

## **Minutes for CLLS Land Law Committee meeting on 20 November 2024 at 12.30pm by Teams and in person**

**Attendees:** Jackie Newstead, (Chair), David Hawkins (Vice Chair), Warren Gordon (Secretary), Nick Barnes, Andy Bruce, Jamie Chapman, Caroline DeLaney, Jayne Elkins, Adrian Footer, Katherine Lang, Omer Maroof, John Nevin, Brigid North, Franc Pena, Jeremy Shields and Emma Willoughby.

**Apologies:** Kevin Hart (from the CLLS), Alison Hardy, Matt Hooton, Simon Kenley, Paul Kenny, Julian Pollock and Patrick Williams.

### **1 Farewell and thanks**

Jayne Elkins is leaving the Committee and this was her final Committee meeting. Jayne has made a great contribution to the Committee's work over many years on such projects as the Certificate of title and, most recently, the registration gap clauses. The Committee thanked Jayne for all her work for the Committee and wished her all the best for the future.

### **2 Welcomes**

The Committee welcomed to the Committee Katherine Lang, a Senior Knowledge Lawyer in the Real estate team at Baker & McKenzie. Katherine is joining as an Affiliate member, since only transactional lawyers can be full Committee members. The Committee looks forward to Katherine's contributions to the Committee's meetings and projects.

### **3 Committee membership**

Vikki Hills has left the Committee (following her move from Freshfields to Macfarlanes). The Committee thanked Vikki for all her work for the Committee.

There remain some vacancies on the Committee and members are encouraged to come up with suggestions for new members, to be considered by the Committee early in the new year.

If the firm of a suggested candidate is eligible to be but is not a CLLS corporate member, there may be restrictions on joining the Committee – such a firm can have no more than two places across all CLLS specialist committees. The restriction would not apply if the candidate is a freeman or liveryman of the City of London Solicitors' Company, or an individual member of the CLLS.

A suggested candidate cannot join the Committee if their firm is not eligible to be a CLLS corporate member (because they are outside the boundaries of the CLLS), unless the candidate is a freeman or liveryman of the City of London Solicitors' Company, or an individual member of the CLLS.

**Action: Members are encouraged to come up with suggestions for new members, to be considered by the Committee early in the new year.**

**4 Approval of Minutes for September 2024 Committee meeting** – The Minutes were approved and all the minutes are in the course of being migrated to the new CLLS website.

### **5 Law Society's Climate Change Risk Conveyancing Practice Note**

The consultation on the note has ended and the responses are being considered. The note will be updated to reflect relevant responses and is likely to be recirculated to the CLLS in the new year for any final thoughts. One member reiterated that the note should be clear that the type of transaction and the sophistication of the client will help to determine whether it is appropriate to obtain a climate risk search.

## 6 Report on title review

New edition to be launched in January 2025. The Committee was provided with the latest version together with a comparison showing the changes from the 2018 Fourth edition Short Form Report on Title 2023 (doc) (clls.org)

As suggested at the last Committee meeting at the back of the attached report, there are now alternative confirmation letters (for where the Company already owns the property; and for the Company purchasing the property or a purchase of shares in the Company). This is primarily because of the alternative versions of clause 4 in the Report.

At the same time as the launch of the Report, there will be 2 changes to the Certificate of title. The 1<sup>st</sup> change will also be made to the Wrapper.

- In clause 3.3 in the front end, it will read as follows with the additional red wording

“[[The Company is purchasing the Property from the Seller] [The shares in the Company that owns the Property are being purchased from the Seller] as part of completion of the Transaction. That being the case:

The [Company's] [purchaser's] knowledge of the Property and related documents and information has been acquired through:”

- The second point is in Schedule 4 para 5 on repair which will include the additional wording in red

### Repair

1.1 The tenant is responsible for keeping the whole of the Premises and (to the extent they form part of the Premises) fittings and plant and equipment in good repair and condition. **Where the Disclosures to paragraph 9 of Schedule 4 indicate that the landlord is required to insure the Property, damage by insured risks is excluded from the tenant's responsibility for repair except to the extent that payment of any insurance monies is refused because of the act or default of the tenant, or any person under the tenant's control or with the tenant's authority, unless the tenant has paid the landlord a sum equal to the amount which the insurer has refused to pay.**

1.2 The tenant is responsible for the decoration of the interior and exterior of the Premises.

The Committee will work with the CLLS's publicity team to promote this and also highlight it through LinkedIn.

**Action: New edition of report on title to be launched in January 2025 and the Committee will work with the CLLS's publicity team to promote this and also highlight it through LinkedIn.**

## 7 City Law School

The Dean of the City Law School, Richard Ashcroft, wants to develop a training course that better reflects the work that CLLS member firms undertake. The main CLLS Board has encouraged a proposal whereby one of Richard's senior colleagues, James Catchpole, observes the work that CLLS committees do. The Committee were happy for James to sit in its meetings. It was suggested that the Committee might provide better assistance to City Law School by reviewing their course synopsis and providing feedback. The Committee Chair will suggest to Colin Passmore that this is mentioned to them if he thinks it is appropriate to do so.

## 8 Registration gap clauses

The clauses are now agreed and were provided to the Committee. This will be launched in December and publicised on the CLLS and other stakeholder websites. There will also be an Estates Gazette article. A number of stakeholder bodies including the BPF have concerns about the impact of Land Registry delays including risks for funds.

**Action: The Committee will work with the CLLS's publicity team to promote the clauses and also highlight them through LinkedIn.**

## 9 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 in 2025 and the consultation has just concluded and responses will be considered. The intention of the working group is for the standard to refer to the Committee's service charge provisions (which were produced over 10 years ago for an earlier "service charge code"). Here are links to the Committee's service charge provisions. There are separate ones for a shopping centre and an office building. The Committee worked on them with Peter Forrester, who leads the working group for the service charge professional standard.

[CLLS Service Charge Provisions office 2013 \(doc\)](#)

[CLLS Service Charge Provisions shopping centre 2013 \(doc\)](#)

Comments on the provisions have been provided by members of the working group, which were sent to the Committee.

Mention was made at the last Committee meeting of referring to the MCL service charge provisions rather than the CLLS provisions. It will probably be best to refer both to the MCL (as a leading industry standard) and also to the CLLS's own provisions to which the Chair of the working group has contributed. The Committee will establish a sub-group to review the CLLS provisions and/or the MCL provisions. It makes sense for that review to take place when there is a clearer picture as to the form of the new standard in the light of the consultation responses. David Hawkins, Matt Hooton, John Nevin and Katherine Lang have kindly volunteered to take part in the sub-group and other volunteers are sought. Please let the Chair or Secretary know if you would like to join it.

It will be made clear in the CLLS 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.

**Action: David Hawkins, Matt Hooton, John Nevin and Katherine Lang have kindly volunteered to take part in the sub-group on the service charge provisions and other volunteers are sought. It makes sense for that review to take place when there is a clearer picture as to the form of the new RICS standard in the light of the consultation responses.**

## 10 LinkedIn pages for the specialist committees

A LinkedIn page for the Committee can be used as another way of publicising the business of the Committee (consideration should be given to the page for the Commercial Committee as an example). This would not be used for minutes, but rather for other documents produced by the Committee, such as the launch of the report on title or the registration gap drafting.

## 11 Renters' Rights Bill

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

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

The Committee expressed concern about the possible impact of the proposed reforms on the property industry including the outlawing of section 21 no-fault evictions and the increased use of the Tribunal for rent increase challenges.

Mention was also made of the special provision for certain student accommodation and service occupiers.

The Bill is at Report stage in the House of Commons. It will then move to Committee stage and, if opportunities arise, the Committee will consider making submissions.

## 12 Terrorism (Protection of Premises) Bill<sup>1</sup>

This is at Report stage in the Commons [Terrorism \(Protection of Premises\) Bill - Parliamentary Bills - UK Parliament](#)

This Bill, also known as Martyn's Law, was introduced to Parliament on 12 September 2024. The Bill will ensure that certain premises and events are better prepared and ready to respond to a terrorist attack. There is a tiered approach, linked to the activity that takes place at qualifying premises or events, and the number of people that it is reasonable to expect may be present at the same time.

The Bill will require those responsible for certain premises and events to take steps to mitigate the impact of a terrorist attack and reduce harm in the event of one occurring.

Those responsible for certain larger premises and events must also take additional steps to reduce vulnerability to terrorist attacks.

The Bill will have a significant impact on particular properties and the Committee will continue to keep this under consideration.

**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** – will be considered at a subsequent meeting.

## 16 AOB

- Law Commission's consultation on Part 2 of the Landlord and Tenant Act 1954 (consultation is open until 19 February 2025) - [Business Tenancies: the right to renew - Law Commission](#). The Committee intends to respond and Nick Barnes, John Nevin, Katherine Lang and the Secretary would like to be involved. There was a brief discussion and points included that one option could be a simple statement in the lease that it was contracted in; also the current contracting out process is vulnerable to mistakes; and one member suggested that tenancies to be excluded from protection under a revised Landlord and Tenant Act 1954 could include those that could not be discovered such as periodic tenancies (which currently might have protection). **Action: The Committee intends to respond and Nick Barnes, John Nevin, Katherine Lang and the Secretary would like to be involved. Other volunteers are requested.**

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<sup>1</sup> This section contains public sector information licensed under the Open Government Licence v3.0. [Open Government Licence](#)

- High street rental auctions – come into force on 2 December 2024
- Should a firm ask for a confirmation / make an assumption when dealing with other law firms on transactions where money is moving, that they have done relevant CDD on their client / the counterparty? This would be a bit of a departure from prior practice, where we would just assume that the other firm had complied with CDD obligations – Matt Hooton **To be discussed at a future Committee meeting**
- There is an SRA consultation on client account monies (published last Friday), which may encourage the use of escrow agents to hold monies. Most of the US firms will not allow monies to go through their client account and UK firms are coming under pressure to follow suit. Should there be a model form of escrow agreement? – Franc Pena **To be discussed at a future Committee meeting**

**17 Length of meeting: 1.5 hours.**

**18 Dates for 2025 meetings, at 12.30pm and hybrid in person/virtual – 15 January, 19 March, 21 May, 16 July, 17 September and 19 November.**