

## **Minutes for CLLS Land Law Committee meeting on 22 January 2026 at 12.30pm in person at Simmons & Simmons and via Teams**

**Attendees:** Matt Hooton (Chair), David Hawkins (Vice Chair), Warren Gordon (Secretary), Nick Barnes, Andy Bruce, Caroline DeLaney, Tom Goldsmith, Nick Harris, Simon Kenley, Paul Kenny, Katherine Lang, Omer Maroof, Henry Moss, John Nevin, Anton Newton, Julian Pollock, Sarah Walker and Emma Willoughby

**Apologies:** Chris Cartwright, Adrian Footer, Kevin Hart (from the CLLS), Franc Pena, Laura Uberoi, Alex Watt and Patrick Williams.

### **1 Introductory remarks from new Chair**

Matt Hooton welcomed the Committee to Simmons for his first meeting as Chair.

The CLLS is encouraging its Committees to have more frequent in-person meetings.

It will be good for more members to attend the Land Law Committee meetings in person and the Committee agreed that, especially for alternate meetings (so March, July and November this year), members will aspire to attend in person (and not virtually). Meetings will be on Thursday where possible.

The Chair mentioned the the [Interest on Lawyers' Client Accounts Scheme - GOV.UK](#). This is a consultation being run by the Ministry of Justice with a deadline for responding of **9 February 2026**.

The consultation seeks views on a proposal to introduce an Interest on Lawyers' Client Account Scheme (ILCA) as a way for the legal sector to contribute more to the justice system. Currently, many law firms retain interest generated on client accounts as income, but most client funds in England and Wales are subject to the rules set by the Solicitors Regulation Authority (SRA), under which firms must account to clients for a "fair sum" of interest earned on client money. The Government considers that unearned income could be better invested in strengthening the justice system. Similar schemes operate in the United States, Canada, Australia, and France.

Under the proposal, legal service regulators would continue to set rules on client account interest for legal service providers after the ILCA scheme secures its share, including how any remaining interest should be handled or how much should be returned to clients. For most firms, under current rules, this would mean the remaining interest would continue to be governed by the SRA's requirement to account a "fair sum" to clients.

There were mixed views among the Committee about responding to the consultation. The Committee considered that this proposal may encourage the use of escrow agents as an alternative to client accounts. It was felt that there would be an administrative burden (including auditing) of reporting to the client as to how much interest goes to the ILCA scheme.

**Post-meeting note:** It was confirmed that the Professional Rules and Regulations Committee would be responding on behalf of the CLLS. The views of the Committee were passed to the CLLS and also the comment that there will be some firms (not necessarily in the CLLS) who rely on the income generated by the interest, so it may lead them to increase their charge out rates if this source of income is impacted.

**2 Approval of Minutes for November 2025 Committee meeting** – see attached Minutes for November 2025 Land Law Committee meeting - 19 11 25 which are on the Committee’s webpage.

### **3 Certificate of title – Eighth Edition 2026 Update**

There will be a new 2026 Update of the Eighth Edition of the CLLS Certificate of title which will probably be launched in February 2026. The form of Certificate has been updated to include new statements for the Building Safety Act 2022 (“BSA”) and there are a small number of other changes. There will also be consequential changes to most of the ancillary documents, which will all be the Eighth Edition 2026 Update.

The key purpose behind the new BSA statements (in new paragraph 29 of Schedule 3) 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.

The notes in the Certificate have been supplemented to reinforce the point that having a cap on liability and a limitation on the period of liability are both market practice. There was a discussion about the suggested notes and the approach to the amount of the cap. This included the observation that it would be helpful for the issue of the amount of a limitation on liability to be raised at the outset of the transaction, at term sheet stage, since, for example, the possible need for Certificate top-up insurance may have a significant cost implication for the borrower.

Emma Willoughby and Andy Bruce will have a further look at the notes to see whether further changes are required to the notes in relation to the approach to the amount of the cap.

There were 2 further points on which the Committee’s views were sought:

- ***Chancel repair searches*** - Should the chancel repair search be reinstated as a standard search in Schedule 6 in the light of the recent Law Commission consultation (see the Committee’s response CLLS Land Law Committee's response to the Law Commission's consultation on chancel repair liability - 03 12 25)?

The Certificate currently states the following:

“The chancel repair search has been removed as a specified search since it is questionable whether this search still needs to be done as a matter of course following the expiry in 2013 of the transitional provisions of the Land Registration Act 2002.

If these or any other searches not otherwise listed in Schedule 6 are carried out, they can be included under “Details of other searches or enquiries we considered to be appropriate”.”

There are differing views on whether it should be reinstated. Reasons for continuing to leave it out are that the chancel repair search is not precise and often insurance is put in place without a search even being made. If the Law Commission proposals go ahead, it would reconfirm that the Land Registry searches are the important ones in any event. Reasons for reinstating it are that this is justified by the Law Commission consultation – while some may have stopped doing the search following the expiry of

the transitional provisions, the consultation appears to throw doubt on that position. It appears (no empirical basis for this) that most people do the search and obtain the insurance (when they receive a “hit” on the result) just because it is cheaper and easier to do that, than explaining the risk to the client/having the argument with the lender’s lawyer.

One member mentioned that a colleague had experience of an £800,000 chancel repair claim.

The Committee agreed to restore the chancel repair search as a specified search in Schedule 6. The explanatory note will state:

*“The chancel repair search has been reinstated as a specified search in Schedule 6.*

*The Seventh Edition of the Certificate had included the chancel repair search as a specified search, but it was removed for the Eighth Edition on the basis that it was questionable whether the search still needed to be done as a matter of course following the expiry in 2013 of the transitional provisions of the Land Registration Act 2002.*

*However, in 2025 the Law Commission published a consultation on chancel repair liability Chancel repair liability and registration: consultation paper – Law Commission which highlighted that there may be doubts about whether the Land Registration Act 2002 applies to chancel repair liability in the way that was expected. It is not certain whether purchasers of registered land may still be bound by unregistered chancel repair liability, despite the change in the law from 13 October 2013.*

*Also, the Committee notes that, although chancel repair liability is no longer an overriding interest, purchasers still routinely obtain and lenders routinely require chancel repair searches or chancel repair insurance, even where no liability is registered against the title.*

*In view of those factors, the Committee has decided to reinstate the chancel repair search as a specified search in Schedule 6 for the 2026 Update of the Eighth Edition.”*

- ***Addressees who are sanctioned*** – The Committee was asked to consider the possible inclusion in the Certificate of an exclusion for sanctioned addressees in the following terms:

***Addressees means each of the parties named at the start of page 1 of this Certificate, but excludes any person who is subject to any prohibition or restriction relating to terrorism or international trade and economic sanctions that have been imposed by United Nations resolutions and/or laws of the European Union, the United Kingdom or the United States of America, so that this firm’s professional indemnity insurance cover will not respond to a claim made by such a person;***

The reason for this wording is that if a law firm addresses a Certificate to a sanctioned entity, there is the concern that they may find that they have no professional indemnity insurance cover if there is a mistake in the Certificate and they are sued. Some recipients of the Certificate object to including this type of wording, but on balance the Committee was asked to consider whether this should be included in the 2026 Update.

While there was no especial objection to its inclusion, the Committee’s conclusion was that it was unnecessary to include it. The Committee’s view was that if the certifying firm was liable, but the recipient was sanctioned, not only would the insurer not be able to pay out but the firm also would not be able to pay out to the sanctioned party. It was also noted that there is no equivalent wording in terms of engagement letters or other transactional documents where the same potential concern could arise.

The Committee had no other comments on the Certificate of title Eighth Edition 2026 Update or its ancillary documents.

**Actions: Emma and Andy to revert on guidance notes on limitation of liability. Certificate of title Eighth Edition 2026 Update and ancillary documents to be launched probably in February 2026.**

#### **4 Website stats**

At the request of a Committee member, the Committee was provided with website stats for the Committee's documents.

The Committee was pleased to note that the short form report on title published in 2025 had been looked at some 2,300 times. And the 2025 Edition of the Certificate almost 5,200 times.

#### **5 Updating of the Committee's service charge provisions**

The RICS has launched a new 2nd edition of its professional standard for Service charges in commercial property Service charges in commercial property, which is usually called the Service Charge Code. This is the first update in 7 years, and it came into effect on **31 December 2025**.

This sets down industry best practice guidance in the management and administration of service charge in commercial property. There are mandatory requirements for RICS accredited professionals and regulated firms, but this doesn't have any binding effect for landlords not regulated by the RICS, although such landlords may still wish to comply with the Professional Standard. The Professional Standard strikes a balanced perspective for both landlord and tenants and is intended to promote best practice, uniformity, fairness and transparency throughout the management process of service charges in commercial property.

The key changes in the new Professional Standard are set out here [Service-Charges-in-Commercial-Property Basis-for-Conclusions.pdf](#).

The Professional Standard refers to the Committee's service charge provisions as below -

“The City of London Law Society Precedent Documents has previously drawn up service charge lease provisions that reflected the provisions of the code at the time. These may also be subject to review and updating, therefore, it is recommended that interested parties keep abreast of any updates.”

The Committee's working group has now finalised the update of the provisions for a shopping centre with separate provisions for offices. The Committee was provided with clean copies of the provisions, together with comparisons showing the changes from the previous version.

Katherine Lang highlighted to the Committee that the existing paragraph 5.4 had been removed as not being consistent with the new Professional Standard. The expenditure forming major works should be accounted for in full in the service charge year in which they are incurred, but 5.4 envisaged that the landlord could, at its discretion, apportion the landlord's costs in respect of the relevant expenditure over more than one service charge period.

5.4 would be removed but a footnote would be added, consistent with the Professional Standard, that “section 4.7.4.6 of the RICS Standard considers the situation where no sinking fund or reserve fund has been put in place, but significant or extraordinary one-off expenditure is needed which would be an

onerous burden for tenants. It suggests that a landlord might spread the costs over more than one service charge period (but within the lease term) as a concessionary arrangement with the tenant. This arrangement would be outside the provisions of the service charge and documented by way of a separate agreement that is personal to the current tenant”.

The Committee had no other comments on the service charge provisions. They will be launched in February 2026 and will be publicised by the CLLS.

**Action: New service charge provisions for a shopping centre and for an office building to be launched in February 2026 and publicised by the CLLS.**

## **6 Third Party Rights**

The Committee have been approached by the Chair of the CLLS Construction Law Committee (CLC) on the matter of Third party rights.

In 2010, CLC collaborated with the Land Law Committee on a note regarding the use of third party rights in construction contracts and a copy was circulated to the Committee.

CLC members have consistently favoured the use of third party rights and a primary reason for the Government introducing the Contracts (Rights of Third Parties) Act 1999 was to create such an alternative to collateral warranties.

CLC have decided that the original note should be withdrawn and replaced for two reasons:

1. Subject to the crucial point below, in the 15 years that have passed since the note, the market has accepted the efficacy and usage of third party rights. There is much less of a need to persuade readers of their merits.
2. Importantly, the pandemic-era introduction of the *Corporate Insolvency and Governance Act 2020* (CIGA) cuts across the application of step-in rights in collateral warranties but, in particular, third party rights. It is, therefore, CLC’s view that collateral warranties should be used instead of third party rights where the beneficiary concerned (for example, a bank) requires step-in rights. (There is an exception in the CIGA amendments to the *Insolvency Act 1986* for public-private partnerships. However, those arrangements (much diminished in construction as they are) have tended to eschew third party rights in favour of collateral warranties, in any event.)

A replacement note from the CLC was provided to the Committee who were asked to provide their comments if any, particularly in relation to step in. CLC are happy to have this as a “joint note” between Committees, if this is desired. No particular objection to the replacement note was expressed at the meeting.

**Action: The Committee is requested to provide any comments on the replacement note regarding the use of third party rights in construction contracts.**

## **7 CLLS precedent documents – updating documents and also the issue of AI**

The Committee agreed that an ongoing project would be to update its precedent documents, some of which have not been looked at in a number of years. For this year, the Committee will consider:

- **Borrower’s solicitors’ undertakings document** Emma Willoughby, Matt Hooton and Chris Cartwright have kindly agreed to be members of the working group to consider whether this requires updating.

- **The Deed of release of rights to light and air 2013 (doc)** which is almost 13 years old and requires updating. A working group of Caroline Delaney, Andy Bruce, Omer Maroof and Anton Newton will consider this.

As a separate point, a note has been added to the webpage for the CLLS precedent documents stating the following:

“The documents must not be:

- (i) accessed or used via any automated means (such as bots, spiders or scrapers);
- (ii) used for text and data mining;
- (iii) used to train (or facilitate the training of) any AI technologies; or
- (iv) uploaded or submitted into third party applications, software or websites that utilise AI technologies.

The precedent documents that are made available via this website are intended to act as guides only and have not been prepared with any specific purpose or transaction in mind. You are advised to obtain independent legal advice in relation to specific matters or transactions. If you have any questions concerning the appropriateness and/or use of any materials that are made available on or via this website, you should seek independent legal advice before proceeding.”

Part of the reason behind this note is to address organisations that may have sought to run CLLS precedent documents through AI to make them “simpler to use”. The CLLS is concerned that there is a risk of third parties wanting to change the balance of CLLS precedents, bearing the CLLS imprimatur, in favour of their own organisation. The above note covering this has been added by the CLLS AI and IP Committees.

The CLLS will also work with its website administrators to exclude text and data mining.

## **8 RICS Common Auction conditions**

It was suggested that the Committee may wish to consider the RICS Common Auction conditions (the form of which was provided in advance to the Committee) with a view to promoting them or at least featuring them on the Committee’s webpage. The Committee may consider this later in the year.

**Action: Potential project to consider the RICS Common Auction conditions.**

## **9 Draft legislation to ban upwards only rent reviews for commercial leases (standing item)**

**Update: the Bill is currently at Committee stage in the House of Lords.**

## **10 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)**

**Action: The CLLS has been asked whether an “Other Useful Resources” section can be added to the Committee’s webpage, to highlight resources such as the Toolkit.**

**11 AOB**

**No AOB for this meeting.**

**12 Length of meeting: 1.5 hours**

**13 Dates for 2026 meetings: 18 March, 20 May, 15 July, 23 September and 18 November, all at 12.30pm and in person at Simmons & Simmons/virtual by Teams. The Committee will aspire to attend the March, July and November meetings in person.**