

**THE CITY OF LONDON LAW SOCIETY INSOLVENCY LAW COMMITTEE  
MINUTES MEETING HELD AT FRESHFIELDS BRUCKHAUS DERINGER, 100  
BISHOPSGATE, LONDON EC2P 2SR  
AND BY VIDEO CONFERENCE CALL  
ON THURSDAY 21 SEPTEMBER AT 8.30AM**

**In attendance:**

Jennifer Marshall  
Ben Larkin  
Catherine Balmond  
Joe Bannister  
Domonic McCahil  
Ian Benjamin  
Ian Johnson  
Tim Symes  
Peter Wiltshire  
Olga Galazoula  
Jo Windsor  
Simon Thomas  
Kevin Pullen  
Helena Potts (standing in for David Ereira) (observer)  
Katharina Crinson (observer)  
Inga West (observer)  
Kevin Hart  
Helen Coverdale (secretary)

**Apologies:**

Jamie Leader  
Sarah Lawson  
Matthew Rous  
Ian Fox  
Gabrielle Ruiz  
David Ereira  
Ben Klinger  
James Stonebridge

**1 Opening of meeting by Chair, Jennifer Marshall**

**2 Minutes of the meeting held on 18 May 2023**

The Committee noted and approved the minutes of the previous meeting held on 18 May 2023.

**3 Reports, Consultations and Calls for Evidence**

The Committee noted the published reports and responses to the consultations and calls for evidence listed in the Appendix hereto.

#### **4 Retained EU Law**

The Committee noted that the Retained EU Law (Revocation and Reform) Act 2023 has received Royal Assent and that the draft Retained EU Law (Revocation and Reform) Act 2023 (Revocation and Sunset Disapplication) Regulations 2023 have been laid before Parliament.

#### **5 Recent cases**

The Committee noted the following cases:

- **Brake v Chedington Court Estate Ltd [2023] UKSC 29**
- **Patley Wood Farm LLP and others v Kicks and another [2023] EWCA Civ 901**
- **Re Prezzo Investco Ltd [2023] EWHC 1679 (Ch)**
- **Denaxe Ltd v Cooper and another [2023] EWCA Civ 752**
- **Invest Bank PSC v El Hussein and others [2023] EWCA Civ 555**
- **Re Sustainable Bathroom Company Ltd [2023] EWHC 2065 (Ch)**
- **Alma Property Management Ltd v Crompton [2023] EWCA Civ 849**
- **Liberty Commodities Ltd v Citibank NA London White Oak Finance Europe (Non-Leveraged) Ltd and another [2023] EWHC 2020 (Ch)**
- **Aartee Steel Group Ltd [2023] EWHC 1701 (Ch)**
- **Mitchell v Al Jaber [2023] EWHC 1239 (Ch)**
- **Galapagos Bidco Sarl v Kebekus [2023] EWHC 1931 (Ch)**
- **Hunt v Singh [2023] EWHC 1784 (Ch)**
- **Re Wilton UK (Group) Limited [2023] EWHC 1700 (Ch)**
- **Re Fitness First Clubs Ltd [2023] EWHC 1699 (Ch)**
- **Re LamoHolding BV [2023] EWHC 1558 (Ch)**

#### **6 Any other business**

Kevin Hart (KH) provided an update on CLLS news.

There will be a new, specialist CLLS AI Committee. Membership will be extended to associate and non-lawyer specialists in the area. Applications are now open.

It was noted that on 8 November 2023, the annual CLLS Gray's Inn Lecture will be held. The topic is: "The Rule of Law? Does it really matter to commercial lawyers".

KH also informed the Committee that the CLLS chair had met with the Lord Chancellor, The Rt Hon Alex Chalk KC MP, on 20 September 2023.

**7 Next meeting**

The next meeting will be held on 16 November 2023 and is due to be hosted by Emma Simmonds at Akin Gump Strauss Hauer & Feld LLP

**8 Close**

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**Appendix – Responses to Consultations and Calls for Evidence**

**a. Implementation of two UNCITRAL Model Laws on Insolvency**

The Committee noted that the Insolvency Service has published its response to the consultation on implementing the Model Law on Recognition and Enforcement of Insolvency Related Judgments and the Model Law on Enterprise Group Insolvency.

**b. Consultation on changes to Insolvency Service Official Statistics**

The Committee noted that the Insolvency Service has published its response to the Official Statistics Consultation.

**c. Review of the Personal Insolvency Framework**

The Committee noted that the Insolvency Service has published a summary of responses to its call for evidence in relation to the personal insolvency framework in England and Wales. Proposals for reform will be published in early 2024.

**d. Insurer Resolution Regime**

The Committee noted that HM Treasury has published its response to the consultation on Introducing an Insurer Resolution Regime.

**e. Law Commission report on digital assets**

The Committee noted that the Law Commission has published its final report relating to crypto-token collateral arrangements and the apportionment of shortfall losses on the insolvency of a custodial holding intermediary.

**f. Annual report on the implementation of the National Security and Investment Act 2021**

The Committee noted that the Cabinet Office has published the annual report of the implementation of NISA 2021

**g. Corporate Insolvency and Governance Act 2020 – statutory review**

The Committee noted the publication of the statutory 3-year review of the effectiveness of the permanent measures introduced by CIGA 2020: (1) restructuring plan (2) moratorium (3) suspension of payments.

**h. Tougher consequences for promoters of tax avoidance**

The Committee noted that draft legislation has now been published: <https://www.gov.uk/government/publications/dealing-with-promoters-of-tax-avoidance>.

The consultation document proposed for directors of: (1) live companies and (2) companies being wound up in the public interest by HMRC application, to be potentially subject to disqualification proceedings brought by HMRC in certain circumstances. The Committee submitted a joint response with the Insolvency Lawyers’ Association.

**i. The Future of Insolvency Regulation**

The Committee noted that the Insolvency Service has published its response to the consultation aimed at reviewing the way the insolvency profession is regulated, including potentially establishing a single, independent regulator to replace the Recognised Professional Bodies and extending regulation to firms as well as individual insolvency practitioners.

The Committee noted that the published response features an excerpt from the Committee’s submission:

*Document: Consultation outcome - the future of insolvency regulation - Government Responses (12 September 2023)*

Question	Response
Question 6: Do you agree that the single regulator should have responsibility for setting standards for the insolvency profession?	Response and question published on pages 18 – 19  “[...] there should be a separation of the regulatory and compliance function (which should lie with the new single regulator) and the policy function (including preparation of the SIPs and reviews of the Insolvency Rules). Policy should remain with those who have the necessary expertise and processes (including consultation processes) to develop it. The Insolvency Service already has this capacity.” – City of London Law Society