

# Professional Development Division

## Commercial Property Training Consortium (CPTC)

### The Programme

# COMMERCIAL PROPERTY TRAINING CONSORTIUM

## INTRODUCTION

The University of Law delivers a unique structured training programme for commercial property lawyers. The programme provides progressive development of technical expertise and skills using case studies that cover the commercial realities of property transactions. Courses focus on practical exercises with a minimum of formal presentations and are led by tutors, formerly partners or senior associates with significant property practices.

It is recommended that the following courses are attended in the early years of undertaking commercial property work and/or where a refresher is needed, with the additional courses being selected to further enhance particular areas of expertise.

### Managing the Investment

A two-day course using case studies involving multi-let office and retail investment properties. Delegates act for landlord and tenant in considering the main legal, practical and commercial issues which can arise when managing an investment property.

Undertaking practical exercises delegates are reminded of the underlying statute and case law which it is crucial to know when advising a landlord on an application for consent under a lease.

Exercises involve deciding whether the landlord must give consent under the terms of the lease, how the landlord can refuse consent lawfully and whether the terms of documentation such as licences to assign, to underlet, change use and carry out alterations are appropriate.

Delegates also analyse and debate the provisions of rent deposits, AGAs and heads of terms.

Delegates consider the management issues relating to MEES and EPC requirements, the Electronic Communications Code, forfeiture, planning, surrender and regrant, guarantors, VAT, planning and rent concessions.

### Lease Negotiation

A two-day course with case studies involving multi-let office and retail investment properties. Delegates act for both landlord and tenant in considering the drafting and negotiation of key lease terms.

In the context of the retail investment property, delegates consider practical and legal points relating to heads of terms and the acceptability of tenant amendments to the insurance provisions in a lease. They negotiate the service charge provisions and also address issues on the user and alterations clauses including keep open covenants and competition. Rent review provisions are addressed in detail as are break options and early access issues.

In the context of the office property, considering the underlying law, delegates address the suitability of the repair covenant and, having prepared a presentation, suggest appropriate alienation provisions.

### **The Investment Transaction**

A two-day course using a case study involving the sale of a multi-let shopping centre. Delegates act for both buyer and seller in considering the main issues which could arise on an investment transaction.

At the outset delegates analyse the attractiveness of commercial property as an investment choice and the seller's solicitor role in facilitating liquidity by the preparation of the pre-contract package.

Delegates then undertake a detailed title investigation (unregistered and registered), decide on which searches and enquiries should be made on the facts and are reminded of the importance of preparing and reviewing replies to CPSEs.

Delegates analyse a tenancy schedule and ancillary information and give practical advice on issues raised (for example relating to rent deposits, arrears and absconding tenants). They deal with issues arising on drafting and negotiating the sale contract (for example deposits, insurance, management between exchange and completion, incumbrances and entire agreement clauses).

Delegates prepare a transfer, part of a Certificate on Title and a completion statement and also undertake an analysis of issues arising out of TOGCs.

### **Corporate Real Estate**

A one-day course that uses case studies dealing with a share sale and an assets sale.

The course begins with delegates undertaking an exercise to check their understanding of the key legal, commercial and practical differences between a share sale and an assets sale.

After a short interactive presentation on the legal and commercial nature of warranties and indemnities (using a share sale agreement to demonstrate drafting points), delegates then undertake a detailed exercise reviewing and amending property warranties. After a tutor-led exploration of the inter-relationship of warranties and disclosure, delegates undertake an exercise on negotiating disclosures.

Delegates then turn their attention to drafting the property provisions in an asset sale agreement and finally make a presentation on what practical solutions exist for the issues that a property lawyer is likely to be asked to address on a corporate transaction.

## **Commercial Property – Further Courses**

In addition to the core courses, The University of Law provides a programme of further training. These courses are also practical in focus, using case studies and exercises and are delivered by tutors with high level experience in practice.

Each course can be taken on its own or in conjunction with others, enabling people to pick and choose the courses that are most relevant to them.

### **Development - Basic Issues on Site Assembly**

This one-day course deals with the process of acquiring a development site.

Delegates first consider several factual scenarios and decide on appropriate development structures.

They then move on to work on a complex case study involving the acquisition of several parcels of land affected by various legal, commercial and practical issues.

Delegates will analyse the purpose and provisions of exclusivity agreements and option agreements and will consider title issues which involve dealing with the impact of easements, restrictive covenants and 1954 Act issues that may arise on a site assembly.

### **Development Finance**

In this one-day course, delegates consider a detailed development funding case study (including commenting on heads of terms) and then undertake exercises reviewing the key definitions of Development Costs, Development Account, Development Appraisal, Development Obligations and Letting Obligations.

Delegates will delve into the financial provisions within a development agreement, consider how the different clauses impact upon each other and learn to appreciate the key issues for both the developer and funder

Following a tutor presentation on the concept of yields and the impact that this has on the financial terms, delegates undertake a buy-out calculation.

### **Development – Agreements for Lease**

This one-day course examines the main provisions in a pre-let agreement for lease.

Following a tutor introduction to the key terms and concepts and the alternative routes by which the development works may be procured, delegates then review a draft Agreement for Lease and analyse provisions relating to timing, key dates, insurance, defects and developer obligations.

Delegates undertake practical exercises on the tensions between developer and tenant over the tenant being given early access, over the measurement of the premises and tenant variations, over defect liability and Collateral Warranties, Practical Completion, delay and remedies. In each of the exercises, delegates consider the issues from both developer and tenant perspective and work together to suggest practical compromises.

### **Development – Agreements for Lease conditional on planning**

This half-day course (aimed at around 3 years plus ppe) starts with an introduction on agreements for lease and the planning process as it affects the development of commercial property. In what contexts are AFLs conditional on planning generally found? Are there any alternative structures?

Delegates then focus on a case study involving the demolition of an existing pub in a suburban location with an extensive carpark and beer garden and replacement with dense development of a mixed use leisure and residential block. The practical exercises will include looking at the key elements of all conditions, reviewing the case study condition and considering the use of

onerous conditions in planning. Delegates will also undertake a negotiation exercise on the onerous conditions provisions in the case study.

In addition, the appeals, variation and termination provisions will be considered and there will be a closer look at termination and the significance of target dates, postponement of target dates, and longstop dates.

### **Development – Basic Environmental Issues**

This half-day course is designed to provide property lawyers with an introduction to the regulatory regime that applies in relation to environmental issues (contaminated land, water pollution, asbestos, biodiversity, habitats and wildlife) and the aspects of this regime that can impact on the drafting and negotiation of development documentation.

The course includes tutor presentations on identifying risk, the relevant regulatory requirements, how these may impact on property transactions and the inter-relationship between environmental requirements and the planning process.

Delegates undertake practical exercises designed to enable them to identify risk, undertake due diligence and consider the options available for structuring transactions to deal with allocating risk in relation to environmental liabilities, the requirements for the “sold with information” test and the impact of environmental insurance. Delegates deal with these issues in freehold and leasehold contexts.

### **Development – Basic Planning Issues**

This half-day course is designed to provide property lawyers with an introduction to the process of obtaining planning permission and the aspects of this process that can impact on the drafting and negotiation of development documentation.

The course includes tutor presentations on the planning process which identifies what a property lawyer needs to know and examines how to work effectively with planning specialist colleagues. The presentations cover the purpose of planning legislation, when planning permission is needed, full or outline permission, Local Authority consideration factors, appeals, s106 planning obligations and CIL.

Delegates build on the tutor presentations by undertaking practical exercises designed to enable them to draft and negotiate the key elements of an acquisition agreement subject to planning and to review and comment on the basic elements of a section 106 agreement. Delegates will be working with draft documentation and will deal with such issues as best/reasonable endeavours obligations, potentially onerous planning conditions, timing and realistic amendments to s106 agreements.

### **Overage – A Practical Guide**

A half-day course that provides a thorough grounding in the issues that arise when drafting and negotiating an overage provision. Underlying case law is referenced throughout.

The course begins with an overview of the meaning of overage and the main elements of a typical overage clause. Delegates then examine the possible triggers for payment, the ways of securing payment and the method of calculation, identifying throughout the possible pitfalls in the drafting and negotiation process.

Delegates undertake drafting exercises turning clients' instructions into workable coverage provisions.

### **Buying, Selling and Developing Mixed Use Properties: Residential Tenants' Rights**

For those lawyers and clients who are not used to dealing with residential and mixed use properties, the extensive rights enjoyed by residential tenants may come as a great shock.

This course, presented by the co-authors of the only book on mixed use development and residential tenants' rights, focusses on those rights, including rights of first refusal under the Landlord and Tenant Act 1987; rights of enfranchisement (houses) under the Leasehold Reform Act 1967; rights of collective enfranchisement (flats) under the Leasehold Reform, Housing and Urban Development Act 1993; rights to manage under the Commonhold and Leasehold Reform Act 2002; security of tenure rights of statutory tenants and others; and rights relating to service charges under the Landlord and Tenant Act 1985.

### **Property as an Investment Class**

This half-day course enables delegates to have an understanding of property investment from the client's perspective, to enable them to be more effective commercial advisers. It explains the more important terms surrounding property investment, introduces delegates to analysing and understanding yields and gearing and requires them to apply this learning in commenting on possible investment and development structures.

### **Banking for Property lawyers**

This is a full-day course aimed at property lawyers that aims to help them gain a greater understanding of property finance issues. It explains the types of property finance including investment, development and refinancing, an overview of a loan facility agreement, including LMA versions for investment and development as well as the loan facility clauses of most interest to property finance lawyers: property-related representations, undertakings and conditions precedent. It will also cover property related financial covenants, consideration of the principal terms of a guarantee and a debenture as well as enforcement of security in a property finance transaction including step-in rights.

### **Joint ventures – An introduction for Property Lawyers**

This half-day course is designed to provide property lawyers with an introduction to the different structures that can be used for a property-focussed joint venture.

There are tutor presentations on the different structures, including forms of partnership, joint venture companies, other kinds of vehicle and contractual joint ventures. These presentations examine the basic mechanics of each structure, the impact of each on land ownership and consider the advantages and disadvantages of each, including tax considerations.

Delegates then undertake practical exercises designed to enable them to consider the options available to implement a JV in a series of scenarios in a way that best addresses the requirements of the participants and the land interest involved.

### **1954 Act: the basic scheme, its implementation and operation (formerly Leases – Protecting rights)**

A one-day course that provides a thorough grounding in the statutory scheme for the protection of the occupancy of business tenants under the Landlord and Tenant Act 1954 Pt II. It uses a case study involving a multi-let office building that is ripe for redevelopment and,

through practical exercises, looks at the landlord's prospects of success of obtaining possession from protected tenants and also the likely terms of any renewals against the backdrop of the statutory scheme.

This course is suitable for a wide PQE range of non-contentious property lawyers as either a refresher or an introduction to the scheme and its operation. The course is also suitable for junior property litigators.

### **Insolvency for Property Lawyers**

This day-long course is designed primarily for transactional real estate lawyers. It provides a basic general grounding in the main types of corporate and individual insolvency procedure likely to be encountered in practice. It also provides a more detailed consideration of the legal and tactical considerations arising out of property-led tenant CVAs, the title and registration issues that can arise on dealing with Insolvency Practitioners, the impact that insolvency can have on property transactions that have already taken place and the ability of liquidators and trustees in bankruptcy to disclaim onerous property.

The course is delivered through group working centred on practical exercises interspersed with brief presentations. The emphasis throughout is on finding effective solutions to real-life issues.

### **Tenant Default and Insolvency (formerly Leases – Enforcing Obligations)**

A one-day course that: examines the landlord's remedies of forfeiture (including waiver and relief both for tenants and subtenants), CRAR and the action for payment or damages; provides a basic introduction to insolvency law and considers the impact of tenant insolvency on the landlord's position; and considers the law relating to dilapidations.

The course uses a case study involving a multi-let office building and, through practical exercises, looks at the landlord's prospects of success of obtaining possession and the recovery of outstanding liabilities from a range of defaulting tenants in a variety of different circumstances.

This course is suitable for a wide PQE range of non-contentious property lawyers as either a refresher or an introduction to the principles involved. The course is also suitable for junior property litigators.

### **Forfeiture, CRAR and dilapidations (formerly Landlord's rights and remedies)**

A half-day course that provides an overview of the landlord's remedies against defaulting tenants generally and, in particular, an in-depth consideration of forfeiture (including waiver and relief both for tenants and subtenants), CRAR and the law relating to dilapidations.

The course uses a case study involving a multi-let office building and, through practical exercises, looks at the landlord's prospects of success of obtaining possession and the recovery of outstanding liabilities.

This course is suitable for a wide PQE range of non-contentious property lawyers as either a refresher or an introduction to the principles involved. The course is also suitable for junior property litigators. Due to a degree of common material it is not, however, suitable for delegates who have attended 'Tenant Default and Insolvency' within the last 3 years.

### **Mortgages: introduction to rights and remedies (formerly Lender's rights and remedies)**

A half-day course that provides an introduction to the basic rights of the parties to a straightforward mortgage transaction and examines, in particular, priorities, rights of granting and accepting surrenders of leases and the mortgagee's rights to enforce his security.

The course uses a case study involving a single loan made to a prospective developer of an office building secured by way of fixed charge. Two forms of mortgage are considered: one, a short document, where the parties' rights and remedies are largely governed by the general law; the other, a fuller document that illustrates the ways in which those rights and remedies are generally modified in practice.

This course is suitable for a wide PQE range of non-contentious property lawyers as either a refresher or an introduction to the principles involved. It may also be of interest to junior banking lawyers, with limited experience of the underlying property aspects of secured lending, and to junior litigators starting to practice in this area

### **VAT for Property Lawyers**

This half-day course is written and delivered by a Real Estate tax lawyer and covers the basics of VAT before moving on to consider which property transactions are 'supplies' for VAT purposes as well as how the option to tax works (include the mechanics and best practice).

It also includes an explanation of TOGCs and what this means for VAT purposes as well as how to deal with tenant inducements. The capital goods scheme will be explained including how to respond to the standard CPSE enquiry.

This course is suitable for a wide PQE range of non-contentious property lawyers as either a refresher or an introduction to the principles involved.

### **SDLT for Property Lawyers**

This half-day course is written and delivered by a Real Estate tax lawyer and covers the general scope of SDLT and rates (focusing on higher rates), SDLT mechanics (forms, deadlines etc.) as well as the differences between SDLT for commercial and residential property.

It then primarily focuses on SDLT on residential property including what a 'dwelling' is for SDLT purposes, the conditions for the higher rates to apply, multiple dwellings relief (the proposed 1% surcharge and how it might impact, other reliefs, build to rent rules and PRS/forward funding with an explanation of how the Prudential stamp duty case applies and is interpreted. Finally, the anti-avoidance provisions will be discussed.

This course is suitable for a wide PQE range of non-contentious property lawyers as either a refresher or an introduction to the principles involved.