

THE CITY OF LONDON LAW SOCIETY
INSOLVENCY LAW COMMITTEE
(the **Committee**)

Minutes of a meeting of the Committee held at Sidley Austin LLP, 25 Basinghall Street,
London EC2V 5HA on Thursday 20 March 2014 at 12.30 p.m.

Present: Hamish Anderson, Norton Rose Fulbright LLP (Chair)
Jennifer Marshall, Allen & Overy LLP
Ben Klinger, Sidley Austin LLP
Adrian Cohen, Clifford Chance LLP
Giles Boothman, Ashurst LLP
Catherine Balmond, Freshfields Bruckhaus Deringer LLP
Byron Nurse, Dentons UKMEA LLP
Ian Johnson, Slaughter and May
Dominic McCahill, Skadden Arps Slate Meagher & Flom (UK) LLP
Liz Osborne, Bingham McCutchen LLP
Joe Bannister, Hogan Lovells International LLP

In attendance: Rebecca Oliver, Norton Rose Fulbright LLP

Apologies: Stuart Frith, Stephenson Harwood LLP
Ben Larkin, Berwin Leighton Paisner LLP
Mike Woollard, King & Wood Mallesons SJ Berwin LLP
James Roome, Bingham McCutchen LLP
Peter Wiltshire, CMS Cameron McKenna LLP
Tony Bugg, Linklaters LLP

1 Opening of meeting

The Chairman opened the meeting and welcomed new committee members Ben Klinger, Joe Bannister and Dominic McCahill.

The Committee noted that Stephen Gale, a serving member of the Committee and a former Deputy Chairman, had sadly died since its last meeting. The Committee recorded its appreciation of his contribution over the past years and its condolences to his family and colleagues.

2 Minutes of the meeting held on 16 January 2014

The draft minutes of the meeting held on 16 January 2014 were approved.

3 Current consultations

The Chairman noted the following ongoing consultations:

Terms of reference	Discussion	Deadline
A. Modernisation of Insolvency Rules – Insolvency Service consultation published 26 September 2013	The Committee noted the response submitted and thanked the working party below chaired by Catherine Balmond. Catherine Balmond Katharina Crinson Sarah Lawson	24 January 2013

	Morag Murray Rebecca Oliver Helen Pattinson Gabrielle Ruiz Paul Sidle Megan Sparber	
B. Insolvency Service consultation on strengthening the regulatory framework and fee structure for Insolvency Practitioners	Stuart Frith, Ian Johnson and Byron Nurse offered to act as working party to review the consultation and consider a response on behalf of the Committee.	28 March 2014
C. HMT consultation: Bail-in powers implementation (including draft secondary legislation)	Jennifer Marshall, Joe Bannister, Dominic McCahill and Ian Johnson offered to act as working party to review the consultation and consider a response on behalf of the Committee.	7 May 2014

4 European Commission's proposal to modernise Europe's rules on cross-border insolvency: Memo 5.2.14

The Chairman updated the Committee on the latest Insolvency Service stakeholder group discussions.

5 European Commission Recommendation of 12.3.14 on a new approach to business failure and insolvency

The Committee noted that the Insolvency Service are likely to issue a consultation on the Recommendation and Jennifer Marshall, Giles Boothman and Catherine Balmond offered to act as working party to consider that consultation in due course.

6 CLLS Finance Law Committee secured transaction reform discussion paper: fixed and floating charges on insolvency

The contents of the discussion paper were noted by the Committee and it was recognised that differentiating between fixed and floating charges creates issues for finance lawyers in structuring and documenting security. The Committee considered that, from an insolvency perspective, the statutory discrimination against floating charges largely reflected policy considerations which did not interfere with the operation of insolvency proceedings as such but that it was important that floating charge assets were available to be used by administrators.

7 Cape Town Convention

The Chairman briefed the Committee on the proposals to introduce rules akin to the US on powers of enforcement in relation to aircraft of insolvent airlines following the intended ratification by the UK of the Cape Town Convention. Adrian Cohen and Dominic McCahill will attend the Insolvency Service stakeholder meeting on Wednesday 26 March.

8 Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2014 (SI 2014/366) coming into force 1 April 2014

Noted by the Committee.

9 Deregulation Bill 2013-14: first reading in Parliament 23.1.14

Noted by the Committee.

10 The Industrial and Provident Societies and Credit Unions (Arrangements, Reconstructions and Administration) Order 2014 (SI 2014/229) due to come into force 6 April 2014

Noted by the Committee.

11 Some recent cases

The Committee noted the following recent cases:

Pillar Denton Ltd and others v Jervis and others [2014] EWCA Civ 180

Schmid v Hertel [2014] EUECJ C-328/12

12 Any other business

There was no other business to discuss.

13 Next meeting

Thursday 15 May 2014, to be hosted by Joe Bannister at Hogan Lovells International LLP at 12.30pm.

14 Close of business

There being no further business the meeting closed.