

CIVIL JUSTICE REFORM - FIRST STEPS

The Lord Chancellor has announced his intention to implement the principal recommendations in the Final Report of the Civil Justice Reform Group, chaired by Lord Justice Campbell.

Lord Irvine's decision was announced by way of a reply to a Parliamentary Question on 16 January (together with an associated Press Release) in these terms:

'Broadly, I accept the report's main direction and its principal recommendations. There are notable departures from arrangements in England and Wales but I am satisfied they are appropriate in the Northern Ireland context.

There are a few technical recommendations in relation to expert evidence on which I do not share the views expressed in the report. These will require further consideration and of course there are other points of detail to be looked at closely during the implementation process, but overall I am of the view that the report's

recommendations represent a major step forward in the reform of the civil justice system in Northern Ireland to make it as accessible, economic and efficient as possible. Implementation will begin as soon as possible with an increase in the small claims jurisdiction early this year followed by an approximately two-year rolling programme of subordinate legislation and operational changes'.

Following on from this decision, the Lord Chancellor has made the County Courts (Financial Limits) Order (NI) 2001 [SR 2001 No. 67]. The effect is:

(a) from 19th March 2001, the small claims jurisdictional limit of £1,000 is increased to £2,000;

(b) from 5th September 2001, the jurisdiction of district judges in respect of defended actions is increased from £3,000 to £5,000.

As yet the Society has no details of the proposed two-year rolling reform programme, and a meeting has been requested with the Northern Ireland Court Service. Further information will appear in future editions of the Writ.



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President's report

These are indeed interesting times for our profession. *"Legal World faces biggest shake-up in 700 years": "Reform of the Legal Profession must ensure it meets social needs rather than making it a commercial venture"; "The professions must resist being Blair's scapegoats"; "Jack Straw says Lawyers fail to fulfil social duty"*

These are some of the recent headlines in the National Press. While these comments are aimed primarily at the London Scene (or are they?) there is much for us in Northern Ireland to ponder over as we seek to plot the course for our profession into the new millennium.

If there is a perception abroad that lawyers are, in some way, under attack, I would suggest that there is no cause for undue concern, given our unique role in commercial and personal life. We must, however, as a profession avoid the temptation to cry "foul", to say that our critics do not understand the complexities of the position, and to seek comfort in structurally privileged status, having regard to such matters as our statutory monopoly, rules of procedure and professional privilege. All we have to do, surely, is to spell out what we do and why we do it in a certain way. Communication is the name of the game. But we must continue to be prepared to modernise our ways of doing things, to look out for new types of work as our traditional areas of dominance continue to be threatened and, in some cases, eroded.

The Law Society's policy in Northern Ireland is to do whatever we can, in our discussions and negotiations with the authorities and in our increasing contacts with the media, to preserve the public interest, the wide network of local legal practices. We offer a readily accessible and inexpensive fund of legal advice in all parts of the Province. This is not to say that small firms, or even medium sized firms should not be prepared to assess the benefits, from an economic and operational stand point,

of looking out for sensible and workable merger opportunities. But we must not take any steps which would distance us from the position of being able to avoid conflicts of interest and to give our clients independent advice. This position becomes increasingly precious when, in so many fields, major players are becoming larger and fewer in number and thus unable to provide genuinely independent and dispassionate advice.

I have attended a number of functions recently and I have been struck by the feeling of the other professions locally of a common sense of apprehension, disorientation and challenge. We all have to keep under critical review what we do, how and why we do it, never losing sight of the need to offer relevant services to an increasingly demanding public at sensible prices - not too dear, not too cheap. Too dear and we are perceived as being 'fat cat lawyers'. Too cheap and we erode the sound financial basis from which our profession has to operate - there are far too many of our practices which are struggling financially.

I have also attended meetings of the Senior Officers and Chief Executives of the four "Home Unions" (the four Law Societies of the British Isles) and it is evident that the legal profession in all four jurisdictions faces similar challenges. These meetings are very useful for the sharing of information and debate on the way forward on strategic issues. There are major decisions to be taken and we must get them right.

Finally, a reminder about the Law Society Conference. Don't miss the opportunity to be updated about the revised General Conditions of Sale, current thinking on personal injury claims and other important matters. See you at the Odyssey!

JOHN NEILL
President

Landweb

Computerisation of Land Registry

The landweb computerisation programme has been extended to County Antrim and as a result, applications for registration and Land Information Services will be processed electronically for the following three counties:-

Antrim, Armagh and Down.

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028 9025 1566

Copy Folio or Deed:
028 9025 1524 / 251563

Personal Searching on the Land Registry

Personal folio searches in County Antrim, Armagh and Down will be carried out electronically in the Public search areas of the Land Registry in Lincoln Building.

Map searches will remain paper based until further notice.

Some disruption may be experienced in the public areas during the initial stages of electronic service and we apologise for any inconvenience this may cause.

Trained staff will be on hand to assist and advise as required. Online information is also available on our website at the address below.

Customer.information@lrni.gov.uk

'TOMORROW'S WORLD - A LEGAL ODYSSEY'

The Law Society Annual Conference is taking place at the Odyssey complex, Belfast on Saturday 7 April 2001.

Even if you have not booked, please do come along and listen to guest speakers in the Business Session which runs from **10 am to 12.30 pm**. The lecture programme is:

Saturday 7 April

10 am Introduction to General Conditions of Sale (re-revised 3rd edition) and other recent developments in Conveyancing Law and Practice

Speakers Mrs Sarah Wittchell, Solicitor and Assistant Secretary, Law Society of Northern Ireland
Donald H Eakin, Solicitor

10.35 am Profit from Quality - How to Make Your Practice More Profitable

Speaker Feargal McCormack of FPM Chartered Accountants, Newry and Dundalk

11.05 am - 11.25 am Coffee break

11.25 am The Human Rights Act - Topics and Cases in the first seven months

Speaker Professor Stephen Livingstone, Head of School of Law, Queen's University, Belfast and Director of the Human Rights Centre

12 noon Personal Injury Practice after the Insurance Revolution. Recent developments in practice within the field of personal injury claims of litigation and Legal Aid.

Speaker John Meehan, Solicitor, Senior Vice President, Law Society of Northern Ireland

You can also visit the **Conference exhibition** from **10 am - 3 pm in W5** where over 16 exhibitors will show you the very best in products and services supporting the profession including financial services, pensions, insurance, business equipment and e-commerce.

If you have your friends or family with you, let them enjoy a **free** exclusive preview of **W5** - Belfast's latest interactive Science museum open **from 10 am** - stay as long as you like.

We would like to see as many members of the profession taking advantage of these events and look forward to welcoming you on 7 April.

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HUMAN RIGHTS FOR BUSINESS CBI NORTHERN IRELAND CLEAVER FULTON RANKIN

The Human Rights Act 1998 and the Northern Ireland Act 1998 are already in force with significant implications for our legal system. Further changes are on the way in the form of a proposed Charter of Fundamental Rights for the European Union and a Bill of Rights for Northern Ireland.

A seminar on some legal and business implications of these issues will be held at The McCausland Hotel, Victoria Street, Belfast on Thursday 26 April from 4.00 pm to 6.00 pm.

Speakers will brief participants in the following key areas:-

- **The EU Charter of Fundamental Rights**
Dominic Johnson - Head of Employee Relations Group CBI
- **Update on the Northern Ireland Bill of Rights**
Brice Dickson - Chief Commissioner NI Human Rights Commission
- **Human Rights for Business**
Neil Faris - Managing Partner Cleaver Fulton Rankin Belfast

Fees and How to Book

The Seminar fee is £80.00 plus VAT payable to Confederation of British Industry. There is a discounted rate of £50.00 for CBI members.

To book please contact

Mrs Sarah Smart
Regional Administrator
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POLICE OMBUDSMAN FOR NORTHERN IRELAND

May I take this opportunity to remind members of the Law Society of the opening in November 2000 of the office of the Police Ombudsman for Northern Ireland, set up under the Police Act (Northern Ireland) 1998 and charged with providing an independent, impartial system for dealing with complaints against the police. The new Office now carries out those functions previously undertaken by Complaints and Discipline Branch of the RUC and the Independent Commission for Police Complaints, investigating complaints about how the police behave when they are doing their job and deciding how those complaints should be dealt with.

Research has shown that the lengthy time taken to complete cases is a major cause of complainants' dissatisfaction with the complaints system, so one of the main aims of the Police Ombudsman is to speed up the complaints process. Solicitors can assist in this by giving as much information as possible in their initial notification of their client's complaint to us - without prejudice if they so wish. The inclusion of full details will greatly facilitate the Police Ombudsman's staff in making speedy decisions regarding how these cases should be progressed, to the enhanced satisfaction of all parties. Solicitors should note that they no longer need to contact the police to report complaints; rather, these can be reported directly to the Police Ombudsman's Office as this now deals with all aspects of the complaints process.

We have recently circulated solicitors with an information leaflet which sets out in clear terms the Police Ombudsman's powers and detailing how complaints are dealt with. Further copies of this leaflet are available on request, and I shall be pleased to answer any questions that members of the Law Society might have regarding the Police Ombudsman's remit and processes.

Dr. Malcolm Ostermeyer
Director of Research and Policy
Police Ombudsman for Northern
Ireland



Law Centre (NI)

IMMIGRATION LAW & PRACTICE: TWO ASPECTS OF THE INTERPRETER PROBLEM

Over the last five years at the Scottish Bar I have had a significant immigration judicial review practice. In judicial review practice, of course, counsel rarely sees the papers in a case until it has nearly run its course; a dangerous detachment from the realities and pressures of immigration practice on the ground. Since the turn of the year, however, I have been working at Law Centre (NI) as an immigration legal officer; the experience has been illuminating. The single greatest revelation has been the all pervasive and debilitating impact of the interpreter problem.

As counsel, of course, I have been used to the luxury of all translation being done for me. I never had occasion to realise how awkward and time consuming it is to have to arrange for all this interpreting to be done. The problems of finding an interpreter in the language concerned, of the time required to read Home Office decisions over to the client through an interpreter, of the fact that you know that your clients will almost certainly not be able to understand the correspondence that you send them; these are massive and I have to say to me unsuspected burdens on the immigration practitioner. They probably are not capable of easy resolution; they seem to “go with the territory.”

I have to say, however, that during my experience in Northern Ireland I have encountered two distinct aspects where a greater recognition of the existence of the interpreter problem on the part of, respectively, the Immigration Service and the Immigration Appellate Authority, could lead to action which would go some way to ameliorating it.

1. The Interpreter Problem and the Asylum Interview.

My first suggestion is that the Immigration Service should take a more flexible and realistic view of the role of the Home Office interpreter at asylum interview.

Practitioners may be familiar with the crucial part played by the asylum interview in the asylum process. It is the stage after the application for asylum has been made, and usually after the asylum seeker or his/her representative has completed a form setting out the circumstances of the claim, when an immigration officer interviews the claimant on the substance of this claim. The transcript of this interview is in my experience the single document most determinative of the Home Secretary's subsequent decision. The interview itself is often lengthy – and, of course, is very often conducted through an interpreter.

First instance decision making in the realm of asylum is vulnerable to the inadequate asylum interview. I have seen it happen far too often that the really important information about an asylum claim emerges at the last minute, during judicial review, by which time it is too late. Even when the asylum seeker is successful at the earlier stage of appeal to the adjudicator or Immigration Appeal Tribunal, it is often because the crucial information has only been elicited by the representative during preparation for the appeal. In all these cases, the fundamental problem is that the relevant information has not been elicited by the immigration officer at asylum interview.

A fully pro-active and engaged role for the representative at asylum interview, where the representative would work jointly with the immigration officer to draw out the asylum-seeker's account, would go a long way to combat the problem. Unfortunately, however, the Home Office has a minimalist and restrictive interpretation of the role of the legal representative at the asylum interview. The Home Office view, expressed at para. 8.10 of the 1998 White Paper: ‘Fairer, Faster and Firmer – A Modern Approach to Immigration and Asylum’ (Cm 4018) is that “legal representation at the asylum interview is not necessary to enable an applicant to set out his or her case truthfully (para. 8.10).”

Worse than this, I am advised in private correspondence from the Acting Chief

Immigration Officer (CIO) that unpublished Asylum Directorate Instructions direct that if representatives do attend asylum interviews, their role is to be restricted to a purely passive one of observation. I have experienced in attending an interview the restriction of my role to that narrow function. Of course, representatives can still advise their clients; but it is here that the interpreter problem rears its ugly head.

Because of course the point is that one cannot advise one's client if one cannot speak to them, and more often than not one cannot speak to a client except through an interpreter. Yet bizarrely, Home Office policy is that the representatives at asylum interview may not communicate with their clients through the Home Office interpreter. Only immigration officers may speak through the Home Office interpreter. One can be sitting in the interview room with the client and with the immigration officer, knowing of a crucial aspect of the client's case which he/she absolutely needs to be prompted to disclose to the officer, and there is sitting in the same room an interpreter who would be able to relay that advice to the client, and yet Home Office policy is that that must not be done.

Indeed, when I have raised this problem with the Acting CIO, he has replied that I ought to bring my own interpreter with me to asylum interviews if I want to advise my client.

It is my respectful submission that the current position is absurd. To suggest that two interpreters are required at asylum interview, both of them no doubt provided at public expense, simply is not realistic. It is also highly debatable whether current policy in this regard is compatible with the guidance given to examiners at para. 205 (b)(i) of the UNHCR Handbook on Procedures and Criteria for Determining Refugee Status to “ensure that the applicant presents his case as fully as possible and with all available evidence.”

Ideally, in my view, the Home Office should recognise the importance of the asylum interview and draw the representative into an active role. Many unnecessary appeals and judicial reviews could be avoided if first instance decision making were fully informed on all aspects of the applicants' cases. But even if the Home Office is not prepared to alter its understanding of the representative's role at asylum interviews, the very least

that should be done is to facilitate the performance of the passive 'observe and advise' role by allowing representatives to advise through the interpreter who is available and on hand.

2. The Interpreter Problem and the Witness Statement.

My second suggestion is that the Chief Adjudicator should promulgate a Practice Note on the procedure to be followed with witness statements where the use of an interpreter is involved.

The year 2000 saw many momentous changes in the field of immigration law. In the context of the interpreter problem, the really significant development followed the appointment of Judge Dunn as Chief Adjudicator. The Chief Adjudicator has let it be known that evidence in chief at asylum interviews is to be given for the most part through the medium of the witness statement. Notices of Hearing are now accompanied by a form ADJ 05 which normally now specifies that witness statements must be lodged 7 or 14 days before the hearing. These directions are issued in pursuance of the power to give directions contained in Rule 30 of The Immigration and Asylum Appeals (Procedure) Rules 2000, SI 2000 No. 2333.

Unfortunately no guidance has been issued as to how in preparing witness statements practitioners are to take account of the interpreter problem. Thus I have had the experience of tendering an appellant's witness statement to an adjudicator in Belfast only to have it refused on the grounds that the appellant when shown it did not recognise it. Of course he didn't recognise it; the statement was in English, having been taken from him through an interpreter. Nor was the adjudicator placated by my assurance that the appellant had seen a translation of the document, which indeed he had; in the absence of evidence to that effect, the adjudicator was simply not prepared to accept the document. And, frankly, I think that that was the correct view in law.

I have now adopted the following practice. I start by taking an initial statement from the client through an interpreter. I then prepare a written English language version. I give that to the interpreter to translate back into the client's own language. The foreign language statement is then shown to the client for commentary. The interpreter

then translates to me the client's comments and I incorporate them into the English version. I then pass the finalised English version back to the interpreter for it to be translated back into the client's language. The client has then been able to sign the finalised version and the interpreter can then certify the English version as a true and accurate translation of the signed original. The signed original and the certified translation can then both be lodged.

This whole process is of course time consuming, and expensive in terms of interpreters' fees. It is the only way of doing it which seems to me to be proper.

However, I simply have no way of knowing whether this procedure is acceptable to the Court; I have no guidance whatsoever on how the Court in ordering witness statements wishes the interpreter problem to be addressed. I therefore suggest that it would be helpful to have some guidance from the Chief Adjudicator as to how he wishes these witness statements to be prepared, and in particular how he wishes the interpreter problem to be addressed in preparing them. I therefore call on the Chief Adjudicator to promulgate a Practice Direction.

Joe Bryce, Advocate
Legal Officer, Law Centre (NI)

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We are pleased to announce that our Conference for 2001 will be taking place in conjunction with the Liverpool Young Solicitors Group in Liverpool, Friday 18th May – Sunday 20th May 2001.

Although our Conference Agenda has yet to be finalized it is anticipated that it will run as follows:

Friday 18th May 2001	am	Welcome and Registration
	pm	Social Event.
Saturday 19th May 2001	am	Lectures
	pm	Black Tie Ball
Sunday 20th May 2000	am	City Tour
	pm	Brunch and Goodbyes

All those wishing to attend should complete and return the attached Booking Form together with a deposit cheque in the sum of £40.00 made payable "NIYSA" .

Demand for our Belfast Conference in March 2000, (attended by over 380 delegates), greatly exceeded available places and so early booking is advised, places will be allocated on a first come first served basis.

Booking Form

18th – 20th May 2001, NIYSA Conference.
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I wish to book for the NIYSA Annual Conference. I prefer a double/twin room (*Please circle your preference*). I accept that all payments are non-refundable and that my booking is subject to availability and to written confirmation by the Organisers. The remaining balance shall be payable by me to the NIYSA on request. I shall be responsible directly to the Hotel for any incurred room tab on check out.

Note We regret that we cannot accept bookings at the Conference Hotel for single rooms or single nights. All bookings must be made through NIYSA.*

Please tick if vegetarian

Signed _____ Date _____

Please return completed booking form and £40.00 deposit cheque in an envelope marked "NIYSA Conference" to: Maureen Bell, Vice Chairman, NIYSA, c/o Bigger & Strahan Solicitors, Sinclair House, 89 Royal Avenue, Belfast, BT1 1EX.





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"Charity Law - an update on qualification for charitable status and the duties and responsibilities of Directors and Trustees"

Speaker

Brian Garrett of Elliott Duffy Garrett.
Friday 20th April 2001, Law Society House
Coffee/sandwiches - 12.30pm
Talk 1.00pm-2.00pm

"Use and Completion of Legal Aid Green Forms"

Speaker

Sean McCann of McCann & McCann Solicitors
Friday 11th May 2001, Law Society House
Coffee/Sandwiches - 12.30pm
Talk 1.00pm - 2.00pm

If you would like to attend , please complete and return the slip below to Wiliam Cross, Belfast Solicitors Association, c/o Cleaver Fulton Rankin Solicitors, 50 Bedford Street, Belfast, BT2 7FW or DX 421 NR BELFAST, fee £10.00 per person.

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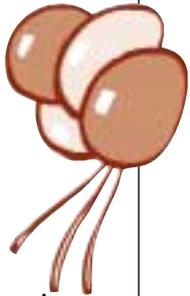
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Risk Management

ADVICE



Acting in a hurry

Jake was philosophical about the negligence claim against his firm. 'Well, these things happen,' he told his insurers.

The claim arose from a missed time limit in unfair dismissal proceedings. As Jake wrote in his claim report form, an application had not been filed with the Employment Tribunal within the three-month time limit.

'My assistant solicitor faxed it to the tribunal on the last day', he explained, 'but she never checked that it had been received. There seems to have been a problem with the fax on that day, and they didn't get it. She's left now, and this won't happen again.'

Understandably, Jake was looking at what had happened. A time limit had been missed and he saw this as a matter of human error, because the fee-earner failed to ensure that the fax had gone through.

For a risk manager, that is not the whole story. The next question is always 'why did it happen'?

There were several potential causes for this claim. Why was the application only being filed at the tribunal on the last possible day? Why was it being faxed?

Had there been delay by the fee-earner, or had the client failed to give proper instructions to

enable the application to be prepared earlier? If so, had a retainer letter been sent to warn the client about the time limit, inform him or her of the obligation to give proper instructions, and advise of the risks if this were not done?

Was the solicitor too busy to give the matter full attention, or had she miscalculated the time for submitting the papers to the tribunal?

Jake investigated in more depth, and came back to say that the practice had only been instructed at the eleventh hour. His firm had no policy on 'vetting' clients - it was up to individual fee earners to decide whether or not to act on a particular matter.

Someone more experienced might well have declined to take this claim on, but in this instance Jake's assistant allowed her sympathy for the client to overcome the fact that she had insufficient time to prepare the application before the deadline.

Jake's firm now had much closer supervision procedures, including a rule that junior staff must not enter into retainer until the matter has been approved by a partner.



BIN ACCOUNTING ERRORS AND STOP COMPLAINTS

Part I

In cases of bad accounting it is often found that solicitors have not only over paid the client, but that the error was not spotted until many weeks or months afterwards. So when the solicitor has to ask the client to repay sums, amounting in some cases to many thousands of pounds, it inevitably causes complaint. Such complaints usually arise in conveyancing matters, but the same considerations apply to all disciplines.

When responding to a complaint, it is no answer to argue that the client must have known he was getting more than he expected, or that he cannot have checked the completion statement. It is the solicitor's job, for which he is being paid, to get things right. It is not part of the client's responsibilities to check the completion statement. All this ignores several important issues relating to a solicitor's duties under the accounts rules and the fact that, by adopting good practice standards, the whole problem could be easily overcome.

Issues of adequacy of service apart, these complaints all involve breaches of the Solicitor's Accounts Rules, because the error will result in a shortage on the client bank account. Only rarely does that shortage involve dishonesty. Far more frequently it stems from the carelessness and failing to follow good practice.

The causes of the errors - which range from mathematical errors to misinformation from third parties - matter little. The point is, they would have been spotted either before the error was communicated to the client, or very soon after, when the effect would be far less dramatic, had basic 'best practice' precautions been taken.

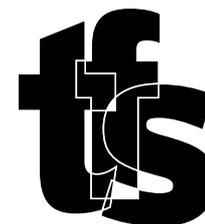
The first of these is to take the time to check the draft completion statement against the information on the Ledger. While the information being used on the completion statement may often be ahead of the figures on the ledger, it is still possible to check that what is on the ledger is reflected on the statement. Many errors occur because search fees or other, usually one-off items incurred well before the draft statement is compiled are forgotten.

A few days after completion, when there has been time to enter all the relevant figures on the Ledger, again take the time to check that the figures coincide with those on the statement and that there is, or will be when any known remaining payments are made, a 'nil' balance on both client account and office account.

Then use could and should be made of monthly reconciliations. Bookkeepers carry out monthly reconciliations. What happens to them? All too frequently they are simply ignored - just more paper gathering dust on the accounts office shelving. Why?

This article first appeared in The Gazette, February 2001 and is reproduced here with the Editor's kind permission. Part 2 to follow in April.

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CCBE NEWS

Money Laundering: The CCBE is against the extension of reporting obligations to the legal profession.

The CCBE has monitored the proposals from the European Commission which seeks to amend Council Directive 91/308/EEC on prevention of the use of the financial system for the purpose of money laundering. The CCBE has expressed its deep concerns regarding the proposal to the European Parliament and the Council of Ministers, at each stage of the legislative process.

In particular, the CCBE has reminded the institutions that any obligation imposed by law on a lawyer to inform authorities of suspicions only of a client's activities, is a breach of the fundamental right of citizens to professional secrecy and confidentiality, which in turn is based upon the fair administration of, and access to justice.

The CCBE works to achieve a consensus within the framework of negotiations within WTO

In October 2000, a delegation from the CCBE led by the then CCBE President Dag Wersen and members from the GATS 2000 Committee and CCBE Secretariat, had a meeting with the European Commission to discuss the priorities and needs of the European Legal profession in the context of the negotiations within WTO. The delegation informed the European Commission of what the CCBE would likely be prepared to offer countries from outside the European Union going into these negotiations.

The delegation indicated that the "Foreign Legal Practitioner" concept would in principle, be recognised provided that the lawyer is registered with a comparable independent and regulated Bar with a Code of conduct in line with the CCBE Code of conduct. Furthermore, the CCBE emphasised that at this stage the Commission should not concede more than home country law on behalf of the European Profession. The delegation also stressed that the Commission should not allow for the possibility of Foreign Legal Practitioners coming from outside the European Union any representation in Court. This uniform position was agreed on at the CCBE Plenary Session in November 2000.

The CCBE says "NO" to multidisciplinary partnerships

Emphasising their dangers, in particular in the areas of professional secrecy and lawyer's independence, the CCBE adopted a position opposing multidisciplinary partnerships in November 1999.

The CCBE has stressed this opposition within the framework of a preliminary ruling procedure which is now pending before the Court of Justice in Luxemburg (Case C-309/99). The original proceedings were brought before the Netherlands Council of State and concerned a dispute regarding a Netherlands Bar Association regulation which forbids multidisciplinary partnerships between lawyers and accountants. The CCBE has lodged written submissions and has made oral observations to the Court in support of the Netherlands Bar Association's position. The hearing took place on December 12th, 2000, and the conclusions from the advocate general are expected at the beginning of 2001.

Reproduced from the CCBE Gazette. Issue No. 1, 2001.

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Lunchtime Seminar

TAX IMPLICATIONS OF COMPROMISE AGREEMENTS IN TRIBUNALS

Speaker: Jolyon Maugham, (of the Bar of England and Wales; practises in London; specialising in tax matters; author of a specialist book on the subject)

Date: 27 April 2001

Time: 1pm

Venue: Law Society House, Victoria Street, Belfast

Cost: Members £3 per talk, Non-members £6 - includes cost of tea/coffee and sandwiches, available from 12.30pm onwards.

Booking forms and cheques should be sent to: Orla Murray, Departmental Solicitor's Office, Victoria Hall, May Street, Belfast, BT1 4NL.

Booking Form

Name _____

Firm _____

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I enclose remittance of £ _____

Membership Renewal

Membership renewals for 2000-01 are now due. Please send your membership subscriptions (£10 per member per year) to the treasurer, Orla Murray, at the address above.

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Membership Form

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EJO Problems Update

As a result of our insertion in the December 2000 edition of the Writ - "EJO Problems!" - members of the BSA Committee were invited to meet with the Chief Enforcement Officer, Chris Heatley, and with the Northern Ireland Court Service's Director of Operations, George Keatley. At an informative and constructive meeting the issues raised by members of the Association were canvassed and were sympathetically received by the Court Service officials. The Chief Enforcement Officer made us aware of a number of improvements being made to the service, such as the introduction of direct dial numbers for staff, and indicated that he would personally review some of the procedures in the light of the concerns raised. It was intended that a further meeting will take place within a few months to follow matters up.

REMINDER

COUNTY COURT COSTS IN CASES SETTLED BEFORE PROCEEDINGS ARE ISSUED

Members are reminded that in cases settled for £5,000 or more, before proceedings are issued, the Association's recommendation is that the appropriate costs are at least 3/4 of the scale fee for the relevant band and not at least 2/3 of the scale, which is the recommendation for cases settled for less than £5,000 (see February 2000 edition of the Writ, page 18).

Members are also reminded that the 2/3 and 3/4 recommendations are only "rules of thumb", to assist in settlement negotiations and in appropriate cases a larger percentage to the scale fee within the relevant band may be sought.

"BSA GOLF OUTING"

Belfast Solicitors' Association Annual Golf Outing - Thursday 17th May 2001 at Malone Golf Club.

TAKE NOTICE that on Thursday 17th May 2001 at 1.30 p.m., or as soon thereafter as sport may commence, the Belfast Solicitors' Association will be moved to hold its Annual Gold Outing at Malone Golf Club, Upper Malone, Belfast.

The cost per person is £42.00 (£33.00 green fee, £7.00 meal and £2.00 subscription - Malone Golf Club members and persons not wishing to take the meal should adjust their payment accordingly). All members of the Association and their visitors will be welcome and you are invited to complete the form and return it as soon as possible. The prizes will be for the main competition for members with official handicaps, together with second and third prizes; a visitor's prize and runner up; and a special competition for non-handicapped members. The special competition is for the best gross score for the first eleven holes and all other

competitions will be scored using the Stableford Points System on full handicap allocation (subject to a maximum handicap of 24).



"BSA GOLF OUTING"

Thursday 17th May 2001

Name: _____

Contact address/Telephone: _____

Subscription attached: £ _____
(payable to Belfast Solicitors' Association)

Please indicate against the names the prizes to be played for -
Members/visitors/members special.

Return to: Richard Palmer of Peden & Reid, 22 Callender Street, Belfast, BT1 5BU

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Telephone: 028 9032 5617 and Fax: 028 9024 7343.

E-mail: penden-reid@dnet.co.uk



WEB WATCH

The Internet is some times likened to a Swiss army knife having a large number of gadgets available for use to make common tasks easier. Perhaps like the knife, many of us using the Internet regularly use no more than one or two of the facilities available. What follows are examples of how the great cyber gadget can be used for more than just email and accessing a web page.

Those wishing to have a fax facility without going to the expense of buying a fax machine should go straight to yac.com/. This is a complete messaging centre which gives you the ability to receive faxes which are delivered attached to an email. Voice messages can be sent in a similar format. The site also provides the facility to redirect calls made to a certain number to either your work, home or mobile phone number. This free service should be investigated by practitioners looking to increase their mobility and do more work out of the office.

Office space, including room for files on the hard drive of the PC at work or at home, is often at a premium. Secondary files no longer required but which need to be stored can be copied

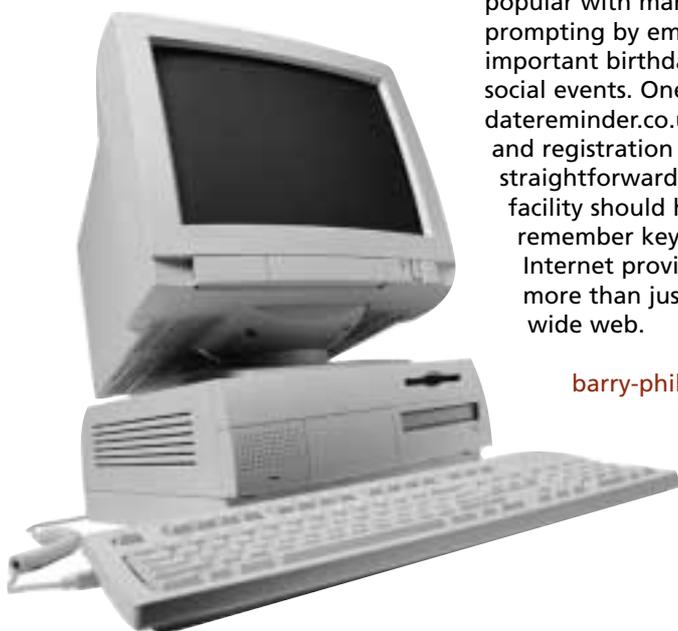
onto free web space provided by a number of different organisations. The best of which is probably freedrive.com which offers a whopping 50mb of space for free.

Instant messaging services are proving increasingly popular. They allow users to communicate on-line in what can be turned into their own private chat room. The most popular system is available from icq.com which currently has over 80 million users world wide. Some organisations are using this software to provide them with an on-line meeting forum. Once the discussions have finished the messages can be saved in a standard word document and stored as minutes of the meeting.

Free software which will assist users with a multitude of PC tasks is available on the Internet from a number of sites including tucows.com/. Particularly useful is Winzip which will compress files into much smaller sizes allowing for much quicker transmission over the Internet of emails with attachments. Some software can be quite large however and take a long time to download from the Internet including Winzip which is better installed from a CDROM distributed free along with PC magazines.

Date reminders are also proving popular with many who may want prompting by email not to forget important birthdays, anniversaries or social events. One example is at datereminder.co.uk/. This is free to use and registration is simple and straightforward. Regular use of this facility should help us all to remember key dates and that the Internet provides us with so much more than just email and the world wide web.

barry-phillips@altavista.net



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SOCIAL SECURITY AGENCY

IMPORTANT INFORMATION FOR INSURANCE COMPANIES/REPRESENTATIVES

From 2nd April 2001 the Health and Personal Social Services Act (Northern Ireland) 2001 will introduce central collection of health service charges in respect of treating people injured in road traffic accidents. The Compensation Recovery Unit (CRU) will be responsible for collecting these charges. This change will result in new and revised procedures for CRU, insurers and legal representatives. This article provides you with information to allow you to consider the implications for your business. It is intended as general guidance only and should not be treated as a complete and authoritative statement of the law.

HEALTH AND PERSONAL SOCIAL SERVICES ACT (NI) 2001.

The above Act introduces similar provisions to those introduced in GB in the Road Traffic (NHS charges) Act 1999. The new scheme introduced by the Act will cover treatment received in health services hospitals in Northern Ireland. Under the terms of the above Act, where compensation is paid on or after 2nd April 2001 in respect of a road traffic accident, any Health Services (HS) charges must be repaid to CRU. We will then pass on the charge to the relevant HS trust.

Charges will be recoverable whenever:-

- There has been an injury or death as a result of a road traffic accident.
- A compensation payment is made on or after 2nd April 2001 in respect of that injury or death.

And

- The traffic casualty has received treatment at a health services hospital in respect of their injuries.

FORMS

The form CRU1 has been changed to request information necessary to administer the new health services charges scheme. The layout of the form has also been altered to reflect the flow of information required to input the details of a new CRU computer system which is also being introduced to coincide with the new scheme. You may use your own computer produced version of form CRU1, providing that it includes the data fields for the health services charges and that its size and format are the same.

Supplies of the new form CRU1 will be available from 19th March 2001 and you should use the new version from 2nd April 2001. If you have not received the new print of the form CRU1, you should continue to use the old stock. In these circumstances, we will issue a new print in form CRU1 which has been revised to include a question on hospital treatment.

You will also notice some changes to other forms e.g. CRU4 series, CRU100 and CRU102.

Compensators who currently use the CRU1 supplied by "N.I.P.A.R." should contact them to obtain revised print.

CERTIFICATE OF HEALTH SERVICES CHARGES.

It is not mandatory for the compensator to apply for a certificate of health services charges prior to making a compensation payment. However, they are encouraged to request a certificate of health services charges before settlement to mirror benefit recovery procedures. Once compensation has been paid, the compensator must apply for a certificate of Health services charges in all road traffic accident cases. The certificate of recoverable benefits (CRU100) and the health service charges certificate (RTA100) will be 2 entirely separate certificates although the form CRU102 that accompanies the certificate of recoverable benefits should be used to provide settlement details for both CRU and health services charges purposes.

For the purpose of health services charges, any compensation payments made under the fatal accidents legislation (Fatal Accidents Act 1976 and Administration of Justice Act 1982 of relevance in GB and NI respectively) in respect of a deceased road traffic accident casualty must be tied to a compulsory motor insurance policy. Therefore:

These claims must be notified to CRU and will be subject to NHS charges (but not subject to benefit recovery).

SUMMARY OF HEALTH SERVICE CHARGES

The table indicates the tariffs on which the charges will be based:

Date of Accident	Settlement date - post 2.4.01
Pre 2.7.97	In-patient ("with admission") treatment; Daily rate of £435 up to maximum of £3,000
Between 2.7.97 and 2.4.01	In-patient ("with admission") treatment; daily rate of £435 up to a maximum of £10,000
On or after 2.4.01	In-patient ("with admission") treatment; daily rate of £435 up to a maximum of £10,000 Out-patient ("with admission") treatment; a set charge of £354 regardless of amount of such treatment.

NB (1) A charge can only be claimed for either "with admission" or "without admission" treatment.

(2) The number of days for "with admission" treatment charges will be calculated on the number of nights the injured party stayed in hospital, subject to a minimum of one day when the injured party was released on the day of admission.

PAYMENT TO CRU

Any payments due in respect of either a certificate of health services charges or a certificate of recoverable benefit should be included in the same cheque, wherever possible. Payment must be made to CRU within 14 days of making a compensation payment, and should be made payable to DHSS/DSD or CRU, but not to the trust or the hospital.

Please note: Payment to CRU in respect of health service charges should not be made prior to making a compensation payment, otherwise, this may result in the payment being returned to you.

REVIEWS AND APPEALS

Legislation provides for review and appeal rights where health services charges are recoverable. An appeal may only be made once final compensation has been made and full payment of the charges set out on the certificate has been made.

COMPLIANCE

All notifications of compensation claims received by CRU are subject to a compliance check. We will continue with this procedure and will now include scrutiny where the CRU1 indicates there was no health service treatment or where the compensator has claimed "exemption".

EXEMPT CASES

Compensators will continue to be able to claim exemption from paying Health services charges on the same grounds as they can at present. Articles 90 and 214 of the Road Traffic (NI) Order are of relevance.

HS CHARGES ALREADY REPAID TO TRUSTS

In some cases, HS charges may have already been repaid to the trust. In these circumstances, the CRU should be advised:

- When it was repaid
- Who it was paid to
- The amount repaid
- The date of final settlement of the compensation claim.

In these circumstances, CRU will contact the trust to establish if there is any further payment due. The compensator will be notified of any further payment due.

TRANSITIONAL ARRANGEMENTS

Until such times as our computer system has been fully implemented, there may be cases where we will have to issue a form RTA 1 to compensators to obtain hospital details. They should be completed and returned as soon as possible as failure to return these forms will result in a reminder being issued causing additional work for both CRU and compensators.

It may not always be practicable for CRU to provide a copy of certificate of recoverable benefit which we have already issued. Therefore requests for copies should be requested only when absolutely necessary.

DIFFERENCE FROM GB LEGISLATION

Compensators should note that in one particular respect the law in Northern Ireland regarding health services charges differs significantly from that in the rest of the UK. In GB when a case is reviewed the amount specified in a certificate can only be increased when the compensator has provided incorrect or insufficient information. This restriction will not apply in Northern Ireland.

QUERIES

If you have any queries on the NHS legislation or policy you should contact:

Stephen Popplestone
Policy and Accounting Unit
Department of Health, Social Service and Public Safety
Room 512A
Dundonald House
Upper Newtownards Road
Belfast
BT4 3SF

Telephone:
028 9052 4743
Fax:
028 9052 4196

E-mail: Stephen.popplestone@dhsspsni.gov.uk

If you have any queries about the new CRU procedures you should contact either:

Winnie Madden or Tina Thompson
Compensation Recovery Unit
Social Security Agency
Magnet House
81-93 York Street
Belfast
BT15 1SS

Telephone:
028905 45819 / 028905 45817

Fax:
02890 5 45889

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See for yourself at our cocktail evening on 25th April at the Europa Hotel, Belfast, where you'll have a chance to get to know us better and to find out more about what we could do for each other. Please phone Jodi Tish on 020 7919 4929 or email joditish@eversheds.com to book a place or send your CV to Margaret Bradburn at Eversheds, Senator House, 85 Queen Victoria Street, London EC4 4JL.

Or if you would like to talk about the sort of work you could be doing why not call Stephen Hopkins, corporate partner in our Leeds office on 0113 243 0391.



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NORTHERN IRELAND COURT BUSINESS

Lord Chancellor's Directions Under Article 11(3) of The Magistrates' Courts (Northern Ireland) Order 1981

Magistrates' Courts

Amendment

Schedule 2 to the Lord Chancellor's Directions dated 24 May 1990 and published in the issue of 'Northern Ireland Court Business' No. 4/90 shall be amended with effect from 27 March 2001 as follows:-

- Page 5: Petty Sessions District of Lisburn
- Column 2: Place and Time
- Insert: Video Link Remand Court sits at 10.00am every Tuesday
- Columns 2-10: Delete all entries in relation to the courts sitting at Maze

SCHEDULE 2

Petty Sessions District (1)	Place & Time (2)	Wards (3)	Nature of Business/Day of Month						Place of Hearing of Appeals (10)	
			Day (4)	Other Business (5)	Youth (6)	Family (7)	Domestic (8)	Youth & Domestic (9)		
Limavady	Limavady Other business and youth sittings commence at 10.30am Domestic court commences at 11.00am	All wards	Mon						Limavady	
			Tues	1st,2nd,3rd&5th				4th		
			Wed							
			Thurs							
			Fri							
Lisburn	Lisburn All sittings commence at 10.30am	Glenavy Magheragall Drumbo, Hillhall, Blaris Knockmore, Old Warren, Lagan Valley, Tonagh, Ballymacross, Ballymacash, Lisnagarvy, Wallace Park, Magheralave, Harmony Hill Hilden, Lambeg	Mon	Every					Lisburn	
			Tues	Every						
			Wed	3rd	1st					
			Thurs	2nd,4th&5th			1st,2nd&3rd			
			Fri							
	Lisburn All sittings commence at 10.30am	Moirá, Maze Hillsborough Dromara B'macbrennan		Mon						Lisburn
				Tues						
				Wed		1st				
				Thurs						
				Fri	2nd&4th			2nd&4th		

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Land Registry

Folio: 14156 & 13996

County Armagh
Registered Owner:- John Rice
Lands of Tullyah, County Armagh

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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.

Date: 14 February 2001

Donnelly Neary & Donnelly
Solicitors
1 Downshire Road
NEWRY

Co Down
Tel: 028 3026 4611
Fax: 028 3026 7000

Email - dnd@dial.pipex.com

Land Registry

Folio: 17115

County Down
Registered Owner:- Mary Robb Beattie
Lands of Ballycarn

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Johns Elliot Solicitors
40 Linenhall Street
Belfast, BT2 8BA
DX 419 NR BELFAST

Land Registry

Folio: AR9733

County Armagh
Registered Owner:- Patrick Brendan
Hamill & Marian McConville

Lands of: Breagh

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John F Gibbons and Co
Solicitors
40 Church Lane
Belfast
BT1 4FR

Land Registry

Folio: 26208

County Down
Registered Owner:- Patrick McGivern
Lands of 41 Killowen Old Road,
Rostrevor

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Paschal J O'Hare Solicitor
98-102 Donegall Street
Belfast
BT1 2GW

Land Registry

Folio: 26083

County Armagh
Registered Owner:- Patrick McKiernan

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HAGAN AND McCONVILLE
SOLICITORS
34 EDWARD STREET
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Co. Armagh
BT62 3NE

POST TRAUMATIC STRESS DISORDER

If any solicitor has a claim or possible claim against the Ministry of Defence arising from Post Traumatic Stress Disorder, could they please contact Arlene Foster of Cooper Wilkinson, Solicitors, 32 East Bridge Street, Enniskillen, County Fermanagh, BT74 7BY, Telephone Number

028 6632 2615

Ex London Metropolitan Police Court Sergeant seeks work as outdoor clerk in North Antrim and North Derry areas. Highest references available. Please contact Jim Bannon, Ballymoney.

Tel: 028 276 69397

Missing Wills

RE: MARGARET MCCRICKARD deceased late of 100 Albert Street, Belfast
Would any solicitor who is aware of a will made by the above named deceased please contact McCann & Greyston, solicitors, Canston House 38 Church Lane, Belfast BT1 4QH
Telephone No. 028 9024 6098

RE: JOSEPH MACKEY deceased.
Late of 10 Picardy Avenue, Cregagh, Belfast
Would any Solicitor holding a Will for the above named deceased or title deeds in respect of the property at 10 Picardy Avenue, Belfast please contact David Gaston Solicitor
Gaston Graham
73 Holywood Road
Belfast BT4 3BA

Tel: 028 9047 1869

RE: THOMAS HENRY LYTTLE deceased
Late of 49 Ballyferris Walk, Bangor, County Down
Date of Death: 28/10/2000

Would any person who is aware of a will made by the above named Deceased and the whereabouts of same please contact R P Crawford & Co Solicitors of
78 - 82 Shore Road, Belfast BT15 3PZ

RE: MAUREEN MACKEY deceased, late of 43 Cregagh Gardens, Armagh who died on 2nd March 2001. Would any solicitor who is aware of a will made by the above named deceased please contact John J Rice & Company, Solicitors, 33 Cathedral Road, Armagh BT61 7QX,
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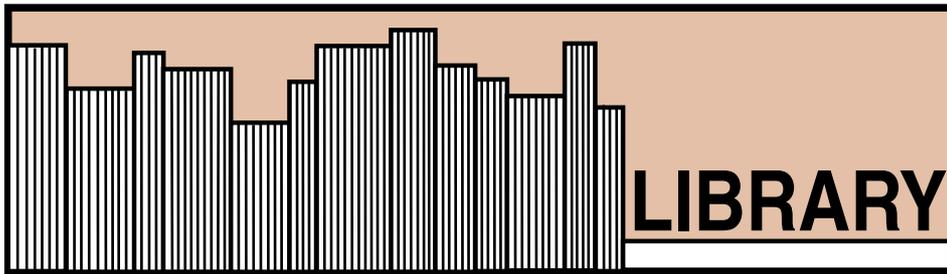
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RECOMMENDED READING

COLLECTIVE BARGAINING

- | | |
|-------------|---|
| Legislation | <p>Trade Union and Labour Relations (NI) Order 1995 NI 12</p> <p>Trade Union Recognition (Method of Collective Bargaining) Order 2001 SR 39
Coming into force 8 March 2001</p> <p>Employment Relations (NI) Order 2000 NI 9
Coming into force 8 March 2001</p> |
| Articles | <p>Recognising a bargaining unit when you see one (procedures for application to Central Arbitration Committee for recognition of trade union including case study approach)
Lister: 2001 Emp L J 17 (Feb), 5-7</p> <p>Recognition of trade unions – consultation over the access code and method of bargaining
Moore: 2000 ILJ, 29(4), 406-415</p> <p>Compulsory union recognition
Fairclough: 2000 SJ 144 (39), 952-953</p> <p>Collective and individual representation at work (trade union provisions, collective bargaining, whether it can be compulsory, right of individual as well as collective representation and extent to which Government can intervene in employment relationship)
Antill: 1999 NLJ 149(6903), 1334-1335, 1339</p> |

New Books in the Library

- 1) Hammond Suddards Edge: E-Commerce; a guide to the law of electronic business. 2nd ed. Butterworths. 2000
- 2) Terrett: The internet; business strategies for law firms. Law society. 2000
- 3) Bird: Domestic violence and protection from harassment. 3rd ed. Jordan. 2001
- 4) Lewison: Drafting business leases. 6th ed. Sweet & Maxwell. 2000
- 5) Salter: Pension sharing in practice; a special bulletin. Jordan. 2001
- 6) Greer & Dawson: Mysteries and solutions in Irish legal history; Irish Legal History Society Discourses and other papers, 1996-1999. Four Courts Press. 2001

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