THIS MONTH:

CPD - don’t we just love it?
Be seen in the best light:  
**Lexcel Quality Standard**

**Should my firm apply for Lexcel accreditation?**

The Lexcel quality standard sends important messages to existing clients, potential clients and intermediaries about the value for money and quality of service from accredited firms.

Independent research conducted by Sir Stephen Lander, former independent Commissioner to The Law Society of England and Wales, indicates that:

- 81% of Lexcel accredited firms had benefited from improved client care and client satisfaction
- 78% of firms identified Lexcel as an important risk management tool that had led to a reduction in complaints
- 75% of firms identified Lexcel as a useful business improvement tool
- 71% of firms indicated that Lexcel accreditation is beneficial in providing consistently high levels of service

The Ridley Partnership clients in Northern Ireland express similar views about how Lexcel has enabled them to improve their business performance.

**Market Leaders for Lexcel, Risk Management, Practice Management and Training**

Our undoubted expertise in the implementation and support of quality programmes makes us market leaders in this field. We have over 300 law firm clients in Northern Ireland. The recent appointment of Pamela Baird, based in Northern Ireland, has enabled us to extend the breadth of support offered to our clients.

To arrange an informal discussion with Pamela about how your firm should:

- Implement Lexcel
- Discuss an interim or part-time practice management assignment
- Consider the implications of the introduction of legal reforms
- Prepare for the changes to the administration of legal aid

Please contact her on:

**Tel:** 0845 – 600 2729  
**E-Mail:** info@theridleypartnership.co.uk

The Ridley Partnership Ltd, PO Box 134, DARLINGTON  
Co Durham, DL1 9DG

Tel 0845 600 2729  Fax 0845 080 4542  
Email info@theridleypartnership.co.uk  Website www.theridleypartnership.co.uk
The timescale for the relocation of the Law Society to permit the redevelopment of Law Society House has now been finalised. It will take place during the Easter period.

We plan to move out of our premises on Victoria Street in the week commencing Monday 2 April and re-open for business at our new premises on Thursday 12 April 2007.

The library will be closed to members for this period.

Our new address will be:
40 Linenhall Street, Belfast BT2 8BA

Email contact details, telephone and fax numbers will remain unchanged. Obviously we hope that any disruption to members, and in particular to users of the library service, will be kept to a minimum. Fuller details on the schedule of the move, and the continuing availability of services will be contained in the next edition of The Writ.
Continuing the tale of CPD

Regular readers of “The Writ” may recall that in his most recent Annual Report entitled ACTION - Squaring the Circle, the Lay Observer, Alasdair MacLaughlin, had emphasised the importance of solicitors seeing themselves engaged in a process of continuous learning, a recommendation which the Society fully endorses.

In one sense the Lay Observer’s message is a familiar one. It has always been understood and implicit in being part of a learned profession that the acquisition of learning should be a career-long activity, not only as a matter of obligation but as part of the attraction of the job.

Since the beginning of 2005 continuing professional development has been compulsory for all solicitors on the Roll who hold a practising certificate, subject to limited exceptions. We are pleased to report that the vast majority of solicitors have already returned a completed CPD card to the Society for the year 2006. Anyone who has not already done so, should take action immediately.

Last year saw the provision by the Society of an increased range of CPD events for practitioners, made possible by the employment of a full time CPD Co-ordinator. In addition to recording and administering information taken from the returned CPD cards and dealing with queries, the role of the Co-ordinator is to organise and facilitate seminars, lectures and other courses and events suitable to meet the needs of practitioners.

In recent months, our CPD Co-ordinator, Susan Duffy, has been busy organising a programme for the year ahead. As the mistakes which commonly come to our attention through the complaints process are a particularly promising source of enlightenment, seminars on common errors in complaints and on complaints handling processes will form a key part of the Society’s CPD provision for 2007. In addition to courses on improving applications for probate, avoidance of claims, the importance of retainers and letters of engagement, the programme for March to May will also include courses on email, money laundering, collaborative law, youth conferencing and legal online products. Details of this training programme have recently been sent to all practitioners with their CPD record card for 2007.

Susan Duffy

The acquisition of learning should be a career-long activity, not only as a matter of obligation but as part of the attraction of the job.

To facilitate solicitors who would otherwise have to travel considerable distance, the Society will continue to hold events at different locations in Northern Ireland. In the next few months, the CPD Co-ordinator also hopes to develop contacts with local solicitors associations to facilitate locally based training and to get feedback on what topics solicitors would like to see covered. In addition to Society organised events, CPD is also provided by other academic, professional and commercial organisations. If solicitors have any doubt about the acceptability of any particular event, they should contact Susan Duffy at the Society.

It is also acceptable for solicitors to attend a CPD event organised and held in their own office or at the office of a colleague. Such an event may be delivered by a solicitor of that firm or by another professional. The criterion applied by the Society is that it must be a genuinely educational event. For example, if an IT expert gives a talk about the principles of case management software this is satisfactory. However, where a sales person attends an office merely to demonstrate the software in question with the possibility of making a sale, this is not acceptable. To avoid any uncertainty in connection with such in-house events, the organiser should keep a record of the event (date, time, place, topic delivered and by whom, with details of solicitors who attended) as the Society may ask for these details later. Each solicitor attending an in-house event should do likewise.

Many enquiries are made about the requirement to do 3 hours of “client care and practice management”. This is broadly interpreted under the CPD scheme – it recognises that solicitors are also involved in the real world of running a business for a variety of clients who require a broad range of skills. A good example of this is the constant impact of technology on a modern business. Any events related to this or to business expertise and skills in dealing with clients such as money-laundering compliance or complaints handling processes will also be acceptable.

Solicitors should try to complete their CPD requirements as early in the year as possible to avoid a last minute rush. As soon as all CPD hours have been completed, the record card should be signed and returned to the Society. Information about courses can be found in our bi-annual programme, The Writ and on the Society’s web site at www.lawsoc-ni.org. Courses organised by the Society are competitively priced and feedback indicates a high degree of satisfaction in terms of quality and value for money.

For any queries on CPD, please do not hesitate to contact Susan Duffy at the Society by telephone at 028 9023 1614 or by e-mail at susan.duffy@lawsoc-ni.org
CPD – frequently asked questions

For those of you who may have some queries about CPD, we have compiled a list of frequently asked questions, which should help you to achieve your CPD hours and complete your Record Card more easily.

1. When does the 2007 CPD year run from and to?

2. How much CPD do I have to do?
Solicitors to whom the Solicitors Training (Continuing Professional Development) Regulations 2004 apply, have to complete 15 hours of CPD in each practice year. This can be made up of private study and group study.

3. What are the different ways I can complete my CPD?
CPD can be made up of group study and private study. Group study means study in a group of 3 or more people, which lasts for a minimum of one hour. The study must be verifiable and it must make up 10 hours of the total 15 hours CPD. Of these 10 hours, 3 must be Client Care and Practice Management.

Private study means study undertaken by less than 3 people. It is intended to make the gaining of CPD hours easier and more flexible. A maximum of 5 hours private study can be used as CPD in each practice year. Private study can include the reading of relevant books and periodicals, the time taken to read material that is received before or during a training course, audio-visual courses and correspondence courses.

4. I am involved in tutoring/lecturing. Can I use this as CPD?
Yes. Solicitors involved in tutoring, lecturing or other training delivery may count the actual presentation time as CPD. However, if the training is repeated, the repeat time cannot be counted. Solicitors who deliver training can claim up to a maximum of 4 hours private study for the preparation of the training.

5. I write books/articles that are published. Does this count towards my CPD?
Yes. A solicitor who writes books/articles for publication can claim this as part of their private study.

6. Does the CPD scheme recognise any specific training courses as satisfying all CPD requirements in any particular year?
Yes. Three training courses, which are provided and administered by the Society, have now been given recognition. These are Mediation, Advanced Advocacy (and the advocacy refresher course) and Children Order Panel Accreditation. A solicitor, who successfully completes one or more of these courses, will have fully satisfied the CPD requirements for that particular practice year.

7. Do I have to send evidence of the CPD courses I have attended to the Society?
No. Due to the large number of CPD Record Cards the Society receives, it is important that solicitors do not send supplementary CPD information with their Record Cards. Solicitors should however keep records of all CPD activity in case they are required to produce this as evidence to the Society at a later stage. Evidence of CPD activity should be kept for one full year after the end of the practice year in question.

8. I completed more than 15 hours CPD last year. Can I carry these extra hours over and claim them this year?
No. It is not permitted to carry forward extra hours from a previous year. In the same way, solicitors are not permitted to ‘make up’ deficit hours in the following CPD year. 15 hours of CPD must be completed each practice year.

9. Does the Society keep records of previous years’ compliance and non-compliance?
Yes. The Society checks each record card to ensure compliance, and enters the information into a database. This allows the Society to easily check through previous years’ records to monitor compliance and non-compliance, and to see if disciplinary action is necessary in certain cases.

10. Do part-time solicitors have to undertake CPD?
Part time solicitors who work more than 200 hours in a year must complete 7.5 hours CPD. The 7.5 hours should consist of at least 5 hours group study of which 1.5 hours must be devoted to Client Care and Practice Management. A maximum of 2.5 hours of private study can make up the total to 7.5 hours. Solicitors working 200 hours or less in any year are totally exempt from CPD requirements for that year. However they must still return a record card using the section on Page 4 to give details of the exemption.

11. I have misplaced my CPD Record Card. What do I do?
A replacement CPD Record Card can be obtained by contacting Susan Duffy, CPD Co-ordinator at the Society. There will be a £10 administration charge for a replacement booklet.

If your question has not been answered, please contact Susan Duffy, CPD Co-ordinator at the Law Society on 028 90231641 or via e-mail at susan.duffy@lawsoc-ni.org
Jennifer Shelvin (1959 - 2006) - A tribute

Jennifer Shelvin ("Jenny" to many) died at home on Thursday, 26th October 2006 following a five year battle with breast cancer.

Jennifer was born in November 1959 in Newtownards where she attended the local primary school and then Regent House School. She studied Law at Queen’s University Belfast, graduating in 1982.

Jennifer was an apprentice in the firm of Carson & Gilbert and for a number of years she was a litigation solicitor in the firm of John McKee & Son. During this time Jennifer got to know many members of both branches of the legal profession, and she is remembered with affection by many colleagues at the Bar for whom a trip to the County Court with Jennifer was something to look forward to.

Jennifer left private practice in 1992 and became an Assistant Secretary of the Law Society of Northern Ireland in charge of education, where she remained in post until her death. On a personal level, her colleagues in the Society remember her wit, sparkling sense of humour and ready laugh, together with her incredibly wise counsel. She was a steadfast friend and a delight to work with. The loss to the Society caused by Jennifer’s untimely death is immense.

Jennifer had much to offer the legal profession on many levels. In her professional life Jennifer was a person of the utmost integrity and she commanded the respect and affection of everyone she worked with. In her role as Education Secretary her knowledge of the appropriate Regulations and her perceptiveness of the potential long-term consequences of various courses of action ensured that the Society’s policy on education and training was appropriate and consistent.

For many solicitors, their first contact with the Society will have been through Jennifer. In her role as Apprentice Liaison Officer for the Law Society she worked closely with the School of Law at Queen’s University and with the Institute of Professional Legal Studies. Each year she attended the Institute to welcome the new intake of solicitor trainees and assure them of her help if ever it was required. Anne Fenton, Director of the Institute, recalls:

"Over the years, Jennifer helped many trainees who had real difficulties in their offices. Without Jennifer’s help, I know that some of these trainees would have given up their training. It is therefore no exaggeration to say that there are members of the profession who would not be qualified if it were not for Jennifer’s assistance. Having said that, Jennifer had a sound understanding of practice and she could firmly but diplomatically enlighten a trainee if she felt that their expectations were unrealistic."

Those who came into contact with Jennifer will recall her helpful and courteous manner. Attracta Wilson, Chair of the Education Committee and Past President of the Law Society, says:

"Jennifer never looked at an application for admission to the Society or any request for guidance without firstly looking at the person behind the paperwork. She was conscious of people’s aspirations and expectations and was determined to give of her best on their behalf. When disappointing news had to be given as it sometimes did, she gave it with sensitivity. She took immense pleasure in notifying success."

"Jennifer was charged during 2000 with the task of devising and preparing a scheme of Continuing Professional Development for..."
the profession. She worked tirelessly on the project and was committed to coming up with a scheme that was effective but not burdensome, offered quality and relevance but not at the expense of affordability. She succeeded in her endeavours and eased the scheme into operation guiding the profession through its initial years. She had the unenviable task of monitoring compliance in the early years and did so with a common sense approach which was firm but fair.”

Through her work with the Law Society, Jennifer made many new friends both young and old not only in Northern Ireland but throughout the British Isles and indeed further afield. She was a great ambassador for the Society, mainly through the annual Joint Legal Education Forums held by the Education Departments of the Law Societies of these islands. Liz Campbell, the Director of Education and Training at the Law Society of Scotland, fondly remembers Jennifer at these Forums:

“From our first Forum meeting onwards, Jennifer made an impression on me with her enthusiasm, energy and humour. She always had the ability to make a dull business meeting more interesting. She always struck me as somebody who would not let life’s opportunities pass by.”

Jennifer will always be remembered for her love of the outdoors, and of all manner of active pursuits and energetic activity that she succeeded in getting others to join her in. Anne Fenton recalls:

“One of my most enduring and happiest memories of Jennifer is of her at one of the Joint Forums in Kerry, where three of us had decided to take the hotel bikes for a spin. It soon became apparent that Jennifer was the more experienced cyclist. It was with great amusement that she tried to explain to Attracta Wilson and myself that we really should not wear our cycle helmets back to front, as we clearly intended to, because, apart from the safety implications, it rather spoiled the sartorial elegance of our ensembles. I count myself very fortunate to have known Jennifer as a friend and, like her many friends, I miss her greatly.”

Liz Campbell also remembers:

“Jennifer once told me how important it was for her to holiday near the sea. In light of this, and of the enthusiasm for life in her that must have been apparent to everyone she met, it is appropriate that one of the last times I saw her was as we shivered together on an early morning swim in the sea at the end of a Joint Forum event.”

Jennifer was first and foremost a wife, a mother, a sister and a daughter. Jennifer met her husband, Kevin, while studying at Queen’s University and they were married in December 1985. Their first child, Conor, was born in 1991 followed by Sophie in 1994. She delighted in Conor and Sophie’s achievements both in swimming and musically and spoke of them with immense pride. She enjoyed the pleasure and laughter they brought to her life on a daily basis and recalled stories of family life leaving no-one in any doubt where her ultimate loyalties lay.

Jennifer was diagnosed with breast cancer in October 2001. From the outset Jennifer knew that the prognosis was not good; but with the help of Seamus McAleer and his colleagues at Belfast City Hospital and Foster Green Hospital she fought the disease with bravery, grace and determination. As was typical of Jennifer, she displayed great dignity and there was never a hint of self pity. The disease went into remission and in 2003 Jennifer felt well enough to go on a family skiing holiday in France. Other happy times followed but the period of remission did not last. From the spring of 2006 Jennifer’s condition deteriorated and she eventually resolved to have no further treatment. These were difficult months for everyone who was close to Jennifer.

But this is not how we remember Jennifer. We remember her tall, statuesque appearance and her stunning red hair. We remember her in all her vitality, with a deep humanity and a passion for life. We remember the happy times. In words attributed to C S Lewis and which seem so apt when remembering Jennifer, “the pain now is part of the happiness then”.

As a Society and a profession we extend to all her family the sincerest of condolences in the knowledge that our loss is nothing compared to theirs.
News in Brief

**HOLIDAY ENTITLEMENT FOR NI WORKERS**

Proposals have been announced to increase workers’ minimum annual statutory holiday entitlement from 20 to 30 days.

Employers will no longer be able to force staff to take Northern Ireland’s 10 bank holidays as part of their statutory leave.

Changes to paid leave will be phased in over the next two years, with the minimum statutory annual leave entitlement increased from 20 to 24 days on 1 October 2007 and from 24 to 30 days in 1 October 2008. This will bring NI workers’ annual entitlement closer to that of workers in other EU countries.

Details of the initial consultation process resulting in these changes can be found on the consultation zone on the Department for Employment and Learning’s website at www.delni.gov.uk

**NEW CROWN SOLICITOR**

Following an open competition, James Conn has been appointed Crown Solicitor for Northern Ireland by the Attorney General with effect from 19 February 2007. The former Crown Solicitor, Oswyn Paulin, has been appointed as Departmental Solicitor and Head of the Government Legal Service.

**INCREASE IN HOUSING EXECUTIVE RENTS**

Housing Executive rents will be pegged to inflation for the 2007/08 financial year. They will be increased with effect from 2 April 2007 by 3.6% based on the Retail Price Index at September 2006. The increase will work out at £1.64 per week on average. Tenants in receipt of Housing Benefit will be exempt from paying.

The average Housing Executive weekly rent is currently £47.37, excluding rates.

**STRATEGIC REVIEW OF PARADING**

The Terms of Reference for a strategic review of parading have been published by the NIO. The review will examine the social and economic impact of parading on Northern Ireland as well as society’s response to it.

A Review Body will be established to take forward the review. Details of the body’s membership, structure and approach will be announced later in the year. The full Terms of Reference can be accessed at www.nio.gov.uk

**ELECTION LOOPHOLE CLOSED**

Legislation which allows candidates aged 18 and over to stand for election in Northern Ireland and take their seats, if successful, has been brought into force earlier than originally planned.

Previous legislation which disqualified any person under the age of 21 from standing for election to Parliament has been replaced by s. 17 of the Electoral Administration Act 2006. This legislation, commenced for England, Wales and Scotland on 1 January 2007, had originally been intended not to commence in Northern Ireland until later in 2007 as part of the process of rolling out the other provisions of the Act which will apply here. A Commencement Order has been made to bring this particular section into operation in time for the March elections to the Assembly.

**CRUMLIN ROAD GAOL**

The façade of Crumlin Road Gaol is to be restored to its original 1845 glory. The Department for Social Development has announced an investment of £1m as part of a major programme of repair and restoration to the Gaol.

This includes a programme of work which will transform the facade of the Gaol. The security walls and fencing that have obscured the frontage of the Gaol for a number of decades will be removed and the railings and main gates repaired and restored. It is expected that work will be completed by the end of June this year.

**ROGUE SALESMEN**

Local banks will alert the Trading Standards Service (TSS) or the police if they think large sums of cash are withdrawn by the elderly to pay rogue salesmen.

The TSS has signed a Code of Practice with the Northern Ireland Bankers’ Association. The Code, bank staff will alert the police or Trading Standards Officers if large amounts of cash are being withdrawn by an elderly and/or vulnerable person who they suspect is in danger of becoming a victim of rogue doorstep sales or doorstep crime.

When elderly and vulnerable customers suddenly request to withdraw a large amount of cash, a member of the bank staff will discreetly try to determine if the cash being requested is to pay rogue salesmen. Consent will then be sought from the customer to inform the police or trading standards.

**LAW LORD APPOINTED**

Following the retirement of Lord Nicholls, Lord Justice David Neuberger, who was appointed to the English Court of Appeal in 2004 has been appointed to the House of Lords. At 58 years of age he is the youngest Law Lord. He will be known as Lord Neuberger of Abbotsbury.
Let the market specialists represent you.

**Matrimonial Solicitor**

Our client, a South East Belfast law firm is seeking a NQ Matrimonial Solicitor. The successful applicant will handle a busy, interesting caseload. To be considered for the role, you will have the relevant experience gained in a recognised firm or team. You will possess strong academic qualifications, be a good communicator both orally and in writing and be able to demonstrate initiative and pro-activity. Ref: JO292930

**Litigation Solicitor**

An established Belfast practice has a vacancy for an experienced General Litigator. Candidates must be ambitious and proactive, with good client care skills and capable of working alone and as part of the team. Excellent working environment available, spacious and newly refurbished. Ref: JO292863

**General Practice Solicitor**

A well known and established General Practice based in Co. Down is seeking a Solicitor to join their team. You will be a 1.5 years+ PQE with experience in conveyancing, litigation and family matters. You will have excellent communication skills and be highly organised. Ref: JO293068

**Construction Solicitor**

Our client, one of Northern Ireland’s leading law firms, is actively looking to recruit a Construction Solicitor to join their busy and successful team. The successful candidate will be able to demonstrate good quality construction experience and also have experience of drafting building contracts, appointments and warranties. This is a fast paced company with plenty of opportunity for career progression. Ref: JO29659

**Insolvency Solicitor**

Due to expansion, our client based in Belfast city centre is seeking an Insolvency Solicitor. The successful candidate will have relative experience in a leading professional organisation, have excellent communication skills and be highly organised. Ref: JO292866

For more details on these and other interesting opportunities contact Fionnuala or Katherine on 028 9032 3333 or e-mail legal@blueprintappointments.com
Proposed merger of ARA and SOCA

A recent written Ministerial Statement issued by the Parliamentary Under-Secretary of State for the Home Department has advised that the Government will be bringing forward proposals to merge the Assets Recovery Agency (ARA) with the Serious Organised Crime Agency (SOCA) and to extend to prosecutors the power to launch civil recovery action under the Proceeds of Crime Act 2002.

The Statement announced that:

“ARAs Centre of Excellence, which trains and accredits Financial Investigators, will be moved to the new National Policing Improvement Agency.

“Extending the power to launch civil recovery proceedings to prosecutors will enable us to broaden the range of cases where these powers are used and help us take performance to the next level. The power to launch civil recovery proceedings will be extended to the three main prosecutors in England and Wales; the Crown Prosecution Service (CPS), the Revenue and Customs Prosecutions Office (RCCPO) and the Serious Fraud Office (SFO). It will also be extended to the Public Prosecution Service in Northern Ireland.

Subject to the passing of the necessary legislation, the merger provisions are likely to come into force from April 2008. Both ARA and SOCA are committed to maintaining their efforts in the recovery of criminal assets during the transition.”

In a subsequent statement, Paul Goggins, Security Minister at the NIO, said: “I have asked for and been given assurances from the Home Office that there will be no diminution in this type of work in Northern Ireland following the announcement of the proposed merger of the Agency with the Serious and Organised Crime Agency (SOC). That is good news for us and bad news for organised criminals in Northern Ireland.”

SOCA hotline to monitor confidentiality breaches

The Serious Organised Crime Agency (SOCA) has launched a special hotline for solicitors and other professionals who are concerned that the confidentiality of their money laundering reports may have been breached.

The hotline will enable lawyers to report confidentiality breaches by law enforcement agencies and will be used by SOCA as a measure of the number of breaches that are taking place.

The telephone line is the latest in a series of developments designed to protect those who make suspicious activity reports (SARs), which has been lobbied for by the Law Societies and other groups.

The SOCA hotline number is 0800 2346657.

Belgian Bar loss

A challenge to the Second Money Laundering Directive launched by the Belgian Bar in the European Court of Justice has suffered a setback when the court’s Advocate General said the requirement for lawyers to report suspected money laundering does not affect an individual’s right to a fair trial, as lawyers are not obliged to report where they are advising on litigation. The court’s judgment is expected later in 2007 – the AG’s opinion is usually followed.
Money Laundering CPD event

Anti-Money Laundering Regime
- How does it work in your office?

DATE: Various dates and venues (see below)
DESCRIPTION:
By virtue of the Money Laundering Regulations 2003, regular and comprehensive training in this area is now an essential requirement for all law firms.

Leslie Cumming, former Chief Accountant, Law Society of Scotland, presents this clear and well structured course concentrating on all of the key aspects including the current legislation and its impact, professional guidance, partnership issues, training, record keeping in the small practice, relationships with regulators, risks to the practice, identifying reasonable tests for your practice and client confidentiality. Case studies will provide practical and useful points of reference.

The course will provide all three of the compulsory Client Care and Practice Management CPD hours needed. Participants will receive a comprehensive resource pack with relevant course notes and supplementary information.

The course costs £100.

The seminars will take place at the following venues:

- **Canal Court Hotel, Newry**
  - Tue 27 Mar 07 13.30-16.30
- **Killyhevlin Hotel, Enniskillen**
  - Wed 28 Mar 07 13.30-16.30
- **Radisson SAS Roe Park Hotel, Limavady**
  - Thu 29 Mar 07 13.30-16.30
- **Hilton Hotel, Belfast**
  - Fri 30 Mar 07 13.30-16.30

Prisoner Escorts

New arrangements providing for a fully integrated Prisoner Escorting and Court Custody Service (PECCS) under a single management structure have come into effect.

The existing contract between the Northern Ireland Prison Service and the private security firm ‘resource’ (formerly Maybin) for the provision of custody services at Magistrates’ Courts in Northern Ireland ended on 4 February.

The PECCS team will be responsible for escorting prisoners to and from and supervising them while in all courts (excluding juvenile courts) in Northern Ireland, during transfers from one establishment to another and on other occasions such as hospital visits.

Just over 100 staff transferred from ‘resource’ to the Northern Ireland Prison Service under arrangements contained within the Transfer of Undertakings Protection of Employment (TUPE) legislation.

The new PECCS arrangements will be phased in over a number of months and will be fully operational by September. The full complement of PECCS staff will be made up with the creation of over 60 new Prison Custody Officer (PCO) posts. Prison Officers currently working in the NIPS Prisoner Escort Group will return to other duties in the prisons as the newly employed PCOs successfully complete their training.

Anti-Money Laundering Regime
- How does it work in your office?

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Cheque enclosed: (made payable to “Law Society of Northern Ireland”)
New provisions affecting Northern Ireland’s bail laws come into operation on 12 March 2007.

The first change allows the police to attach detailed conditions when granting bail without having to resort to the courts. The conditions are to help ensure that the person returns to the police station or attends court and does not commit an offence or interfere with witnesses whilst on bail.

The second change strengthens the financial conditions attached to police bail. In future, the police will have the power to require a person to put up a surety or a security deposit before being released on bail.

The two orders bring into effect provisions in the Criminal Justice (NI) Order 2003, as augmented by a. 21 of the Criminal Justice (NI) Order 2005 (the 2003 and 2005 Orders are available electronically on www.opsi.gov.uk/legislation/northernireland)

A. 7 of the 2003 Order amends the criteria under which police take certain bail decisions. These include the seriousness of the offence and the person’s previous convictions and bail fulfilment record.

A. 8 enhances the powers and duties of the police in granting bail. In particular a police custody officer may require an applicant for bail, once he is charged, to comply with requirements concerning his surrender to custody, not committing other offences or obstructing justice.

A. 9 provides a person granted police bail the statutory right to apply to a magistrates’ court for the fresh grant of bail or for different bail conditions.

A. 10 enables a magistrates’ court, on application by the prosecution, to reconsider the decision of a magistrates’ court or a police custody officer to grant bail.

A. 21 of the 2005 Order provides for continuity regarding a person’s appearance in a magistrates’ court, of bail granted by the police.

Fraud Act 2006 now in force

The Fraud Act 2006 (the Act) came into force in Northern Ireland on 15 January 2007. Until now there has been no single, general fraud law but an untidy mess of eight specific statutory crimes, such as ‘obtaining property by deception’ and a vague common law offence of ‘conspiracy to defraud’.

The new legislation replaces this existing complicated array of over-specific and overlapping deception offences which have proved inadequate to tackle the wide range of present day fraudulent activity or keep pace with rapidly developing technology.

The Act introduces a new general offence of fraud which carries a maximum sentence of 10 years’ imprisonment. It can be committed in three ways - these are fraud by:

• by false representation
• by failing to disclose information
• by abuse of position

The effect of the new legislation is to move the law to criminalise the conduct of the fraudster rather than to look at the consequence of the fraudster’s activities.

Until now there has been no single, general fraud law

The Act also creates two new offences aimed at technology fraud – the crime of ‘obtaining services dishonestly’ such as credit card fraud over the internet and ‘possessing, making and supplying articles for use in frauds’ – aimed at higher level fraudsters and criminal gangs which commit fraud on a mass scale.


Solicitors’ Benevolent Association

NOTICE

NOTICE IS HEREBY GIVEN that the One Hundred and Forty-Third Annual General Meeting of the SOLICITORS’ BENEVOLENT ASSOCIATION will be held at the Law Society, Blackhall Place, Dublin 7 on Friday 20 April 2007 at 12.30 pm

1. To consider the Annual Report and Accounts for the year ended 30 November 2006.
2. To elect Directors.

To deal with other matters appropriate to a General Meeting.
New Juvenile Justice Centre opens

A new purpose-built Juvenile Justice Centre (known as Woodlands) has been opened on land adjacent to the Juvenile Justice Centre at Rathgael. The new Centre was built in response to recommendations made by the comprehensive review of the juvenile justice estate and the Criminal Justice Review in 2000.

Following the closure of Lisnevin near Millisle in October 2003, a single Juvenile Justice Centre for Northern Ireland was created in refurbished accommodation at Rathgael. This will now close.

The Woodlands Centre will be the most advanced facility of its kind in Europe. It will continue to accommodate boys and girls who have been remanded into or sentenced to custody by the court. Accommodation more specifically designed to meet the needs of girls has been incorporated within the new complex. The Centre has capacity to provide accommodation for up to 48 young people. While numbers vary considerably, the average population is normally between 25 and 30 - mostly boys between 15 and 16 years of age.

The cost of construction is £16.8 million and was self funding through the sale of the surrounding land.

The new postal address and telephone number for Woodlands is as follows:

Woodlands Juvenile Justice Centre
1 Mosswood Close
Mosswood Avenue
Rathgael Road
Bangor
County Down BT19 1TA
Tel: 028 9185 4600

Sexual violence strategy for Northern Ireland

The Northern Ireland Office has launched a strategy to tackle sexual violence entitled ‘Hidden Crimes, Secret Pain’. This follows on from:

a) last year’s major review of Sexual Offences which is likely to result in new legislation being brought forward later in 2007.

b) the announcement in December on the forthcoming changes to the Sentencing Framework which will effectively remove the present practice of automatic 50% remission. It will also introduce a new public protection sentence which could mean that the most violent offenders could face the prospect of spending the rest of their lives in custody.

Key elements of the strategy include proposals to:

- set up a Sexual Assault Referral Centre – a specialist centre which provides medical care, forensic examination and counselling for victims of sexual assault. Such a Centre can also help gather vital evidence to help convict offenders.
- provide a directory of services for sexual violence victims.
- carry out a major study to collect information on the prevalence of sexual violence among men and women in Northern Ireland, from childhood to adulthood.
- investigate the need for a 24 hour help-line.
- improve training for those involved in delivering services to victims/survivors.

Acknowledging the very good work already being carried out by a wide range of voluntary and statutory agencies providing services to victims of sexual violence, the Government states that it is committed to the development of an integrated approach through which all agencies work together to ensure that the best quality of service is provided for victims and survivors, where and when they need it. It also intends to raise awareness about the realities of sexual violence and examine social attitudes towards it.

The consultation document is available on the DHSSPS’s website at www.dhsspsni.gov.uk/index/consultations/current_consultations.htm and the NIO website www.nio.gov.uk

The consultation period closes on 27 April 2007. Thereafter responses to the draft strategy will be taken into account in developing a regional strategy to address sexual violence in Northern Ireland. Alongside this, an Action Plan will be produced to take forward the agreed proposals.
Child car restraints compulsory

Drivers will now have to put children in restraints and seat belts where fitted or face stiff penalties. The law already requires drivers and adult passengers to use seat belts provided in cars and goods vehicles. It also requires children travelling in front seats to use a child restraint or a seat belt.

From 27 February 2007 the Motor Vehicles (Wearing of Seat Belts) (Amendment) Regulations (NI) 2007(SR 2007 No.7) require that:

- children under three must always be carried in a baby or child seat appropriate to their weight.
- rear-facing baby seats must not be used in a seat protected by an active frontal air-bag.
- children aged three to 12 and under 135cm (4ft 5ins) must use an appropriate booster seat or cushion.
- children over 135cm must use an appropriate booster cushion or adult seatbelt.
- bus and coach passengers aged 14 and over must use seat belts where fitted.
- operators must inform all passengers of the need to use seat belts.

To take account of unusual circumstances and emergencies:

- in taxis (if appropriate child seats or boosters are not available) children may travel in the back, those aged three or over must use the adult seatbelt but there is no requirement for the under threes to do so.
- on occasional journeys (eg unforeseen emergencies), over short distances where no booster is available, children over three may travel in the back seat using a seatbelt.

- if a car has three seat belts in the back and two occupied child seats or boosters in the back prevent a third being fitted and another child is occupying a child seat in the front, a fourth child aged three or over may travel using an adult belt in the back seat.
- the new rules will not apply to police, ambulance and other emergency vehicles.

All passengers aged 14 years and above must use seat belts where fitted in buses and coaches. Operators must inform all passengers of the need to use seat belts. Passengers are exempt from the requirement to use seat belts in large buses or coaches being used as a local service where the entire route consists of restricted roads (where street lighting is not more than 185m apart) or where provision has been made for standing passengers and the operator permits standing.

There will be further consultation on new regulations to be made as soon as possible to determine who should be responsible for ensuring that children under 14 years use seat belts in large buses and coaches.

An explanatory leaflet can be downloaded from the DOE Road Safety Division website www.roadsafetyni.gov.uk

Currently for adults a fixed penalty of £30 applies for not wearing a seatbelt in a car, which rises to £500 on conviction. For a child the fixed penalty is also £30 and on conviction, £500 for a child travelling in the front and £200 in the rear of a car. The Road Traffic (NI) Order (2007) to be introduced later this year will introduce endorsable offences attracting three penalty points and one fixed penalty fine of £60. This will rise to £500 on conviction for any occupant anywhere in the car. These levels of fines will be mirrored in buses and coaches where seat belts are fitted.

Stop Press

Major PACE Reforms

The Police & Criminal Evidence (Amendment) (NI) Order 2007 came into operation on 1 March 2007. This Order makes provision for the introduction of significant new police powers and amendments to existing provisions within the Police & Criminal Evidence (NI) Order 1989. It aims to bring our PACE legislation more closely in line with the changes already enacted for England & Wales in recent years, principally through the Criminal Justice Act 2003 and the Serious & Organised Crime & Police Act 2005.

This Order makes provision for the introduction of significant new police powers

To facilitate criminal law practitioners, the Society’s Library & Information Service is producing a fully annotated version of the 1989 Order to incorporate all legislative amendments made to the legislation to date. Notes on Northern Ireland case law on PACE will also be included in this version of the Order, making it a unique resource for practitioners. An Order Form for this publication accompanies this edition or may be downloaded from the Society’s website at www.lawsoc-ni.org

Completely revised Codes of Practice, superseding the existing ones, have also been issued. In particular practitioners should note that there are two new Codes – Code F which covers the visual recording of interviews and Code G which deals with the statutory power of arrest by police officers. (The 2007 Order abolishes the categories of “arrestable” and “serious arrestable” offences.) Copies of the new Codes of Practice can be purchased from the Stationery Office, Belfast, priced £10.
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The issue with email

You may have recently seen – or indeed, if you were unfortunate, been involved in – a high profile attack on the legal profession which took place via email and attempted to retrieve the banking details of those individuals targeted. In other words, the legal sector, like virtually every other industry, is now officially under attack from the scourge of the spammer. Spam is no longer an issue that can be ignored. The simple fact is that the problem has not only not gone away since Bill Gates’ famous quote in January 2004 which stated: “Two years from now, spam will be solved”; it has actually worsened – and quite considerably.

The situation is constantly evolving. For example, the volume of emails sent has risen dramatically on a global scale – more than doubling from 1 June 2006 to the end of September 2006. Consequently, any email user who does not employ an effective spam management technique will have noticed a considerable increase in the amount of spam they have been receiving. Indeed as time goes by and the situation continues to worsen, email becomes less viable as a communications tool – if your business is not employing an effective means of managing spam.

A worsening problem

Until relatively recently, spammers focused their activities on distributing identical emails to as many recipients as possible. This effectively allowed any business user of email to utilise a simple anti-spam tool (such as a free piece of software) to tackle the problem, at least in part. However, spammers are now aware this exists and have consequently changed tactic. Rather than one mail being distributed to many recipients, each mail is now being personalised to the recipient in an attempt to fool the simple spam blockers. Spammers are now able to distribute such emails in massive volumes, both in textual and graphical format – the latter often includes one or two pixel changes which are unique to each email, again in an attempt to elude capture. Quite simply this means that less sophisticated means of combating the issue are no longer viable and businesses should now take a more considered approach in order to reclaim their email.

The solution

There are a number of strategies that an organisation can employ against these threats, both hardware and software. However, the downfall with both solutions is that each requires at least a degree of user intervention or management in order to be effective.

A third option exists, which is to utilise a specialist-managed service in order to manage the issue. Email managed services offer a number of key benefits. Most importantly, a managed service operates outside the office network, acting as an effective barrier in allowing spam or viruses through to the company servers whilst also ensuring that users do not need to manage or update the service with virus definitions. As email is also managed externally, managed services eliminate the problem of wasted bandwidth due to downloading spam and viruses. This means they effectively provide additional resources at no extra cost.

Leading edge managed service providers deliver added functionality, such as “zero hour” protection from the initial seconds of a spam or virus outbreak, protection against denial of service or attacks intended to acquire named recipients within the company, powerful rules engines, 24-hour customer service support and visual reporting mechanisms.

With constant change, it is now critical to ensure that the problem of spam is kept in check - if only to continue to use email as an effective communications medium.

Looking ahead

With constant change, it is now critical to ensure that the problem of spam is kept in check - if only to continue to use email as an effective communications medium. Such in-depth knowledge is now available and it is essential to outsource the problem to a specialist. Your business will remain unaffected, even if you are targeted by an attack.

Northgate Information Solutions works with businesses to help them achieve optimum performance through the intelligent use of IT, from offices in Newtownabbey. For further information about their email managed service please contact Dewart Montgomery on 028 9085 7173 or dewart.montgomery@northgate-is.com.
Improving services - the Court Service E-business programmes

Following the article in last month’s edition we were contacted by the NI Court Service which is keen to tell us how ICT is being used in the courts to innovate and deliver better services.

ICOS (Integrated Court Operations System)

ICOS is now an acronym that is firmly embedded in the language of the Court Service, judiciary and the legal profession. ICOS is a common database which supports the administration of justice and is now successfully operating across the criminal and civil courts with full implementation in the family courts on schedule for April 2007. The criminal module introduced the computerisation of criminal business to all courts outside Belfast and has brought huge changes to pre, in court and post court case processing which required a significant investment in staff training for all court venues.

The primary aim of ICOS is to improve business processing, communications and services to the judiciary; legal profession, court users and the public.

ICOS enabled improvements that are now in place and future developments are outlined below.

Civil Processing Centre

In January 2006, the Civil Processing Centre (CPC) was established. Located in the Royal Courts of Justice, the CPC centrally processes all civil business up to the point of listing. Once a hearing is required, the matter is managed by the relevant court office, in consultation with the local judiciary. The CPC also processes all Small Claims to the point of listing.

Local court offices are continuing to accept documents across the counter, but posting documents directly to CPC will allow a faster and more efficient service.

Small Claims On-line

The Small Claims On-line Service was launched in May 2006 and enables:

- the applicant to commence proceedings on payment of the correct fee.
- uncontested liquidated small claims to be processed without ever having to attend court.
- the defendant to dispute or accept liability.
- all participants to check the current status of the claim.
- all parties to correspond and
- default judgment to be printed.

Small Claims On-line can be accessed through www.courtsni.gov.uk

On-Line searching

This facility allows on-line searching of Bankruptcy, Probate, Queen’s Bench, Chancery and Enforcement of J judgments Office cases. It can be accessed from the Court Service website at www.courtsni.gov.uk and can be paid for by debit/credit card, voucher or from an ICOS/ EJO account.

Customer Service Centre

ICOS also provides an enabling platform for centralisation and standardisation.

In May 2006 the Customer Service Centre was established in Londonderry courthouse. The following functions have been centralised in the centre:

- Receipt of fines, registered fixed penalties, compensation, costs, fees and domestic payments by cheque, credit transfer, postal order and telephone.
- Issue of default warrants and recovery functions on behalf of all court offices.
- Receipt of driving licences and the issue of notifications to DVLNI and
- Jury management.

Centralising these functions allows local court venues to focus on court hearings and the delivery of high quality front line customer services.

ICOS pre-paid accounts

A complete list of solicitor’s firms is now held on-line. Each firm has its unique account number. This can be activated by making a payment into the account, which can be done at any court office or by phone. There is no upper or lower limit to the amount paid in. Once the account is activated, you will receive a letter giving you a personal pin number.

This service enables a fee to be drawn down from a customer’s account, whether a document is presented at a public counter or received by post. A statement is issued to the account holder on a monthly basis setting out transaction details.

Following feedback, if a solicitor’s reference is provided it will be included on the statement.

Copy orders on-line

We are currently planning the provision of Copy Orders On-line. This means you won’t have to visit or write to a court office to obtain copies of these documents:

- Civil Court Orders
- Civil Default J judgments
- Decree Absolutes and
- Probate Grants

Once requested, there is no restriction on the number of times a user can view or print
the copy order or document and it will remain available for reprinting for 30 days.

Fees for requesting a copy order or document on-line will be lower than the fee paid when requesting a copy order from a court office.

ICOS and the Causeway Link

Last month you heard that the Causeway Programme is being delivered in four phases. The Case Preparation phase was delivered in June 2005 and facilitated the electronic exchange of information between the PSNI, PPS and Forensic Service for NI.

The next phase of the Causeway Programme which will link to ICOS, is planned for delivery in June 2008. This phase will see the integration of Causeway with the ICOS business application. This stage of the programme involves electronic information sharing between the PSNI, PPS, FSNI, NI Prison service and the Court Service for the following processes:

Charges; Court Diary, Court Orders (including warrants) Court Results; Sentences; Applications; Police Disposals; Summonses; Appeals; Bails and Monetary Penalty Warrants.

If you would like to know more about ICOS, any of the on-line facilities or e-business developments or have any suggestions on how ICT services can be improved please contact the Court Service Information Centre at 028 9032 8594 or use the Contact Us email facility on the website www.courtsni.gov.uk.
Draft guidelines on termination of pregnancy in Northern Ireland have been issued by the Department of Health Social Services & Public Safety to health professionals and interested organisations.

The Abortion Act 1967 does not extend to Northern Ireland and the grounds on which abortions may be carried out here are more restricted than those in Great Britain. Abortion law in Northern Ireland is contained in the Offences against the Person Act 1861, the Criminal Justice Act (NI) 1945, the Bourne judgement case law (1939) and the common law.

Under the law of Northern Ireland, abortion is permitted where it is necessary to save the life of the mother or where continuation of the pregnancy would involve risk of serious injury to her physical or mental health. The lawfulness of any proposed termination depends on the clinical judgment of the medical practitioner who is to carry out the termination.

The DHSSPS has issued the draft guidelines following a Judicial Review which was instigated by the Family Planning Association. In November 2004, the Court of Appeal Order asked the Department to consider what steps it should take to:

a) inquire into the adequacy of termination of pregnancy services provided in Northern Ireland (including aftercare); and
b) following such inquiry and after appropriate consultation with concerned organisations, issuing appropriate guidance.

The draft guidelines do not propose to change the current law on abortion here. They have been developed to offer clinical guidance to health professionals and cover issues such as conscientious objection, informed consent and good clinical practice. There are no plans to extend the Abortion Act 1967 to Northern Ireland.

Once comments have been received, the DHSSPS will issue final guidance to the health service. Information leaflets providing advice and guidance will also be produced for the general public.

A spokesperson for the DHSSPS said: “There is no change or plans to change the law on abortion in Northern Ireland. The guidelines simply restate the legal position in Northern Ireland and offer clinical and good practice guidance to health professionals involved in this area of work.

“The Department has been working very closely with health professionals from a wide range of backgrounds including nursing and midwifery, obstetrics and gynaecology, public health, psychiatry, clinical genetics, Family Planning doctors and General Practitioners to develop guidance on abortion in Northern Ireland.


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Radical shake up of Adoption Services

The Department of Health, Social Services & Public Safety has outlined a series of key initiatives to greatly improve adoption in Northern Ireland. It states that the radical overhaul of services will see the child being firmly placed at the heart of the system.

Consultation on ‘Adopting the Future’ is now complete. This document will pave the way for the most significant overhaul of primary adoption legislation in Northern Ireland for twenty years.

Key elements include:

- replacing patchy and inconsistent support services by placing a clear duty on Trusts, for the first time, to ensure the provision of adoption support services, including financial support.
- a new legal order of ‘special guardianship’ which will enable children who cannot remain with their birth parents and for whom adoption is not a suitable option to have a permanent family life with a carer but maintain a basic link with their birth family.
- ensuring that children have at least one person with parental responsibility for them at all times in the adoption process. At present when a child becomes ‘free’ for adoption, the birth parents’ parental responsibility is extinguished. If an adoptive family is not readily available, the child is left with no individual having parental responsibility for him/her. Under the new system, a child will maintain legal links with the birth parents until officially adopted.
- allowing civil partners and unmarried couples, including same sex couples, to jointly adopt.
- creating a Centre of Excellence in adoption by investing responsibility for many aspects of adoption in one Trust.
- much more consistent arrangements for access to information.

‘Adopting the Future’ and the consultation report are available on the DHSSPS web site at www.dhsspsni.gov.uk/child_care/adoption/adoption_review

Reform of child protection services

Fundamental reform of child protection services in Northern Ireland has been announced by the Department of Health, Social Services & Public Safety.

Key elements of the reform include:

- establishment of an independently chaired Safeguarding Board for Northern Ireland to replace the Area Child Protection Committees and Child Protection Panels. It will have a duty to strengthen arrangements for safeguarding the welfare of children and young people.
- a single assessment framework for children’s services.
- agreed regional thresholds for access to children’s services.
- strengthening of community child protection teams.
- improved training and registration for social workers.
- extending the Safeguarding Vulnerable Groups Act 2006 to Northern Ireland. It will widen the requirements for vetting persons working with children and will strengthen the arrangements for barring unsuitable persons from working with children.

The announcement follows the publication of an inspection of child protection services in Northern Ireland entitled ‘Our Children and Young People – Our Shared Responsibility’. The inspection, which was led by the Social Services Inspectorate, was undertaken in five health trust areas – Causeway, Craigavon and Banbridge, Foyle, South and East Belfast and Sperrin Lakeland.

In order to drive forward the reform of child protection services in Northern Ireland a Reform Implementation Team has been established.
The 3rd Collaborative Law Training Course will take place in The Mount Conference Centre, Belfast on Thursday 22 and Friday 23 March 2007.

The course will consist of thought provoking presentations and the practical application of theory and knowledge.

Pauline Tesler, the leading US Collaborative Law trainer, will again be leading the training session.

Attendance at this course will attract 12 CPD hours in total, to include 3 hours Client Care and Practice Management. Places are limited and early booking is advisable. The cost of the course will be £400. This includes membership of the Association of Collaborative Family Lawyers.

The Northern Ireland Legal Services Commission has approved preliminary funding for the collaborative method. The Association will continue to promote the collaborative approach to family law.

Any family law practitioners who are still unfamiliar with Collaborative Law should visit our website – www.afriendlydivorce.co.uk

Collaborative Law Training
The Mount Conference Centre, Belfast Thursday 22 and Friday 23 March 2007

Name:
Practice Name:
Address:
Telephone Number: E mail Address:

A cheque for £400 should be made payable to: THE ASSOCIATION OF COLLABORATIVE FAMILY LAWYERS
Please return the booking form and cheque to: Susan Duffy, CPD Co-ordinator, The Law Society of Northern Ireland, Law Society House, 98 Victoria Street, Belfast, BT1 3JZ, Tel: 028 9023 1614
C complaints handling and Conveyancing

In his most recent Annual Report, the Lay Observer, Alasdair MacLaughlin, pointed out that complaints handling should not just involve attention to individual complainants. Every complaint has something to teach the organisation against which complaints have been made. This process is what drives improvement/reduction in complaints and in the longer run prevention and cost reduction.

Complaints handling will be a focus of the CPD programme later this year about which you will receive further information in due course. In the meantime the Chairman of the Client Complaints Committee, Norville Connolly, gets the ball rolling with this article analysing the particular problems associated with the conveyancing process.

**COMPLAINTS STATISTICS**

In examining the breakdown of the complaints statistics for 2005 a clear pattern emerges:

- approximately one-fifth of all firms had at least one complaint against them.
- of the total of the 301 complaints made in 2005, 140 of these (representing approximately 46.5%) were concerned with conveyancing.

As this pattern follows one established in previous years, and in view of the very high proportion of complaints relating to conveyancing, it is worth looking a little closer as to how these conveyancing complaints break down to see if we can learn and improve our complaints handling systems.

Of the 140 conveyancing complaints in 2005, 117 of these involved allegations of undue delay and/or failure to carry out clients’ instructions. It is also interesting to note that whilst only one in seven complaints is upheld in matters other than conveyancing, in conveyancing matters, one in five complaints is upheld. Therefore not only are there proportionately more complaints involving conveyancing but proportionately more conveyancing complaints are upheld.

Conveyancing is clearly an area where complaints reduction can and must be achieved. The Client Complaints Committee (the Committee) believes that firms can achieve this:

(a) by focusing more specifically on client care during the conveyancing process and
(b) by ensuring that they have a properly functioning in-house complaints handling system so that if a client is unhappy with some aspect of the service received, that unhappiness can be addressed in-house in the first instance with the prospect of resolution. This avoids the client having to go earlier than necessary to the Society to have his/her complaint aired.

Attending to both of these matters will, we believe, lead to a substantial reduction in such complaints to the Society.

**RE-MORTGAGES**

The Committee has noticed that conveyancing problems are coming more quickly to light by reason of the present trend where house owners frequently change their mortgage provider and often shortly after their initial purchase. Many of the larger lending institutions now have their own Panel Solicitors for this re-mortgage work. As a consequence the title deeds are being sought and examined by these Panel Solicitors more quickly after completion and more frequently than happened previously.

Typical problems, which give rise to complaints in this area are:

- non-registration of title
- mapping difficulties
- charges in the name of Vendors not having been cleared off
- erroneous maps

All of these problems can be avoided by solicitors taking more care during the purchase stage and pursuing post-completion matters properly and promptly. Failure to do so may result in the Committee directing the offending solicitor to issue a significantly reduced bill of costs to reflect the poor quality of service originally provided. Additionally, the complainant may instruct another solicitor to rectify the defects and look to the original solicitor to pay for the cost of such rectification.

The Committee has also noted that, where payment of re-mortgage monies is delayed by reason of a defect in the original conveyancing process, complainants are pursuing financial loss claims arising by reason of the cheaper re-mortgage not being immediately available or being lost altogether. Whilst the Committee cannot deal directly with such financial loss claims at present, we are aware that such claims are being pursued by way of civil litigation.

**IN-HOUSE COMPLAINTS HANDLING**

Specific CPD seminars to focus on complaints prevention will be held by the Law Society during the coming months. The Committee urges all practitioners to attend these as part of their Client Care CPD requirement. It is also recommended that all firms should adopt and embrace a complaints handling system without delay, such as that outlined in Lexcel.

Such a system essentially involves each firm appointing a complaints partner to whom any member of staff reports a complaint of which s/he is aware. This partner will investigate the complaint, recommend a course of action to resolve same and make suggestions as to how to avoid such complaints arising in the future. The partner would also monitor the complaint to ensure it is satisfactorily resolved. Additionally, each firm should operate a written complaints handling procedure that is readily accessible to clients. Sole practitioners should appoint a senior staff member to this role or have an overview arrangement with a solicitor in another firm (providing, of course, the client consents).

**THE BAIN REVIEW**

Complaints handling was a major focus...
of the Report published in November 2006 by the Bain Legal Services Review Group. Whilst finding that the Society had discharged its responsibilities in this area in a reasonable manner and that regulatory failure had not occurred here as in England and Wales, the Report nonetheless made quite far-reaching recommendations for change to the complaints handling process “in the public and consumer interest”.

It is likely that any future complaints handling body, although recommended to be administered by the Society, will have a majority of lay membership, a lay chair and greatly increased powers. These will include the power to award compensation to complainants for misconduct, poor service or negligence. It is imperative therefore that all firms introduce systems and changes to our practice which will attempt to reduce the major sources of complaint. We should also attempt to ensure the speedy resolution of a complaint by having a proper functioning in-house complaints handling system. If we do this, there is little doubt that there will be substantially fewer dissatisfied clients who wish to take their complaints to the Client Complaints Committee, either as presently constituted or otherwise.

The vast majority of solicitors may seldom or never be the subject of a formal complaints investigation by the Society but they will be concerned to maintain and enhance their professionalism and the quality of service delivered to their clients.

There are changes ahead and we must all get ready for them by preparing now. Not to do so may prove to be an expensive and embarrassing mistake. Improving and optimising the effectiveness and efficiency of our client care systems and in-house complaints handling systems are matters of essential importance to all practitioners.

Norville Connolly is a partner in the firm of D & E Fisher, Solicitors, Newry, and is Chair of the Client Complaints Committee.

Norville Connolly is a partner in the firm of D & E Fisher, Solicitors, Newry, and is Chair of the Client Complaints Committee.
CFR Guidance

The Society has issued the following guidance for practitioners in relation to a number of issues arising out of the introduction of Compulsory First Registration.

As the Society intends to review the operation of this guidance in six month’s time, comments are welcomed thereon. These should be forwarded to The Secretary of the Non-Contentious Business Committee.

1. Who should prepare the title map on first registration?

The Society considers that it is the overriding responsibility of the purchaser’s solicitor to ensure that the map which is submitted to the Land Registry on first registration is correct. Accordingly, it is the purchaser’s solicitor who should have the responsibility for preparing it. The vendor’s solicitor should send a clean ACE map to the purchaser’s solicitor. In a difficult case, the boundaries of the property may be set out on the ACE map (or on a copy) as the vendor’s solicitor perceives them. Ultimately, however, the responsibility for the accuracy of the boundaries remains with the purchaser’s solicitor.

The Society considers that it may be prudent to send the title map to the Land Registry at a relatively early stage to confirm that there are no encroachments or alternatively, view the property on Landweb Direct.

In each case the solicitor should consider whether professional expertise is required to assist with the clear demarcation of the boundaries on the map. There will be cases where the boundary is straightforward and the risks for solicitors in preparing such a map are relatively limited. There will also be cases where it will be necessary to have the premises professionally mapped.

2. Do I also have to register in the Registry of Deeds?

In a purchase involving first registration, the deed in favour of the purchaser should be registered in the Registry of Deeds before being submitted to the Land Registry.

Having regard to the wording of the Certificate completed by a solicitor on first registration that he/she has carried out all necessary searches, it is necessary for there to have been a Registry of Deeds search carried out to a date sufficiently close to the submission of the application for first registration for the purchaser’s solicitor to be comfortable in giving the Certificate.

3. Should I register burdens and easements?

Notwithstanding the advice given by the Land Registry in its Solicitors’ Guide to First Registration, the solicitor registering on first registration should give serious consideration to applying to have registered on the new folio anything which is capable of registration as an easement or burden, where such easement or burden is not otherwise apparent from the title documents which travel with the title (see response to Question 4).

Whilst the Land Registry may not be prepared to map the exact extent of the burden or easement, the Society considers that the new folio should show as much detail as possible. In this way a subsequent purchaser will at least be put on notice of the existence of unmapped rights and can request copies of the relevant documents relating to the easement or burden.

4. After completion of first registration what documents should be retained?

On a sale of an unregistered property immediately prior to first registration, all documents should be submitted to the purchaser’s solicitor. The title deeds will belong to the purchaser and it is up to him/her (assisted by the solicitor) to weed out what should be retained after first registration has been completed.

In addition to the root of title, any intervening title which created rights of easements or burdens or indeed any prior title such as an old Fee Farm Grant which was referred to in the title should be kept.

A copy of the deed to the purchaser should also be retained.

Consideration should also be given to retaining any relevant EJO searches where there had been a voluntary conveyance. If works have been carried out to the property, prior Property Certificates/Enquiries may also be of assistance to a future owner of the property.

There may also be a role for the purchaser’s lending institution who may have a view as to what it is appropriate to retain.

5. Who should retain the superfluous title deeds?

These should not be sent to the purchaser’s lender. Express instructions should be obtained from the purchaser.

The Society considers that these documents would be best kept by the solicitor for the purchaser on first registration for a period of twelve years.

6. On a first sale of a property subject to compulsory first registration, what documents should be sent to the purchaser’s solicitor?

The purchaser’s solicitor should be furnished with details of the following:

(a) the Land Certificate
(b) any Lease or Fee Farm Grant referred to in the title
(c) any intervening title which created rights of easement affecting or benefiting the property
Private tenancies seminar

Residential Landlord and Tenant Law
Private Tenancies (NI) Order 2006

DATE:
Various Dates (see below)

DESCRIPTION:
The Private Tenancies (Northern Ireland) Order 2006 represents the most important change in the regulation of the private rented sector in nearly thirty years. The new legislation, which comes into force on 1 April 2007, covers issues such as: the obligations on landlords and tenants; unfitness and disrepair; certificate of fitness and rent control; and also makes substantial amendments to the Rent (NI) Order 1978.

This seminar will cover the potential impact of the new legislation on both landlords and tenants and their legal advisers. Charles O’Neill, NI Co-Ownership Housing Association Limited, who is an experienced solicitor in this field, will provide an overview of the key issues for solicitors. A second speaker will look at issues from the perspective of the local councils who have responsibility for the enforcement of the legislation.

Participants will receive a comprehensive resource pack with relevant course notes and supplementary information. The course will provide 2.5 CPD hours and costs £60.

The seminars will take place at the following venues:

- The Hilton Hotel, Belfast Wed 7 March 2007
- Canal Court, Newry Fri 9 March 2007
- Ramada Da Vinci’s, Derry Thu 15 March 2007
- Kelly’s Inn, Ballygawley Mon 26 March 2007

Private Tenancies (NI) Order 2006
Booking Form

Date: ____________________________ Venue: ____________________________
Title: ____________________________ Name: ____________________________
Firm: __________________________________________________________________
Address: __________________________________________________________________
Postcode: __________________________________________________________________
Tel no: ____________________________ E-mail: ____________________________
Cheque enclosed: (made payable to “Law Society of Northern Ireland”)
It is over three years (2003) since the last Land Registry (Fees) Order was introduced and since then the positive benefits of the implementation of the Agency’s IT project with BT is beginning to bear tangible efficiency savings. As the implementation phase of this project nears completion, LRNI can now deliver on its commitment to provide faster transactions at lower cost to the public.

Since the commencement of the IT contract, the Agency has continued to develop its digital processing methods, including the introduction of electronic scanning of registration cases at intake stage, removing the need for the transport and manipulation of paper records. Indeed this operation will be extended to all transaction types within the next six months.

The introduction of on-line services has also produced a business benefit as many customers prefer to conduct their business over the internet. This, coupled with the integration of the previous four public counters into one Customer Information Centre, has also reduced overheads and facilitated improved customer service standards. As a result of these innovations the mechanism for calculating the fees structure has also changed as the Agency strives to make each element of the business independent and eliminate any cross-subsidisation of costs.

Unfortunately, Land Information Services for all three Registries (Land Registry, Registry of Deeds and Statutory Charges Registry) have been running at a loss for several years, with the deficit being made up by the surplus received by way of registrations. This is a situation which cannot be allowed to continue, not only for economic reasons but also to ensure an efficient and equitable service is provided to all the Agency’s customers.

In order to transfer the financial benefits of the IT contract to Agency customers and rectify the previous inequities, both a new Land Registry (Fees) Order and Registration of Deeds (Fees) Order 2007 will come into operation on 1 April 2007. Their publication, along with companion SRs for Land Registry Rules and Registration of Deeds Regulations, will ensure that LRNI generates only the level of income necessary to recoup its operational costs, in line with its Charter.

**MAIN CHANGES**

The Land Registry Scale Fee by which applications to register transfers on an exchange or change of ownership under s. 36 of the Land Registration Act (NI) 1970 are calculated, has been re-structured, amounting to a decrease in fee income of some 32%.

The number of categories for which fees are payable has been amalgamated under a general fee of £50.00 for making any entry or cancellation not otherwise described by the Order. A reduction from £70.00 to £50.00 has also been introduced for this category. There has been a slight increase in the fees for registration of Orders Charging land under A. 46 of the Judgments Enforcement (NI) Order 1981 and Notice of Orders Charging Land under A. 48 to bring them into line with the charge for registration of an ordinary charge.

The Registration of Deeds Fees Order 2007 introduces transactional based charging for searches of the Registry's electronic records where previously charging was on a timed basis. As mentioned above, fees will reflect the real cost of service provision and the cost of carrying out searches both on and off site within the electronic archive.

Two tier charging will therefore be introduced for the first time making on-line searches cheaper, at £6.00 per search as against on site searching at £9.00 per search. No fee will be incurred to search or for the provision of certified or uncertified copies of the paper-based records filed in the Registry prior to 1990.

**CUSTOMER CONSULTATION**

All members of the Agency’s Customer Forum were consulted over a four month period in 2004 regarding the content of the Registration of Deeds Fees Order. The forum comprised representatives of Land Register’s main customer groups such as LSNI, the banks and building societies, government departments, the Northern Ireland Consumer Council and law searchers.

A draft of the Order was supplied to all representatives and a number of meetings held to discuss the content. The Forum accepted the wording of the Order and allowed it to proceed to the Departmental Solicitors Office (DSO) for approval. Although the period during which the Order was under the scrutiny of the DSO was protracted for technical reasons, the economic imperatives and rationale that gave rise to its creation have not altered.

A draft of the Land Registry Fees Order was passed to the Land Registry Rules Committee for comment in accordance with provisions of the Land Registration Act (NI) 1970 and at a formal meeting of the Committee the content was subsequently discussed and approved.

**GUIDANCE**

Land Registers NI has provided advance notice of the new fees to all customers via its static web site and through a mail shot. The fees calculator on the web site will also be up-dated in advance of the operational dates and downloadable versions of the fees order will be available also from the website. This article and the attached guide to new fees for the most commonly registered transactions, should provide sufficient notification prior to the operational date to allow customers the opportunity to amend their own billing mechanisms and procedures.

We are grateful to the Land Registers for this article and accompanying Ready Reference Guide.
LAND REGISTRY READY REFERENCE FEES GUIDE

- The Land Registry (Fees) Order (Northern Ireland) 2007 comes into operation on 1 April 2007 and applies to all applications lodged on or after that date.
- This is a summary guide only on the registration fees payable for the most common types of application.
- For more detailed information, you should refer to the 2007 Fees Order which will be available on the LRNI Website at www.lrni.gov.uk.

Cheques should be made payable to “DFP General Account”.

PART 1: SCALE FEES

Transfers and Exchanges (for a monetary consideration or otherwise)
The fees are based on the actual value of the estate at the date on which the Transfer or Exchange is lodged for registration and are assessed on the following scale:

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<th>SCALE</th>
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A transfer effecting a change of trustees attracts a fee of £50.

A transfer from all joint tenants to themselves as tenants in common (or vice versa) attracts a fee of £50.

PART 2: FIXED FEES BURDENS - OTHER THAN CHARGES

Registration of any Burden included in Transfer, Lease or Assent ................................................................. No Fee
Registration of Easement not included in Transfer, Lease or Assent ............................................................... £50
Cancellation of Burden (mapped/unmapped) ........................................................................................................ £50

Charges

- Registration of Charge (including Orders Charging Land and Notice of OCL) .................................................. £70
- Cancellation of Charge ........................................................................................................................................ No Fee
- First Registration
  - In Form 1 .......................................................................................................................... £70
  - Title acquired by Adverse Possession - Form 3 .................................................................................. £200
- Charge lodged with application for First Registration .................................................................................. No Fee
- Note of a Schedule 5 Burden or Note of a Claimed Appurtenant Right ...................................................... £50

Inhibition

- Registration of Inhibition ........................................................................................................ £50
- Release of Inhibition ............................................................................................................. No Fee

Land Certificates and Certificates of Charge

- New Land Certificate ........................................................................................................ £10
- New Certificate of Charge
  - Endorsed on Deed ........................................................................................................... No Fee
- Order for production of a Certificate .................................................................................. £25
- Duplicate Certificate - Original lost or destroyed ............................................................................... £50
- Order to dispense with production of Certificate ........................................................................ £25

Miscellaneous

- Adverse Possession of registered land under S. 53 .................................................................................. £200
- Change of Name ................................................................................................................ £50
- Change of Name on Marriage
  - when lodged with Transfer or Charge .................................................................................. No Fee
- Death of Joint Tenant ........................................................................................................ £50
  - when lodged with Transfer of Whole Folio ........................................................................ No Fee
- Lease or Sub-Lease ................................................................................................................ £50
- Cancellation of Equity Sharing Lease ....................................................................................... £50
- Cancellation of Order Charging Land .................................................................................. No Fee
- Reclassification of Title (per folio) .......................................................................................... £50
- Transmission (Assent) ........................................................................................................... £75

PART 3: INSPECTION, COPIES AND SEARCHES

- Inspection of each Folio, Map or Instrument .................................................................................. £3
- Inspection of the Index of Names in respect of one name ................................................................ £3
- Uncertified copy Folio/Instrument ............................................................................................... £5
- Certified copy Folio/Instrument .................................................................................................. £15
- Uncertified copy of the Registry Map ....................................................................................... £5
- Certified copy of the Registry Map - not showing appurtenant rights ....................................... £15
- showing appurtenant rights .................................................................................................... £50
- Official Folio, Map or Names .................................................................................................. £20
- Index search ............................................................................................................................ £25
- Priority search ........................................................................................................................ £15
- Telephone or fax search .......................................................................................................... £15

PART 4: REDEMPTION OF GROUND RENTS

Application to redeem a ground rent under the Ground Rents Act (including application for Certificate of Entitlement) .................................................................................................................. £50
Application for a certificate of entitlement to money lodged under the Ground Rents Act .............................................................................................................................................................................. £25
Personal search in the register kept under the Ground Rents Act ................................................... £2
Official search in the register kept under the Ground Rents Act .................................................... £15

PART 5: STATUTORY CHARGES REGISTRY

Registration of a Statutory Charge ........................................................................................................ £25
Cancellation or Modification of a Statutory Charge ........................................................................ £20
Personal search in the Statutory Charges Register ........................................................................ £3
Official search in the Statutory Charges Register – inc Result Certificate ........................................ £20
Uncertified copy of the Register or Map (one entry only) ................................................................. £5
Certified copy of the Register or Map (one entry only) .................................................................. £15

PART 6: REGISTRY OF DEEDS

Registration ............................................................................................................................................... £13
Certificate of Registration ................................................................................................................. £13
Vacation of Registration .................................................................................................................... £8
Entry of Satisfaction of Mortgage or Charge ...................................................................................... £8
Search by members of the Public – Via internet ................................................................................ £6
Other means .......................................................................................................................................... £9
Copies – Certified Memorial ............................................................................................................... £15
Uncertified Memorial ........................................................................................................................ £5

NOTE

A copy of the full Land Registry and Registry of Deeds (Fees) Order (NI) 2007 together with an interactive fees calculator to help you calculate fees quickly and accurately can be found on the LRNI Website at www.lrni.gov.uk

LRNI Website at www.lrni.gov.uk which will be available on the LRNI Website at www.lrni.gov.uk.

Journal of the LSNI
February 2007
The latest Northern Ireland Housing Bulletin, which includes sales of new houses and apartments during the period July to September 2006, has been published by the Department for Social Development. Some of its key findings with year-on comparisons include:

- The average selling price of National House Building Council (NHBC) registered new houses sold during the quarter was £157,000, an increase of £23,000 (17.2%) on the same quarter in 2005.

- The average selling price of NHBC-registered new houses ranged from £118,600 in Cookstown District Council to £243,000 in North Down District Council according to provisional figures.

- The average intended selling price of NHBC-registered flats and maisonettes was £142,000, £23,000 (19.3%) higher than the quarter ending September 2005.

- Detached houses represented 35% of all NHBC intended housing starts. The total number of NHBC starts recorded for this quarter (1,711) represented a decrease of 26.3% on the same quarter in 2005.

- Of the new dwellings actually started, 98.6% (3,554) were commissioned by the private sector (provisional). Total number of starts decreased from 3,646 for the quarter ending September 2005, to 3,606 for the quarter ending September 2006.

- Belfast was the council area with the greatest number of new housing starts, namely 468 (provisional). This represents a decrease of 12.5%, in the city council, on the same period last year.

- A total of 5,634 households presented as homeless to the Housing Executive with ‘Sharing Breakdown or Family Dispute’ being the most common reason cited.

Postgraduate Study in the School of Law

The Law School at QUB is home to internationally renowned research centres in Human Rights, Criminology and Criminal Justice, and Governance. In addition to offering PhD and MPhil research degrees in a wide range of topics in legal and socio-legal areas, applications are currently invited for the following postgraduate taught programmes:

- LLM in Human Rights Law
- LLM in Human Rights (Cross Border)
- LLM/MSSc in Human Rights and Criminal Justice
- LLM in Law and Governance
- LLM in Human Rights and Criminal Justice (Cross Border)
- LLM in Corporate Governance and Public Policy
- MSSc in Criminology
- MSSc in Criminal Justice
- MLegSc Masters in Legal Science

The School has also recently introduced a number of studentships for both PhD research and our taught postgraduate programmes.

Further Information and application forms may be obtained by contacting:

School of Law
Queen's University
Belfast BT7 1NN

Email: pglawenquiries@qub.ac.uk
Tel: +44(0)28 90973451
Fax: +44(0)28 90973376

Or visit our website at:

www.law.qub.ac.uk
The legislative process to establish a charities commission and register of charities in Northern Ireland has moved forward with the laying of a draft Charities Order before Parliament.

There are currently three distinct charity law regimes in the UK each with their own legislation and administrative systems. The main differences are that at present England and Wales has a charity commission and a fully operational compulsory register of charities, while Scotland has recently established a charity regulator and a register. In the Republic of Ireland new draft legislation to set up a regulator and a register has been published. At present, Northern Ireland does not have a charity commission or a register. Tax relief for charities is an excepted matter, dealt with by the Revenue & Customs on a UK-wide basis. The new legislation will introduce changes to the system of charities legislation and administration in Northern Ireland. It will:

- Introduce a Charity Commission of Northern Ireland.
- Introduce a Northern Ireland Register of Charities.
- Require Northern Ireland charities to produce accounts to a specified standard and make them available to the public.
- Make it easier for charities to dispose of land.
- Make it easier for small charities to amalgamate or wind themselves up.
- Contain new arrangements to control public collections through a system of licences and permits.

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## Legal Opportunities

### Matrimonial Solicitor

£30,000 - £40,000

This superb North Down firm is now seeking a family and matrimonial lawyer who has a wealth of experience. The main responsibility will be leading a very busy area of the general practice. Ref: 9657

### General Practice Solicitor

£28,000 - £40,000

Our client, based in County Down, seeks an experienced general practice solicitor to join their firm. Experience in conveyancing and plaintiff litigation would be a distinct advantage. Ref: 2977

### Conveyancing Solicitor

£25,000 - £35,000

Our well respected client is based in Belfast city. Due to their continued growth, this firm is now looking to hire a domestic conveyancing solicitor who has solid experience. Ref: 23461

### Conveyancing Solicitor

£25,000 - £35,000

Our client is a reputable and long established Portadown firm. They are currently seeking a business focused and talented solicitor to work in their busy conveyancing team. Ref: 21238

### Litigation Solicitor

£20,000 - £25,000

This highly reputable Belfast firm currently have the requirement for a general litigator. The main focus of this position will be in debt recovery and commercial work. Ref: 25587

### Qualified Solicitor

£18,000 - £22,000

Portadown based firm seek a qualified solicitor to join their fast growing property team. You will primarily be dealing with residential property although commercial experience would be an advantage. Ref: 24770

For further information on opportunities within the legal market, please contact Ronan Savage for a strictly confidential discussion on 028 90 325 325 or email your details to r.savage@brightwaterNI.com
At a recent meeting of the Chancery Division Liaison Committee, Court Service administrative staff reported a very high level of errors in applications for grants, with errors occurring in more than half of the applications lodged. The Practice Guidance Note of 8 February 2007 was prepared by the Chancery and Probate Master in consultation with Court Service officials with a view to drawing attention, as far as practicable, to requirements which, if properly addressed by practitioners, should lead to a reduction in the numbers of applications containing errors.

Master Ellison points out that many of the errors appear to be the result of simple inattention to detail and may therefore only be eliminated by a more careful and thorough approach on the part of the practitioners concerned and any other members of their firms handling the work. That said, it is hoped that the publication of the Practice Guidance Note will contribute towards a significant improvement in the applications lodged and that less desirable options such as the introduction of resubmission fees (discussed at the last Liaison Committee meeting but deferred for further consideration in light of developments) can be obviated.

RESERVATION OF RIGHT TO PROBATE

2. Notice of an application for a grant of probate should be given to any executor or executors to whom power is to be reserved. The Oath should contain a statement confirming either that such notice has been given or (if so directed by the Master) dispensed with.

INHERITANCE TAX QUERIES

3. As stated in PGN 2 paragraph 3, queries about IHT liability and forms must not be directed to the Probate Office. The HMRC Inheritance Tax Office, ("IHTO", formerly known as the Capital Taxes Office) website is www.hmrc.gov.uk/cto, its helpline 0845 3020900.

PREPARATION OF OATHS/AFFIDAVITS

4. Oaths and other affidavits and their exhibits (save wills and codicils which must NOT be certified as an exhibit pursuant to Order 41 rule 11(2) and (3), but signed or initialed as per paragraph 20(1) of the Second Schedule) must be prepared in accordance with the Lord Chief Justice’s Practice Direction 5/2005: Preparation of Affidavits and Exhibits.

GENERAL

5. Generally, errors in applications can be minimised by compliance with the relevant legislation including Order 97 of the Rules of the Supreme Court (Northern Ireland) 1980 ("the Rules") and by adequate use of established textbooks. For example: Sheena Grattan’s Succession Law in Northern Ireland provides guidance on many points of Northern Ireland law and practice; Margaret K M Aiken’s Probate Practice Notes ("Aiken"), although published in 1981, contain precedents and guidance on many points of practice and procedure; Tristram and Coote’s Probate Practice (the current Edition of which is the 30th) contains guidance on points of practice and precedents for the many common and uncommon situations where Northern Ireland law and practice coincide with those of England and Wales. Plainly the guidance and precedents obtainable from such texts should be adapted as appropriate having regard to the current requirements of the Rules and any relevant Practice Direction or Practice Guidance Note.

Dated 8th February 2007
Master Ellison

FIRST SCHEDULE

PART A

Contents of Second Schedule

OATH DETAILS

<table>
<thead>
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<th>Paragraph</th>
<th>Names</th>
<th>Addresses</th>
<th>Occupations</th>
<th>Entitlement to Grant</th>
<th>Entitlement under another Grant</th>
<th>Relationships</th>
<th>Cases with a Judge’s or Master’s Order</th>
<th>Renunciations</th>
<th>Powers of Attorney</th>
<th>Trust and other Corporations</th>
<th>Decree Absolute</th>
<th>Age</th>
<th>Date and Place of Death</th>
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<th>Filing Clause</th>
<th>Gross and Net Values of the Estate</th>
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PART B

PRACTICE GUIDANCE NOTES

<table>
<thead>
<tr>
<th>Date</th>
<th>PRACTICE GUIDANCE NOTES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Act 2004</td>
<td>..................</td>
</tr>
<tr>
<td>Wills</td>
<td>..................</td>
</tr>
<tr>
<td>Inheritance Tax Accounts</td>
<td>..................</td>
</tr>
<tr>
<td>Unique Solicitor’s Reference</td>
<td>..................</td>
</tr>
<tr>
<td>Civil Partnership</td>
<td>..................</td>
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IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

PRACTICE GUIDANCE NOTE (PROBATE)

APPLICATIONS FOR GRANTS OF PROBATE OR ADMINISTRATION

1. The attention of practitioners and applicants in person is drawn to the requirements contained in the Second Schedule the contents of which are listed in Part A of the First Schedule. Though they are far from exhaustive, adequate attention to these requirements and to the Practice Guidance Notes ("PGNs") listed in Part B of the First Schedule (and numbered as shown therein) should reduce significantly the number of errors in applications for grants of representation.
SECOND SCHEDULE

OATH DETAILS

1. Names
   (1) The full names of all parties should be used in the Oath.
   (2) Any discrepancies between names in other documents (e.g. a maiden name used in the Will) should be clarified in brackets after the name in the Oath.
   (3) Any discrepancies between names and signatures or initials (e.g. William signing as Bill) should be clarified in brackets after the name in the Oath.

2. Addresses
   (1) The full current postal addresses of all parties (including, if known, the postcodes) should be used in the Oath.
   (2) Any discrepancies between addresses in other documents (e.g. a former address used in the Will) should be clarified in brackets in the Oath.

3. Occupations
   (1) The occupation (or former occupation if the person has retired or is currently unemployed) of the Deceased and the deponent should be used in the Oath.
   (2) If the Deceased did not at death or the deponent does not have an occupation, his or her marital status (or, if appropriate, status as a registered civil partner) or other description will suffice.

4. Entitlement to Grant
   (1) In cases of intestacy, the entitlement of the applicant to apply must be made clear. (See eg Aiken pages 64 to 67 and PGN 4.)
   (2) Where there is a Will, the applicant’s entitlement to apply must be clarified and, if there are any other non-proving Executors named in the Will the Oath should state their names and either:
      (a) that notice has been given to the executor (or executors) to whom power is to be reserved or such motive has been dispensed with; or
      (b) that the other executor has renounced or predeceased the testator or survived the testator and then died, stating the date of death.
   (3) If there is any person who appears entitled to apply in priority to the applicant, that person’s full name and the reason why he or she is not applying (e.g., renunciation) must be stated.

5. Entitlement Under Another Grant
   If the entitlement of an applicant is as the legal personal representative of another party, concise details of the relevant Grant should be recited in the Oath and either the original Grant or a sealed and certified copy Grant should accompany the application.

6. Relationships
   In cases with a Will, if the applicant is a relative (by blood or marriage) or a surviving registered civil partner of the deceased, this should be stated in the Oath.

7. Cases with Judge’s or Master’s Order
   Where a relevant Master’s or Judge’s Order has been made, reference should be made to this in the Oath, including the date the Order was made, and a copy of the Order should accompany the application.

8. Renunciations
   If a person entitled to make an application is renunciating, the appropriate form should be lodged with the application. The forms can be found on page 70 of Aiken. (See also paragraph 4(3)(b) above.) The original renunciation must be exhibited to the Oath.

9. Power of Attorney
   (1) If the person entitled to apply has executed a power of attorney in favour of the actual applicant, the appropriate form should be lodged with the application. Specimen forms of powers of attorney for the specific purposes of applications for grants, and of averments for Oaths for donees of such powers, can be found on pages 68 and 69 of Aiken.

2. Where the person entitled to the grant is incapable but an enduring power of attorney executed by that person is relied on (i) the original or Office certified copy power should be lodged, (ii) the Oath should confirm that the Office of Care and Protection has not authorised anyone else to apply, and (iii) the Oath or a Solicitor’s letter should confirm that the Office of Care and Protection has been given notice of the application (normally at least 14 days in advance).

10. Trust and other Corporations
   (1) If the application is being made pursuant to a resolution authorising an officer of a trust corporation to apply, either an original sealed resolution or a sealed and certified copy resolution should be lodged with the application and the application should be accompanied by a sealed copy of the relevant resolution or power of attorney appointing its nominee; concise details of the resolution or power should be stated in the grant.

11. Decree Absolute
   In cases of intestacy where the deceased
person was divorced, a photocopy of the Northern Ireland Decree Absolute (or a sealed and certified copy of the equivalent document if the divorce was granted outside the jurisdiction) should be lodged and reference should be made in the Oath to the details of the Decree Absolute (or equivalent document if the divorce was granted outside the jurisdiction).

12. Age
The age of the Deceased should be completed in the Oath.

13. Place and date of death
The place and date of death should be completed in the Oath.

14. Domicile
The domicile of the deceased should be completed in the Oath. (Should the domicile not be Northern Ireland, a booklet is available from the Law Society, which includes notes on making an application with a foreign domicile.)

15. Filing Clause
Where the application is to be lodged by solicitors, a filing clause must be completed at the foot of the Oath. The name of the solicitor's firm, the unique solicitor's reference in accordance with PGN 3, and the full address of the lodging office should be completed.

16. Gross and net values of the estate
For an application where the date of death is after 6 April 2004, a tax form must be completed in all cases and PGN 2 must be complied with. The following table shows the inheritance tax (“IHT”) thresholds down to the date of this Note. See Table 1

<table>
<thead>
<tr>
<th>Date of Death</th>
<th>Excepted estate limits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prior to 1 April 1981</td>
<td>A Tax Account is always required</td>
</tr>
<tr>
<td>On or after 1 April 1981</td>
<td>£25,000</td>
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<tr>
<td>Ditto 1 April 1983</td>
<td>£40,000</td>
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<tr>
<td>Ditto 1 April 1987</td>
<td>£70,000</td>
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<tr>
<td>Ditto 1 April 1989</td>
<td>£100,000</td>
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<tr>
<td>Ditto 1 April 1990</td>
<td>£115,000</td>
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<tr>
<td>Ditto 1 April 1991</td>
<td>£125,000</td>
</tr>
<tr>
<td>Ditto 6 April 1995</td>
<td>£145,000</td>
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<tr>
<td>Ditto 6 April 1996</td>
<td>£180,000</td>
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<tr>
<td>Ditto 6 April 1998</td>
<td>£200,000</td>
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<tr>
<td>Ditto 6 April 2000</td>
<td>£210,000</td>
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<tr>
<td>Ditto 6 April 2002</td>
<td>£220,000</td>
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<td>Ditto 6 April 2003</td>
<td>£240,000</td>
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<tr>
<td>Ditto 6 April 2004</td>
<td>£263,000</td>
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<tr>
<td>Ditto 6 April 2005</td>
<td>£275,000</td>
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<tr>
<td>Ditto 6 April 2006</td>
<td>£285,000</td>
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17. Jurat
(1) The jurat in the Oath should be completed appropriately giving the place of swearing, date of swearing, name of applicant, entitlement of commissioner/solicitor to swear the Oath and jurisdiction in which the commissioner/solicitor is entitled to swear the Oath.

18. Amendments to a sworn document
(1) If the original Oath has to be re-sworn, a fresh jurat is required either below the existing jurat or on the back of the Oath document, providing the details of the re-swearing. The standard wording for a jurat should be used, with ‘Re-sworn’ replacing ‘Sworn’.

19. Notice of Application
A notice of application should always be lodged. The particulars contained in the notice should correspond with those stated in the Oath and the IHT form.

20. Wills
(1) If the deceased died testate, the original Will should be lodged with the application, signed or initialled on the back by the applicant(s) and the commissioner/solicitor who swore the Oath.

(2) No paperclips, staples or similar should be attached to the original Will, otherwise a letter or affidavit confirming the reason for the attachment and that nothing of a testamentary nature was attached to the Will will be required.

(3) If there have been any amendments to bequests, figures, names or dates within the Will (unless either these have been initialled by the testator/testatrix and attesting witnesses to the Will, or the amendment has been recorded adequately in the attestation clause), an affidavit from an attesting witness to the Will is required, confirming (if appropriate) that the amendments were made prior to the execution of the Will.

(4) Similarly, if correction fluid has been used on the original Will, an affidavit of an Attesting Witness to the Will is required, stating that...
the relevant amendment was made prior to the execution of the Will.

(5) If the attestation clause in the original Will is incomplete, an Affidavit of Attesting Witness is required to confirm the Will was executed correctly. (An example of such an affidavit can be found on page 57 of Aiken.)

(6) If there are any issues regarding the signature of the testator/testatrix, an Affidavit of Handwriting will be required. (An example Affidavit can be found on page 60 of Aiken.)

21. Probate Engrossment

A probate engrossment will be required in the circumstances set out in PGN1. This engrossment should be an exact typed or printed copy of the original will and should be printed on either probate engrossment paper or yellow deed paper. The probate engrossment should be headed as such and must be prepared and certified as directed in paragraph 4 of the PGN.

22. Inheritance Tax Account/Forms

(1) PGN 2 must be complied with.

(2) If the date of death is on or after 6 April 2004 and a D18 tax account is required to be delivered, the D18 must be stamped by the IHTO prior to it being lodged with the application to the Probate Office.

(3) For cases where the place of domicile of the deceased is not Northern Ireland and a D18 tax account requires to be delivered, the CTO must have accepted the domicile by marking the D18 prior to it being lodged with the application to the Probate Office.

(4) If another form of tax account or return is required, you should contact the IHTO not the Probate Office, to ascertain which form should be used. The correct IHT form must however accompany the application for a grant whether or not there is any liability for IHT.

23. Guarantee Bond/Sureties Guarantee

(1) In cases where a Guarantee Bond/Sureties Guarantee is required to be lodged with the application, this should cover the gross value of the estate.

(2) If a Sureties Guarantee is being lodged, as opposed to a Bond, it should be from two independent parties and should be accompanied by either a justification of sureties or a letter from the solicitor confirming that both of the parties are solvent to the extent of the gross value of the estate.

24. Fees

NB THE FEES MENTIONED IN THIS SECTION ARE CURRENTLY UNDER REVIEW: REFERENCE MUST ALWAYS BE MADE TO THE FEES ORDER WHICH IS IN FORCE AT THE TIME OF THE APPLICATION.

The relevant Fees Order can be found on the N.I. Court Service website at courtsni.gov.uk Above is a list of Probate Fees valid from 1 September 2004. Cheques are made payable to ‘Northern Ireland Court Service’.

(1) Court Fees (based on net estate as from 1 December 1998 on applications for grants): See Table 2

(2) Miscellaneous Fees

(a) Second Grant to an Estate Any second Grant to an estate £8.00

(b) Requisition Fees Photocopy Grant or Will £1.50 per page Certified Copy Grant or Will £3.50 per page

Sealed and Certified Copy Grant and Will £4.00 per page

Postal Application Fee £5.00

(c) Search Fees

Search Fee (1986-present) £5.00

Each Additional Year £3.00

NB Calendar volume books until 2003 are available at the Probate Office should you wish to conduct a manual search for no fee. There is also an on-line search facility (for Grants extracted from 1986 to present) available through the N.I. Court Service website.

(d) Caveats

Entry or extension of a Caveat £15.00

Entry of a Warning £15.00

A Caveat will expire six months from the date of lodgement.

(e) Applications to the Master

Summons £30.00

Amend Grant £8.00

Guardianship £8.00

Ex-Parte Application £8.00

(f) Depositing of a Will

Deposit Will £6.00

(g) Lodging a Writ £175.00

(h) Setting Down

Upon lodgement of a Book of Pleadings £98.00

(19) Settling a Citation £25.00

Table 2

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<th>Amount (£) Does not exceed</th>
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<td>No Fee</td>
<td>8.00</td>
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<td>25,000</td>
<td>75.00</td>
<td>All others 14.00</td>
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<td>40,000</td>
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<tr>
<td>70,000</td>
<td>260.00</td>
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<tr>
<td>100,000</td>
<td>330.00</td>
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<tr>
<td>200,000</td>
<td>410.00</td>
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<td>300,000</td>
<td>475.00</td>
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<tr>
<td>400,000</td>
<td>540.00</td>
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<tr>
<td>Each Additional 100,000</td>
<td>+ 65.00</td>
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Practise Guidance Note (Probate)
Civil Partnership Act 2004:
Administration on Intestacy

5. 195 of the Civil Partnership Act, in incorporating into Northern Ireland law a range of amendments to primary legislation, leaves no doubt as to the intention of the legislature to treat civil partners on exactly the same basis as spouses. The section reads as follows:

14. – Schedule 14 amends enactments relating to wills, administration of estates and family provision so that they apply in relation to civil partnerships as they apply in relation to marriage.


The order of priority of entitlement to grants of representation (as opposed to entitlement to distributive shares) is contained in Order 97 of the Rules of the Supreme Court (NI) 1980 and it is understood that the changes necessary to reflect the intention behind the provisions of the Act are likely to be considered by the Supreme Court Rules Committee in the near future. Pending such changes, however, the Chancery Judge and Master are satisfied that it is necessary to provide clarification that it is intended to treat surviving civil partners as entitled to grants on exactly the same basis as surviving spouses.

The standard averment in Oaths for Executors to clear off the possibility that the will was revoked by a subsequent marriage has to be revised to address also the possibility of revocation by the formation of a civil partnership after the making of the will.

The Note below provides some further guidance as to the contents of Oaths to apply for grants of representation to testate and intestate estates given the 2004 Act's assimilation of the rights of civil partners to those of spouses.

5. 195 of the Civil Partnership Act, in incorporating into Northern Ireland law a range of amendments to primary legislation, leaves no doubt as to the intention of the legislature to treat civil partners on exactly the same basis as spouses. The section reads as follows:

Oaths for Administrators / Intestate Estates

4. Every oath to apply for a grant of administration to an intestate estate, and every affidavit grounding an application (eg for appointment of a guardian) to which a civil partnership would (if it subsisted) be material, should clarify in express terms or by necessary implication whether the Deceased was survived by a civil partner.

5. For example, where the Deceased (a male) did not form a civil partnership: (i) an averment that the Deceased died on a date before 5 December 2005 (ie before the relevant commencement date) would be adequate; and (ii) an averment that the Deceased's lawful widow survived him would also be adequate; but (iii) an averment that the Deceased died a bachelor without issue would not provide adequate clarification; and (iv) an averment that the Deceased died a widower would be inadequate.

6. In the examples at 5(iii) and (iv) the possibility of a relevant civil partnership may be cleared off by words to the effect that the Deceased did not form a civil partnership, or that he did not leave a civil partner him surviving, or simply that the Act does not apply or is not relevant.

References to Surviving Civil Partners

7. Where it is relevant to any oath or affidavit, whether in a testate or intestate estate, the averment should refer to a civil partner surviving, or simply that the Act does not apply or is not relevant.

Dated this 5th day of January 2007

Master Ellison

NB: This Guidance Note and the other Practise Guidance Notes mentioned are available both on the Society's website - www.lawsoc-ni.org and on the Court Service's website - courtsni.gov.uk
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Probate Guidance Seminar

Improving applications for Probate:
Where there’s a will - there’s a way.

DATE:
Various dates and venues (see below)

DESCRIPTION:
The Law Society, in conjunction with the Probate Office, will be hosting a series of seminars (to include a Q&A session) aimed at assisting solicitors and legal staff who deal with Probate Applications.

Kay Hegarty and Stephen Watson, Probate Office, will endeavour to explain why a substantial number of applications have to be returned, often for what may appear to be minor corrections, and clarify the reasons for this. These returns can cause frustration and also delay, for practitioners, their clients and Probate Office staff.

It is hoped that the seminars will enhance the understanding of practitioners as to the problem areas in relation to probate applications. It should also result in a greater first time success rate for applications received, benefitting the profession, applicants and the Office.

The seminar will review Master Ellison’s most recent practice guidance notes on:
1. Engrossments of Wills and Codicils
2. Oaths for Grants/Inheritance Tax Accounts
3. Unique Solicitors’ Reference
4. The Civil Partnership Act 2004
5. Points in Practice

There will also be an opportunity to consider Probate Applications less frequently encountered. Participants will receive a comprehensive resource pack with relevant course notes and supplementary information.

The seminars promise to be informative, and will lead to a situation where all parties have a better understanding of each other’s problems and challenges.

All courses will run from 2pm – 3.30pm and will provide 1.5 CPD hours. The course costs £30.

The seminars will take place at the following venues:

<table>
<thead>
<tr>
<th>Venue</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Newry Courthouse</td>
<td>Tue 17 April 2007</td>
</tr>
<tr>
<td>Newtownards Courthouse</td>
<td>Wed 18 April 2007</td>
</tr>
<tr>
<td>Ballymena Courthouse</td>
<td>Fri 20 April 2007</td>
</tr>
<tr>
<td>Omagh Courthouse</td>
<td>Mon 23 April 2007</td>
</tr>
<tr>
<td>Derry Courthouse</td>
<td>Wed 25 April 2007</td>
</tr>
<tr>
<td>Craigavon Courthouse</td>
<td>Tue 1 May 2007</td>
</tr>
<tr>
<td>Royal Courts of Justice, Belfast</td>
<td>Thu 3 May 2007</td>
</tr>
</tbody>
</table>

Improving Applications for Probate

Date: ________
Venue: ________
Title: ________
Name: ________
Firm: ________
Address: ________
Postcode: ________
Tel no: ________
E-mail: ________
Cheque enclosed: ________ (made payable to “Law Society of Northern Ireland”)
The Office of Law Reform has published a Consultation Paper recommending increases to money received by surviving spouses or civil partners where there is an intestacy.

It is over 13 years since this specific sum, known as the statutory legacy, was last reviewed. Under the current law the surviving spouse or civil partner will automatically receive the first £200,000 from the deceased’s estate, if there are no surviving children. If there are children, the surviving spouse or civil partner will receive £125,000 from the estate.

The Office of Law Reform is recommending that these figures are increased to £300,000 and £200,000 respectively.

Announcing the publication of the Consultation Paper, the Finance Minister, David Hanson, said:

“Given social and economic changes in the past decade, as well as the rise in house prices, it is important to increase these figures to ensure that the intestacy rules make adequate provision for surviving spouses or civil partners. I believe that the figures we are recommending will ensure this protection.”

It is over 13 years since this specific sum, known as the statutory legacy, was last reviewed.

The full Consultation Paper is available at www.olrni.gov.uk. A Summary Document has also been produced and is available on the same website or in print form from the Office of Law Reform.
COMPANY AND COMMERCIAL LAWYERS' GROUP
A SNAPSHOT OF THE PAST YEAR

The Company & Commercial Lawyers Group was established in early 2005 primarily to promote the interests of solicitors working in Northern Ireland practising in the field of company and commercial law and to provide representation for those lawyers working in that practice area, deliver appropriate Continuing Professional Development and contribute to this specialist area of the law. Primarily the Group’s role has been to provide appropriate CPD courses but we have also been involved in commenting on the new Companies legislation and as a lobby group on related matters. During the past year we ran the following lunchtime seminars:

- On 7 March 2006 the Department of Enterprise, Trade and Investment presented a lunchtime seminar on Company Law Reform.
- On 24 October 2006 Adam Brett of L’Estrange & Brett gave a lunchtime seminar entitled “Consultation Requirements under TUPE”.

We also ran one all-day and two half-day seminars on the following topics:

- On 6 April 2006 Keith Lewington gave an all-day seminar covering “Due Diligence In Depth” and “Heavyweight Commercial Contracts”.
- On 12 October 2006, Ernst & Young presented a half-day seminar entitled “Structuring Deals – what every lawyer needs to know on tax”.
- On 30 November 2006, PwC presented a half-day seminar entitled “Acquisitions Accounting Essentials for Corporate Lawyers”.

The Group was delighted at the high attendance numbers at all of the events which we believe is testament to the demand for relevant, convenient and cost effective training. We also held a very successful pub quiz on 18 January 2007 after the AGM, at which a team from Elliott Duffy Garrett prevailed against strong opposition.

At the AGM on 18 January 2007 the following officer holders were elected:
1. Ciara Seymour (L’Estrange & Brett) as Chair
2. Laura McIldowney (Tughans) as Treasurer; and
3. Clare McKibben (Elliott Duffy Garrett) as Honorary Secretary

The remaining committee members are:
- Sarah Burrows, J John McKee & Son
- Jason Johnston, McGrigors
- Jenny Ebbage, Cleaver Fulton Rankin
- Kerry McCorkell, Tughans
- Richard McLaughlin, Jones & Co
- Olive O’Neill, Sole Practitioner
- Peter Stafford, Stafford Thompson Johnston
- Andrew Talbot, PriceWaterhouse Coopers
- Mark Thompson, Stafford Thompson Johnston
- Leanne Whaley, Carson McDowell

To renew membership or enrol as a new member, please complete the attached form. The membership fee remains at £20.00 and considerable discount is given to members for any seminars run by the Group. Please return the attached form complete with membership fee to Clare McKibben, Elliott Duffy Garrett, DX 400 NR, BELFAST.

Membership Form

I enclose a cheque for £20.00 made payable to The Company and Commercial Lawyers Group.

Title: __________________________ Name: __________________________
Firm: __________________________
Address: ________________________ Telephone Number: ________________________
Postcode: ________________________ E-mail: ________________________
The Department for Social Development has announced a review of the Industrial Injuries Disablement Benefit (IIDB) scheme.

The current IIDB scheme was introduced in 1948 and is state funded. The scheme provides non-contributory benefits for disablement where disability arises from an accident at work or as a result of an occupational disease. It is a “no-fault” scheme – employees who are injured or made ill through work do not have to show that the employer was negligent.

The Department states that the review follows on from the ongoing reforms of support for those on incapacity benefits and is part of the Government’s commitment to ensure that people are not written off and consigned to a life on benefits.

The review will address questions such as what more appropriate support could be provided, who should be covered by a new occupational injury scheme and what should be the role of employers.

The consultation paper can be found at www.dsdni.gov.uk. The consultation period runs until 22 April 2007.

Consultation on Industrial Injuries Scheme

On the lookout for a fresh challenge?

...then look no further than our Head Office in Newtownards.

We currently have two vacancies on offer, so if you’re up to the challenge your search could be over.

Senior Matrimonial & Family Law Solicitor
Prospective candidates for this post must have at least five years PQE, for a position in our Newtownards Office, to manage our expanding matrimonial department. Salary commensurate with experience.

Senior Conveyancing Solicitor
Prospective candidates for this post must have at least five years PQE in residential and commercial conveyancing to join our conveyancing department in Newtownards. Salary commensurate with experience.

Please apply in confidence to John A. Beatty, Stewarts Solicitors, 3 Regent Street, Newtownards, Co Down, BT23 4AB
E-mail: j.beatty@stewartsolicitors.com

Closing date for all applications is Friday the 30th March 2007
Limits on awards for unfair dismissal and redundancy payments increased

The Employment Rights (Increase of Limits) Order (NI) 2007 (SR2007 No.22) increases, from 4 February 2007, the limits applying to certain awards of industrial tribunals and other amounts payable under employment legislation, as specified in the Schedule to the Order.

A. 33 of the Employment Relations (NI) Order provides that the limits on various awards and payments under employment legislation will be index-linked ie will be varied by Order if the Retail Prices Index (RPI) for September is higher or lower than the index of the previous September. The new limits reflect changes in the RPI between September 2005 and September 2006 (+3.6%). The increases apply where the event giving rise to the entitlement to compensation or other payments occurred on or after 4 February 2007.

The changes made by this Order involve no changes to the structure of awards and other payments.

In the 2007 Order -
(a) “the 1995 Order” means the Trade Union and Labour Relations (NI) Order 1995
(b) “the 1996 Order” means the Employment Rights (NI) Order 1996 and
(c) “the 1999 Order” means the Employment Relations (NI) Order 1999.

**TABLE OF INCREASE OF LIMITS**

<table>
<thead>
<tr>
<th>Relevant statutory provision</th>
<th>Subject of provision</th>
<th>Old Limit</th>
<th>New Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. A. 40(6) of the 1995 Order</td>
<td>Minimum amount of compensation awarded by the industrial tribunal where individual expelled from union in contravention of a.38 of the 1995 Order and where, when the application is made, the applicant has not been re-admitted to the union.</td>
<td>£6,300</td>
<td>£6,600</td>
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<tr>
<td>2. A. 23(1) of the 1996 Order</td>
<td>Maximum amount of ‘a week’s pay’ for the purpose of calculating a redundancy payment or for various awards including the basic or additional award of compensation for unfair dismissal</td>
<td>£290</td>
<td>£310</td>
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<tr>
<td>3. A. 63(1) of the 1996 Order</td>
<td>Limit on amount of guarantee payment payable to an employee in respect of any day.</td>
<td>£18.90</td>
<td>£19.60</td>
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<tr>
<td>4. A. 154(1) of the 1996 Order</td>
<td>Minimum amount of basic award of compensation where dismissal is unfair by virtue of a. 132(1)(a) and (b), 132A(d), 133(1), 134 or 136(1) of the 1996 Order.</td>
<td>£4,000</td>
<td>£4,200</td>
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<tr>
<td>5. A. 158(1) of the 1996 Order</td>
<td>Limit on amount of compensatory award for unfair dismissal.</td>
<td>£58,400</td>
<td>£60,600</td>
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<td>6. A. 231(1) of the 1996 Order</td>
<td>Limits on amount in respect of any one week payable to an employee in respect of debt to which Part XIV of the 1996 Order applies and which is referable to a period of time.</td>
<td>£290</td>
<td>£310</td>
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<tr>
<td>7. A. 77E of the 1996 Order</td>
<td>Amount of award for unlawful inducement relating to union membership or activities, or for unlawful inducement relating to collective bargaining</td>
<td>£2,600</td>
<td>£2,700</td>
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</table>
Practice Direction 1/2007
Refund Applications relating to Enforcement Applications

Background
Authority for the refund of enforcement fees rests with the Master (Enforcement of Judgments Office) by virtue of Rule 11 (2) of the Judgments Enforcement (NI) Rules 1981.

This can only apply where an application for enforcement has been erroneously accepted by the Enforcement of Judgments Office (EJO).

Therefore, only the following will be considered as “erroneous” application for enforcement:

- Where the judgment debt has been paid in full or arrangement entered into before the allocation of an EJO case reference. (In some instances where a partial refund of fees may be ordered).

Or, where the following events occur prior to the acceptance date of the enforcement application

- The judgment debtor, or creditor is deceased.
- The EJO certifies that the judgment debtors’ whereabouts are unknown or they reside outside the jurisdiction (and have no assets within the jurisdiction against which the EJO can make an order of enforcement).
- Potential or actual legal barrier exists that would prevent the EJO from accepting an application for enforcement (eg stay on judgment) prior to the acceptance of enforcement.
- Certificate of Unenforceability is in force (on prior existing judgments).
- Debtor is declared bankrupt or where an interim order is in force under Chapter II of Part VIII of the Insolvency (Northern Ireland) Order 1989.

The EJO will refund any overpayment of fees which exceed the statutory fee payable at the time of application.

Best Practice
No application for refund of enforcement fees will be considered where the above criteria do not apply. In some instances the Master may consider only a partial refund of enforcement fees to cover the costs expended by the Enforcement of Judgments Office.

All applications for the refunding of enforcement fees are to be sent to the Enforcement of Judgments Office Accounts Team, 6th Floor, Bedford House, 16-22 Bedford Street, Belfast, BT2 7DS.

J Christopher Napier
Master (Enforcement of Judgments Office)
26 January 2007

Solicitors’ letter headings

The Society has no specific Regulations in relation to solicitors’ notepaper and other stationary but of course these must conform with the provisions of the Solicitors’ (Advertising, Public Relations and Marketing) Practice Regulations 1997 (as amended).

However, the Business Names (NI) Order 1986 (a. 3(1)(a)) applies to any partnership with a place of business in Northern Ireland. This includes solicitors firms.

A. 6 (1)(a)(i) of that Order requires that all letter-heading and related stationary (such as bills of costs) state the name of each partner in legible characters.

This creates an obligation to clearly distinguish or show the names of the person with responsibility for the partnership and its liabilities.

If solicitors wish to show the names of qualified assistant solicitors on their notepaper, these should be clearly designated as such and distinguished from the names of the partners.

It is also permissible for the names of unqualified staff to be shown subject to a suitable and appropriate description eg Practice Manager.

The Society has recently received some indication that a firm of solicitors have notepaper showing the names of both assistant solicitors and unqualified personnel in a manner which did not clearly distinguish between them and the names of the principals of the firm.
Solicitors

Up to £75k + excellent benefits package.

Our client, US based, is a top 20 global law firm whose award winning London office has been involved in Europe’s largest M&A transactions, and is regarded as one of the premier international funds practices. The London office continues to expand and our client is currently looking to recruit high quality solicitors in the opposite disciplines, across all levels of qualification.

FUNDS 1+ Year’s PQE
CORPORATE PRIVATE EQUITY 1 + Year’s PQE
ACQUISITION FINANCE 1 + Year’s PQE

Our client is looking for lawyers with intellectual agility as well as a sense of humour, palpable enthusiasm and charisma. These are significant opportunities with transparent prospects that will see you work in one of the City’s most dynamic and enterprising offices. Ref 5496

To discuss these excellent opportunities please call Orla at PRG Lawsearch now on 07793 200 241 or 02890 314 644

London

Outstanding opportunities in Northern Ireland

<table>
<thead>
<tr>
<th>Ref</th>
<th>Specialism</th>
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<th>PQE/EXP</th>
<th>Salary</th>
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<tr>
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<td>Property</td>
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<td>Senior Matrimonial</td>
<td>North Down</td>
<td>5 yrs +</td>
<td>£Neg</td>
</tr>
</tbody>
</table>

For more details call Orla Milligan at prglawsearch on 07793 200 241/02890 314 644
or email orlamilligan@prglawsearch.com

OFFICES IN BELFAST, GLASGOW AND EDINBURGH

Call us today on 02890 314 644, 0141 331 9380 or 0131 240 0790
www.prgrecruitment.com
At LawCare we see a lot of lawyers who are in a state of considerable distress and anguish. I have come across the story of one particular lawyer, Grace (in fact based in California), which encapsulates exactly the sort of issues that we see on a regular basis. I have no reason to believe that the lawyers in the USA are one iota different to those of us in the UK and so Grace’s story may well strike a familiar chord with you.

Grace was a late entrant into the law, leaving law school at the age of 34 and setting up in practice as a Sole Practitioner. She had previously worked as a legal secretary, paralegal and then Office Manager and believed that given this experience, she could handle all the pressures that came from being in practice alone - as she described it “being chief cook and bottle washer.” However, over a period of time, she found that the pressures of dealing with clients, judges and unreasonable opponents overwhelmed her.

She was regularly working 18 hour days and because of her typical lawyer personality, found it impossible to ask for help - “we lawyers are accustomed to everyone looking to us for the answers, so I believed that I could not ask for help.” Over a period of a year, her immune system began to fail under the constant stress and as a result of being ill more and more often, she was falling behind with her work, which in turn was leading to financial pressures. She could not get off the treadmill of this downward spiral and slipped into a depression. “I reached a point where I could not bear answering the phone or opening my mail. I basically locked myself in my apartment for three months and contemplated ending it all permanently.”

In the end, Grace had no alternative but to close her practice and go to work for another law firm, which she found utterly demoralising. Eventually, someone told her about the California LAP (the equivalent of LawCare) and she took the step of ringing their helpline and telling them how hopeless she felt. With the help of the LAP staff, Grace reached an understanding of how ill she was and the treatment she needed to return her to good health. They also loaned her the money to fund the treatment and provided ongoing support for as long as was necessary. Grace described her call to their helpline as being “probably the most important phone call I ever made.”

As a result of the LAP’s assistance and the course of treatment she underwent, Grace reached the realisation that she had come to cope with the stress in her life by destructive means – binge eating, drugs, alcohol, addiction to video games – all of which dulled the pain in the short-term but did nothing to actually help her get her life into a healthy good order.

Grace’s final comment sums it all up:

“The most important thing I now know is that we all need help. At some point in our lives, we will need help and we should never be ashamed to ask for it. Just make that phone call. It will be the best phone call you ever make.”

So if you find that the pressures of life in practice are getting to you; that you are drinking more than you should in order to cope with the stress in your life; that personal or working relationships are coming under pressure because of the way you are conducting yourself; if you are using drugs in order to cope; if you have an eating disorder – you do not need to suffer alone. LawCare is here to help you. Our helpline is open 365 days a year. Just pick up the phone and call us.

Monday - Friday 9am to 7.30pm
Saturday - Sunday/Public Holidays 10am to 4pm
0800 279 6869

With grateful thanks to the State Bar of California Lawyer Assistance Programme.
The importance of your working environment

How would you like to increase productivity from your staff by a fifth each day?

**Good office design**

Recent research has suggested that a well-designed, employee-friendly office can boost productivity by as much as a fifth.

Most solicitors spend more time in the office than at home. A well designed working environment deserves some professional consideration and should be considered a key strategy for retaining the best staff.

A study by the British Council for Offices has found even simple things such as good lighting and having adequate daylight can reduce absenteeism by 15 per cent and increase productivity by up to 20 per cent. The report, ‘Workplace Productivity: Design, Location and People’, studies the effect of commercial office space on business performance, making a clear link between well designed office buildings, business performance and ultimately business profitability.

Richard Kauntze, Chief Executive of the British Council for Offices, said: “No part of the BCO’s work is more important than developing a greater understanding of the relationship between an office building and the effectiveness of the people who work in it.

“The workforce is by far the most valuable asset of any business, and almost always the biggest cost. A business that gives serious attention to the physical environment of the office is far more likely to increase staff productivity than one which ignores the building,” he added.

Employers are increasingly recognising this and are looking to provide a welcoming and comfortable office environment for their staff. The right architect will be able to review your current working environment, listen to your needs and tailor a range of designs from the legal sector for discussion.

**How architects can benefit your practice**

Architects are able to undertake space audits to existing office layouts in order to maximise the potential of existing properties. This might involve the creation of cellular or open-plan office space and will generate a solution tailored to suit the practice and its aspirations.

Architects are also involved with both the refurbishment of existing premises and the creation of new build commercial space. They will be able to advise on current British Council for Offices standards and make recommendations for improving workplace accessibility—particularly pertinent since the introduction of the Disability Discrimination Act. We are also able to advise on materials and finishes that will minimize maintenance and stand the test of time. Externally, an architect can ensure an appropriate street presence and public face for the practice—whilst meeting building regulations and planning requirements.

An attractive and well-planned office space creates an impression of efficiency. This is particularly important in the reception area and meeting rooms, where attention to acoustics is vital both for client confidentiality and ease of communication. Reception areas and exteriors of practices are crucial in the impression they give, both attracting and retaining clients. Artwork can complete the integration of furniture and finishes.

**Furniture**

A second key topic for discussion with your architect should be the choice and design of furniture. Appropriate storage solutions can help to maximise floor space and increase efficiency in the office. Devices such as storage walls and screens can be used to better organise space. The correct ergonomic design of staff workstations is of primary importance.

The HSE has just published the results from its labour force survey, revealing a staggering 2,000,000 workers with injuries caused or aggravated by the workplace. Of these, the majority relate to back disorders and problems with neck and upper limbs, totaling 827,000. Within the legal sector work related injuries are estimated at around 2% of professionals.

The right architect will help your practice achieve its potential whilst meeting your budget.

Architects spend every day dealing with problems of space and organisation - so don’t be surprised if some of the solutions are not ones you had previously considered!

**Lighting**

Careful consideration of lighting and solar shading can create an environment that not only looks attractive but will increase productivity and prove essential in retaining valuable staff. Diffuse, comfortable lighting that minimizes glare or reflections on computer screens, maintains concentration and is essential for staff welfare. The correct choice of light fitting for monitor use is important, but will probably best be used in combination with other fittings to achieve the required balance of lighting. The illumination of ceiling and wall surfaces is now understood to be essential for monitor use. Good lighting design generally - and ideally the creation of a range of environments - should not be overlooked as a means to improve communication both within teams and with clients.

Nicola Waddington
Alan Jones Architects Ltd
37 Malone Road
Belfast BT9 6RH

Nicola was employed as a Design Manager at Canary Wharf where she was involved with planning offices and headquarters for several international businesses and legal practices, including Clifford Chance.

For further information and initial free consultation, contact Alan Jones Architects on 028 9066 7789 or by emailing admin@jonesarchitects.com
GMA Management Consultants
would like to take this opportunity to congratulate our clients
Edwards & Co Solicitors
Peter Dornan & Co
on the successful completion of their
ISO 9001:2000
Assessments by
SGS YARSLEY ICS Ltd
As Ireland's leading Quality Consultants for the Public and Private Legal Sector, we provide consultation on:
ISO9001/2000 & LEXCEL
COMPUTERISED CASE MANAGEMENT
Listed below are some of the companies we have assisted and their respective assessments

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<th>Assessments</th>
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<td>L’Estrange &amp; Brett</td>
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<td>Lennon Toner &amp; O’Neill</td>
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<td>Walker McDonald Solicitors</td>
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</table>

For a free consultation/quotation or further information contact;

Gary Millar at GMA
Pinetree Lodge, 40 Tullyhubbert Road Ballygowan, Newtownards, BT23 6LZ
Tel: 028 9752 8427 Mobile: 07831 530178 Fax: 028 9752 1256
Annual Report
The seventh Annual Report of the Northern Ireland Human Rights Commission (covering the period April 2005 to March 2006) has recently been presented to Parliament. The report provides an overview of developments in human rights in Northern Ireland and sets out the Commission’s activities during the year, describing its work on legal services, legislation, policy development, education, investigations and research as well as progress on a Bill of Rights for Northern Ireland.

The report is downloadable from the Commission’s website – www.nihrc.org

Advice guides for migrant workers
According to the Commission many migrant workers are vulnerable to human rights abuses simply because they and indeed the agencies that are supposed to provide for them, simply do not know what the rights and entitlements of migrant workers are.

To help migrant workers in Northern Ireland to secure their rights, a set of guides has been produced by the Commission, the Dungannon-based Animate Project and the Law Centre Northern Ireland, with funding from the Office of the First Minister and Deputy First Minister (OFMDFM).

This comprehensive range of rights based guides, compiled with the help of government, human rights groups and advice agencies, will help migrant workers understand their entitlements on a range of issues including social security benefits, employment, health, housing and civil liberties.

Three sets of guides have been produced, all available in English and the following languages:

- one for migrant workers coming from the European Economic Area (EEA), available in Tetum (the language of East Timor) and Portuguese
- one for Accession States/A8 Nationals who have been working for less than one year in the UK (available in Polish, Lithuanian, Latvian and Slovak) and
- one for commercial and business work permit employees (Russian and Chinese online versions).

Speaking at the launch of the guides, Les Allamby, Director of the Law Centre (NI) said:

“The provision of these comprehensive guides will alert migrant workers to their rights and most importantly, show this important section of our community how they can use these entitlements in practice. This is the most extensive range of advice materials ever produced in Northern Ireland for migrant workers and we hope that as a result of this unique inter-agency partnership we can help them realise their rights and also assist those involved in providing services to migrant workers.”

Professor Monica McWilliams, Chief Commissioner of the Human Rights Commission, added:

“In Northern Ireland the escalation in racist attacks highlights the need for us all to promote and protect the rights of migrants whether in the home or at work. One major way of tackling racism would be for the UK Government to ratify a recent UN human rights treaty known as the Migrant Workers Convention. It is important that we all recognise that migrants have the same right as everyone else to having their fundamental rights respected and protected. Human rights are universal.”

NIHRC Review
The Commission has produced the third edition of its magazine - NIHRC Review - with a special focus on detention. Copies are downloadable from the Commission’s website.

In this edition, leading figures in this policy area such as Anne Owers (HM Chief Inspector of Prisons), Kit Chivers (Chief Inspector of Criminal Justice), Brian Coulter (the Prisoner Ombudsman) and Robin Masefield (Director General NI Prison Service) have contributed articles setting out their vision of how human rights are engaged within their spheres of influence. In addition, Chief Commissioner, Monica McWilliams reviews her work in the past year and Christine Eames and Paschal McKeown comment on the Bamford Review of Mental Health and Learning Disability.
**Judicial Appointments**

**Court of Appeal**
Her Majesty the Queen has appointed the Honourable Mr Justice Higgins and the Honourable Mr Justice Girvan to the Court of Appeal in Northern Ireland. The judges were sworn into office before Sir Brian Kerr, the Lord Chief Justice of Northern Ireland, in the presence of Lord Falconer the Secretary of State for Constitutional Affairs and Lord Chancellor, on Monday 8 January 2007. The appointees succeed Sir Michael Nicholson and Sir John Sheil, who recently retired.

**High Court**
Her Majesty the Queen has appointed Mr William Benjamin Synge Stephens QC and Mr Seamus Treacy QC SC to be High Court Judges in Northern Ireland. Both judges were sworn into office before the Right Honourable Sir Brian Kerr, the Lord Chief Justice of Northern Ireland, on 29 January 2007.

**Judicial responsibilities**

The Office of the Lord Chief Justice has advised the Society of the following assignments of judicial responsibility:

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<tr>
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<th>Puisne Judges</th>
<th>Puisne Judges</th>
</tr>
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<tr>
<td>The Rt Hon Sir Brian Kerr</td>
<td>The Hon Mr Justice Coghlin - Senior Queen's Bench Judge</td>
<td>The Hon Mr Justice Weir - Family Judge</td>
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<tr>
<td>Lords Justices of Appeal</td>
<td>The Hon Mr Justice Gillen - Judicial Review Judge</td>
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<td>The Hon Mr Justice McLaughlin - Commercial Judge</td>
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<td>The Hon Mr Justice Weatherup - Judicial Review Judge</td>
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<tr>
<td>The Rt Hon Lord Justice Girvan</td>
<td></td>
<td>The Hon Mr Justice Stephens - Crown Court</td>
</tr>
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**Practice Direction 2/2007**

Supreme Court of Judicature of Northern Ireland
Direction pursuant to section 68 (2)(b) and (4) of the Judicature Act 1978
Functions of the Masters (High Court)

This direction gives details of the Masters of the High Court

- **Master Ellison** Chancery and Probate Office
- **Master Redpath** Matrimonial Office
- **Master McCorry** Central Office (Queen's Bench and Appeals)
- **Master Kelly** Bankruptcy and Companies Office
- **Master Wells** Office of Care and Protection
- **Master Bell** Central Office (Queen's Bench and Appeals) and Matrimonial Office

Dated this 8 day of February 2007 Lord Chief Justice
EU enlargement

Bulgaria and Romania – free movement?

In last month’s Writ, Danny Breslin, social security adviser at Law Centre (NI) provided a summary of the arrangements for Bulgarian and Romanian nationals coming to the UK. In this article, immigration solicitor, Maura Hutchinson, looks in more detail at the recent accession of the two new member states to the European Union and the implications for free movement within the European Union as well as the broader implications for UK immigration law.

Accession

On 1 January 2007, Bulgaria and Romania acceded to the European Union (EU) and the European Economic Area (the EEA), becoming the twenty sixth and twenty seventh countries to join the EU as the second stage of the fifth enlargement since the EU was created.

As with previous enlargements, Bulgaria and Romania had to demonstrate that they had met the economic and political conditions known as the Copenhagen criteria. In 1993, at the Copenhagen European Council, the EU developed a list of conditions that each potential accession state must meet before being accepted into the EU. The Copenhagen criteria require that all member states be democratic states which respect human rights and minority rights. Member states must have functioning market economies and the ability to cope with competitive market pressure. Finally, member states must have the ability to effectively apply EU rules and policies.

However, as with eight of the ten countries which joined the EU in the last enlargement (the first stage of the fifth enlargement) on 1 May 2004, the so-called A8 countries (Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, Slovenia) the Treaty of Accession 2005 allows existing member states to impose ‘transitional arrangements’

Restrictions applied by UK

The UK decided to limit access to its labour market for Romanians and Bulgarians from 1 January 2007. From that date, they now have the right to travel freely throughout the EU, and crucially have unlimited access to all the other free movement rights within the EU. For example, there is absolutely no restriction on Bulgarian or Romanian nationals establishing themselves in the UK as self-employed persons, as self-sufficient persons or coming here as students. As with the A8 accession, the only area in which the accession treaties permit derogation from the rights of free movement by the existing member states is in relation to access to the labour market.

Again, as with the A8 nationals, nationals from the ‘A2’ countries wishing to work in other EU countries will be subject to restrictions applied by existing member states. EU states have been allowed to block access to their employment markets for an initial two year transitional period. This block can be applied on a bilateral basis with individual countries (rather than across the board from all the existing member states to both A2 nations). The transitional period can be extended a further three years if requested by member states from the European Commission on an individual basis. Finally, in exceptional circumstances, the block could be extended to a further two years. As with the A8 restriction, all work restrictions on A2 nationals in all EU member states will end seven years after accession.

The crucial difference in UK immigration law as regards the A2 accession is that free access to the labour market has been denied. This is in marked contrast to the situation which was applied (and continues to apply) to the A8 nations in 2004. At the time of accession in 2004, the UK and the Republic of Ireland were the only existing member states not to block access to the labour market (although the other member states have gradually eased restrictions in the interim). Those familiar with immigration law will recall that the only restriction placed on nationals of the A8 states wishing to work in the UK was a requirement to register their employment with the Home Office for a period of twelve months, under the Worker Registration Scheme. Those subject to the Worker Registration Scheme also have restricted access to the benefits system.

Although the Worker Registration Scheme has been, at times, a source of great confusion to workers from the A8 states and the restriction on access to benefits has in some circumstances created serious hardship, the draconian measures being applied to the A2 states, in effect, deny free movement altogether for workers from the A2 countries.

Largely, it appears, due to concerns about mass immigration from the two new member states, all of the original EU member states have imposed restrictions on A2 workers.

Details of restrictions

The arrangements are set out in The Accession (Immigration and Worker Authorisation) Regulations 2006.

In the UK low-skilled workers from Romania and Bulgaria will be restricted to existing quota schemes to fill vacancies in the agricultural and food processing sectors. There will be no net increase in these existing schemes and workers will be required to have an authorisation document.

Skilled workers will be able to work in the UK - as now - if they get a work permit or qualify as highly skilled. These new arrangements will be reviewed within twelve months. The government has stated that employers and employees will have a duty to abide by the new rules and there will be controls in place for rogue employers and illegal workers, including fixed penalty notices.

In summary therefore, Bulgarians and Romanians coming to the UK on or after 1 January 2007 will be able to exercise full EU treaty rights (equivalent to those exercisable by nationals of all existing
member states) if they are coming as:
1. a student
2. a self-employed person
3. a self-sufficient person

If this is the case, they will be able to apply to the Home Office for a European Union Registration Certificate in the normal way (although there is no obligation to do so). However, students who wish to work part time will need to obtain one. The Home Office has indicated that the self-employed category in particular will be subject to particular scrutiny, in that A2 nationals will have to clearly demonstrate that they are genuinely self-employed, "if challenged".

However, under the transitional arrangements, most A2 nationals will not have a right to work in the UK under UK law. There are a number of limited exceptions:

1. A2 nationals who completed twelve months continuous lawful employment in the UK on or after 31 December 2006.
2. A2 nationals whose immigration leave to remain in the UK (normally identified by a stamp in their passport) is not subject to restrictions on working.
3. A2 nationals married to or in a civil partnership with a UK national or an individual with settlement (indefinite leave to remain) in the UK.
4. A2 nationals who are the family members of EEA nationals who have the right to reside in the UK and who are not subject to work authorisation requirements.
5. A2 nationals who can demonstrate that they fulfill Home Office criteria as "highly skilled". This is a finite category and full details of those who qualify are contained on the Home Office website: www.ind.homeoffice.gov.uk

A2 nationals in the above categories will also be able to apply to the Home Office for a European Union Registration Certificate confirming they are exempt from the requirement to obtain a work authorisation document (which will apply to other A2 nationals) and A2 nationals in category 5 will have to obtain a registration certificate.

Work authorisation

All other A2 nationals (unless, on the date of accession, they had leave to remain in the UK through a work permit, the seasonal agricultural workers scheme (SAWS) or another working category (e.g. au pair)) will have to obtain a work authorisation document in order to take up employment in the UK. This will take the form of an Accession Worker Card.

Nations from the A2 countries will need an offer of employment in the UK before an Accession Worker Card will be issued. If an A2 worker commences work before obtaining the card s/he will be working illegally (and may be subject to an on the spot fine of £1,000) and her/his employer may also be subject to fines of up to £5,000 per illegal worker. The Accession Worker Card ceases to be valid if the employment for which it has been issued comes to an end. Therefore, a new Accession Worker Card is needed for each new employment.

For the majority of jobs in the UK, employers will have to go through the work permit process and obtain approval from Work Permits (UK) before an Accession Worker Card will be issued to an A2 worker. Work permits are normally only issued for skilled jobs where the employer can show there is no one available from the resident labour force to do the job. However, there is also a Sector Based Scheme available under which a quota of permits is issued to employers for lower skilled jobs in the food processing industry. Further details are available on the work permits website: www.workingintheuk.gov.uk

There are a number of categories of (skilled) employment for which Accession Worker Cards will be issued without the need to obtain a work permit first. Details are contained in the guidance on the Home Office website (see address above).

There are also severe restrictions placed on the rights of family members of nationals from the A2 countries to access the UK labour market, which arguably contravene EU law.

Once nationals from the A2 countries holding an Accession Worker Card have worked continuously for twelve months in the UK, they obtain full rights to reside as workers under EU law and will no longer be subject to restrictions.

Conclusion

The work authorisation arrangements for Bulgarian and Romanian nationals are very restrictive and, it would appear, even more convoluted than the arrangements for nationals from the A8 countries. As with A8 nationals, in practice, the difficulty in understanding and following these arrangements is likely to act as a barrier to free movement, as much as the actual restrictions themselves.

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**CPD training at Law Centre (NI)**

**BELFAST**

- Mental Health Law: an Introduction  
  - 15 March 2007

- Social Security for Lawyers  
  - 21 March 2007

**DERRY**

- Social Security for Lawyers  
  - 27 March 2007

- Mental Health Law: an Introduction  
  - 28 March 2007

For more information, consult our website: www.lawcentreni.org or contact our Training Department on Tel: 028 9024 4401.
The European Young Bar Association in conjunction with the Northern Ireland Young Solicitors’ Association present their St Patrick’s Day

**Annual Conference - Gala Dinner**

on Saturday March 17 2007 at Ten Square Hotel

Northern Ireland Young Solicitors’ Association invite all NIYSA members to their St Patrick’s Day Annual Conference black-tie gala dinner with champagne reception, band and disco at the prestigious Ten Square Hotel.

Tickets are available at £40 per person.

To book your place at the Gala Dinner on Saturday March 17 2007, please complete and return this form along with the appropriate booking fee to:

EYBA/NIYSA Conference
NIYSA c/o Laura Baker
Millar McCall Wylie Solicitors
1 Lanyon Quay
BELFAST BT1 3GP
or
DX 465 Nr Belfast 1

**BOOKING FORM**

Please reserve me a place at the

EYBA/NIYSA Annual Conference Gala Dinner

NAME

FIRM

ADDRESS

E-MAIL ADDRESS

TELEPHONE

NUMBER OF PERSONS ATTENDING

I ENCLOSE REMITTANCE OF £

DIETARY REQUIREMENTS
Career Opportunities in the Midlands

We're coming to Belfast on 30th/31st March 2007 to meet solicitors and trainee solicitors from Northern Ireland who would like to discuss career opportunities with our respected and thriving East Midlands practice.

With three offices in the Nottingham/Derby area, we offer a comprehensive service to a wide range of private and business clients. Our mission is to establish a lifelong relationship with all our clients, ensuring that they and our staff alike are treated as individuals with individual needs.

We are a founding member of the Association of Christian Law Firms and a member of the Evangelical Alliance and we value our distinctive ethos.

As a growing business we would like to meet individuals who feel they could make a positive contribution to the firm and who believe that they have an affinity with our particular ethos.

Our current vacancies are listed on our website www.ellis-fermor.co.uk. If however you do not see a position which matches your area of specialisation please do not hold back from contacting us, as we're always keen to meet people who feel that they would like to work with us.

We fully appreciate that the prospect of moving work and home to England may seem a bit daunting but, rest assured, one of the team coming to Belfast has made the transition very successfully and she will explain how the firm sets about making the process as smooth as possible - we look after our people!

We'll be in Belfast on Friday 30th March and invite you to join us at an Open Evening, over a glass of wine from 6 - 9 pm at The Malone Lodge Hotel, 60 Eglantine Avenue, Belfast.

If you are unable to make the Open Evening we'll be around on Saturday 31st March to meet people on an individual basis.

If you'd like to join us at the Open Evening on Friday 30th, or make an individual appointment for Saturday 31st March, then please call:

Mick Amos, Practice Administrator
01773 571513

www.christiansolicitor.co.uk
www.ellis-fermor.co.uk
The Belfast Solicitors’ Association annual Dinner Dance was held on Saturday 20 January 2007 at the Europa Hotel, Belfast. The event, which is the highlight of the Association’s social calendar, was attended by close to 300 of its membership, friends and invited guests. The Chairman, Mr Joe Rice, welcomed the Association’s guests and after dinner the enthusiastic revellers enjoyed a superb set from The Booze Brothers followed by their DJ.

Judith Thompson; Aaron Thompson; Helen McCoubrey; Simon Murray; Alison Reid.

Doreen Kelly; Patrick Kelly; Beverley Murray; Darren Duncan; Claire Duncan; Arthur Harvey QC; Paulette Harvey.

Lisette Manly; Johnny Watson; Sara McPhillips; Ross Kane; Katie Doherty; Charlie Dillon; Roisaine Hamill

Michael Hully; Rod Friers (BSA Committee Member); Paul Donegan; Maurice Mackey.

Colette Moore; Maeve Hully; Zoe Donegan; Fay Friers.

John Guerin (BSA Committee Member); Alison Cassidy; Mark Lenny; Orla Mallon; Peter Murphy; Eoghan King.
The Recorder of Belfast, His Honour Judge Tom Burgess; BSA Chairman, Mr Joe Rice; Presiding Resident Magistrate, Mrs Fiona Bagnall; District Judge, Andrew Wells.

President of The Law Society, James Cooper; Chairperson of the Bar Council, Noelle McGrenera QC; BSA Chairman, Joe Rice; Chairperson of The Northern Ireland Young Solicitors’ Association, Emma Hunt.

Mr Justice Declan Morgan QC; BSA Chairman, Joe Rice; President of The Liverpool Law Society, Donal Bannon; President of The Dublin Solicitors’ Bar Association, David Bergin.

Debbie Ross; Joan Rice; Jennifer Barret-Patterson; Adrienne Morgan

Pat Burgess; Sarah Havlin; Margaret Cooper; Mary Wells

Past BSA Chairman, Chris Ross; BSA Chairman, Joe Rice; BSA Honorary Secretary, Matt Higgins; BSA Honorary Treasurer, Sarah Havlin; Past BSA Chairman and Dinner Dance Organiser, Gavin Patterson.
**Legal Moves**

**Emma Jane Flannery** has joined Arthur Cox Northern Ireland as an Assistant in the firm.

Emma-Jane joins the employment team from Hammonds in Birmingham where she advised employer clients on a broad range of employment matters. A Queen’s University, Belfast graduate, she trained with Eversheds before joining Hammonds. Emma-Jane will support Arthur Cox Northern Ireland’s expanding employment law team.

**Ross Kane** has joined Arthur Cox Northern Ireland as an Assistant Solicitor in the Banking Department.

Ross studied at Queen’s University, Belfast and trained with Arthur Cox Northern Ireland (which included a period of training in its Dublin office). Since being admitted as Solicitor in 2006 he has worked in the firm’s Banking Department.
High Court, Court of Appeal and Tribunal Decisions

High Court and Court of Appeal decisions

IN THE MATTER OF AN APPLICATION BY BRENDAL DOWNES FOR JUDICIAL REVIEW
Remedy. - employment of Mrs Bertha McDougal, the Interim Victims Commissioner. - contract of employment due to end on 5 December 2006. - first report unlikely to be published within this timeframe given the time taken to staff her office. - whether her contract was extended until 1 January 2007. - whether applicant entitled to relief in the form of an order of certiorari quashing the Secretary of State’s unlawful decision to appoint Mrs McDougal. - whether granting of declaratory relief would be sufficient remedy. - HELD that Mrs McDougal’s appointment was not the subject of a valid extension, but she continues in post until her important work is complete. - declaration made that the appointment breached s.76 Northern Ireland Act and was motivated by an improper purpose and failed to have sufficient evidential basis for concluding that the appointee would command cross-community support 15 JANUARY 2007
HIGH COURT
GIRVAN J

IN THE MATTER OF AN APPLICATION BY THE DIRECTOR OF PUBLIC PROSECUTIONS FOR JUDICIAL REVIEW
Application by the Director of Public Prosecutions for a judicial review of a Resident Magistrate refusing an application made by the prosecution that the case against a defendant be adjourned. - defendant’s case adjourned on a number of occasions, during which time the defendant frequently failed to appear at Court. - Magistrate refused to adjourn the case on the final occasion because of the non-appearance of a witness who was later discovered elsewhere on Court premises. - whether proceedings should have been adjourned to allow the witness to attend. - whether Magistrate should have carried out a proper inquiry into the need for an adjournment. - effect that the refusal of an adjournment would have had on the viability of the prosecution. - whether courts should interfere with the Magistrate’s discretion. - HELD that the Magistrate failed to make appropriate inquiry about the non-attendance of the witness or her willingness to give evidence. - decision to refuse adjournment and dismissal of charge quashed and matter ordered to proceed before a different Magistrate 12 J JANUARY 2007
HIGH COURT
KERR LCJ, WEATHERUP J

APPLICATION BY DERRY CITY COUNCIL FOR JUDICIAL REVIEW
Application for declaration that the present name of the city is Derry. - alternatively, the applicant seeks an order requiring the Government to take the necessary steps to effect a change of name of the city from Londonderry to Derry. - challenge to the failure of the Government to recognise and accept that the name of the City of Londonderry established by the Charters of 1613 and 1662 was changed to the City of Derry by virtue of s.5(1) and s.52(8) Local Government Act (NI) 1972 and the Change of District Name (Londonderry) Order (NI) 1984. - competence of the 1972 Act to alter the 1662 Charter. - whether the Londonderry Corporation was retained. - whether the change to Derry City Council changed the name of the city to Derry. - whether the Department of the Environment is required to change the name of the city to Derry. - HELD that it is not possible to change the name of the city from Londonderry to Derry unless the 1662 Charter was altered by the further exercise of the Royal Prerogative or by legislation 25 J JANUARY 2007
HIGH COURT
WEATHERUP J

IN THE MATTER OF AN APPLICATION BY JOHN HILL FOR LEAVE TO APPLY FOR JUDICIAL REVIEW
Appeal against refusal of leave to apply on certain grounds for judicial review of the Department of Environment granting planning permission for development of premises adjacent to appellant’s home. - original application refused and amended plans submitted and permission subsequently granted. - whether judge was wrong to conclude that the applicant did not enjoy an arguable case that the respondent had failed to follow the proper approach on the issue of landscaping. - whether Planning Service considered PPS8. - HELD that no arguable case had been raised that the Planning Service failed to have regard to the original landscaping report and the judge’s refusal to grant leave on this ground is confirmed. - leave granted on the ground that the Department failed to apply PPS8 to the Notice Party’s planning application, alternatively it failed to consider whether PPS8 applied to the application or whether its terms were relevant to the decision whether to grant planning permission 12 J JANUARY 2007
COURT OF APPEAL
KERR LCJ, CAMPBELL LJ, HIGGINS LJ

BRIGID MCDONAGH, THOMAS MCDONAGH, MARGARET MCDONAGH, EILEEN MCDONAGH, MICHAEL MCDONAGH, ELLEN MCDONAGH, MARTIN MCDONAGH v SAMUEL J THOM HAMILON THOM TRADING AS THE ROYAL HOTEL DUNGANNON
Appeal by way of case stated from decision of a district judge. - whether the judge was correct in holding that the occurrence of acts of extreme violence by members of the Irish travelling community on or about the defendant’s licensed premises entitled the defendant to refuse to host any further such functions. - whether discrimination in accordance with the Race Relations (NI) Order 1997. - bookings made and deposit paid for forthcoming events. - after the bookings were made and prior to the events taking place a serious and sustained violent
incident took place in the hotel by members of the travelling community, following which the defendant’s staff refused to work at any more functions attended by members of the travelling community. - defendant cancelled forthcoming events and refunded their deposits. - whether the wrong approach to the burden of proof was adopted by the judge. - whether hypothetical comparator required. - whether respondent’s blanket ban on all functions involved a discriminatory stereotypical assumption concerning the travelling community. - perversity of factual findings and vicarious liability. - appeal dismissed
7 J JANUARY 2007
COURT OF APPEAL
KERR LCJ, CAMPBELL LJ, SHEIL LJ

IN THE MATTER OF AN APPLICATION BY PM, A MINOR, BY TM, HIS MOTHER AND NEXT FRIEND, FOR JUDICIAL REVIEW
Application for judicial review of an order made under a.1 sch.1 Police and Criminal Evidence (NI) Order 1989 that all personal files, records, correspondence, attendance notes, internal memoranda and other documentation relating to the applicant and held by the secondary school that he attends should be produced to a PSNI officer. - applicant charged with murder. - application made on foot of a County Court order to principal of the school for special procedure material. - whether reasonable grounds exist that the material is likely to be of substantial value to the investigation or that it is likely to constitute real evidence. - HELD that the statutory conditions which are pre-requisite on the making of the order were not fulfilled and County Court order quashed
17 J JANUARY 2007
HIGH COURT
KERR LCJ, WEATHERUP J

R v CHRISTOPHER WALSH
Appeal from refusal of application for extension of time within which to apply for leave to appeal against conviction of offence of possession of an explosive substance. - applicant contended that the court had made errors in relation to the power and independence of the Criminal Cases Review Commission. - power of court to admit fresh evidence. - re-opening an appeal. - likelihood of injustice if the appeal is not re-opened. - HELD that appellant’s appeal allowed to be re-opened
24 J JANUARY 2007
COURT OF APPEAL
KERR LCJ

IN THE MATTER OF AN APPLICATION BY DAVID WRIGHT FOR JUDICIAL REVIEW OF A DECISION OF THE SECRETARY OF STATE FOR NORTHERN IRELAND
Application to challenge compatibility of the Inquiries Act 2005 with a. 2 ECHR. - application to challenge the decision of the Secretary of State for Northern Ireland converting an inquiry into the death of Billy Wright under the Prison Act (NI) 1953 into an inquiry under the Inquiries Act 2005. - whether failure to provide an effective investigation of collusion. - whether independence of inquiry was violated. - HELD that applicant not entitled to challenge under s. 4 Human Rights Act the compatibility with a. 2 ECHR of those sections of the Inquiries Act to which he objects. - challenge to convert the inquiry into the death of Billy Wright from one under the Prisons Act to Inquiries Act succeeds, since the Secretary of State failed to take into account the important and relevant consideration that the independence of such an inquiry was compromised by s.14 of the 2005 Act and he was wrongly advised that an equivalent power existed under the Prisons Act
21 DECEMBER 2006
HIGH COURT
DEENY J

CATTERSON, CAROL v BOARD OF GOVERNORS OMAGH HIGH SCHOOL AND WESTERN EDUCATION & LIBRARY BOARD
Whether claimant had been unfairly dismissed by reason of unfair selection for redundancy. - first named respondent needed to reduce costs. - compulsory redundancy policy implemented. - trade unions notified. - “last in, first out” policy. - Tribunal decided that the respondents acted fairly and reasonably and there was not any alternative suitable employment available for the claimant. - claim for unfair dismissal is dismissed
1486/05IT  13 SEPTEMBER 2006
CHAMBERS, IAN DAVID v PAUL MCMURRER, STEVEN MCMURRER AND MGMR LIMITED
Whether claimant was entitled to holiday pay and notice pay. - claimant was unfairly treated and ordered the respondents to pay the claimant £3911.64
840/06IT  2 NOVEMBER 2006
CONROY, PETER PHILIP v GERRY HARKIN, HARKIN HAULAGE AND MCGEARY MUSHROOM COMPOST LIMITED
Whether claimant was unfairly dismissed and whether the business from which the claimant was dismissed was the subject of a relevant transfer. - TUPE Regulations 1981. - claimant was not consulted in any way about his selection for redundancy, nor was there any selection process. - Tribunal decided that the claimant was unfairly dismissed and the liability of the dismissal transferred to the third named respondent by virtue of the TUPE Regulations. - latter ordered to pay the claimant £4,407.50
2114/04IT  27 APRIL 2006
DILLON, GERARD v TAGGART HOLDINGS LIMITED

Whether claimant had been fairly dismissed. - claimant had been employed as a joiner but also carried out spraying duties when required. - no meaningful consultation with the claimant regarding his redundancy, no possibility of re-deploying the claimant and there was no evidence of any redundancy selection criteria. - Tribunal decided that the claimant was unfairly dismissed and the Tribunal orders the respondent to pay the claimant £17,084.12 711/05IT 16 AUGUST 2006

GAWNE, ELEANOR v BOARD OF GOVERNORS BALLYCLARE SECONDARY SCHOOL AND NORTH EASTERN EDUCATION & LIBRARY BOARD

Claimant claimed sex discrimination and victimisation because of an earlier sex discrimination claim against the respondents. - allegations of victimisation arose out of incidents dating from 1993. - whether respondents could show that they acted or failed to act in each incident. - Tribunal could find no evidence of victimisation but in some cases the respondents did make mistakes of procedure and judgment in dealing with the claimant. - Tribunal held that the claimant was guilty of two serious breaches of discipline and the respondents had dealt with it sympathetically. - Tribunal dismisses all claims 115/02IT 16 OCTOBER 2006

HUNTE, ANTHONY WILLIAM v DAVID CAULDWELL T/A THE LOBSTER POT (STRANGFORD) LTD

Whether claimant was entitled to paid annual leave. - whether claimant was an employee of the respondent company. - latter had employed the claimant as a consultant chef for a fixed period of six months. - claimant was not treated as an employee as he did not have a contract of employment but was paid £400 each week. - respondent company treated claimant as a self employed person from the point of view of the payroll. - Tribunal decided that there was no contract of employment or contract of service but claimant was a worker as defined by the Working Time Regulations. - this being the case the claimant was entitled to paid annual leave and the respondent is ordered to pay £666.67 in lieu of untaken leave 14/05IT 27 MARCH 2006

JOHNSTON, ROY v MINISTRY OF DEFENCE

Decision on a pre-hearing review. - whether tribunal has jurisdiction to hear the claim as it is outside the time limits. - respondent had made a series of unauthorised deductions of wages. - Tribunal found that they had jurisdiction to hear the claim as the last in a series of deductions was made in the last three months 1075/06IT 16 NOVEMBER 2006

LAING, ALEXANDER v DORNAN MOTORS LIMITED AND FERGUS DORRAN

Whether claimant was entitled to a redundancy payment. - claimant had worked in the business since 1974 and was given notice of dismissal by reason of redundancy. - no offer of alternative employment. - no written contract of employment. - claimant had received £1620 cash, two pieces of equipment valued at £750 and a cheque for £4130 which was not honoured on presentation. - claimant had more than thirty years continuous employment and was therefore entitled to a balance of £4490 as well as the redundancy he had already received from the respondents. 875/05IT 6 OCTOBER 2006

MCALLISTER, JAMES v SHORTS BROTHERS PLC

Whether applicant had been unfairly dismissed. - claimant alleged he had been harassed by his line manager over a period of years. - claimant lodged a formal grievance but the matter was not resolved. - latter went on indefinite sick leave. - Tribunal decided that that the dismissal was due to the claimant's long term sick absence and that he had not been bullied by his line manager. - Tribunal decided that the claimant had not been unfairly dismissed 595/03IT 20 OCTOBER 2006

MCSORLEY, JONATHAN v MCCOLGAN'S QUALITY FOODS LTD

Whether claimant was entitled to outstanding unpaid wages on the termination of his employment. - claimant's leave ran from January - December each year and he was entitled to 25 days holidays inclusive of bank/public holidays. - claimant resigned in August and had taken 22 days leave. - Tribunal found that claimant had taken 4.8 days in excess of his accrued entitlement at the date of termination and the balance had been taken from the claimant's last salary - claim dismissed 2722/04IT 29 SEPTEMBER 2006

RANKIN, PATRICK J OSEPH v ORMEAU JOINERY LIMITED

Whether claimant was constructively and unfairly dismissed. - claimant received explicit and offensive text messages from the managing director of the respondent company - claimant did not make an official complaint but left employment to work as a self employed joiner. - whether claimant could prove that he met the conditions of constructive dismissal. - breach of contract and breach of trust by the respondent. - whether claimant's resignation justified. - Tribunal decided that the claimant left his employment for some other unconnected reason and that he had not been constructively dismissed 1560/04IT 3 NOVEMBER 2006

WARNock, RUTH v KIERAN MCCaul AND OAK RECRUITMENT SERVICES

Claimant had been dismissed but it was not unlawful. - claim was withdrawn. - whether respondents entitled to costs against the claimant due to her unreasonable behaviour. - Tribunal refused costs as they did not consider her behaviour unreasonable 626/05IT 31 OCTOBER 2006

FAIR EMPLOYMENT TRIBUNAL:

EMERSON, J OHN WILLIAM v NORTHERN IRELAND AMBULANCE SERVICE

Whether claimant had been unfairly dismissed and whether in the context of the dismissal
had he been subjected to unlawful political discrimination. - claimant employed as an Emergency Medical Technician. - claimant was also an active member of the ASU (Ambulance Service Union) which was a new union set up to represent front-line ambulance staff. - respondents had a strained relationship with the ASU and as a result with the claimant. - claimant involved in an incident with a member of the public and following a disciplinary investigation was found guilty of gross misconduct and dismissed. - Tribunal decided that the claimant had been unfairly dismissed but the complaint of unlawful political discrimination is dismissed. - Dismissal was unfair because of procedural defects but if there had been no procedural defects the claimant would have been fairly dismissed. - Tribunal decided on a 100% conduct deduction from the basic award 184/03FET; 1168/03FET 22 FEBRUARY 2006

MCCREAG, JOHN V GAVIN
WARWICK, CONNOR O'NEILL
AND INTERLINK IRELAND LTD

Decision on a pre-hearing review. - whether claim was presented within the time limit. - Tribunal dismissed the claim as it was not presented within the time limit and it is not just and equitable to extend the time as the claimant had opportunity to complete the relevant documentation within the time limit. 98/05FET; 719/05FET 22 SEPTEMBER 2006

MCCONKEY, JOHN AND JERVIS MARKS V THE SIMON COMMUNITY (NI)

Both claimants claimed political discrimination as both had applied for jobs with the respondent and, although they had been successful had not been appointed due to the PECS Check. - both claimants had been imprisoned for political activities and released under the Good Friday Agreement. - respondents felt that the claimants would place the resident group at risk due to the seriousness of the claimants' convictions. - Tribunal decided that the respondent had carried out a fair procedure and that they did not unlawfully discriminate on the grounds of political opinion 00452/00FET; 00376/02FET 4 APRIL 2006

MILICAN, RONALD V ROE
VALLEY RURAL COMMUNITY TRANSPORT PARTNERSHIP LIMITED AND LIMAVADY COMMUNITY DEVELOPMENT INITIATIVE

Whether the claimant was subjected to unlawful discrimination on grounds of religious belief and unfair dismissal. - claimant employed as a transport co-ordinator. - claimant had failed to implement a project which constituted gross misconduct. - respondent wrote to the claimant to arrange a meeting but claimant was on sick leave and was unfit to attend. - claimant attended an appeal hearing but his contract was terminated. - Tribunal found that there was no case properly made out by the claimant of unlawful religious discrimination and that as the claimant had been employed for less than a year he could not claim unfair dismissal. - case dismissed 420/04FET; 2801/04FET 31 J JULY 2006

RICHARDSON, COLIN V PRISON SERVICE/NIO

Claim of victimisation, harassment and religious/political discrimination. - whether the respondent had adequately investigated and dealt with the claimant's complaint. - claimant employed as a prison officer and had been subjected to harassment by a prisoner. - claimant made a report about the incident but the respondent did not use the harassment procedure. - Tribunal decided that there was a level of incompetence and failure to keep records on behalf of the respondent which had added to the stress suffered by the claimant. - Tribunal decided that the claimant was entitled to £14,449.35 for actual psychiatric injury 00408/01FET 29 SEPTEMBER 2006
The Finance Act 2006 introduced changes to the inheritance tax regime for trusts. The changes affected the taxation of trusts with an interest in possession, trusts for young people and trusts for the disabled. These changes took effect from 22 March 2006. The accumulation and maintenance trusts will apply to trusts created after 26 March 2006 and its benefits will be removed from existing settlements on 6 April 2008.

### Legislation

**Finance Act 2006**  
Sch. 20 of the Finance Act 2006  
- inserts s. 71A-H into the Inheritance Tax Act (IHTA) 1984 to take account of trusts for bereaved minors, age 18-to-25 trusts and accumulation and maintenance trusts.  
- inserts 1A after section 49 of IHTA 1984 to take account of interests in possession when settled property is part of beneficiary's estate.  
- inserts 49A-E to take account of immediate post-death interests and transitional serial interests.  
- inserts 89A-B to take account of disabled persons trusts.  
http://www.opsi.gov.uk/acts/acts2006/20060025.htm

### Articles

- **What the Finance Act really means** (explains the main provisions of the Act relating to trusts for children and the spouse exemption rules).  

- The new IHT rules and pre-Budget accumulation and maintenance settlements and the case for inaction (discusses the accumulation and maintenance settlements and whether trustees should take action before 6 April 2008 when trusts funds contain farmland qualifying for agricultural relief).  
  2006 Farm T.B. Nov, 5-8.

- Capital punishment (assesses the implications of the Finance Act 2006 on the treatment of trusts for inheritance tax purposes).  
  Dew: 2006 Legal Week 8(44), 28-29.

- Update: trusts (discusses the changes to trusts made by the Finance Act).  
  Sanders: 2006 150(44) SJ 1496, 1499-1500.

- Growing pains for child trusts (discusses the requirements for trusts for bereaved minors under the Inheritance Tax Act 1984 s. 71A and the requirements for 18-25 trusts under s. 71D).  
  Clutton: 2006 PCP 4(8), 11-12.


### Internet Sites

- **The Society of Trust and Estate Practitioners**  
  This site has useful publications on trusts post March 2006. Following the radical changes to inheritance tax announced in the March 2006 Budget and enacted in Finance Act 2006, HMRC published their response to a number of questions put to them jointly by STEP and CIOT in September 2006.  
  http://www.step.org/showarticle.pl?id=1636

- **Why make a trust?**  
  Written by the President of STEP, ‘Why Make a Trust?’ provides a brief explanation of the benefit of making a trust, along with some frequently asked questions regarding trusts, for the general public. ‘Why Make a Trust?’ is updated annually, to take into account any changes as a result of the UK Budget. However, this is the 2005 edition as the 2006 have yet to be released.  

- **James Kessler website**  
  This is a free resource containing reference material referred to in Drafting Trusts and Will Trusts.  
  http://www.kessler.co.uk

- **The Chartered Institute of Taxation**  
  Finance Act 2006: some things to do to trusts (focuses on what action may be available to trustees in various circumstances to mitigate the impact of certain trusts).  

### Books in the library

The library has an extensive selection of books on trusts for reference. Below are just a selection.

- **Gowdy, W. The Finance Act 2006: reforms to the inheritance tax regime for trusts. SLS. 2007.**
- **Chamberlain, E. Trust taxation: planning after the Finance Act 2006. Sweet & Maxwell. 2007.**
- **Kessler, J and Grattan, S. Drafting trusts and will trusts in Northern Ireland. Butterworths. 2004.**
- **Waterworth, M. A practitioner’s guide to drafting trusts. Butterworths. 2003.**
- **Declarations of trust: a draftsman’s handbook. 3rd edition. Sweet & Maxwell. 2005.**
- **Hayton, D. J. Law relating to trusts and trustees. 16th edition. Butterworths. 2003.**
- **Thurston, J. A practitioner’s guide to trusts. 4th edition. Tolleys. 2002.**
**Missing Wills**

**Re:**

**Hugh William Chambers** (deceased)

Late of:
Leabank Nursing Home, Ballycastle and
Rathmoyle Nursing Home, Ballycastle

Date of Death: 7 October 2006

We have been instructed by the next of kin to act in the administration of the above estate. Please advise us if you hold a Will or title documents for the above named.

Please reply to:
Email: berkeley@berkeleywhite.com

**Re:**

**Mary Bailie nee Holland** (deceased)

Late of:
Lakeview Nursing Home, Orchard Road, Crumlin BT29 4SD

Formerly of:
15 Cidercourt Park, Crumlin, County Antrim BT29 4RY

Date of Death: 19 July 2006

Would any person having knowledge of the whereabouts of the Will for the above named deceased please contact:

Donnelly & Kinder Solicitors
22 Adelaide Street
BELFAST BT2 8GD
Tel: 028 9024 4999
Fax: 028 9024 1222

**Missing Title Deeds**

**Re:**  All that farm of land and premises with the house and buildings thereon and in the townland of Corraineey containing one acre Irish Measure or thereabouts situated in the Barony of Middle Dungannon and County to Tyrone

Registered Owner: Mr Brian Carty

Address: 4 Creenagh Road, Dungannon BT71 6RA

Would any person having knowledge of the whereabouts of any Title Deeds in respect of the above property please contact:

Conor Downey & Co Solicitors
Unit 8
First Floor
Legahory Centre
Craigavon BT65 5BE

**Folios:** 26407, 29821 & 33634

**County:** Down

**Register Owner:** William James Grant

Take notice that any person having custody of or information as to the whereabouts of the Land Certificates relating to the above mentioned Folios should forthwith produce said Certificates or communicate such information to the undermentioned Solicitors. And take further notice that unless the said Land Certificates are so produced or adequate information as to their whereabouts is so communicated within three weeks of publication of this notice, duplicate Land Certificates may be applied for.

Stewarts Solicitors
13 Greenvale Street
Ballymena
County Antrim BT43 6AR
Tel: 028 2565 1414
Fax: 028 2564 7168

**Folio:** DN 63188L

**County:** Down

**Register Owner:** James Hay Pension Trustees Limited

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John McKee & Son Solicitors
Hampden House
55 Royal Avenue
Belfast BT1 1FD

**Folio:** 3972

**County:** Antrim

**Register Owner:** Brian Mulholland

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John F McEvoy & Co Solicitors
8 Church Place
Lurgan
County Armagh BT66 6EY

Folio: 17641
County: Antrim
Registered Owner: Thomas Hugh Michael (deceased)
Lands of: Townland of Killycowan (part)
Barony of Kilconway
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And further take notice that unless the said Land Certificate is produced or adequate information as to its whereabouts is so communicated within three weeks of publication of this notice, a duplicate Land Certificate may be applied for.
Fox and Associates
Insurance Chambers
403 Lisburn Road
Belfast BT9 7EW
Tel: 028 9038 2783
Fax: 028 9038 2787

Folio: 25508
County: Antrim
Registered Owner: Belfast City Council
Lands of: Derryaghy (part)
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And further take notice that unless the said Land Certificate is produced or adequate information as to its whereabouts is so communicated within three weeks of publication of this notice, a duplicate Land Certificate may be applied for.

McKinty & Wright Solicitors
Zurich House
5-7 Upper Queen Street
Belfast BT1 6FS

Folio: AN3970
County: Antrim
Registered Owner: Post Office
Lands at: East Telephone Exchange, Paullett Avenue, Belfast BT5 4HD
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And take further notice that unless the said Land Certificate is so produced or adequate information as to its whereabouts is so communicated within three weeks of publication of this notice, a duplicate Land Certificate may be applied for.

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BELFAST BT2 7FW
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Paula Tohill Law Society of Northern Ireland Law Society House 98 Victoria Street BELFAST BT1 3JZ DX 422NR BELFAST 1 Tel: 028 9023 1614 Fax: 028 9023 0696 E-mail: paula.tohill@lawsoc-ni.org

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Lawyers are often told that they should be implementing a ‘quality management’ programme to help minimise risk. Yet many do not fully understand what is meant by this and as a result do not know how to implement a proper programme.

Quality management means all activities of the overall management function that determine the quality policy objectives and responsibilities. This is implemented by utilising quality benchmarks such as planning, control, assurance and improvement.

One of the most effective means of implementing quality management is to use a recognised standard to ensure that the result achieves the desired effect. Lexcel is probably the most popular quality management standard for legal practices but there are alternatives.

The important thing is to know what is required before your start. Take a realistic look at your practice’s current procedures and compare them with the needs of your chosen quality management system. In this way you can gauge how much work is involved to achieve compliance. This means you will be able to tell whether you need outside help from a consultant, how much time the project is likely to take and who will be in charge of ensuring all changes are properly implemented.

Lexcel is probably the most popular quality management standard for legal practices but there are alternatives.

The way a quality management programme is introduced is crucial. The practice should look to develop its procedures as far as possible so that they comply with the needs of the chosen standard. It is rare for a practice to be way off the mark when it comes to quality procedures. Therefore, it makes sense to develop what is already there as opposed to starting from scratch.

Treat the introduction of quality management as a project. The key to success is to plan. Draw up a project action plan, identifying everything that needs to be done. Allocate the tasks to colleagues who are best placed to achieve the results you need within an agreed timescale.

Another important aspect is to make sure that the project stays on track by reviewing progress. There may be valid reasons why the project takes a back seat but unless a concerted effort is made to reach the goal of accreditation, projects can remain incomplete.

Also, if you are going for assessment, make a proper check. Most quality management standards have checklists that you can use to make a final check of your systems and procedures.

Practices that take a positive approach to quality management reap the best results. Greater efficiency, more satisfied clients, lower staff turnover, enhanced profitability and reduced professional indemnity insurance premiums are some of the benefits that practices enjoy.

This article was prepared by AFP Consulting, a division of Alexander Forbes Risk Services UK. The article first appeared in the Gazette, the journal of the Law Society of England and Wales.
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A long-established firm require additional support for their busy local conveyancing department. Based in their office just outside Belfast, this presents an excellent opportunity to get away from the hustle of city life and build a career in the local community. All levels of experience will be considered and a healthy salary offered to the successful applicant.

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A top Belfast firm seek to build their commercial property team to meet the rapidly growing demand for their services. A guide for appropriate PQE level ranges from NQ - 5 yrs, although we welcome all applications and assess on merit. With the team currently building an excellent reputation in the local market, career potential within the firm is excellent.

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Leading Belfast firm require a dedicated high-achiever to join their successful banking team. A market-leading salary package will be offered to the most impressive candidate as well as a rare opportunity to develop knowledge and skills within a supportive and motivating environment with excellent career prospects.

Ref 2371: In-house Lawyer

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