

CITY OF LONDON LAW SOCIETY

EMPLOYMENT LAW COMMITTEE

At Skadden, Arps, Slate, Meagher & Flom (UK) LLP, 22 Bishopsgate, London EC2N 4BQ

in person

on Wednesday 7 June 2023

at 1.00 pm

MEETING MINUTES

In person attendance:

1.	Helena Derbyshire (Host)	Skadden Arps
2.	Damian Babic (Minutes)	Skadden Arps
3.	Michael Leftley	Addleshaw Goddard
4.	Elaine Aarons	Withers
5.	Paul Griffin	Norton Rose Fullbright
6.	Colin Leckey	Lewis Silkin
7.	Nicholas Robertson	Keystone Law
8.	Anne Pritam	Stephenson Harwood LLP

Apologies:

1.	Rebecca Harding-Hill	BCLP
2.	Sian Keall	Travers Smith
3.	Vicky Wickremeratne	Allen & Overy LLP
4.	John Evason	Baker & McKenzie
5.	Chinwe Odimba-Chapman	Clifford Chance
6.	Jane Mann	Fox Williams
7.	Mark Greenburgh	Greenburgh & Co
8.	Kevin Hart	CLLS (The City of London Law Society)
9.	Matthew Rous	CLLS (The City of London Law Society)

1. Apologies were noted from those who were absent.
2. The minutes from the last meeting were approved.
3. The Committee considered attendance at meetings and whether meetings should revert to a hybrid format or whether some of the Committee's meetings should move to a breakfast slot to encourage attendance. The Committee also considered its ongoing work and decided that the next meeting should include a strategy discussion to consider its ongoing work and direction. The Chair said that she would contact Committee members in relation to this.

4. Government consultation on measures to reform post-termination non-compete clauses in contracts of employment

The Committee considered the Government consultation on post-termination restrictions. The Committee was not sure that the figure cited in the consultation paper of 5 million employees in the UK being subject to post-termination restrictions was accurate. The Committee had a discussion about other ways there might be to restrict a former employee's activities following termination of their employment, including the use of garden leave or restrictions tied to share awards.

The Committee considered the proposed 3 month time limit on non-competes and its impracticality in terms of enforcement and obtaining injunctive relief. The Committee also discussed the impact on other employees in the workforce if a business was not able to protect its goodwill on termination of employment of a senior executive.

5. Information Commissioner's Office guidance on responding to data subject access requests (DSARs)

The Committee generally agreed that the ICO guidance was helpful and affirmed the principles that most practitioners have been following. The Committee had a general discussion on the use of DSARs in the context of workplace disputes, particularly the interplay of private and work related communications and the extent to which private communications between employees on private devices should be disclosable in the context of a DSAR.

The Committee debated a number of related issues, including balancing the rights of its other employees with its obligations to disclose personal data to the individual making the DSAR.

6. Discussion of the ongoing reviews of whistleblowing laws

The Chair noted the latest Government review of whistleblowing laws and whether the Committee should consider a response to it given the potential implications for the City. The consultation is due to close in Autumn of this year. The Committee discussed the issues and did not consider that there was much the Committee could add at this stage if the consultation was considering bigger picture/policy issues rather than the legal practicalities and issues of existing whistleblowing legislation.

7. The Chair noted that the next meeting in September would be at Norton Rose. AP offered the offices of Stephenson Harwood for the Committee's meeting in December.