

Minutes for CLLS Land Law Committee meeting on 21 May 2025 at 12.30pm in person at Hogan Lovells and via Teams

Attendees: Jackie Newstead (Chair), David Hawkins (Vice Chair), Warren Gordon (Secretary), Chris Cartwright, Caroline DeLaney, Tom Goldsmith, Alison Hardy, Matt Hootton, Katherine Lang, Franc Pena, Alex Watt, Patrick Williams and Emma Willoughby

Apologies: Nick Barnes, Andy Bruce, Adrian Footer, Nick Harris, Kevin Hart (from the CLLS), Simon Kenley, Paul Kenny, Omer Maroof, John Nevin, Anton Newton, Julian Pollock, Laura Uberoi and Sarah Walker

1 Welcome: The Committee was delighted to welcome Alex Watt of Freshfields to the Committee and looked forward to Alex's contributions to the Committee's meetings and projects.

2 Approval of Minutes for March 2025 Committee meeting – The Minutes are approved and are now on the CLLS website - see [Minutes for March 2025 Land Law Committee meeting](#).

3 Committee membership

The Committee approved the application from Henry Moss at Ashurst to replace Jamie Chapman. If Henry cannot attend Committee meetings, Alison Hardy can attend in his place.

4 Certificate of title – Building Safety Act

The Committee was asked to consider again whether the Building Safety Act 2022 ("BSA") should be dealt with in the Certificate of title. The BSA is an issue in which lenders are increasingly interested and users of the Certificate have queried why the BSA is not mentioned.

Prior to the meeting, Emma Willoughby had kindly provided some suggested drafting for a new paragraph 28.2 in Schedule 3 (paragraph 28 being the statements for Residential and mixed use buildings).

The suggested drafting has a number of statements which include Company confirmations to the effect that no relevant building on the Property (or no relevant building of which the Property forms part) satisfies the height or storeys test for it to be a "relevant building" or "higher risk building" as defined by the BSA.

The key purpose behind the new statements is to factually ascertain (by way of company rather than solicitor confirmation) whether a building on the Property (or a building of which the Property forms part) is a "relevant building" or "higher risk building" for the purposes of the BSA. A disclosure against the statements may then prompt further actions outside the scope of the Certificate, but at least the statements would trigger practitioners to think about the BSA on transactions contemplated by the Certificate. In that way, the suggested approach is similar to that used for the existing statements covering other residential related legislation in paragraph 28.

The Committee accepted the principle of including such statements for the BSA. Emma will circulate a revised draft (reflecting comments already made) for any further comments from the Committee. It was considered that it would be helpful to try and ensure some consistency in the wording used with

equivalent wording developed on a separate PSL project and the Committee will reach out to the relevant PSL group. Consideration will also need to be given to whether alternative wording is required for properties in Wales.

The Committee's position is that the Certificate should be updated no more than once a year, unless the Committee considers it is necessary to make the changes at that point. While it was sensitive to the fact that the Certificate was last updated in March 2025, the Committee considered that the Certificate should be updated (probably) following the July Committee meeting, rather than waiting for a possible update in 2026. This was because the BSA was clearly an area of concern for the lender community and the Committee had received a number of queries as to why the Certificate does not include any BSA references.

It has been suggested that where there is a change in law, it would be more helpful to have a note from the Committee suggesting additional wording which users can choose to add where relevant before the next full update of the Certificate. The Committee would be concerned about such an approach, since it could raise uncertainties about the form of the Certificate (see clause 4 of the Certificate).

The questionnaire and confirmation letter will be updated to reflect the changes to be made to the Certificate. The Certificate will remain the Eighth Edition 2025 Update.

Actions: Emma Willoughby to circulate revised draft to the Committee for further comments. The Committee will liaise with the PSL group to ensure consistency of wording and will also give consideration to the position in Wales. For further discussion and finalising at the July Committee meeting.

5 The Government's Growth agenda

Colin Passmore of the CLLS has raised with the Government the idea of the Government meeting with CLLS specialist committees to discuss how they can assist the Government with their growth agenda. There may be a roundtable meeting with Government.

Colin has asked what each CLLS committee would like to raise at such a meeting, perhaps on the lines of the two biggest asks that the Committee would make of Government so as to improve growth/inward investment/trade/commercial life generally.

The Committee suggested the following issues:

- the increased burden to BTR/residential investors from the Renters Rights legislation
- the proposed abolition of leasehold flats
- problems arising from Land Registry delays
- the implications of the commonhold proposals for mixed use properties and for property owners
- the implications of the delays with the "Gateways" processes under the BSA, which are not helping with generating growth.

6 Law Society's Climate Change Risk Conveyancing Practice Note

The note was launched on 12 May 2025 [Climate change and property | The Law Society](#). The Committee will look later this year at the impact of the note.

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 within the next month or so. The standard will refer to the Committee's service charge provisions (which were produced over 10 years ago for an earlier "service charge code"). There are separate provisions for a shopping centre and an office building.

The Committee has a sub-group (David Hawkins, Matt Hooton, John Nevin, Katherine Lang and Warren Gordon joined by Jonathan Lovejoy of British Land from the RICS group) which has met to review those CLLS provisions, looking at those for a shopping centre.

The hopefully close to final form draft was provided in advance of the meeting. There aren't many material changes from the current version of the service charge provisions.

The draft will be circulated post-meeting, for any further comments from the Committee.

The provisions for an office building will also be produced, based on those for the shopping centre.

It will be made clear in the provisions that they are designed for a fully commercial building, but if there is a residential element, consideration should be given to the impact of the Building Safety Act.

The intention is for the provisions to be launched shortly after release of the new RICS professional standard.

Action: Draft service charge provisions for a shopping centre to be circulated for final comments from the Committee.

8 Land Registry

Mike Harlow from the Land Registry will be attending the July Committee meeting and the Committee discussed which issues they would like raised with him. The following points will be raised –

- Delays in processing applications, which delays are not improving
- The possibility of a separate Land Registry service for more complex real estate transactions perhaps for a higher fee
- Can a fee on an application be debited at the time that the application is made rather than when the application is completed?
- 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 requisitions being raised by the Land Registry are increasing and are increasingly fussy. Is there a KPI for spotting issues? This goes to the issue of how dealing with requisitions is addressed in Land Registry staff training and all of this is exacerbated by the delays in processing applications and raising requisitions
- The approach to making changes to documents should be the same between wet-ink and electronic documents
- There is a need for more helpful identifying information about applications on the daylist
- Errors in result of a search of the index map, for example, including neighbouring properties and there being missing titles
- If a title is cancelled, how are historic entries from that title obtained?

- There are no Land Registry telephone lines on Fridays
- Please can the details of any update to a practice guide be included on the webpage for the practice guide itself, and the update details should include a more accurate summary of what has changed.

Action: The Committee is asked to suggest any further questions that they want raised with the Land Registry for discussion at the July meeting.

9 Renters' Rights Bill

This is a very big and important piece of legislation [Renters' Rights Bill - Parliamentary Bills - UK Parliament](#).

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

The Bill is at Committee stage in the House of Lords.

At the last Committee meeting, a big point was highlighted about the proposed prohibition on rents being “due in advance” (see proposed new section 4B in the Housing Act 1988).

Many tenants cannot pass affordability checks for rents and will make an upfront payment to reduce the rent for the first 12 months, which then allows them to pass an affordability check at this lower sum. The concern was that preventing this will change the way referencing companies, insurers, and therefore agents and landlords look at these tenants. And landlords of student accommodation may look to avoid the legislation to allow them to take rent in advance from overseas students.

It was noted by the Committee that there been no update on the “due in advance” concern. It was also noted that some uncertainty remained about the treatment of student accommodation.

10 SRA consultation on client account monies: escrow agreements

The period has expired for responding to the SRA consultation on client account monies [SRA | Consultation on potential changes to how client money is handled in the legal sector | Solicitors Regulation Authority](#). The consultation may encourage the use of escrow agents to hold monies.

The Committee decided that there was little point in them producing a model form of escrow agreement, since most escrow agents have their own form of agreement. However, the Committee will as a future project look again at the Borrower’s solicitors’ undertakings document.

Action: Project later this year to review the Borrower’s solicitors’ undertakings document.

11 Registration gap clauses – any feedback on [Example clauses to cover the Registration Gap issue - Dec 2024](#) (standing item)

12 Terrorism (Protection of Premises) Act 2025

This was discussed at the March Committee meeting and it has now gained Royal Assent but does not come into force for a couple of years.

[Terrorism \(Protection of Premises\) Act 2025 Summary](#)

13 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) (standing item)

14 Building Safety Act 2022 – any developments? PSL drafting project (standing item).

15 Update on Use of disclaimers for documents on Committee’s webpages – Kevin Hart

16 AOB – No AOB

17 Length of meeting: 1 hour 30 minutes

18 Dates for remaining 2025 meetings, at 12.30pm and hybrid in person/virtual – 16 July, 17 September and 19 November.