

**MINUTES OF MEETING**  
**CITY OF LONDON LAW SOCIETY**  
**EMPLOYMENT LAW COMMITTEE**

**Baker & McKenzie, London and by videoconference**  
**on Wednesday 8 June 2022**  
**at 1.00 pm (meeting from 12.45)**

**Attendee List**

**In attendance:**

1.	John Evason, Chair	Baker & McKenzie
2.	Damian Babic, Minutes	Skadden Arps
3.	Sian Keall	Travers Smith
4.	Colin Leckey	Lewis Silkin
5.	Michael Leftley	Addleshaw Goddard

**In attendance virtually:**

1.	Matthew Rous	CLLS (The City of London Law Society)
2.	Rebecca Harding-Hill	BCLP

**Apologies:**

1.	Helena Derbyshire	Skadden Arps
2.	Nicholas Robertson	Keystone Law
3.	Elaine Aarons	Withers
4.	Jane Mann	Fox Williams
5.	Paul Griffin	Norton Rose Fullbright

1. Apologies were received from those noted as absent.
2. The minutes of the last meeting were approved.
3. Discussion of collective bargaining on pay in light of rising inflation

The Chair noted that as well as inflation, some industries were struggling with a tight labour market, and a number of unions have been arguing for “inflation-plus” wage rises. Given employers expect inflation to drop in the medium term, many are trying to offer non-consolidated pay awards for now.

ML noted that much of inflation was driven by supply side pressures, as opposed to demand – resulting in a complex picture of what is driving inflation globally.

SK commented that some employers were having issues with pay, particularly those with high vacancy rights. Given the strength of the labour market, unions may not be stepping in because employees are able to successfully demand higher wages without union representation.

The Committee noted that employer costs were spiraling particularly where new employers are paying out lost bonuses for new staff on top of expensive recruitment costs. (particularly in the financial services sector). Increasingly, the focus of employers is on retention of existing staff to avoid these costs.

4. The Committee considered two recent cases:

(a) *Mercer v Alternative Future Group Ltd and another (Secretary of State for Business, Energy and Industrial Strategy intervening) [2022] EWCA Civ 379*

The Chair noted that permission to appeal has been sought in this case. The Chair noted that the decision will have real implications for employers and unions when strike action is contemplated. Irrespective of the decision the chair noted that employers will have to be alive to trust and confidence issues if they withdraw discretionary benefits in respect of employees who take part in Industrial action. *Law By Design Ltd v Ali [2022] EWHC 426 (QB)*

ML noted that the interesting aspect of this case was the way costs were treated.

The Committee also noted that the case was unusual in that the employment restriction was upheld and not the shareholder restriction, although the Chair noted that this was not surprising given how each of these restrictions had been drafted.

5. Any other business

ML proposed that a future meeting might consider the implications of remote working long term for the workplace, including permanent homeworking (for example, health and safety issues, gender discrimination, costs of heating the home for lower paid workers, regulatory issues etc...)