

**CITY OF LONDON LAW SOCIETY DATA LAW COMMITTEE**  
**(THE “COMMITTEE”)**

<b>Meeting Date</b>	15 September 2022, 9.30am
<b>Location</b>	Virtual Meeting Room
<b>Present</b>	Cynthia O'Donoghue, Reed Smith LLP Giles Pratt, Freshfields Bruckhaus Deringer LLP Rhiannon Webster, Ashurst LLP Kate Brimsted, Bryan Cave Leighton Paisner LLP Luke Dixon, Freeths LLP Rebecca Cousin, (Slaughter and May) Miriam Everett, Herbert Smith Freehills LLP Kevin Hart, CLLS Eve-Christie Vermynck (Skadden, Arps, Slate, Meagher & Flom LLP) Sam De Silva (CMS Cameron McKenna Nabarro Olswang LLP) Barry Fishley (Weil, Gotshal & Manges LLP)  Guest minute taker: Wendy Brobbey (CMS)

**1. Apologies**

Jon Bartley (RPC) and Jonathan McDonald, (Charles Russell Speechly) sent apologies ahead of the meeting.

**2. Welcome**

In Jon's absence (and the absence of the Vice Chair who only returned from sabbatical on the day), at the prior request of Jon, Sam assumed the role of the Chair for this meeting.

The Chair welcomed all those in attendance at the meeting.

**3. Previous minutes**

It was reported that draft minutes from the previous meeting held on 9 February 2022 had been circulated. The approved minutes will be anonymised and uploaded to the CLLS website.

**4. CLLS Chairs meeting**

**4.1 *New committees***

It was reported that two new committees have been formed: an Environment, Social and Governance (“ESG”) committee and an Arbitration committee.

Michael Davison (Hogan Lovells) will be the Chair of the Arbitration committee. The CLLS Chair is due to appoint the chair for the Environment, Social and Governance (“ESG”) committee. Advertisements on LinkedIn and law firm portals have been uploaded for the role. It was noted that Committee members should inform Kevin Hart if they have colleagues to recommend for the roles, by email.

It was reported that the ESG committee will be more flexible in terms of the seniority of its members. It was noted that committee members are usually lawyers at partner level, however it is recognised that credible ESG subject matter specialists may be lawyers at a more junior level.

It was reported that the CLLS is considering its communications strategy. It was reported that the CLLS has set up showcase pages on LinkedIn for the Commercial Law committee and

Training committee to encourage firm interaction with thought leadership pieces and opinions etc. These pages will be trialled as a pilot to see whether they are being engaged with. If they are successful, the CLLS may consider setting up pages for the other committees.

It was reported that the CLLS Chair, Ed Sparrow (Ashurst) will be stepping down at the end of the year 2022. There will be a process of recruiting a new Chair.

## **5. Information Commissioner event**

*Update event with the Information Commissioner*

It was reported that an event with John Edwards (UK Information Commissioner) will be hosted by CMS at their London office on the 18<sup>th</sup> of January 2023, 4pm – 6pm, with a capacity of 200 people. At this event, John Edwards will be giving a key-note speech, followed by Jon Bartley having a fire side chat with the Information Commissioner. The formal part of the evening will end with a Law Society representative moderating a Q&A from the audience. It has been reported that there will be talks with the Law Society regarding getting in-house counsels invited or whether it should be private practice lawyers. The Committee believe that in-house counsels are invited as they are entitled to be members.

## **6. Data Protection Information Bill**

It was a view of a committee member as we now have a new government with our Prime Minister Liz Truss, there might be changes to the Bill. It was noted that the changes might not be that different, but if it is the case, it will make things difficult with the European Union.

## **7. EU/US transfer framework**

Regarding the proposal for replacement for Privacy Shield, announced in March, it was reported that a two-tier review process is being considered, including a data protection review court for data subjects and an improved remedial process for EU complainants in relation to use of their data in the US. The Committee await further details of this.

## **8. AOB**

### **8.1 *Case law, enforcement and recent trends***

The Committee discussed that recent cases of ICO enforcement have been focusing on texting and email, however no new focus points have emerged as a result of these cases.

It has been reported that there is a new guidance from the ICO which was presented to the G7, the Anonymisation, Pseudonymisation and PETS – Chapter 3. There is an acknowledgement that the guidance is very technical. The Committee will wait for further information.

### **8.2 *DSARs and the privilege exemption***

The Committee discussed that some claimants were trying to inconvenience law firms by submitting DSARs and they relied on the exemption that client information was privileged. It was noted that the SRA guidance suggests that an entire client file would be subject to confidentiality and privilege.

The Committee discussed whether it was common practice to share cyber forensic reports with the ICO. It was reported that this is commonly done but not always, and any report that is shared is well-curated and focused on facts narrowly relating to the incident. It was reported that the ICO is actively requesting organisations to consider whether information is privileged.

### **8.3 *Data Transfer Impact Assessments (“DTIA”) and the International Data Transfer Agreement (“IDTA”)***

The Committee reported fewer instructions in relation to DTIA projects following recent guidance. It was reported that the Committee has most seen US data importers using them to evidence to the regulator that the analysis has been carried out.

It was reported that the Data Protection Authority in Austria is taking an absolutist approach to DTIAs, with a recent decision on Google Analytics expressly considering and then discounting proportionality. It was considered in that case that chapter 5 should not be interpreted as a risk-based approach.

The Committee discussed attending the European Congress in Brussels and possibly meeting up informally there.

#### 8.4 *Upcoming meetings*

The next Committee meeting would be held on 23<sup>rd</sup> November 2022, virtual but possibly face to face. To be confirmed in due course.