slaughter and May), Simon Witney (Travers Smith), Simon Davis (CLLS), Paul Davies (Latham & Watkins), Emma Giddings (Norton Rose Fulbright), Michelle Bradfield (Jones Day), Naomi Roper (Capsticks), Sophie Kemp (Kingsley Napley)
- 1.2 Apologies: Greg Norman (Skadden, Arps, Slate, Meagher & Flom), Sonali Siriwardena (Simmons & Simmons), Kerry Stares (Charles Russell Speechlys), Matthew Townsend (Allen & Overy), Anna-Marie Slot (Ashurst), Rebecca Perlman (Kirkland & Ellis), Sung-Hyui Park (Bates Wells), Kevin Hart (CLLS), Stephen Sykes (Capital Law).
- 1.3 Observer: Gabriel Lim (Slaughter and May).

2. Approval of previous minutes

- 2.1 Draft minutes from the previous session were approved.

3. Introductions

- 3.1 The Committee welcomed Simon Davis, from the CLLS main committee.

4. Events

Joint event with Livery Companies update

- 4.1 Simon Davis is a steward in the Livery Companies and in that role has been asked to organise an ESG-themed event between the CLLS (especially the ESG Committee) and the other Liveries with a specific interest. A similar ESG-focussed event hosted by the Insurers’ Livery Company last year was well attended, with approximately 70 attendees.
- 4.2 The Committee was informed that the intention for the event this year is that it will be hosted in cooperation with the Marketers’, Accountants’ and Insurers’ Livery companies, and that the organisers are currently looking for a venue.
- 4.3 The Insurer’s Livery Company is again hosting an ESG event this year. Members of the Committee were asked to put forward volunteers from their firms to attend and report back to the Committee, in order to ensure that the joint event does not overlap in content with this event.

- 4.4 The Committee then considered what topics could be covered in the joint event – the Chair suggested that it could explore ESG developments in the European Union. Other potential topics included greenwashing, as well as the progress of the EU’s Corporate Sustainability Due Diligence Directive. He noted that greenwashing was a large concern of clients, with 100 representatives attending a Clifford Chance event on greenwashing. Greenwashing would also be appropriate to the legal expertise of the Committee, given that the risks of greenwashing and steps which might be taken to manage them are very much legal topics, and it is difficult to discuss the substance of greenwashing without the legal angle.
- 4.5 Agreement was expressed, particularly in light of the recent ECHR decision against Switzerland pushing the environment up the agenda. It was suggested that it would be interesting to consider what insurers are able to cover, and noting that requirements under the EU’s Corporate Sustainability Reporting Directive will result in more information being put out in the public domain. Marketers will hence be essential to control the narrative.
- 4.6 The Chair proposed that the Committee should reach out to the Marketers’ Livery Company to ask if they are interested to participate in the joint event.

5. CLLS Procedure Guide, committee membership and attendance

- 5.1 In respect of the CLLS guide relating to the operation of its sub-committees, the Committee was informed that there have been discussions in the CLLS which concluded that Committee procedure should be treated seriously by all participants, with structures in place to govern membership and choices of chair. The aim of the guide is to provide more transparency and professionalism to the constitutive process of CLLS committees, so that members of the CLLS are aware how committee members and chairs are chosen.
- 5.2 The Chair agreed – the guide sets out rules of the sub-committees; for example, there have been requests to join the Committee after it was constituted, and there was need for a rulebook to govern the process. It was clarified that one of the concerns came from firms which were paying significant amounts for corporate membership but not being offered membership of committees, as compared to firms with individual members paying a lower amount, but still getting members onto the committees.
- 5.3 The Chair noted that this Committee was relatively newly formed with a significant recruitment process, so it was not worthwhile to run a new recruitment process, and would be easier to consider individuals who have volunteered. The rules established by this guide now require an advertised, open recruitment process. This requires dedication of time to go through the process in order to give people the chance to be on the Committee.
- 5.4 It was opined that it seemed like a failure in the process if chairs had not been consulted in the process of releasing the guide. The Chair clarified that a draft of the guide had been sent around to committee chairs, and he has provided comments, but there has not been a proper debate or consultation on its contents. The Chair would be inclined to accept the rules of the guide, not raise a dispute, and if a refresh of membership is required, the guidelines can be followed in due course. Following the guidelines also makes it easier to respond to ad-hoc requests to join the Committee.

5.5 Another committee member agreed that it seems right to advertise available positions on the committee openly to get people who are genuinely keen and interested for new ideas and information, notwithstanding the additional work required. It was noted that the guide seems to take a reasonable approach, and the guidelines also leave flexibility to recruit on an ad-hoc basis if there is a justifiable reason, e.g. a consultation which needs to be responded to where the committee does not have sufficient expertise.

5.6 The Committee discussed the fact that there was no limit in the number of participants a committee may have, as well as no concept of a ‘vacancy’. It was noted that a member had left their associated law firm, and the question asked whether this affects their membership of the Committee. The Chair confirmed that the member remains a member of the Committee nonetheless, as appointment to the Committee is on a personal basis, subject to the committee member being a member of the CLLS.

6. Working groups update

6.1 It was explained that notwithstanding the fact that there have not been major updates to the working groups, this remains an item on the agenda for members to report back on existing workstreams.

FCA Anti-greenwashing Guidance

6.2 It was noted that the FCA has released its anti-greenwashing guidance on the day of this meeting. The Chair suggested that a sub-committee should consider whether there should be a response to this guidance and a member agreed to take this consideration forward.

ESG Risk Ratings

6.3 The Committee was updated on the fact that a response to the ESG risk ratings consultation has been submitted around September or October.

7. Climate Change and Conveyancing Practice Note

7.1 It was noted that the authors of the practice note have requested for a response from the Committee on this, and requested for members of the Committee to step forward if they would like to participate in a joint response to this invitation.

8. Consultations

8.1 It was noted that there have been no updates on any of the items on the agenda, and requested for any updates which Committee members are aware of. It was further noted that the UN Working Group consultation on “Investors, ESG and Human Rights” was meant to have some updates by this point, but these have yet to be released. The Committee was also not aware of any further developments in respect of the rest of the consultations listed on the agenda.

8.2 It was noted that members expected most updates to occur probably later, for example in June, given elections getting in the way of progressing government policy.

9. Events – WWF Nature Event

- 9.1 The Committee was informed that one of its members and the Chair had recently met with WWF lead on Biodiversity. The WWF are keen to have a push on highlighting biodiversity and the biodiversity crisis looming around the corner, given the current lack of awareness of the biodiversity crisis. WWF have been doing screenings to stakeholders, and have not yet reached city law firms and corporate lawyers. The WWF want to do this screening to member firms of the CLLS; event to take place on evening of 20 June. Kingsley Napley has offered to host this event, and can accommodate 60 to 80 lawyers. The Committee was asked to consider who to invite to that event.
- 9.2 The format of the event will start by introducing Kingsley Napley, then introduce the ESG Committee to advertise its existence to other CLLS members, followed by a screening of the 20 minute WWF video. The event would end with a panel hosted by Jake White (from WWF) and a few other lawyers to raise discussion points.
- 9.3 It was asked if other sub-committees would be involved, and noted that the environment sub-committee would be interested to participate. The Chair stated that the WWF's intention is to reach City lawyers, so they were glad to do this through CLLS, and it would be appropriate to reach out widely through CLLS sub-committees. The Chair suggested that the CLLS could utilise the CLLS's comms team to do a general reach-out to CLLS members. The event would be helpful for raising awareness/profile of this Committee.
- 9.4 The Chair requested for Committee members to consider if they have in-house lawyer contacts which it would be useful to bring along, or participate on the panel. The intention for the panel is that one or two of the 'talking heads' on the film will participate, alongside one or two members of the Committee, and one other in-house participant. The idea is to see how private practice lawyers work with in-house law firms/counsel on these issues.
- 9.5 It was asked if this was meant to be a mixed audience of private practice and in-house lawyers. The Chair clarified that that was the intention, as far as CLLS rules allow. It was not expected that CLLS rules would impose any such limitations, and asked whether this can be opened up to other livery companies. It was clarified that WWF may have already approached other groups, so the intent of this event was to reach out to lawyers.
- 9.6 It was queried if this would be extended to members of the bar who might be interested in participating. This would probably depend on the take-up from law firms, because the WWF consider that solicitors are likely to have more impact on clients. However, if there are key people at the bar to invite, then that may be the sensible thing to do. On that basis, in-house lawyers would be good invitees for the event as they will have useful insights.
- 9.7 A request was made that the Committee consider what questions would be appropriate for the biodiversity-focussed panel. Biodiversity net gain is the hot topic of the moment but it is quite niche; the event could do some blue sky thinking as to what is coming down the track. It was suggested that the Committee could reach out to Professor Bob Lee, who is well known in the nature and environment community. This was agreed, and there would be follow up to provide more details about the event. The Committee also discussed the topics of biodiversity credits standards and the reporting standards established by the TNFD.

9.8 The Chair said that he would circulate an email to Committee members to invite people to a discussion to discuss the panel questions.

10. Monitoring of key developments

10.1 The Chair noted that the EU's CSDDD was nearing the end of its legislative process. While it was not necessarily a directly applicable topic for the CLLS, which considers itself to be in 'consultation mode', he asked the Committee if they had any suggestions for involvement in the development of the CSDDD. It was suggested that the most appropriate action at this stage is to continue to monitor progress.

10.2 In relation to COP, the Chair noted that he did not think the Committee had to be involved in the COPs because there was already widespread industry participation, and no particular need for the Committee to be involved. The Committee concurred.

11. Reflections on CLLS chair's reflections

11.1 The Chair informed the Committee that the CLLS main committee had requested for sub-committees to be made aware of the CLLS chair's reflections on mental health. It was suggested that this may be slightly within the ESG remit of the committee, but the Chair does not quite agree with that understanding of ESG.

11.2 The Committee considered if it has any action points in light of these reflections. It was suggested that this Committee already has a fairly wide remit, and it was not clear that this issue would fit in such a remit. The Chair agreed, noting that the Committee should be reasonably careful of giving the wrong idea as to what its purpose is. In particular, the Committee should avoid the misimpression that it considers CSR, pro-bono or inward-facing matters.

11.3 The rest of the Committee agreed that the issue of mental health within the profession did not fall within the remit of the Committee.

12. AOB

12.1 Three points of concern were raised:

(a) Roundtable hosted by the FRC in relation to its review of UK stewardship code – the FRC is expecting to publish consultation in the Summer but is already going early engagement; the Committee might want to get involved.

(b) UK transition finance market review – the deadline to respond is May 9. It was confirmed that the CLLS is already planning a response to the consultation request. The Chair requested for someone from the Committee to be involved with this response.

(c) Review of electricity market arrangements (REMA) – The Committee was asked if this was within its remit, particularly in light of the nexus between green energy and the electricity grid.

12.2 The Chair agreed that the Committee should be involved with the FRC consultations in relation to the stewardship code. Given that the company law committee generally considers stewardship issues; the Chair offered to reach out to that committee to see

how this Committee could be involved. It was noted that the FRC was encouraging participation from law firms, and has the intention of streamlining the stewardship code. However, there is also a perceived pressure to water down the code, and concerns as to how much streamlining involves a reduction of obligation, as opposed to greater efficiency in meeting the same obligations.

- 12.3 In relation to REMA, a committee member agreed obtain more information and send an email to update the Committee members.