

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

Minutes of a meeting of the Committee held at Skadden, Arps, Slate, Meagher & Flom (UK) LLP,
40 Bank St, Canary Wharf, London E14 5DS on Thursday 17th May 2018 at 8.30am

Present: Jennifer Marshall, Allen & Overy LLP (Chair)
Dominic McCahill, Skadden Arps Slate Meagher & Flom (UK) LLP
Hamish Anderson, Norton Rose Fulbright LLP
Catherine Balmond, Freshfields Bruckhaus Deringer LLP
Gabrielle Ruiz, Clifford Chance LLP
Joe Bannister, Hogan Lovells International LLP
Jo Windsor, Linklaters LLP
Ian Johnson, Slaughter and May
Ross Miller, Simmons & Simmons LLP
Adrian Cohen, Clifford Chance LLP
Giles Boothman, Ashurst LLP
Peter Wilshire, CMS Cameron McKenna LLP
Kay Morley, Jones Day

Apologies: Ben Larkin, Jones Day
Stuart Frith, Stephenson Harwood LLP
James Roome, Akin Gump Strauss Hauer & Feld LLP
Byron Nurse, Dentons UKMEA LLP
Ben Klinger, Sidley Austin LLP

Present: Katharina Crinson, Freshfields Bruckhaus Deringer LLP
Rebecca Oliver, Norton Rose Fulbright LLP (secretary)
Kevin Hart, CLLS
Sam Roberts, Insolvency Service
Steven Chown, Insolvency Service
Simon Whiting, Insolvency Service

1 Opening of meeting

The meeting opened and Sam Roberts, Steven Chown and Simon Whiting of the Insolvency Service were thanked for joining the meeting to discuss the BEIS and Insolvency Service consultation on insolvency and corporate governance.

2 Minutes of the meeting held on 22nd March 2018

The draft minutes of the meeting held on 22nd March 2018 were approved.

3 Consultations

The Chair noted the following on-going consultations:

Terms of reference	Working party	Comments/Update
A. Insolvency Service review of the corporate insolvency framework: consultation on options for reform https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/525523/A_Review_of_the_Corporate_Insolvency_Framework.pdf	Jo Windsor Joe Bannister Ian Johnson Jennifer Marshall Katharina Crinson Inga West Catherine Balmond Giles Boothman	Summary of responses: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/555939/Summary_of_responses_-_final.pdf

Terms of reference	Working party	Comments/Update
<p>B. Proposed EU Directive on preventive restructuring frameworks Proposed directive: http://ec.europa.eu/information_society/newsroom/image/document/2016-48/proposal_40046.pdf</p> <p>Legislative observatory link: http://www.europarl.europa.eu/oeil-mobile/fiche-procedure/2016/0359(COD)</p>		
<p>C. BEIS and Insolvency Service consultation on insolvency and corporate governance</p> <p>https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/691857/Condoc_-_Insolvency_and_Corporate_Governance_FINAL_.pdf</p>	<p>Jo Windsor Jennifer Marshall Hamish Anderson Ian Johnson Dominic McCahill Catherine Balmond Inga West</p>	<p>Closing date 11 June 2018</p>
<p>D. Department for Transport call for evidence: Airline Insolvency Review</p> <p>https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/699932/airline-insolvency-review.pdf</p>	<p>No response submitted.</p>	<p>Closing date 11 May 2018</p>
<p>E. HMRC Discussion Document: Tax Abuse and Insolvency</p> <p>https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/698173/Tax_Abuse_and_Insolvency_A_Discussion_Document.pdf</p>	<p>No response will be submitted.</p>	<p>Closing date 20 June 2018</p>

4 BEIS and Insolvency Service consultation on insolvency and corporate governance

Members of the Committee discussed the various proposals made in this consultation with Sam Roberts, Steven Chown and Simon Whiting of the Insolvency Service and a useful discussion followed of the reasons behind the various proposals, and the possible alternatives which might be considered to address those issues consistent with enhancing the UK as a place to successfully restructure businesses in financial difficulty.

5 Brexit – implications for restructuring and insolvency

Hamish Anderson noted that he would be attending a meeting next week with Baroness Hayter, and minister Andrew Griffiths to discuss the maintenance of rights in the area of insolvency and restructuring.

6 The draft Business Contract Terms (Assignment of Receivables) Regulations 2018

It was noted that a revised version of the Regulations was expected following BEIS and stakeholder discussions.

7 New Practice Direction on Insolvency Proceedings 2018

<https://www.judiciary.gov.uk/wp-content/uploads/2018/04/pd-insolvency-proceedings-april-2018.pdf>

Noted by the Committee.

8 HM Treasury response to Goods Mortgages Bill consultation of September 2017

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/706513/Goods_Mortgages_Bills_Response_to_the_Consultation_pdf.pdf

It was noted that the Bill would not be proceeded with pending an FCA call for evidence on high cost credit for consumers.

9 Insolvency statistics – January to March 2018

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/703180/Insolvency_Statistics_Commentary- Q1_2018_v3.pdf

Noted by the Committee.

10 The Committee noted the following recent cases:

Burnden Group Holdings Ltd v Hunt [2018] EWHC 463 (Ch)

Davey v Money and another; Dunbar Assets Plc v Davey [2018] EWHC 766 (Ch)

11 Any other business

(i) Jennifer Marshall noted that Laurence Elliott has resigned from the Committee and that an advertisement for new members had been published. An application had been received from Kevin Pullen and the Committee agreed he should be invited to join.

(ii) Kevin Hart noted that the new CLLS Data Law Committee had been formed.

12 Next meeting

Thursday 20th September 2018, to be hosted by James Roome, Akin Gump Strauss Hauer & Feld LLP at a time to be confirmed.

13 Close of business

There being no further business the meeting closed.