MODELLING REGULATION
ANY COLOUR SO LONG AS IT'S BLACK?
President's Message

I am writing this message following my recent attendance at the Canadian Bar Association Conference in Vancouver. This gathering of 3,000 lawyers from across Canada, follows immediately after the American Bar Association Conference in Chicago, a gathering in excess of 10,000 lawyers. I expect that I represented the smallest constituency there but it is interesting and indeed surprising to realise that the problems we experience in Northern Ireland are no different to those being experienced by lawyers around the world. The increasing costs of running an office, difficulties in recruiting and retaining good lawyers, the need to promote diversity in the profession, the increasingly high expectation of clients, a background of inadequate public funding and an ever decreasing income from the private client all feature significantly.

The challenges we experience here also resonate around the world. The speed of technological change and the need to embrace it is a recurring theme and one that strikes a chord with me following my attendance at a recent presentation by the Land Registers on computerisation at LRNI and the prospect of E-Conveyancing.

Diversity within the profession and the imperative to promote equality of opportunity thereby ensuring that talent is retained within the profession and that the profession is truly representative of our society is a familiar concern and one which we are seeking to address through our Human Rights and Equality Committee.

The similarities between the solicitor’s profession in Northern Ireland and in the other jurisdictions is striking. The experiences of the other jurisdictions are also our experiences. All recognise the need to maintain a profession that has pride and confidence in itself, a profession which is underpinned by integrity, proud to uphold the rule of law, committed to ensuring access to justice in a meaningful way thereby inspiring public confidence in the profession. Our American and Canadian colleagues are truly inspirational when it comes to professional pride and confidence. They believe in themselves and in the value of the service they offer. They recognise the importance of charging a professional fee for a professional service and universally accept that in order to run a professional office, a fee must be charged which ensures the economic liability of that practice. We cannot argue with that.

It is gratifying to note that in meeting the challenges facing the profession, Northern Ireland compares favourably with the other jurisdictions, and in some cases exceeds them. The increasing need to promote Alternative Dispute Resolution was addressed at a number of seminars I attended, and I was proud to recount our own efforts in that area. Much credit is due of course to our ADR Committee under the able stewardship of Brian Feeney and to our mediation training course successfully developed and delivered by Brian Speers and David Gaston.

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Our mandatory CPD scheme also does us credit - in this respect we are ahead of our Canadian colleagues who have not yet introduced such a scheme, but recognise the need to do so.

Now back to the home front. The Annual Report of the Lay Observer has issued and has been circulated to the profession. It is an important document and I would urge you to consider it in detail. The recommendations and concluding comments are of vital interest not only to the Council and office bearers of the Society, but to every member of the profession. Complaints arising out of conveyancing transactions continue to be the most frequent type of complaint received by the Society. They continue also to give rise to the greatest number of claims against the Master Policy, naturally contributing to high premiums. On the complaints front, many complainants raise issues of delay.

Problems with Compulsory First Registration (CFR) have been flagged by the Lay Observer. To assist in addressing any difficulties which practitioners may have with CFR, the Registrar has kindly offered to provide training in this area which will count towards CPD requirements. It is incumbent on us to continue to work with the Land Registry both to express the views of the profession and to reduce procedural delays in the registration process.

September is the time of year when the final phase of the Advanced Advocacy Course is completed. I was delighted to welcome our American friends from the National Institute of Trial Advocacy based at the University of Miami. Despite the difficulties caused by Hurricane Katrina, they fulfilled their commitment to participate. Their involvement and input into the delivery of this course is invaluable and very much appreciated. The value of this course is clearly recognised by the profession as the demand for attendance increases year on year, and that increase is accommodated without any diminution in quality. We are as ever indebted to Tony Caher and Fiona Donnelly and our colleagues on the Advocacy Working Party for their continued hard work, drive and enthusiasm for this course. Their experience is essential to the successful running of this course and we are indeed grateful to them.
In this edition we look at the work of the Alternative Dispute Resolution Committee which is chaired by Brian Feeny, with secretarial support being provided by Kevin Delaney.

The role of the ADR Committee is to promote knowledge and understanding of the importance of mediation as an alternative method of resolving disputes. Mediation has been growing in importance in recent years with the government pledge to maximise its use and following recent court rulings on the cost implications for a party who unreasonably refuses to mediate.

The Committee administers the Dispute Resolution Service of the Society which was set up some years ago and which consists of a panel of solicitors trained and accredited in mediation skills. Cases considered suitable for mediation either by the parties or at the suggestion of the court are referred to a mediator on the panel for mediation. The Committee is currently monitoring the use and effectiveness of mediation by collecting statistics from the parties and mediators involved in mediations handled by the Service. Preliminary results show a high level of satisfaction with the mediation process.

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A major part of the work of the Committee is to keep itself and others up to date on developments affecting mediation. This involves meeting a wide range of people from the courts and other public bodies on a regular basis. Earlier this year, the Committee met its counterparts from the Law Society of Ireland who visited Belfast on a fact finding mission about the Dispute Resolution Service with a view to setting up a similar body in the south. Mr Justice Coghlin met with the delegation to explain and emphasise the supporting role of the courts for mediation. Increasing the awareness of mediation among practising solicitors will remain as a central task of the Committee in the future.
Review of Regulation of Legal Services in Northern Ireland

On 22nd September 2005 NIO Minister Lord Jeff Rooker launched a Consultation Paper dealing with the future regulation of legal services in Northern Ireland. In this introductory article, John Bailie, Chief Executive of the Law Society, outlines the review process and what it will involve.

Some practitioners, perhaps in particular those attending assiduously to the private study element of their CPD requirement, may have been following the debate in England and Wales prior and subsequent to the publication of what has become commonly called “the Clementi Review”. The proposals for reform of the regulation of legal services in England and Wales put forward by Sir David Clementi, former Deputy Governor of the Bank of England and Chairman of Prudential Assurance, have filled the pages of legal journals. Wherever lawyers gather to discuss the state and future of the legal profession the C-word always seems to come up sooner or later. It has been a fecund source of imaginative metaphors and headlines [“Chain Reaction; How the Clementi legal services revolution is setting off fires around the world”].

Perhaps the most apposite analogy to date describes what is happening as “a tsunami of regulatory reform”. Although the fault-line runs through London, the seismic impact is being felt throughout the developed legal systems of the world, with the after-shock likely to hit particularly hard on those in the most immediate vicinity. Powerful economic societal and political forces are at work. So what has all this got to do with Northern Ireland?

The NI Review Process
The Consultation Paper explains that an independent Review Group is to be established under the Chairmanship of Sir George Bain. Sir George will be known to many readers of The Writ. A Canadian by birth, but a resident of Northern Ireland by choice he was President and Vice-Chancellor of Queens University between 1998 and 2004. In addition to Sir George, the Review Group will comprise seven other persons appointed by the relevant Government Department. These include two lawyers (one solicitor and one barrister), three representatives from consumer bodies, an economist and a legal academic.

The Review Group will operate within the parameters set by the Government, as expressed in the Terms of Reference set out in full opposite. As will be seen from these, the primary emphasis is on the review process and associated legislative proposals carried out for England and Wales, as against several other review processes underway elsewhere, and appears to reflect the pre-determined Government position that:

“We find the principles and arguments advanced by the Clementi Review compelling, but it will be for Northern Ireland’s Review Group to ensure that they are applied in a way that suits the circumstances here”.

Objectives of the Review
The Consultation Paper explains that the purpose of the Government is to ensure that the public has access to legal services that promote healthy competition while ensuring consumer protection, but backed by the availability of a transparent complaints process, adequate redress in the event of poor service, and set in the context of the primary importance of maintaining the effective delivery of justice.

The Main Issues
Following a ministerial foreword and an introductory chapter, the Consultation Paper:

• discusses the principles which underpin effective regulation (such as proportionality, accountability, consistency, transparency and targeting)

• sets out the five core functions of professional regulation as identified by Clementi namely: entry standards and training (including continuing professional development); the making of rules/regulations; monitoring and enforcement of compliance with rules; complaints systems and disciplinary processes

• re-states the specific objectives for the regulatory framework for legal services identified by Clementi (such as maintaining the rule of law, promoting access to justice, adopting a consumer-based approach, competitive markets, a confident, strong and effective legal profession, and promoting citizens awareness of legal rights)

• describes the current regulatory arrangements in Northern Ireland as regards solicitors and barristers

• provides a comparative analysis of the regulation of the legal profession in England and Wales (including a useful summary of the Clementi proposals and the Lord Chancellor’s position in relation thereto), in Scotland and in the Republic of Ireland

• sets out the arguments for change, including the reasons why the Government “regards the arguments of principle in favour of change as compelling in terms of the regulatory framework, complaints systems and business structures”
explains the way forward by way of establishment of the Review Group to “consider how these (Clementi) principles could or should be applied in Northern Ireland”; and also to consider and develop proposals on the other issues raised by Clementi such as the regulation of those providing legal-type services which are not restricted by statute to lawyers, whether Northern Ireland should also open up the provision of some services, such as conveyancing, to appropriately qualified non-solicitors, and issues of wider ownership of legal practices. The Consultation Paper concludes by summarising the range of questions on which views are invited. Responses to the Consultation Paper are required by 6th January 2006. The Review Group has been asked to report by October 2006. Given that the Consultation Paper has just been published it has been possible in this article to give only a preliminary indication of its contents and implications. More will follow in future editions. But even a cursory reading demonstrates the scale of the challenge presented by the Review Process. The Society will be seeking over the course of the review to consult with members, consider all the issues as thoroughly as possible and engage in constructive dialogue with the Review Group. As Churchill might put it, time will tell whether it is the end of the beginning or the beginning of the end.

The Consultation Paper contains some indications that the Government is wary of importing “solutions” from elsewhere, and this is of course welcome and sensible. The Society is committed to regulatory systems, processes and mechanisms which are client-focused, effective, accountable, efficient, proportionate, consistent and accessible. We will bring forward proposals in line with that commitment which will serve the public interest. We will have no difficulty with a genuine debate about appropriate and better systems for Northern Ireland, provided this is not driven by dogma to a pre-determined outcome. It remains to be seen whether this is achievable or whether the real message of the review document is, as per Henry Ford, “You can have any colour you like, so long as it’s black”.

REVIEW GROUP ON THE REGULATION OF LEGAL SERVICES IN NORTHERN IRELAND

Terms of Reference

In light of:

• the findings of the Clementi Review of the Regulatory Framework for Legal Services in England and Wales;
• the subsequent White Paper due to be published later in 2005; and
• the responses to the NI consultation document launched in September 2005.

to bring forward firm proposals for the regulation of legal services in Northern Ireland that are consistent with:

• protecting and promoting consumer interests
• promoting competition through the removal of unjustified restrictions;
• promoting public understanding of citizens’ legal rights; and
• encouraging a strong, effective and independent legal profession.

These proposals should take due cognisance of:

• the study of the competition of legal services in the Republic of Ireland;
• the emerging findings of the Scottish Executive’s inquiry into the regulation of the legal profession;
• the annual reports of the Lay Observer for Northern Ireland and the Review of Legal Services provision here carried out by the former Lay Observer, Professor Vincent Mageean; and
• the European Commission Director-General 2004 report on competition in professional services.

The proposals should be presented to Government by the end of October 2006.
COMPANY AND COMMERCIAL LAWYERS GROUP

UPCOMING EVENTS:

LIMITED LIABILITY PARTNERSHIPS

Date: 18 October 2005
CPD Hours: 1
Cost: Admission Free for members and £5.00 for non-members
Venue: Law Society House, Belfast
Time: 12.45pm Lunchtime Seminar

“SMALL BUSINESS SALES - WHAT THE TEXTBOOKS DON’T TELL YOU”

Date: 22 November 2005
Speaker: Kevin Lewington, Partner, Shoosmiths, London
CPD Hours: 5
Cost: £130.00 for members and £160.00 for non-members
Venue: Ten Square Hotel, Belfast
Time: 10.00 - 16.45. Lunch and refreshments provided.

Numbers are strictly limited so book early to avoid disappointment

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Guidance for accounting for Work In Progress

With the issue of UITF 40 belated clarification has been given on how firms providing contracts for services should account for work in progress. Uncertainty had arisen following the issue (in November 2003) by the Accounting Standards Board to its “Urgent Issues Task Force” to prepare definitive guidance and this was eventually issued on 10th March 2005.

FRS 5 had previously recognised that the right of a service provider to consideration would not necessarily coincide with the timing and amounts of invoices or payments specified under the contract but should be recognised while work on the contract was actually being performed. The wording of the amendment (known as Application Note G) giving rise to the concerns voiced, made it clear that “fulfilment of contractual obligations…” did not require final performance of a contract to have taken place and that the right to consideration may arise when “some but not all of its (i.e. the provider’s) contractual obligations have been fulfilled”. Each contract should be examined to establish what constitutes performance in individual cases.

The guidance from the Urgent Issues Task Force (known as UITF Abstract 40) states that the amendment covers “long term contracts” i.e. those whose performance takes place over a period of more than one year. However, a contract for a shorter period could be included where its activity falls into different accounting periods and where the failure to reflect turnover and attributable profit from that contract individually or together with the aggregate of all such contracts would cause distortion such that the financial statements would not give a true and fair view.

When then does a right to consideration arise and when should work in progress be included in accounts at selling price rather than as previously at the lower of cost and net realisable value? Arguments have been advanced to suggest that no right to consideration arises until a job is done – who would pay for a part completed conveyance or uncompleted advisory work of one kind or another? This is a legalistic argument and whilst apparently valid from a common sense perspective does not sit comfortably with present accounting practice which is more about the commercial reality and substance of transactions rather than their legal form. The counter argument is that in reality no one would commence work let alone continue to completion unless there was a realistic expectation of payment and no doubt this is borne out by the great majority of transactions – the corollary would be insolvency!

The debate continues and for those who wish to read a dissenting opinion then Emile Woolf’s article in Accountancy June 2005 is an interesting one – however the weight of opinion appears to be very much against him and it would appear that most professional advisers are now advising compliance with UITF 40.

As an aside (albeit an important one), the present position of the Inland Revenue is that the uplift in profits arising on the change in basis of accounting for work in progress will be taxed as “adjustment income” and treated as arising on the last day of the accounting period in which the new accounting basis is adopted - hence increasing tax for the corresponding tax year. This could be a very substantial uplift as under the “old” basis, work in progress excluded the value of partner time plus related overheads – the new basis will potentially include employee and partner time at full realisable value. At present there is no provision made to spread the cost of this tax windfall to the Treasury as was the case on the cessation of the “cash basis” which was spread over ten years. Representations continue to introduce such a provision but they can not be relied upon and plans should be made to cope with the situation as it stands without any deferment.
Firms now need to contact their advisers as a matter of urgency to establish the impact this change in accounting basis will have on their practice both in terms of intergenerational profit distribution and perhaps more urgently on practice cash flows.

Firms will have to establish from individual contracts when the right to consideration arises. At the year end, the degree of actual performance and the realisable value of such will have to be estimated in respect of the work in progress of the firm to ensure compliance with Application Note G and the UITF Abstract. Making such assessments involves subjective (but objective!) judgment and a substantial amount of work. The incentive is to get it right to ensure excess tax is not paid over in the one-off charge arising from the “adjustment income”.

**KEY POINTS TO NOTE:**

- The basis on which the taxation of work in progress takes place has changed for accounting periods ending on or after 22nd June 2005.
- The change results from an amendment to financial reporting standards and affects how the Inland Revenue now recognises revenue as having arisen for tax purposes before completion of work in progress.
- This has implications for all firms.
- The change may result in earlier and larger tax bills being payable by firms.
- All solicitors should contact their accountants as a matter of urgency to establish the impact which the change will have on profit and cash flow.

**Concessions gained on SDLT**

Following a campaign led by the Law Society of England & Wales, the Inland Revenue has announced significant changes, with effect from 12th September, to the system whereby Stamp Duty Land Tax is collected.

The campaign focused on difficulties with the Revenue’s scanning system, lack of clear guidance and an inadequate telephone helpline. The Revenue has now agreed that:

- The scanning parameters will be altered to allow more flexibility in the way forms can be filled out, hopefully reducing the number of SDLT8 forms returned by 60%.
- Where a solicitor is acting as an agent, SDLT8s will be sent only to a solicitor and not the client as well.
- SDLT’s don’t need to be signed by a client or a solicitor any more.
- An editorial board to produce improved guidance will be set up. This board will include a LSNI representative.

A new call centre has been added to handle call numbers, with the Revenue confirming that it will monitor how many calls it receives, including those that are cut off.

The Society in association with the Law Society of England & Wales and the Law Society of Scotland will continue to work with the Revenue to achieve the following:

- more improvements to the enquiry line
- increased availability of improved guidance and practice
- reduced length and complexity of forms
- monitoring proposed statutory changes and proposing amendments

**Assignment of Resident Magistrates**

The Lord Chancellor has made the following assignments in accordance with Section 9(5) of the Magistrates’ Courts (NI) Act 1964:

- **Mrs Fiona Bagnall** is assigned to the Petty Sessions Districts of Limavady and Magherafelt
- **Mr Mervyn Bates** is assigned to the Petty Sessions Districts of Down and North Down
- **Mr George Conner** is assigned to the Petty Sessions Districts of Belfast and Newtownabbey
- **Mr Mark Hamill** is assigned to the Petty Sessions Districts of Castlereagh and Newtownards
- **Ms Amanda Henderson** is assigned to the Petty Sessions District of Omagh
- **Mr Daniel Magill** is assigned to the Petty Sessions Districts of Belfast, Newtownabbey and Newtownards
- **Mr John Meehan** is assigned to the Petty Sessions District of East Tyrone
- **Mr Liam McNally** is assigned to the Petty Sessions Districts of Fermanagh and Strabane
- **Ms Rosemary Watters** is assigned to the Petty Sessions District of Lisburn

These assignments are effective from 3rd October 2005.
**SENDO IN FORCE**

Children with special educational needs will have increased rights to be educated in mainstream schools as a result of the Special Educational Needs and Disability Order (SENDO) which came into operation on 1st September 2005. The new legislation also means Further & Higher Education Institutions will have to become more accessible to people with disabilities. A total of £57.8 million over three years has been set aside to implement the Order. In addition £23 million is to be made available over the same period to support children with Special Educational Needs in mainstream schools including costs arising as a result of SENDO.

**APPOINTMENTS TO NIGALA BOARD**

The appointment of four non-executive members to the board of the NI Guardian Ad Litem Agency has been announced. Those appointed for a four year period with effect from 1st August 2005 are:- Mrs Ann McMahon (practising solicitor), Mr Pat Carvill (retired civil servant), Greg Kelly (senior lecturer in social work) and Alistair Steenson (chartered accountant). Each person is appointed in a personal capacity and not to represent any particular interest or group.

**MACKENZIE FRIEND**

The English Court of Appeal has recently confirmed that the presumption of allowing a litigant in person the assistance of a Mackenzie Friend is a very strong one - even in proceedings which are being held in private. Such a request should only be refused for compelling reasons which should be clearly explained to the litigant and proposed Mackenzie friend.

**COMMISSIONER FOR PUBLIC APPOINTMENTS**

Mrs Felicity Huston has been appointed to be the new Commissioner for Public Appointments for Northern Ireland. She replaces Baroness Fritchie.

The Commissioner regulates and monitors Departments’ compliance with the Code of Practice on Public Appointments and provides advice on appointment procedures, investigates complaints and has the right to audit departmental practices.

**SENTENCE REVIEW**

The Annual Reports 2005 of the Sentence Review Commissioners and the Life Sentence Review Commissioners have recently been published and are available from the Society’s Library.

The Sentence Review Commissioners consider applications for early release by prisoners convicted of scheduled offences in Northern Ireland or of similar offences elsewhere.

The Life Sentence Review Commissioners advise the Secretary of State on any matter referred to them by him connected with the release or recall of life sentence prisoners.

**HMOs ISSUES PAPER**

The Planning Service has announced that it considers a Subject Plan that specifically addresses the issues of Houses in Multiple Occupation (HMOs) within Belfast is the best method of developing and implementing planning policies for the city, including those areas where HMOs are concentrated. To promote debate on issues that are likely to influence the preparation and development of the HMO Subject Plan, the Planning Service has published an Issues Paper which can be accessed from www.planningni.gov.uk. The consultation period ends on 21st November 2005.

**SPECIAL ADVOCATES**

In the case of Roberts v Parole Board (2005) UKHL 45, the House of Lords has ruled by a 3 -2 majority that the Parole Board was entitled to withhold disclosure of ‘sensitive material’ and use a ‘special advocate’ procedure to hear secret evidence from a witness, without that evidence being disclosed to the defendant.

**GENDER PAY GAP**

According to research by a salary comparison website, the gender pay divide in Northern Ireland is the smallest in the UK. PayFinder.com found that at an average annual salary of £25998, Northern Irish men earn only 15% more than women, who can expect to earn £22581 per annum. However the research reveals that in the UK as a whole, women earn on average 27% less than their male colleagues.

**TOBACCO BAN**

An EU Directive banning tobacco advertising in the print media, on radio and over the internet came into effect on 31st July. The Tobacco Advertising Directive 2003/33/EC also prohibits tobacco sponsorship of cross-border cultural and sporting events.

However, it applies only to advertising and sponsorship with a cross-border dimension. Advertisements in cinemas and on billboards or merchandising therefore fall outside its scope. So too does tobacco sponsorship at events that are purely local, with participants coming from only one member state.
US legal system hit by Katrina

Tony Caher of Campbell & Caher in Lisburn recently found himself in the middle of a media mêlée he had not been prepared for. He was running the Advanced Advocacy Course for Law Society members at the Institute of Professional Legal Studies in Belfast and was not anticipating interest from the wider public.

But all that changed when New Orleans attorney at law, Laurie White, appeared on the scene. For the course, Tony uses the services of NITA, the National Institute for Trial Advocacy based at the University of Miami School of Law. There were four in the NITA team including its Executive Director, Laurence Rose, who is from Florida and Laurie White from New Orleans. Tony did not expect Laurie White, whose practice is in the middle of New Orleans, to turn up. But she did. She had fled the hurricane and flood but, as she puts it herself, “I might as well live out of a suitcase for a while in Northern Ireland as anywhere else,” said Laurie on arrival.

Talking to her and Laurence Rose in Belfast, the full impact of what had happened to the whole legal structure in New Orleans and the surrounding area became vividly more clear. To describe it as a near collapse would not be too strong. Between 5,000 - 6,000 lawyers, 1/3 of the lawyers in Louisiana, have lost their offices, their libraries, their computers with all their information, their client files and possibly their clients. The State Supreme Court and 5th Circuit Court of Appeals are flooded along with all appellate files and evidence folders and boxes. A host of city and district courts are inundated. Most files are kept in the basements or lower floors of courthouses. Add to that the dispersal of the legal fraternity over a thousand miles or more and you just begin to see the depth and breadth of what has happened.

Laurie White concentrated on serving the poor and disadvantaged of New Orleans. Many of her clients are in jail. But where? “These people have been evacuated to jails all over, parish jails, federal jails, anywhere with a cell. The inmates at a stroke have been separated from their lawyers and their families - the two sets of people who are the only avenue to freedom the prisoners have. Prisoners can (telephone) call collect. But they don’t know where their families or their lawyers are. If they don’t sort this out fast, there’ll be riots,” she observed morosely.

“And what about habeas cases,” she went on. “They are deadline’d. If I can’t meet the deadlines because of the destruction of my records, technically I can be sued by clients stuck in jail because I cannot operate. They’re going to have to legislate on this and a lot of other things.” She was also thinking about the loss of court records. Unique evidence will be lost.

“One of my clients was in a (police) line-up of seven but he was the only one in handcuffs. So he was identified, hardly surprisingly. But I have, or had a picture of that line-up, and I had filed a duplicate with the federal court. They probably are both gone now.”

NITA director Laurence Rose chipped in. “We are now talking to people about setting up an alternate court system. We are most worried about the pending cases where people have been stuck in jail for minor offences awaiting a hearing date. We can’t now get them out. We don’t know where they are.” His voice tailed off.

The web was invented by the American military as a robust computer communication system for withstanding catastrophic attack. So the only part of Laurie White’s business to survive is her web site, which continued to function throughout. By the time you read this, she will be back somewhere in the United States. Follow her fortunes at www.lauriewhite.com
Attention all litigation practitioners

For the assistance of litigation practitioners, the Contentious Business Committee of the Society sets out below 10 Points of Good Litigation Practice. The Committee also takes this opportunity of re-publishing the Solicitors’ Guide to Listing Queen’s Bench cases, first issued in May 2003.

10 POINTS OF GOOD LITIGATION PRACTICE

1. SIGNED STATEMENT
After taking clear instructions it is recommended that a statement be prepared for signature by the client. Witness statements are also recommended.

2. IDENTIFY PARTIES
Careful initial identification and title of all potential parties can save trouble at a later stage.

3. LIMITATION
Always consider limitation and the implications at the outset. Plan where appropriate.

4. STRATEGY
Ensure a client care/letter of retainer is sent. From the outset plan and develop a strategy, targeting in particular anticipated difficulties.

5. FUNDING
Discuss from the outset funding and funding options with the client. Ensure a client care letter is sent.

6. PRO-ACTIVITY
Solicitors drive the litigation and have the initiative. They must not let the litigation drive them - they must not lose the initiative. Keep the client informed. Address problems immediately.

7. DIARY OR CALENDAR
The cornerstone to effective litigation is regulation through use of a diary/calendar/task bar to ensure continuity.

8. WORK AHEAD
Solicitors who simply address the correspondence to hand or the task immediately before them are not driving the litigation. Think ahead - work ahead.

9. WORKSHEETS
Use of worksheets/checklists (eg witness worksheets, medical evidence worksheets, Rules compliance worksheets) reduce the possibility of mistakes.

10. HIGH COURT/COUNTY COURT RULES
Solicitors must acquaint themselves with the relevant Rules.

10 LITIGATION PITFALLS

1. Failure to update client with developments.
2. Failure to meet deadlines.
3. Failure to produce essential evidence.
4. Failure to keep a proper note of meeting.
5. Failure to keep a note of telephone calls.
6. Failure to record agreement/settlement.
7. Failure to have client sign form of authority.
8. Failure to explain any deductions from damages.
9. Failure to effect strategy for listing.
10. Failure to effectively manage expert evidence.

ADVERTISEMENT
Solicitors' guide to listing Queen's Bench cases

Solicitors have the primary responsibility for controlling the pre-trial preparation and conduct of the case. The following Guide has been produced to assist solicitors preparing High Court Queen's Bench actions for trial.

Solicitors should acquaint themselves with the following rules to this purpose.

- **O.18** defines the time limits for principal pleadings.
- **O.18 (20)** provides that pleadings close 21 days after Reply to Defence - in the absence of a Reply, 21 days after Defence.
- **O.34** provides for Setting Down.
- **O.34 R.2** provides for Setting Down within 6 weeks of Close of Pleadings.
- **O.34 R.2(2)** if a Plaintiff fails to Set Down, the Defendant may do so.
- **Four months** after Setting Down the case will normally appear in the Warned List. (Clinical Negligence cases within 6 months)
- **Trial can be agreed any time** with the consent of all parties after Setting Down by notification to the Lists Office.

The following is suggested as a check list which solicitors should consider before they set a case down for trial. This is not comprehensive however.

- Interlocutory applications must be considered at the Statement of Claim or Defence stage.
- Orders should be pursued without delay.
- Completeness of medical evidence should be addressed at the Defence stage.
- A Plaintiff's solicitor should aim to have full Legal Aid or case funding before close of pleadings.
- It should be noted, O.25 requires both parties to share medical reports within 3 weeks of receipt.
- Matters such as Discovery, Inspection, Particulars and Interrogatories should all be addressed between Statement of Claim and Close of Pleadings.

- At Close of Pleadings, Direction of Proofs from counsel should be sought as required. (The case ought not to be Set Down until Proofs are available.)
- Direction of Proofs should be available within four weeks.
- If liability or medical consultations are required, these should be addressed at this stage, preferably before Setting Down.
- If counsel cannot facilitate Proofs or consultations as suggested, another counsel should be considered.
- Consultations are traditionally arranged Monday to Friday in the High Court between 4.00 pm and 6.00 pm. That is not often suitable to witnesses, experts, medical personnel or perhaps solicitors. Counsel should be asked to be more flexible. It may be more convenient to consult in the solicitor's office or at any time on a Friday when the High Court is generally quiet. Failing that, early morning or evening consultations may be preferred.
- Sharing of expert evidence, medical reports and obligations under O.38 should be addressed at Close of Pleadings before Setting Down.
- Agreement of medical reports or other expert evidence should be addressed at Close of Pleadings, before Setting Down and similarly attention directed to the medical and expert witnesses who may be required to give evidence. O.38 issues in this regard should be addressed.
- Only when satisfied that all of these issues have been addressed should a solicitor look to set a case down for trial.
- Attention should then focus on final preparation for trial. Consideration can immediately be given to advance agreement of trial dates which can be notified to the Lists Office.
- When a case does appear in the Provisional List, witnesses (including expert witnesses) should have availability checked not only for the week suggested but for at least the following four weeks so that in the absence of agreement of the week “called over” alternative dates may be immediately considered.
- There is no excuse for a solicitor appearing at call over “without instructions”.
- In particularly complex cases solicitors may wish to check the suitability of proposed dates for counsel.
- Once a date for trial is agreed or fixed, a trial brief should be sent to counsel within 7 days with the request that counsel confirm within 7 days that the Proofs for Trial are in order and identify any additional matters that may require attention. Counsel can also then stipulate if he requires to speak to any of the witnesses before the trial in person or by telephone.
- Counsel should be asked when instructed to identify if they require to speak with medical witnesses in advance of the trial and should they do so the solicitor shall provide the relevant home and work telephone numbers and advise the doctor concerned that counsel will contact them to discuss the matter.
- Solicitor should draw to the attention of their counsel if any doctor will only be available on days other than the first day of the trial.
- Solicitors should acquaint themselves with the Queen's Bench Practice Direction of 17 October 2000 by Mr Justice Sheil. There can be no excuse for failure to do so.
- Solicitors are urged to appreciate that it is they who have conduct of the action and they who must take responsibility for coordinating the pleadings, evidence and witnesses in readiness for trial.
- It should be noted that the Queen's Bench Masters now allocate various dates for hearing interlocutory applications throughout the long vacation. Solicitors are encouraged to use this facility to ensure cases do not simply remain dormant through that period.
Northern Ireland Judicial Appointments Commission
Full-Time Coroner

The Northern Ireland Judicial Appointments Commission invites applications for appointment as a full-time Coroner, located in Northern Ireland Coroners Service, Belfast. It is intended to make two appointments.

ELIGIBILITY

To be eligible for appointment a candidate must be:

(i) a member of the Bar of Northern Ireland of at least five years’ standing; or
(ii) a solicitor of the Supreme Court of Judicature of Northern Ireland of at least five years’ standing.

Experience of coronial law is not essential.
A Coroner is required to vacate his/her office at age 70 and is required to give at least 6 months notice of his/her intention to retire. The Lord Chancellor will expect a reasonable period of service before retirement.

REMUNERATION

The salary for a full time Coroner is £93,483 per annum. A non-contributory pension scheme is available in respect of this post. Five years service is required in order to be eligible for a pension under the scheme.

Candidates will be appointed following an assessment and selection process, which may include shortlisting and will include an interview. All candidates will be required to submit an application form. It is intended to hold the interviews for these posts in mid December 2005.

The Northern Ireland Judicial Appointments Commission will recommend for appointment, to the Lord Chancellor, the candidate who appears to the Commission to be the most suitable candidate based on merit regardless of ethnic origin, gender, marital status, sexual orientation, political affiliation, religion, disability, age (subject to the retirement age for the office) or whether or not the candidate has dependants.

The Northern Ireland Judicial Appointments Commission welcomes candidates from all backgrounds and sections of the community.
The Northern Ireland Judicial Appointments Commission is committed to recommending candidates on the basis of merit and to securing, so far as is reasonably practicable, a judiciary that is reflective of the community.
The Commission will engage in a programme of action to ensure, so far as is reasonably practicable, that a range of persons reflective of the community in Northern Ireland is available for consideration by the Commission for appointment.

HOW TO APPLY

Further information relating to this appointment can be found on the Judicial Appointments Commission website, www.nijac.org. If you have any queries regarding the judicial appointments process please contact Tim Horgan on 028 9072 8559.

An application form together with supplementary information is available from: Mrs Cheryl Dunlop, Northern Ireland Judicial Appointments Commission, Headline Building, 10-14 Victoria Street, Belfast BT1 3GG (028 9072 8564) or judicialappointments@nijac.org

Completed forms MUST be returned to arrive at the above address not later than 4.00pm on Friday 21 October 2005.

ALL APPLICATIONS FOR EMPLOYMENT ARE CONSIDERED STRICTLY ON THE BASIS OF MERIT.

SOLICITOR'S ACCOUNTS REGULATIONS and MANAGEMENT INFORMATION

Tuesday 8 November 2005
9am - 4.30pm
Law Society House
98 Victoria Street
Belfast

Cost: ILCA Members: £100
Non-members: £130

Attendance at this course will provide 6 hours CPD in total and will fulfil the specific requirement for 3 hours to be spent on client care and practice management.

For information on the course, booking forms and ILCA membership, please visit: www.ilca.org.uk
or Tel: 020 8320 2867
Email: info@ilca.org.uk

Note: The Professional Ethics and Guidance Committee consider that this is an essential course for bookkeepers but one which will also be of considerable interest and benefit to management partners and sole practitioners.
From January 2005 all solicitors in Northern Ireland are subject to the Compulsory Professional Development Scheme (CPD).

AFP Consulting provides a range of 3-hour seminars, which meet the Law Society of Northern Ireland’s Client Care and/or Practice Management CPD requirements. This year’s seminar programme is targeted at 3 different levels of experience within a law firm:

• Level 3  Senior Partners and Managers
• Level 2  Staff and Solicitors who have some level of management responsibility
• Level 1  Junior staff who need basic understanding of managing their work and the law firm environment

Please see below for forthcoming events between October and November:

PRACTICAL MANAGEMENT FOR LAWYERS (Level 1)
Wednesday 19th October 2005 - The King’s Hall Exhibition Centre, Belfast
This course discusses management issues for all staff and includes an introduction to the basic principles of managing people and managing oneself, the office environment, billings and cash flow, operational risk and client care.

CRISIS AND REPUTATION MANAGEMENT (Level 3)
Wednesday 9th November 2005 - The King’s Hall Exhibition Centre, Belfast
This seminar will provide you with a definition of a crisis and determine an appropriate level of response. It also examines the consequences and impact your plans, strategies and actions will have on your practice and on your reputation following a crisis.

PEOPLE MANAGEMENT (Level 2 & 3)
Wednesday 16th November 2005 - The King’s Hall Exhibition Centre, Belfast
The seminar will cover the basic principles of people management including establishing a HR strategy, job descriptions, recruitment, training and appraisals, leadership, developing teams and motivating staff and supervision of staff within a risk management framework.

Future Seminars (The King’s Hall Exhibition Centre, Belfast)

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<th>Date</th>
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<tr>
<td>23/11/2005</td>
<td>Anti-Money Laundering (All levels)</td>
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<td>30/11/2005</td>
<td>Lexcel Quality Standard (Levels 2 &amp; 3)</td>
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<tr>
<td>07/12/2005</td>
<td>Client Care and Complaints Handling (All levels)</td>
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<td>14/12/2005</td>
<td>Winning and Retaining Clients (All levels)</td>
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Qualifies for 3 hours CPD
All seminar times: 2.00 pm - 5.00 pm
Cost per seminar: £125.00 + VAT per delegate

To reserve your place on any CPD seminar please contact us on:
Tel: 0845 600 2729 or Email: afpconsulting@aforbes.co.uk
In recent years a number of local politicians have called on the Department of Environment to take action in relation to nuisance high hedges. A small number of complaints have also been received by the Planning Service directly from members of the public.

In England and Wales new powers contained in Part 8 of the Anti-Social Behaviour Act 2003 recently came into operation, enabling local authorities to intervene in hedge disputes which neighbours have been unable to resolve.

The Department is presently considering whether similar legislation should be introduced in Northern Ireland. To gather information about the scale and geographical spread of nuisance high hedges here, the Department has issued a Consultation Paper and accompanying questionnaire. The decision on whether to introduce high hedges legislation in Northern Ireland will rest to a large extent on responses to this consultation.

The questions contained in the questionnaire are based on the criteria which hedges must satisfy before a complaint can be investigated by local authorities in England and Wales under the 2003 legislation.

These criteria include that:

• the complaint must relate to a ‘high hedge’, which is ‘so much of a barrier to light or access as is formed wholly or predominantly by a line of two or more evergreen or semi-evergreen trees or shrubs and rises to a height of more than two metres above ground level’;

• the hedge must be affecting a domestic property;

• the complaint must be made on the grounds that the height of the hedge is adversely affecting the reasonable enjoyment of the domestic property in question.

The Consultation Paper and accompanying questionnaire are available on the Planning Service website at www.planningni.gov.uk or can be obtained by calling 028 9041 6966.

The public consultation ends on 26th October 2005.
Further measures to speed up the planning process have been announced by the Department of the Environment.

In the 3 year period up to March 2005, the total number of planning applications received increased by 30%. This trend is continuing, with an 11% increase in the first quarter of the new financial year compared to the same period last year.

Staff were redeployed from area plans and policy work for a six-month period last year to assist with the handling of applications. This arrangement has ended, as it was not feasible in the longer term to continue to divert staff from other key areas of work.

The Modernising Planning Processes (MPP) Implementation Plan published in February 2003 sets out a range of reforms affecting all aspects of the process, including proposed new arrangements for consultation with Councils. These had been the subject of extensive public consultation and there was widespread support for the proposals.

At present, many Councils defer planning applications on more than one occasion, requesting meetings and delaying the issuance of a final decision. This process of multiple deferrals requires a significant commitment of time and financial resources by both Planning Service and Councils.

In line with the MPP recommendations, it is now intended that in cases where a Council wants to defer an application, the Council must provide clear planning reasons for the request for a deferral. Meetings to discuss deferred applications will be office based, unless, exceptionally, the meeting needs to take place at the location of the proposed development. Furthermore, applications may only be deferred once.

Subject to the outcome of any such meeting, the application will be taken back to Council with either the same or a revised opinion and Council will be asked for its view. Thereafter, a decision will be issued.

Action will also be taken to ensure that cases referred to the Planning Service Management Board for decision comply with agreed criteria, otherwise they will not be accepted by the Management Board.

The Department advises that these arrangements are part of a wider set of activity to deal with the unprecedented increase in applications and to improve service delivery. It also has an ambitious legislative programme and is in the design phase of a major new IT system which will transform the way the planning process operates. All of the key planning processes are being reviewed, including new arrangements to return invalid applications and improved monitoring arrangements for key consultees, to ensure that they are operating as efficiently and effectively as possible.

There is also a restructuring at Planning Service headquarters to provide a sharper focus on major applications, given the significant investment that is expected in the coming years. In addition, the policies and systems for contact with staff are being reviewed to better manage contact and to enhance the service to local representatives, agents, applicants and the public generally.
INTRODUCTION
The Executive regularly renews its external Solicitors Panels. As a result, there currently are vacancies on the two member Building Contracts Solicitors Panel.

The work mainly involves acting on behalf of the Executive in building contract-related arbitrations and/or litigation (including proceedings arising out of contract claims and/or arising out of building defects).

ELIGIBILITY CRITERIA
A firm will be eligible for appointment to the Panel if it satisfies all of the following eligibility criteria:

- The principal or one of the principals must have been in practice as a principal on his/her own account for at least three years.
- At least two solicitors must be working in the firm (including any employed solicitor).
- The firm must be willing to designate a solicitor in the firm who will be primarily responsible for actually carrying out Panel work.
- The firm must have substantial relevant experience.
- The designated solicitor must have at least three years post qualification experience (or post qualification experience for periods in aggregate amounting to three years) as a solicitor.
- In addition the designated solicitor must have substantial experience in acting in building contract-related arbitrations and/or building contract/building defects litigation.

DURATION OF PANEL
Membership of the Panel will be for a period of three years.

SELECTION PROCEDURE
Any firm willing to be considered for appointment may obtain a questionnaire and details of the selection criteria by writing to the Building Contracts Panel Co-ordinator, Contracts Policy Unit, 6th Floor, The Housing Centre, 2 Adelaide Street, Belfast, BT2 8PB.

Completed questionnaires must be returned to arrive with the Co-ordinator at the above address not later than 4.00 pm on Thursday, 20th October 2005.

No acknowledgements will be sent.

Planning
Agreements
legislation amended

The Statutory Rules set out below bring about changes to the existing legislation in relation to Planning Agreements.


Article 40 of the Planning (NI) Order 1991 enables the Department of the Environment to enter into Planning Agreements with any person who has an estate in that land for the purpose of facilitating, regulating or restricting the development or use of the land either permanently or for a specified period of time.

With effect from 31st August 2005, the Planning (Amendment) (2003 Order) (Commencement No 4) Order (NI) 2005 amends the provisions of the 1991 Order in relation to such agreements and introduces provisions to allow for applications for modification or discharge, of an agreement with the right to appeal to the Planning Appeals Commission against the Department’s determination.

The Planning (Modification and Discharge of Planning Agreements) Regulations (NI) 2005 also came into operation on 31st August 2005.

The Regulations provide for the form and content of such applications and the manner in which they are to be processed to include provision for publicity determination and appeals.
The mistakes associated with leases are legendary - to such an extent that this type of work warrants a medium to high-risk rating.

When acting for clients purchasing a leasehold property, solicitors must ensure that not only do they read the lease, but they explain the contents to the client. While time-consuming, this is essential, even though this will place additional pressures on an already narrow profit margin.

Firstly, read the lease. Obvious enough, but never assume that as the property has changed hands several times that the lease ‘must be all right’. You may in effect be perpetuating an error, as the previous solicitors may not have read it either. Mistakes may either be the fault of a word processor, or human error, for example, cutting and pasting an irrelevant clause to the document.

Check all the pages of the lease are there, if one is missing and you overlook it, it is Sod’s Law that it will contain a crucial clause. Then make sure that the clauses are all there and in the appropriate order. Always check cross-references in one clause to another. Problems often arise when a clause is deleted at drafting stage and the cross-reference is overlooked. The result is that the clause does not exist. Check that the plan is correct, and all colour references in the body of the lease match up with the plan. However tempting, do not draw up the plan yourself unless you have the necessary expertise.

Secondly, explain the contents of the lease to the client. This will help avoid the well-known allegation being levelled at you some time later: ‘Had I been aware of that then I would not have gone ahead with the purchase’.

If you do not see the client, then a detailed report letter is called for. This may well be in a standard format, but it is important that all information relevant to the particular lease in question is brought to the client’s attention, for example, rent, rights of way, covenants, term of the lease, and regulations. Simply sending the lease to the client saying, ‘please read and let me know if you have any other queries’, is unlikely to discharge your duty of care.

Regulations are particularly important as they are often contained in a schedule or tucked away at the end of a lease and overlooked. However, regulations such as no pets, or a ban on commercial vans parking in designated parking spaces can cause real problems to clients, and had the client known about such a regulation they may well not have proceeded with the purchase.

This column was prepared by AFP Consulting, a division of Alexander Forbes Risk Services UK and first appeared in The Gazette, the journal of the Law Society of England and Wales, 102/15 14 April 2005.
Northern Ireland Young Solicitors’ Association

Northern Ireland Young Solicitors enjoy their Midsummer Ball at Clandeboye Courtyard, Bangor

PHOTOGRAPHS COURTESY OF THE ULSTER TATLER
NORTHERN IRELAND YOUNG SOLICITORS’ ASSOCIATION PRESENTS
A HALF DAY SEMINAR
IN CONJUNCTION WITH
MOORE STEPHENS CHARTERED ACCOUNTANTS

Date: 28th October 2005
Time: 1.00pm - 5.00 pm (refreshments provided and talks to commence at 1.30)
Venue: Europa Hotel, Belfast - please see www.niysa.com for full details.
Cost: £40 for members of the NIYSA* and £60 for non-members.

TOPICS MAY INCLUDE:
• Changes in insolvency legislation in GB and prospective changes for NI;
• Litigation support;
• Treatment of WIP and / or solicitors PI cover; and
• Solicitors accounting regulation with a focus on practice management.

Attendance at this Seminar will provide three hours’ CPD entitlement. At least one hour will attract CPD for practice management/client care requirements.

Cheques and Booking Forms to NIYSA c/o Emma Duffy, Almac Sciences, Almac House, 20 Seagoe Industrial Estate, Craigavon, BT63 5QD.
E Mail: emma.duffy@niysa.com

* All Solicitors aged 36 or under are automatically members of the NIYSA.

BOOKING FORM

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E-MAIL ADDRESS
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NUMBER OF PERSONS ATTENDING
I ENCLOSE REMITTANCE OF £
Are you managing the stress in your life or is it managing you?

Stress can be a killer. Not only can it take a mental toll (depression), but a physical toll as well (heart disease, irritable bowel syndrome etc). Stress can lead to alcohol and drug abuse, and cost a high price in terms of professional careers, personal relationships and family life destroyed.

What is stress?
In technical terms, it is when the pressures experienced by the individual are perceived by that individual as exceeding their capacity to deal with them, in a situation where coping is perceived as being important. A complex way of saying something simple - stress happens when you know that you can't cope. Not all stress is bad. Without some stress, we wouldn't bother to get out of bed in the morning, but the problem occurs when the stress builds up to such levels that it turns into distress.

So why does it happen to us?
Studies have concluded that lawyers are at high risk from compulsive behaviour (ie. over use of alcohol, drugs, food) because of the type of personality attracted into the legal profession. Lawyers are most often hard driven, tense, A-type personalities who are also perfectionist, over conscientious, driven, competitive, ambitious, unable to delegate, status aware, highly aspirational individuals who find it hard to admit, even to themselves, that there are occasions when they can no longer solve the problems of the world, but actually need help in dealing with what troubles them. The lawyers' own thoughts and belief systems can aggravate this inability to ask for help.

The beliefs that
- "I must always be competent"
- "I must always be in control of events and people"
- "I must always be admired"
- "Events must always turn out as I want them to"

are actually unachievable and merely form more stressors to add to those that already exist, and are increasing daily, in the legal profession..

In the USA, studies by the Washington State Bar have shown that

- 12% of lawyers facing complaints or disciplinary action are clinically depressed
- 18% are subject to admitted addiction
- 75% of disciplinary cases involve alcohol abuse

Whilst studies by the Oregon Bar Association have shown that

- 60% of disciplinary cases and 40% of negligence claims involve stress/depression and/or alcohol abuse on the part of the lawyers involved.

LawCare's experience is that 80% of those seeking help in relation to alcohol abuse or addiction say that they started drinking due to stress at work. This is quite understandable as long-term stress makes you feel rotten and unable to perform to the standards that you require of yourself in both your professional and personal life. Alcohol (and nicotine) are a quick fix and make you feel better, but the problem is that what goes up must come down and, over a period of time, more is needed to get the same "up" and, as a result, the “down” becomes more dramatic.

Also, repeated “shots” of the adrenaline caused by stress will, over a period of time, cause health problems by weakening the immune system, resulting in frequent illnesses such as colds, flu, viruses, asthma, skin complaints, constant exhaustion etc., which merely add to the feelings of negativity and distress already being experienced, and encouraging even more drinking and/or drug use to combat these feelings. Thus a vicious circle ensues.

Where to come for help
There is no need to suffer alone as LawCare exists to help you. LawCare is a charity funded by the Law Societies of England and Wales, Scotland and Northern Ireland, together with the Bar Council, ILEX and the DCA in England and Wales. Statistical feedback is given to these bodies, but absolutely no details that would identify any individual callers. The support offered is absolutely confidential and is open not only to lawyers, but also to the families, support staff and colleagues of lawyers.

Still Celebrating?
if you are concerned about how much you are drinking, call LawCare for free and confidential advice. 0800 279 6888 www.lawcare.org.uk
There is a 365 day a year, free and confidential helpline on 0800 279 6888 which is open from 9am – 7.30 pm weekdays and 10am – 4pm at weekends / Bank Holidays. Any caller can speak, in total confidence, to a fellow lawyer who understands the problems that can occur in practice. They will be there to talk with the callers, not at them, and to help them to see their way forward a little more clearly.

There is also a network of volunteers, all over the country, who are lawyers who have been through alcohol, stress problems etc, and survived to move on with their lives. If appropriate, they will also offer support for as long as necessary.

There is a website on www.lawcare.org.uk, which contains very useful self help articles, tests for stress and drinking too much and links to other relevant organisations, as well as a direct e-mail to LawCare.

Last, but by no means least, LawCare offers free, CPD accredited, stress recognition and management seminars and workshops to firms or groups, at their premises or conferences, on an expenses only basis.

Hopefully, you will never need LawCare, but if you, or someone you know, do need help and support, help is only a call away. So keep the LawCare name and number in a safe place.

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Legal Opportunities

Brightwater is a leader in the Northern Ireland Recruitment Market. Our success has been based upon our level of expertise and professional service. Our specialist Legal Division recruits professionals into practice and in-house roles from Partner to Paralegal level. We guarantee a full confidential service to our candidates, identifying suitable career opportunities with genuine prospects.

Private Client / Trusts Solicitor
Belfast * M in 5 years PQE
£Neg
Ref: 9653

Commercial Property Solicitor
Belfast * 4 years PQE
£Neg
Ref: 9655

Conveyancing Solicitor
Newry * M in 2 years General Practice PQE
£25,000
Ref: 23302

Conveyancing Solicitor
L’Derry * M in 2 years PQE
£23,000
Ref: 23838

Conveyancing Solicitor
Belfast * M in 3 years PQE
£22,000
Ref: 23525

Trainee Solicitor
Must have completed English LPC Course
£18,000
Ref: 37234

Legal Secretary
Belfast * M in 2 years exp. in conveyancing
£15,000
Ref: 09653

Legal Secretary
Greater Belfast * M in 2 years experience
£14,000
Ref: 20295

For further information on these roles and other opportunities, please contact Sarah Baird for a confidential discussion on 028 90 325 325 or email s.baird@brightwaterNI.com
Commencement of further provisions of Employment Relations (NI) Order 2004

The Employment Relations (2004 Order) (Commencement No.3 and Transitional Provisions) Order (NI) 2005 (SR2005 No.345) brings into operation, with effect from 24th July 2005, the provisions of the Employment Relations (NI) Order 2004 (“the 2004 Order”) listed in the Schedule to the Order. They comprise the majority of the provisions of the 2004 Order which were not commenced by earlier commencement orders.

Trade Union Recognition
The Order provides for the coming into operation of a number of provisions which amend Schedule 1A to the Trade Union and Labour Relations (NI) Order 1995 with regard to a trade union seeking recognition to be entitled to conduct collective bargaining on behalf of a group or groups of workers.

Labour Relations Agency
The Order also commences Article 4 of the 2004 Order which gives the Labour Relations Agency, (“the Agency”) the power to require information from parties where it is asked to settle a recognition dispute.

Industrial Action
A number of provisions of the 2004 Order which the Order commences deal with the law relating to industrial action. In particular, Article 9 of the 2004 Order amends the protections which the Employment Rights (NI) Order 1996 (“the 1996 Order”) provides for employees taking lawfully-organised, official industrial action. The protected period is extended from eight to twelve weeks and “locked out” days are disregarded when calculating this period.

Article 11 of the 2004 Order introduces new matters to which a tribunal is to have regard when assessing whether an employer has taken reasonable procedural steps to resolve a dispute with a union. The duty to have regard to these matters applies where the parties have accepted that the services of a conciliator or mediator will be used.

Jury Service
The Order also commences provisions of the 2004 Order which deal with a number of rights for workers and employees, for example, Article 20 of the 2004 Order amends the 1996 Order to provide that an employee has the right not to be dismissed or treated detrimentally because he serves on a jury or is summoned to do so. The 1996 Order is further amended to provide that selection for redundancy, where the reason or one of the principle reasons is connected to the employee’s jury service, will be treated as an unfair dismissal.

The right to bring a claim for unfair dismissal in relation to jury service is not subject to the requirement for one year’s qualifying service, nor is it restricted to those who have not reached their employer’s or the normal retirement age for their job or are otherwise below 65.

Flexible Working
Similarly Article 21 of the 2004 Order extends certain protections to those taking advantage of the statutory provisions relating to flexible working. Thus, an employee dismissed for making a flexible working application can complain of unfair dismissal even when involved in official or unofficial industrial action. Flexible workers, those applying to be so or complaining in relation to some aspect of their treatment as such, are protected in respect of unfair dismissal and are not subject to the requirements as to length of service or age.

Certification Officer
The Order commences Articles 22 to 24 of the 2004 Order, which make amendments to the procedures relating to the exercise of functions by the Certification Officer. These include new powers to deal with vexatious cases and litigants.

Trade Union Modernisation
The Order also commences Article 29 of the 2004 Order, which deals with the provision of money for trade union modernisation. Money may only be provided for certain specified purposes and is deemed to be provided on terms which prohibit any of it being added to a union’s political fund.

Transitional Provisions
The Order contains a number of transitional provisions to deal with particular matters which are on-going at the time of commencement.
At an event jointly organised by the Law Centre and Queen’s University’s Servicing the Legal System, Lady Hale, the first woman Law Lord, gave a keynote lecture entitled ‘Making a difference – why we need a more diverse judiciary’.

In her lecture, Lady Hale made the case for ensuring that the selection of judicial appointments covers the widest pool of talent, embracing both solicitors and barristers as well as lawyers working in the public and voluntary sector and within academia. This should help address the under-representation of certain sections of society, in particular women and ethnic minorities. She outlined some of the advantages that a more diverse judiciary can bring to the role of judging without in any way detracting from quality.

The lecture was particularly timely as it coincided with the announcement of the new Judicial Appointments Commission. The Commission’s statutory responsibilities include conducting the appointment process for judges and other judicial appointments, ensuring as far as practicable that the judiciary is reflective of the community and developing a programme of action to widen the pool of applications so that appointments are reflective of the community in Northern Ireland.

The Chair of the Commission (the Lord Chief Justice, Sir Brian Kerr) and a number of Commissioners attended the lecture, a copy of which will be published in a future edition of the Northern Ireland Legal Quarterly.

For more information, the Commission’s website address is www.nijac.org
Code of Practice: Industrial action ballots and notice to employers

Since 1992, there has been in place a statutory Code of Practice which gives practical guidance to trade unions and employers in applying the law on industrial action ballots and notices. The Code of Practice does not impose any legal obligations, but it is taken into account in proceedings before any court where it considers its provisions are relevant.

The Department for Employment and Learning wishes to revise the Code of Practice to ensure that it reflects changes to industrial action law which are contained within the Employment Relations (NI) Order 2004.

The Department has therefore launched a public consultation on a draft revised Code of Practice.

The Department invites views and comments from interested parties on this revised Code. The Department would welcome overall views and any specific comments on individual paragraphs including drafting amendments. The closing date for responses is 13th October 2005.

The document may be accessed on the Internet at: www.delni.gov.uk/ConsultDebate/index.cfm

Launch of discrimination complaint packs

The Equality Commission has launched discrimination complaint packs. The objective of the packs is to assist individuals to lodge their complaints of discrimination at the Tribunal. The packs contain guidance on completing the IT1 and the FET1. There are also answers to frequently asked questions on lodging a claim and on the questionnaire procedures and there are examples of specimen questions as well the necessary forms.

The project aims to improve the scope of the Commission’s assistance to individuals who because of its strategic enforcement policy, may not receive assistance from the Commission to investigate their case further or be legally represented before the Tribunal.

Give the gift of a lifetime...

and help to secure the future of Northern Ireland Hospice Care

Twenty years ago Hospice cared for 98 patients. This year we will care for over 2,500 patients and their families including 250 life limited children.

With your support, imagine how many more people we could care for over the next twenty years.

To help secure our future with a gift in your will contact the legacy officer on 028 9077 8898 or write to us at 74 Somerton Road, Belfast, BT15 3LH.

www.nihospicecare.com

It’s a special way of caring
EMPLOYMENT LAWYERS’ GROUP (NI)

Sec. John O’Neill, Thompsons McClure Solicitors, 171 Victoria Street, Belfast
E-mail: JohnO’Neill@thompsons.law.co.uk

Chairperson Adam Brett
Hon. Treasurer Orlagh O’Neill

www.legal-island.com/elg.htm

LUNCHTIME SEMINAR

New 'Age' Rights, Rewards and Requests
- The new law on Age Discrimination

Speaker: Robin Allen QC, Head of Cloisters Chambers, London
Date: Friday 4 November 2005
Time: 1pm (tea coffee and sandwiches from 12.30pm)
Venue: Law Society House, Victoria Street, Belfast
Cost: Members £5, Non-members £10.

Attendance at this seminar will provide one hour’s CPD entitlement

Booking forms and cheques, payable to The Employment Lawyers’ Group (NI), should be sent to our Treasurer, Ms Orlagh O’Neill, Napier & Sons, Solicitors, 1-9 Castle Arcade, High Street, Belfast BT1 5DE

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I enclose remittance of £
International negotiating competition

This year the Law School of the Law Society of Ireland and the Honourable Society of King’s Inns, Dublin hosted the International Negotiation Competition. The Competition took place in Dublin from Monday 4 July to Friday 8 July. Other competitors included 16 teams from Ireland, Canada, England, Denmark, Hong Kong, New Zealand, Singapore, Puerto Rico, South Korea, Scotland and the United States of America.

This competition again attracted a high standard of entries from the undergraduate and postgraduate teams from across the globe.

Suzanne Gallagher and Niamh Devlin were the team representing the Institute of Professional Legal Studies. Suzanne and Niamh have just completed their bar course and were called to the bar in September 2005.

Interviewing and negotiation are two areas in dispute resolution teaching that are central to developing skills to satisfy five criteria that are fundamental to client-centred lawyering: identifying the client; gathering relevant information from the client; informing the client of options; representing the client’s wishes; and reporting to the client.

The competition is designed to promote greater interest amongst law students in the skill of negotiation, which is a crucial component in Alternative Dispute Resolution. Students participate in teams of two, negotiating scenarios set in a legal context in each round. Getting the best deal for a legal client can often involve negotiation, a skill that was amply demonstrated in this year’s competition. Each team receives the common facts and one side of the negotiation before the competition. In the negotiation competition the students act for a client in a 50-minute negotiation against another team of two other students.

The format of the competition involved competing in rounds of negotiations on three separate days with the scores being cumulated. The competition was judged by practising lawyers and academics from around the world with a great deal of interest being shown by the local Dublin practitioners.

A theme that underlines the educational potency of a competition such as this is the reaction of judges and students afterwards. Practitioners enjoy sharing their insights from a world that students have not yet really entered, and through simulated negotiations a great deal of mutually productive reflection can take place.

Getting the best deal for a legal client can often involve negotiation. However as in all competition there has to be a victor and the winners were judged to be the team from Texas. The IPLS team put up an admirable performance by finishing eighth and finishing above the King’s Inn team from Dublin, the Glasgow Graduate School of Law, and the England & Wales teams.

Our thanks go to the generous assistance and sponsorship given to the team by the Bar Council and QUB.

IPLS students Niamh and Suzanne received their certificates from competition founder Larry Teply of Creighton University School of Law (USA) and Owen Binchy, President of the Law Society of Ireland.

Confidentially…

President Attracta Wilson is determined to raise as much as she can for her nominated charity CLIC Sargent during the current presidential year.

The Writ has learned that she has got together with her Tsunami fundraising team and plans are afoot for another night of music and craic in the Spring and Airbrake in November.

At the beginning of the year kind hearted members of the Society and their friends raised over £11,000 for Tsunami victims.

The November event will benefit people nearer to home as CLIC Sargent is a local charity which provides help and support to children and the families of children suffering from cancer and leukaemia.

Watch this space!!
Employment Law Adviser

Ref: SFELA0905  Location: Belfast
Salary: c. £40,000 plus attractive benefits

A unique opportunity has arisen within the Police Service of Northern Ireland for a highly skilled and experienced Employment Law Adviser.

The PSNI is one of the largest employers within Northern Ireland with in excess of 10,000 employees and the Legal Service Department now wish to appoint an adviser who will provide a range of employment law advice in relation to Police Officers and Police Staff to the Chief Constable and Human Resources.

The successful applicant will be either a qualified barrister or solicitor, with at least 5 years’ post qualification experience of providing employment law advice to an organisation.

For further details on essential and desirable criteria relating to the post, please request an application pack on 028 9055 6371 or to apply online visit www.thesupportteam.org

Closing date for the return of completed applications is 5pm on Friday 21st October 2005. 

Our client is an Equal Opportunities employer.

www.thesupportteam.org

028 9055 6371

Making the community safer
Thursday 30th March - Sunday 2nd April 2006

For the first time ever the Annual Conference will be held on the European Mainland in the historic city of Prague in the Czech Republic. Flights have been arranged direct from Belfast with Jet2 and the Conference will be based in the five star InterContinental Hotel.

Prague is a magical city of bridges, cathedrals, gold-tipped towers and church domes yet it is also a modern European metropolis full of energy, music, and art. Overlooking the River Vltava and the historical city centre, the InterContinental Hotel is situated in the very heart of Prague. Just a few minutes’ walk from the majestic Old Town Square, the world famous Astronomical Clock, the Charles Bridge and the bustling “Paris Street” shopping boulevard; the hotel is ideal for a perfect stay in this fascinating metropolitan area. Its 372 luxury guestrooms have all been recently renovated. The hotel offers spacious health club with unique swimming pool, sauna, Jacuzzi, gym and massage facilities as well as a state-of-the-art golf simulator.

An exciting programme of activities during the weekend will include a reception in the Municipal Hall, a Gala Dinner, a ‘Dine-around’ evening in local restaurants, a city tour, a river cruise, golf, and time for everyone to enjoy the city at leisure.

The Business Session planned for Saturday morning promises to be interesting and relevant to all practitioners and will cover a range of topical issues and will qualify for CPD points.

Conference places will be limited to 146 delegates and as we expect demand to be high, it is essential to reserve a place with a non refundable deposit of £150 per person. Please complete the booking form opposite asap - additional booking forms are available on the website - www.lawsoc-ni.org

Costs for the Weekend
£550 per person sharing
£610 single

To include:
- Belfast - Prague return flight and hotel transfers
- 3 nights bed & breakfast - InterContinental Hotel Prague,
- Welcome Drinks Reception - Thursday night
- Conference Business Session - Saturday morning
- Gala Dinner and Reception - Saturday evening

Children Rates
- Sharing parent room £340 for 1st child, £190 for 2nd child
  (max of two children per room)
- In own room (6 connecting rooms available) £520 for 1st child, £175 for 2nd child sharing, £205 3rd child
  (max 3 children per room)

Please note there is no organised children’s programme.

Tax Relief possible on Conference Costs.
To ensure your conference place - Please send costs in full or a non refundable deposit now!
Law Society of Northern Ireland Annual Conference: Prague 2006  
Thursday 30th March - Sunday 2nd April 2006

Reservation
Please reserve my place at Annual Conference 2006

Full Name
(As shown on passport)

Firm

Address

Tel no
Mobile

e-mail

Accompanying Person(s)
Full name(s)
(As shown on passport)

Please make cheques payable to Law Society of Northern Ireland and send a non refundable deposit of £150 per person/child or costs in full to Clair Balmer Public Relations 229 Mountsandel Road Coleraine BT52 1TB (Tel 07703444740 or email clair@cbpr.co.uk) by 31st October 2005. Places will be reserved on a first come first served basis.
COLLABORATIVE LAW

The 2nd Collaborative Law Training Course will take place in The Hilton Hotel, Belfast on Friday 11th and Saturday 12th November 2005. Attendance at this course will attract 12 CPD hours in total (to include the requirement for 3 hours client care). Places are limited and early application is suggested.

Pauline Tesler, the leading US Collaborative Law trainer, will again give the training session. The cost of the course is £375.00 to include membership of the Association of Collaborative Family Lawyers.

The Northern Ireland Legal Services Commission has approved preliminary funding for the collaborative method. The Association plan to promote the collaborative approach to family law by way of an advertising campaign in November. Any family law practitioners who are still unfamiliar with Collaborative Law should refer to the lead article in the May /June Writ - Issue No.164.

COLLABORATIVE LAW TRAINING
HILTON HOTEL BELFAST
FRIDAY 11TH NOVEMBER AND SATURDAY 12TH NOVEMBER 2005

NAME:

PRACTICE ADDRESS:

TELEPHONE NUMBER:

EMAIL ADDRESS:

Please return to Reavey & Co, 22 The Diamond, Rathcoole, Newtownabbey BT37 9BQ with cheque in the sum of £375.00 made payable to:

THE ASSOCIATION OF COLLABORATIVE FAMILY LAWYERS

This course will attract 12 CPD hours (to include the 3 hour requirement for client care and practice management).

Inclusion of 17-year olds in the Youth Court commencement

The Society had previously been informed that it was intended to commence the relevant legislation to include 17 year olds in the youth court based on the date of an alleged offence. However the legislation has been commenced to the effect that from 30 August 2005, 17 year olds come within the definition of “child”.

The Criminal Justice (Children) (NI) Order 1998 will therefore apply to all 17 year olds from 30 August 2005.
Minister for Children appointed

The Secretary of State, has recently announced that Jeff Rooker is to be Northern Ireland's first Minister for Children.

The Minister for Children will act as a champion for children within government and will complement the role played by Northern Ireland's Commissioner for Children and Young People, who has welcomed the Secretary of State's decision.

Commenting on what he saw as a vitally important role, Jeff Rooker said that he had no doubt that the job would be challenging, covering many issues impacting on the lives of children throughout Northern Ireland. And he announced a number of developments, including the establishment of a Ministerial Children and Young People's Sub-committee and a Children and Young People's Forum. He also announced his intention to have a round table discussion with key children's organisations as one of his first aims in the new role.

The Minister for Children will be supported by the Children and Young Peoples Unit OFMDFM which also has had lead responsibility for the 10-year Strategy for Children and Young People which will be published for implementation later this year.

Pre-action Protocol - Inheritance (Provision for Family and Dependents) (NI) Order 1979

The Law Reform Advisory Committee for Northern Ireland, in conjunction with the Honourable Mr Justice Weir, has drafted a pre-action protocol for claims under the Inheritance (Provision for Family and Dependents) (Northern Ireland) Order 1979.

This protocol has two aims: firstly, to encourage the resolution of disputes without recourse to hostile litigation, and secondly, to ensure that litigation is simplified by maximising the exchange of relevant information before the litigation process has commenced.

The protocol sets out in detail procedures which a claimant is expected to follow to ensure that the above aims are achieved. Copies of the protocol are available on the Northern Ireland Court Service website www.courtsni.gov.uk/en-GB/Services/Chancery/
THE CHILDREN’S ORDER PANEL UPDATE SEMINAR

Institute of Professional Legal Studies
Continuing Professional Development Programme

Date : Thursday, 10th November 2005
Time : 6.30 - 9.00p.m. (refreshments served at 6.00p.m.)
Venue : IPLS, 10 Lennoxvale, Belfast, BT9 5BY
Cost : £60.00

This Seminar is being organised by the Institute of Professional Legal Studies in conjunction with the Children Order Accreditation Board of the Law Society of Northern Ireland.

The Seminar is designed to provide all current Children Order Panel members with the refresher training required by the Law Society. It will also be of interest to all child law practitioners and will afford an opportunity to update knowledge of practice and procedure. The speakers will address the current issues arising for practitioners in respect of practice and procedure, human rights and recent case law developments.

The speakers will draw on their extensive experience to provide practitioners with information relevant to Children Order practice in the Magistrates’ Court, Care Centres and the High Court.

Booking form and cheques, made payable to QUEEN’S UNIVERSITY BELFAST, should be sent to Mrs Joan Playfair, Institute of Professional Legal Studies, 10 Lennoxvale, Belfast, BT9 5BY.

3 CPD hours are awarded for attendance at this course.

The Closing Date for applications is Thursday, 3rd November 2005

(Details of this course can also be found on the IPLS website – www.qub.ac.uk/ipls)

Please note that it is not possible to provide refunds after the closing date. Allocation of a place at the seminar will be confirmed in writing by IPLS.

CHILDREN ORDER PANEL UPDATE SEMINAR
Thursday, 10th November 2005

Name:
Firm:
Address:

Tel. No:
I enclose remittance of £
Email address:
The Lords held that this duty was imposed by either regulation 32 of the Social Security (Claims and Payments) Regulations 1987, or implied into s.71 of the Social Security Administration Act 1992. In either event, and in reviewing the relevant case law on this area, Lord Hoffman stated that the claimant must do what a person in her/his position would reasonably regard as sufficient to communicate the information to ‘the proper person’ in the relevant office, and not to the abstract constitutional entity of the Secretary of State. The Lords found that the instructions attached to the order book detailed how such information was to be provided and where it was to be provided to, namely the office dealing with that benefit.

The instructions in the order book informed Ms Hinchy that she should inform her local office if, inter alia, her benefit went up or down. Lord Hoffman found this to be an unambiguous instruction, and as her DLA had gone down to zero, it was clear that this was a fact that she was under a duty to disclose. As she had not disclosed it, the Lords found that she had failed to disclose a material fact.

Lord Scott gave a dissenting opinion, although not on the legal principles that the Court of Appeal followed. He doubted that the instruction to inform the local office if benefit went up or down was as unambiguous as Lord Hoffman had found:

‘The requirement is said to be imposed by paragraph 13 of the notes at the back of the order book. The paragraph is headed ‘Any benefit goes up or down’ and says ‘You must send us a letter or form A9 if this happens to your money’. The form A9, a copy of which would
have been issued to Ms Hinchy, has a heading ‘Changes to do with other money coming in’ and says 'Tell us if you ... start to get a different amount of benefit’. Is this language adequate to constitute a requirement by the Secretary of State that Ms Hinchy inform her DLA payments had come to an end? In my opinion, it is not.’ (para. 42)

As Baroness Hale pointed out, considering the fact that two highly literate and intelligent Law Lords have interpreted the same instruction in different ways, how can the claimants be expected to know exactly what duty rests with them?

One final note on the Hinchy decision is regarding the burden that the decision now places upon claimants. Lord Hoffman found that the person who is in the best position to know what benefits a claimant is getting for her/himself and her/his family is the claimant her/himself. This may be a perfectly reasonable opinion in the Law Lords view (although Baroness Hale does cast some doubt on this) but advisers experienced in dealing with claimants on a daily basis may not fully agree with Lord Hoffman’s opinion.

It is not uncommon to hear claimants state that they’ve stopped ‘my dole’, or my ‘sick money’ or my ‘invalidity’. Exactly what benefit has been stopped in these cases is unclear, and it forms part of the adviser’s job to ascertain what benefit or benefits is in question here, whether it be J obseeker’s Allowance or IS, or Incapacity Benefit or DLA. And just how well informed are claimants that receipt of one benefit may increase another? Is it correct to put the burden of understanding the social security system and the interplay between various benefits at the feet of the claimants, when it is a difficult enough job for experienced advisers? And even if a claimant did have a good understanding of the benefits system, as Baroness Hale stated, a reasonable claimant may believe that if her/his local office knew to increase her/his award when a relevant benefit was awarded for a fixed period, it should equally know to reduce the award when that benefit expires.

C15 / 4348 / 2003
B v Secretary of State for Work and Pensions

Background
The claimant was in receipt of Income Support, with additional amounts included in her award for her children. She was a lone parent and she suffered from a learning disability. Her children were taken into care and she did not inform her social security office of this for around fourteen months. The Department for Work and Pensions sought to recover the overpaid benefit, and she appealed the overpayment decision. The tribunal allowed her appeal finding that she did not have the mental capacity to realise the significance of her children being taken into care on her Income Support, and that she could not have understood the contents of the Department’s information notes. The tribunal's decision was appealed by the Secretary to the Social Security Commissioners.

The appeal was heard by a Tribunal of Commissioners and was allowed. In a radical decision, the Commissioners overturned years of case law and held that the test was not whether disclosure was to be reasonably expected. Instead the test is simply whether or not the claimant has disclosed the fact. Essentially, a form of strict liability has been introduced into overpayment case law that had never been present before.

The Commissioners found that the duty to disclose relevant information came not from section 71 of the Social Security Administration Act, but from Regulation 32(1) of the Claims and Payments Regulations. This imposes two duties on the claimant.

32(1A) requires the claimant to furnish any information or evidence as the Secretary of State may require. If there is an unambiguous requirement in the order book instructions to disclose a fact, and it is not disclosed by the claimant, then the claimant will have failed to disclose. There is no consideration of whether it was reasonable to expect disclosure.

32(1B) will apply if there is no clear requirement to disclose the relevant fact. If the claimant has not been unambiguously told of the need to report a particular fact, then an element of reasonableness is introduced, in that the claimant could not reasonably be expected to know that her/his benefit may be affected.

This was appealed to the Court of Appeal and a decision was issued recently (B v Secretary of State for Work and Pensions) where the Commissioner’s Decision was upheld. In particular, the Court of Appeal held that

‘the moral argument against fixing her with the financial consequences of not reporting something which she did not appreciate she needed to report encountered a statutory provision which not only makes no such an allowance but leaves room for none.’
Analysis
Essentially then, the House of Lords in Hinchy has returned the law to its original position: the duty rests with the claimant to disclose to the 'appropriate office', and the fact that the information may or may not be known within the Department for Work and Pensions is not relevant. What appears to be crucial is what actual knowledge the office dealing with the benefit had, rather than the presumed knowledge of the Secretary of State. It remains clear post Hinchy that the claimant is best served by reporting any relevant facts to the office dealing with the benefit to ensure that valid disclosure is made.

CIS/4348/2003 and B v Secretary of State for Work and Pensions have overturned a long established line of case law, and arguably made it easier for the Department to recover overpaid benefit. The question is now simply was disclosure made, rather than was it to be reasonably expected, which will largely come down to a matter of fact.

Conclusion
Although Hinchy is a House of Lords decision and therefore binding in Northern Ireland, not all hope is lost in overpayment cases.

Exactly what instructions are given to someone in the order book is now going to be vital. The instruction must be unambiguous in order for the duty to report to arise under regulation 32(1A). This will be a question of fact in each case. This leaves open some avenues for argument, and the speech of Lord Scott in Hinchy may prove helpful here.

If there is no unambiguous instruction to report a particular fact, recovery will be based on regulation 32(1B). This is closer to the original position, in that it will be a question of whether or not it was reasonable to expect claimants to know that benefit would be affected by a change in their circumstances.

As advisers, the best advice, as always, to claimants will still be to report any relevant facts and changes in circumstances to the appropriate office, which will be the office dealing with the benefit. Any such reporting should be done in writing where possible and copies of all correspondence should be retained.

Continuing Professional Development
Law Centre training carries CPD hours for solicitors. Forthcoming courses include:

**Belfast**
- **Welfare Rights Adviser Programme** ........ 24 January - 28 March 2006
- **Recovery of Overpayments** ................ 6 October 2005
- **Tax Credits Overpayments** .................. 27 October 2005
- **The Civil Partnership Legislation** ......... 17 November 2005
- **An Adviser's Guide to Community Care** .... 30 November 2005
- **Current Issues in Community Care** ........ 12 January 2006
- **Social Security for Lawyers** .................. 26 January 2006

**Derry**
- **Welfare Rights Adviser Programme** ........ 21 September - 23 November 2005
- **An Adviser's Guide to Community Care** ... 7 December 2005
- **Current Issues in Community Care** ........ 18 January 2006
- **Social Security for Lawyers** ................. 15 February 2006
- **Tribunal Representation** ....................... Spring 2006

For more details, contact our Training Department at Law Centre (NI), 124 Donegal Street, Belfast BT1 2GY
Phone 028 9024 4401, or download full training programme from our website: www.lawcentreni.org
Completion of refurbishment at the RCJ

Following completion of the most recent phase of the refurbishment of the Royal Courts of Justice, some courtrooms in the building have been re-named. We set out below the relevant changes together with a map of the revised layout which have been kindly furnished by the Office of the Supreme Court Administrator.

<table>
<thead>
<tr>
<th>Location</th>
<th>Courtroom Name with effect from 5/9/05</th>
<th>Formerly known as</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ground Floor (Main hall)</td>
<td>Nisi Prius</td>
<td>N/A – No change</td>
</tr>
<tr>
<td></td>
<td>Court of Appeal</td>
<td>N/A – No Change</td>
</tr>
<tr>
<td></td>
<td>QB 1</td>
<td>N/A – No change</td>
</tr>
<tr>
<td></td>
<td>QB 2</td>
<td>N/A – No change</td>
</tr>
<tr>
<td>Ground Floor Master's Court</td>
<td>Master's Court</td>
<td>QB 6</td>
</tr>
<tr>
<td>1st Floor</td>
<td>Family Court 1</td>
<td>Family Court</td>
</tr>
<tr>
<td></td>
<td>Family Court 2</td>
<td>QB 5</td>
</tr>
<tr>
<td></td>
<td>Judicial Review Court</td>
<td>QB 4</td>
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<tr>
<td></td>
<td>QB 3</td>
<td>QB 3</td>
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<tr>
<td></td>
<td>Chancery Court</td>
<td>N/A – New courtroom</td>
</tr>
<tr>
<td></td>
<td>Commercial Court</td>
<td>Writ Office</td>
</tr>
</tbody>
</table>

RCJ Courtroom Names

Royal Courts of Justice
1st Floor

MAY STREET

MASTER’S CHAMBERS

MASTER’S CHAMBERS

FAMILY COURT 1

FAMILY COURT 2

JUDICIAL REVIEW COURT

QB3

CHANCERY COURT

OXFORD STREET
Appointment of Society CPD Co-ordinator

The Society is pleased to welcome our newest member of staff, Eleanor McCabe, who has joined us to fill the post of CPD Co-ordinator. Previous to accepting this post, Eleanor was employed as Training and Events Co-ordinator at the Chartered Institute of Public Finance and Accountancy.

In 2004 new Regulations were passed, extending the requirement to comply with CPD to all solicitors who are on the Society's Roll of Solicitors and who have a current Practising Certificate. The new Regulations, which came into effect on 6 January 2005, approximately doubled the number of solicitors eligible for CPD, and gave rise to the necessity for a dedicated CPD Co-ordinator.

This new appointment will allow the Society to administrate and monitor the CPD Scheme on a more comprehensive basis.

Eleanor's duties with regards the scheme will be two-fold. In the first instance she will continue to process and monitor the CPD record cards, which solicitors must complete and return to the Society each year. Eleanor will also provide advice and guidance to solicitors who may not be clear as to the requirements of the Scheme.

The second part of Eleanor's role will be the development of a suite of training courses and seminars. This programme will complement training already available and should provide solicitors with a more comprehensive range of activities to enable them to fulfil the requirements of the CPD Regulations, and to enhance their knowledge and skills.

The aim of the Society is to provide CPD training which is accessible, affordable and above all, relevant to the professional lives of solicitors throughout Northern Ireland. Solicitors or local associations who have specific training needs or suggestions should contact Eleanor at the Society - telephone 90231614 or by e-mail eleanor.mccabe@lawsoc-ni.org

Please note that CPD record cards can be sent to the Society at any time after the required 15 hours have been completed - it is not necessary to wait until January to submit the card.

By the time she’s 60 heart disease might be a thing of the past.

Every year in Northern Ireland, almost 10,000 people die of a chest, heart or stroke related illness. Over the past 60 years, we have worked tirelessly to alleviate the suffering of clients, funded research in our local hospitals and universities and helped to provide vital facilities and support. To continue our work, we rely heavily on legacies and voluntary donations. All money raised is spent helping people right here in Northern Ireland.

With your help, more and more people can look forward to a healthy future.

Because your legacy is their future.

www.nichsa.com

For a leaflet on leaving a legacy to NI Chest Heart & Stroke Association please phone: 028 9032 0184
Alternatively, ask your solicitor for a leaflet.
Third money laundering directive to go ahead

The European Union is to proceed with the Third Money Laundering Directive despite a call from the Presidents of the Council of the Bars and Law Societies of Europe, for a delay pending an evaluation of the impact of the existing legislation, in particular on the legal profession.

In addition, legal challenges against the Second Directive have been launched in Belgium and Poland. In light of serious concerns about the Second Directive, proposals for a Third Directive were seen by many as premature and inappropriate.

The Third Directive, when it comes into force, will repeal and replace the First and Second Money Laundering Directives. The new Directive brings in a host of new definitions, covering diverse concepts such as terrorism, beneficial owner, politically exposed persons (PEPs), serious crime and business relationship. It introduces considerable details about procedures for the identification and verification of clients, and an obligation to understand the underlying ownership of any property or assets by identifying beneficial owners and depending on the level of risk, verifying their identity.

The Directive concedes that lawyers should be able to dissuade their client from engaging in illegal activity, without falling foul of the tipping-off provisions. A new recital states that the provisions against tipping-off cannot interfere with legal professional privilege.

Member States have agreed to implement the Directive within two years after its publication in the European Union’s Official Journal, which will take place towards the end of 2005.
Criminal Justice (NI) Order 2005
New provisions in force

The Criminal Justice (NI) Order 2005, which is available on the website of the Office of Public Information, www.opsi.gov.uk, was made by the Privy Council on 19th July 2005.

The main provisions of the Order introduce improvements to anti-social behaviour legislation, adjustments to prisons law, new powers in respect of proceeds of crime investigation and road traffic (drink driving) offences, and a new Probation-led victim information scheme. The Order also makes provision for a number of miscellaneous matters including bail, video links, youth courts and legal aid.

Article 1(4) of the Order brought some of its provisions into operation one month after the Order was made, i.e. into operation on 20th August 2005 specifically:

- Articles 9 to 12 dealing with prison issues. Article 9 is a technical amendment to affirm that the risk test applied prior to the release of life-sentence prisoners and to recalled life licensees being considered for re-release is the same. Article 10 renames Prison Boards of Visitors and Visiting Committees as Independent Monitoring Boards. Consequential amendments are set out in Schedule 1 to the Order. Articles 11 and 12 remove obsolete roles for the Prison Boards in medical tests and prison transfers. (In the context of prisons law, see also below about the commencement of Article 13 of the Order.)

- Articles 14 and 15 about proceeds of crime. Article 14 amends (for Northern Ireland only) the Proceeds of Crime Act 2002 so that financial institutions may be required to disclose both information concerning the existence of a safe deposit box held by any person under investigation and details of that person. Article 15 extends to civil recovery investigations powers currently available only in criminal confiscation investigations, to identify whether a solicitor has acted for the person under investigation and to require the solicitor to furnish details of his client and of the relevant transaction.

- Article 17 about youth justice. This provides that copies of reparation, community supervision and youth conference orders must be provided to the court “as soon as is practicable”, rather than “immediately” as at present. (Also, Article 1(3) of the Order specifies that Article 16 (which makes changes to current legislation in anticipation of the extension of the remit of Youth Courts to encompass persons under 18 years old) is to come into operation on the same day as is appointed for the commencement of section 63 of the Justice (NI) Act 2002 i.e. 30th August 2005.)

- Articles 18 and 19 about road traffic matters. These create powers for the taking of specimens of blood for analysis in suspected drink-driving cases. Article 18 enables registered healthcare professionals (in addition to, at present, medical practitioners) to take specimens of blood from persons detained in a police station. Article 19 provides that a specimen may be taken where the accused is unconscious. (Also, Article 26 of the Order is deemed to have been brought into operation by commencement order.)

- Miscellaneous provisions. Article 23 makes certain sexual offences “arrestable”, i.e. a warrant will not be required for an arrest. Article 25 requires the Secretary of State to make a scheme requiring the Probation Board to provide an information service to the victims of offenders who are subject to probation supervision. Article 27 gives effect to the repeals listed in Schedule 2, though this commencement provision excludes the listed repeals of sections 184, 185 and 225(4) of the Extradition Act 2003 and Article 6(9) to (11) and (12)(a) of the Anti-social Behaviour (NI) Order 2004.

Article 1(2) enables certain provisions of the Order to be brought into operation by commencement order. A first commencement order has been made, the Criminal Justice (NI) Order 2005 (Commencement No.1) Order 2005 (S. R 2005 No.382), bringing into operation on 19th August 2005 Articles 13, 20 and 22 of the Order. Article 13 provides for the availability of legal aid for representation at prisoner disciplinary hearings at which loss of remission may be awarded.

Article 20 allows for the hypothecation of speed camera revenue. Article 22 facilitates the availability of legal aid for representation at extradition hearings when the Access to Justice (NI) Order 2003 is fully commenced.

For completeness please note that Article 26 of the Order is deemed to have had effect from 13th June 2005. This reinstates a provision of the Prosecution of Offences (NI) Order 1972 inadvertently repealed under the Justice (NI) Act 2002.

Consideration is now being given to the commencement, by order, of the remaining provisions of the Order. Arrangements will be notified in advance in due course.

We are grateful to David Mercer of the Criminal Law Branch of the Northern Ireland Office for this article.
Drugs Act 2005

The Northern Ireland Office is conducting a consultation on some aspects of the Drugs Act 2005 which received Royal Assent prior to the last election. The Community Safety Unit (CSU) is conducting this consultation in Northern Ireland on behalf of the Home Office.

The intention is to produce a guidance paper which would assist with the implementation of the legislation.

A paper (a copy of which is available from the Society's library) has been prepared relating to establishing the quantity of a controlled drug that a person may hold above which the court will presume that it was held with the intent to supply others.

Views are welcomed by the CSU prior to 17th October 2005.

Prisoner Ombudsman to investigate prison deaths

The NIO has announced the introduction of new independent arrangements for the investigation of deaths in prison custody.

With effect from 1 September 2005, any death occurring in prison custody in a Northern Ireland prison will be investigated by the independent Prisoner Ombudsman, Brian Coulter who took up office on 3 May 2005.

There is now a standing commission from the Director General of the Northern Ireland Prison Service (NIPS) for the Prisoner Ombudsman for Northern Ireland to investigate all deaths in prison custody. This embraces deaths from natural causes, accidental deaths, homicides, and those that were apparently self-inflicted.

There is also a discretionary power to investigate deaths of former prisoners where the circumstances may speak to the care they received while in prison.

The Prisoner Ombudsman will be notified automatically of each death by the NIPS Operations Directorate. An investigator (or investigator and senior investigator) will be appointed by the Ombudsman. The arrangements will broadly mirror those applying in England and Wales since 2004.

The Prisoner Ombudsman employs his own staff as investigators but also has at his disposal contract staff to cover holiday periods or special circumstances.

The police will continue to be notified of all such deaths, as is required by legislation and any investigation they may undertake will have primacy. The Coroner's role will also remain unchanged.

There have been two deaths in custody in 2005.
Further to the feature on the role of Criminal Justice Inspection Northern Ireland (CJINI) carried in our July edition, two further reports have recently been published.

**STATE PATHOLOGIST’S DEPARTMENT**

CJINI’s inspection of the State Pathologist’s Department in Northern Ireland (which took place in January 2005) found that the quality of post mortem examinations provided by the Department was of the highest standard. However, concerns surrounding management and procedures of the Department have been raised.

The Chief Inspector of Criminal Justice, Kit Chivers, commenting on the findings of the inspection said:

“How loved ones are treated after they die and preserving the custom of having burials within three days are tremendously important to all of us.

“The centralisation of all post mortem examinations to Belfast and the provision of a 24 hour, 365 days per year on-call service means that pathologists can now undertake more than 1500 examinations per year normally within 1-2 days of death.

“The quality of the information provided to coroners on deciding cause of death and to police in investigating crime was of the highest standard. However, we found that delays in submitting full post mortem reports to coroners were sometimes impacting adversely on the timing of inquests and the issuing of death certificates.”

The key recommendations of the report are that:

- an additional pathologist is recruited to fill an outstanding vacancy;
- significant changes are made to internal working practices;
- more effective partnership is developed with the Coroners Service.

The Inspectors also recommended that improved partnerships with the Northern Ireland Health Service and the State Pathology Department in Dublin could further enhance the overall effectiveness and efficiency of the service here. It was further recommended that consideration be given to routine post mortems and those concerning non suspicious deaths be undertaken by hospital pathologists.

A commitment has already been given by the State Pathologist’s Department and the Northern Ireland Office to implementing the changes outlined in the Joint Action Plan published with the report.

**VICTIMS AND WITNESSES**

CJINI has also published a report calling for action to improve services for victims and witnesses of crime.

Commenting on the findings of a thematic review of the provision and care of victims and witnesses within the Criminal Justice system in Northern Ireland, the Chief Inspector said:

“We are all potential victims of crime and we all have a duty to play our part as witnesses when the need arises. Victims and witnesses therefore stand for all of us. They represent the ordinary citizen as ‘customer’ of the criminal justice system.

“The review shows that much work is already in hand and there has been creditable progress in some fields. But the service is patchy. Victims and witnesses are often not yet regarded as enough of a priority.

“Most concerning was the lack of success in relation to some particularly vulnerable groups, such as ethnic minority victims. While the agencies believed that they had gone out of their way to be helpful to these groups, the perception on the ground did not support that. Our justice system is adversarial and inevitably puts stress on victims and witnesses. It tends not to be friendly to its ‘customers’. That makes it all the more important that it should do whatever it can to make victims and witnesses feel valued and to ease the burden on them.”

The findings of the report are based on individual and group interviews with all the statutory agencies and voluntary sector bodies, and most importantly the victims and witnesses themselves.

The key recommendations of the review include:

- the need to develop an overall strategy to deliver a seamless service to victims;
- the need for a similar strategy for the treatment of both prosecution and defence witnesses in all the Courts;
- the creation of a single point of contact to meet the needs of victims and witnesses at any stage of the criminal process;
- the need to check on the working of special measures for vulnerable and intimidated witnesses;
- and if necessary
  - the appointment of a Criminal Victims Advocate if the agencies are unable to deliver the necessary improvements in any other way.

Full copies of these reports are available from the Inspectorate’s website at www.cjini.org
EPLANI

The Environmental and Planning Law Association for Northern Ireland welcomes new members. Membership for the year commencing September 2005 costs £10 for apprentices, £20 for individuals and £75 for firms. To join, please return the form below to:

The Secretary,
EPLANI
c/o Carson McDowell
Murray House, Murray Street
BELFAST BT1 6DN
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Together with appropriate remittance payable to ‘EPLANI’.

I/we enclose cheque for [£               ] made payable to EPLANI for the following (please tick):

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Hourly rate questionnaire reminder

The Remuneration Committee wishes to remind firms to complete and return to the Society as soon as possible the Hourly Rate Questionnaire, if they have not already done so.

As you will be aware, the questionnaires are coded to remain confidential.

If you have misplaced your questionnaire, please contact Kevin Delaney or Janine Tyrie at the Society (telephone 028 9023 1614) for a duplicate.

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ADVERTISEMENTS

Legal Appointments

Conveyancing Solicitor, Belfast. An excellent opportunity has arisen to join a Belfast based Business Service Group. The ideal candidate should have min 2 years + PQE specialising in Conveyancing. Experience in Economics is advantageous.

Litigation Solicitor, Co. Antrim. £20k+. To join an expanding County Antrim Legal Practice. Candidates should have 2 years + PQE in Litigation (High and County Court). The role will consist of all plaintiff work and will involve an element of Probate. Probate experience is desirable.

Commercial Property Solicitor, Co. Tyrone. £20k+. Well established Co. Tyrone Law firm wishes to recruit an experienced Solicitor. Candidates should have 3 years + PQE in Commercial Property. Excellent career prospects.

Litigation Locum, Belfast. 6mth contract. Public Sector Body requires an experienced Litigation Solicitor to fulfill a six month contract. Candidates should have min 2 years + PQE in Litigation.

For more details please contact Judy at Blueprint Legal in confidence on 028 9032 3333 or email jtoland@blueprintappointments.com
The Legal market in Northern Ireland is currently incredibly busy and all firms have a need for good individuals. However, it is also a small world and here at PRG LawSearch we are very conscious of the need to provide confidential, professional, impartial advice - an individual service for all.

PRG LawSearch works within the legal sector and has excellent links with all the top firms and many of the best specialist firms in Northern Ireland. With many years’ experience recruiting solicitors in Northern Ireland, our team at PRG LawSearch works across all specialisms within law from specialised support staff through qualified solicitors to partners.

Please remember that we can’t display all of the opportunities below, this is just a tiny selection of the range of current assignments on which we are working. So if you feel it may be time to review your career options why not give us a call?

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Our client is one of Northern Ireland’s leading firms which advises on all aspects of non-contentious commercial property work. The department is well experienced in dealing with major property auctions and commercial leases. Due to its excellent reputation it has dealings with major clients across Ireland. This senior position offers career advancement. Suit 5 years’ + PQE  
Ref: 2814

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Our client, the largest financial institution in Northern Ireland, wishes to recruit a Solicitor on an eight month contract. This highly successful organisation provides a full range of financial products and services designed for the needs of both business and customers. This is a superb opportunity to work with some of the top Corporate Lawyers and gain valuable exposure in house. You will come from a Conveyancing and/or Corporate background. Banking experience preferred but not essential. Suit 1-7 years’ PQE.  
Ref: 3095

**Conveyancing Locum**  
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You will be based within a top international practice whose reputation is based on proven professional skills, a thorough understanding of client requirements, sound judgement and a practical approach to resolving commercial problems. Our client encompasses all aspects of corporate and business law and wishes to recruit an experienced Solicitor with expertise in Residential Conveyancing and Probate. Suit 4 years’ + PQE.  
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**Litigation Solicitor**  
*Belfast* up to £28k

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**Criminal Law Solicitor**  
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Our client, a firm of solicitors with a significant human rights and criminal caseload, have a vacancy for a Criminal Law Solicitor with Crown Court experience. You will be expected to maintain the firm’s excellent client base and also develop new business. This is a superb opportunity for an ambitious solicitor to join a busy and well respected firm. Suit 1 years’ + PQE.  
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**General Solicitor**  
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An excellent opportunity has arisen to join a long established firm of Solicitors. With a head office in Belfast city centre our client provides their clients with a personal and professional service. This general practice specialises in all areas of law such as Litigation, Employment, Probate, Conveyancing and Property transactions and therefore wishes to appoint a Solicitor with experience in general practice. Suit 2-5 years’ PQE.  
Ref: 2637

For more details please call Orla Stewart on 028 90 314644 or email orlastewart@prglawsearch.com

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*For more details please contact Orla Stewart at PRG LawSearch on 028 90 314644 or email orlastewart@prglawsearch.com*

www.prgrecruitment.com

Professional Recruitment Group Limited, trading as PRG, acts as both an Employment Business and an Employment Agency.
People booking last minute package holidays have been warned to check the facts before they pay.

The warning follows a survey by the local Department of Enterprise, Trade and Investment’s Trading Standards Service (TSS) that found 10% of package holidays advertised in travel agents’ shop windows are misleading.

The survey of over 50 Northern Ireland travel agents, carried out between June and August 2005, found that 10% of managers’ special offers advertised in shop windows were either no longer available or were only available at a higher price.

People booking last minute holidays are particularly vulnerable to misleading holiday prices

The Consumer Protection (NI) Order 1987 controls misleading prices relating to goods, services, accommodation or facilities. The Trade Descriptions Act 1968 controls false or misleading statements about goods or services.

Raymond Dolan, Trading Standards Service, said: “Many travel agents offer good value for money for customers hoping to grab a last minute break in the sun. However, our survey demonstrated that customers should be careful before booking. People booking last minute holidays are particularly vulnerable to misleading holiday prices and could be very disappointed when they find out all the facts.

“Those travel agents found to be contravening the legislation could face a fine of up to £5,000.”

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Further to the coming into force of EC Regulation 261/2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, the Air Transport Users Council has reported a huge increase in complaints.

Under the new legislation, passengers have gained new rights (under specified criteria) when subject to a flight disruption on a flight on any airline from an EU country or on a flight into an EU country on an EU airline.

In the six weeks between 17th February, when the Regulation came into force, and the end of the reporting year on 31st March, the Council received more complaints and enquiries about delays and cancellations than it had in the previous 46 weeks.

The new rules saw delays overtake baggage handling as the issue passengers complained about most frequently.

Passengers are now able for claim for compensation for overbooking and cancellations ranging from 250 euros (£173.04) to 600 euros (£415.26) depending on the length of delays and the distance they were travelling.
Proposed new legislation on fire and rescue service

The Department of Health, Social Services and Public Safety has recently published a draft Fire and Rescue Services (NI) Order 2005.

The aims of the Order are:

- To define the role and structure of the modern fire and rescue service;
- To provide a statutory basis for core duties such as promoting community fire safety, fire fighting, responding to road traffic accidents and other emergencies and enforcing new fire safety requirements;
- To simplify existing fire safety legislation and reinforce the modern risk-based approach to fire prevention;
- To give effect to European Directives relating to health and safety at work

The Draft Order not only legislates for the reform of the Northern Ireland fire service, but also introduces changes to fire safety legislation.

There will be a greater emphasis on fire prevention and community safety and the current system of fire certification will be replaced. Responsibility for ensuring fire safety standards in non-domestic premises will fall to those responsible for the premises, with the Service taking on an enforcement role.

In future, it will be a statutory offence to assault fire fighters as they carry out their duties.

The Draft Order will bring the Northern Ireland legislation into line with recently introduced legislation in the rest of the United Kingdom, whilst taking account of Northern Ireland circumstances.

This consultation which is on the wording and effect of the Draft Order runs until 14th October 2005.

The full text of these decisions are available on the Library's Libero database at www.lawsoc-ni.org or by contacting the Library

**BRESLIN AND OTHERS v MCKENNA AND OTHERS**

Application by fifth and sixth named defendants to set aside writ and stay action. - Summons issued to strike out plaintiffs' claims on the ground that no valid writ had been issued and the proceedings were a nullity. - plaintiffs' solicitors based in England and admitted to Roll of Solicitors in Northern Ireland. - whether writ correctly endorsed. - address requirements. - HELD that solicitor is holding a valid practising certificate and is conducting the case with the authority of his clients. - defendants do not have a sustainable case and leave to amend summons refused and application to set aside writ and stay summons also refused

HIGH COURT
28 JUNE 2005
MORGAN J

**IN THE MATTER OF AN APPLICATION BY PETER CAMPBELL, MARTIN MALLON AND FRANK MACELHATTON FOR JUDICIAL REVIEW**

Application by Peter Campbell, Martin Mallon and Frank MacElhatton on behalf of the Belfast Solicitors Association (BSA) for judicial review of a decision of the County Court Rules Committee and Lord Chancellor not to give reasons to the applicants for the present County Court rates and scales, and in particular the specified hourly rate.

- BSA had made submissions to the Rules Committee on difference between the scale costs in Northern Ireland and County Court rates and scales, and whether the committee under duty to give reasons and whether the reasons given were adequate. - HELD that the BSA was provided with sufficient reasons for the Committee and Lord Chancellor's decision and application dismissed

HIGH COURT
KERR J

11 JUNE 2005

**IN THE MATTER OF THE LOCAL GOVERNMENT ACT (NORTHERN IRELAND)1972 SECTION 81(1) AND IN THE MATTER OF AN APPLICATION BY THE LOCAL GOVERNMENT AUDITOR**

Application on behalf of the Local Government Auditor for declaration that mobile telephone expenditure incurred by Newry and Mourne District Councillors was contrary to law together with other associated relief. - allowances for Councillors. - geographical spread and location of councillors meant that some used their mobiles heavily and came under Eircell network, thus incurring increased charges. - Council approved meeting the costs of the mobile phones together with call charges up to £300. - whether this had statutory authority. - whether expressly authorised under Local Government Act 1972. - whether incidental or consequential upon Council's main business of informed decision making. - HELD that payments were not lawful and must be regarded as ultra vires, but that the expenditure could be made under alternative legislation and a scheme should be devised accordingly

HIGH COURT
29 JUNE 2005
COGHLIN J

**IN THE MATTER OF AN APPLICATION BY ROBERT ANTHONY MCLoughLIN FOR JUDICIAL REVIEW**

Application for judicial review of Chairman of Fair Employment Tribunal's refusal to order disclosure of unredacted security documents to applicant. - applicant had unsuccessfully applied for post of Assistant Investigation Officer with Police Ombudsman's Office. - applicant had applied to FET claiming discrimination on the grounds of religious or political opinion. - applicant was told he had been refused employment on the basis of security information supplied by PSNI to NIO and Police Ombudsman's Office. - whether Chair of FET had acted unreasonably, unlawfully or erred in law by not issuing an order for discovery of unredacted documents. - whether security information was reliable or accurate, given that it was 30 years old, and whether it had aided discrimination. - scrutiny of security information by applicant. - HELD that there are no grounds for setting aside decision of FET, and application for judicial review dismissed

HIGH COURT
13 JUNE 2005
WEATHERUP, J

**R v BRANIFF AND OTHERS**

Sentencing. - alleged kidnapping, false imprisonment and holding to ransom. - application for police witnesses to be screened from everyone in Court except Jury, Judge and Defence counsel. - witnesses are undercover police surveillance officers. - whether anonymity was necessary to secure their continued
usefulness in ongoing operations and secure their personal safety. - art 6 ECHR right to fair trial. - HELD that protection on anonymity necessary and application accepted CROWN COURT 28 JUNE 2005 WEIR J

R v GARY DAVIDSON, ROBIN NEESON AND GILLIAN ROSE AGNEW
Murder. - fitness of witness to give evidence. - admissibility of documentary evidence in the form of transcripts in criminal proceedings. - burden and standard of proof. - admission of evidence against one defendant but not the other. - fairness and interests of justice. - whether the quality of the evidence would pose a risk of unfairness to the accused. - application to admit transcripts refused HIGH COURT 28 JUNE 2005 DEENY J

R v PAUL DAVID DAMIEN DONELLY AND TERENCE DAMIEN PATRICK MCCAFFERTY
Sentencing. - possession of explosive incendiary device with intent to endanger life or case serious injury to property CROWN COURT 1 JULY 2005 WEIR J

R v SAMUEL KENNETH MURPHY
Appeal against sentence. - grievous bodily harm, robbery and theft. - whether sentences should be consecutive. - whether sentences manifestly wrong or excessive. - application refused COURT OF APPEAL 4 JULY 2005 CAMPBELL LJ AND GILLEN J

R v TRACY MARY MARSHALL, RALPH PHILLIPS, RODNEY CLARKE AND JOANNE ISOBEL MCMLLEN
Murder. - application for witness anonymity. - application for order under art. 11 Criminal Evidence (NI) Order 1999 that witnesses should be screened from the accused and public while they are giving evidence. - whether this would render proceedings fair for both defence and prosecution. - whether admission of evidence anonymously should be a matter for the trial judge. - whether witnesses’ fear was genuine and whether evidence is significantly important. - whether screening would improve or maximise the quality of evidence given. - HELD that application for anonymity granted, providing background checks are carried out on witnesses prior to the trial CROWN COURT 23 AUGUST 2005 HART J

SHEARER (A MINOR) v GILMORE
Damages. - plaintiff attacked by defendant’s dog as a young child and developed post traumatic stress disorder and other behavioural problems. - significant facial scarring. - general damages of £60,000 awarded HIGH COURT 29 JUNE 2005 MORGAN J

IN THE MATTER OF AN APPLICATION BY MICHAEL SKELLY FOR JUDICIAL REVIEW
Appeal against dismissal of judicial review application. - challenge of Criminal Injuries Compensation Appeal Panel’s dismissal of appeal for compensation. - applicant attacked by his brother and application for compensation refused because he withdrew his statement to police and did not wish them to take any further action against his brother. - Appeal Panel concluded applicant failed to co-operate with police and had contributed to the incident by fighting with his brother - compensation scheme. - whether oral hearing should have taken place. - whether different decision should have been made. - HELD that the assumption that the appellant failed to co-operate with the police was unreasonable in light of the Wednesbury principles. - appeal allowed and order of adjudicator quashed and oral hearing ordered COURT OF APPEAL 1 JULY 2005 KERR LCJ CAMPBELL LJ SHEIL LJ

RE: X AND Y (TEMPORARY RELOCATION WITHIN UNITED KINGDOM: APPEAL FROM MASTER; INTERIM MAINTENANCE)
Appeal from Master of the Probate and Family Division. - appeal against order refusing application by mother of 2 children to vary existing residence and contact order made under art. 8 Children (NI) Order 1995. - appeal against order that respondent father pay interim maintenance to mother of additional £750 per month. - mother proposes to accept a year long academic course in London and relocate with children temporarily. - father wishes children to reside with him during this time. - whether this would lead to diminution or loss of contact. - whether reasons for proposed alteration to contact by way of relocation were genuine and reasonable. - impact the refusal of a realistic proposal would have on the mother. - HELD that order of the Master be reversed and art. 8 contact order made with father so mother could reside in London with children temporarily HIGH COURT 17 AUGUST 2005 GILLEN J
FAIR EMPLOYMENT AND INDUSTRIAL TRIBUNAL DECISIONS

PETER AGNEW v BOARD OF GOVERNORS OF NEWBRIDGE INTEGRATED COLLEGE AND THE DEPARTMENT OF EDUCATION
Preliminary issue. - claim of unlawful deduction by from wages by a teacher under art.45 Employment Rights (NI) Order 1996. - Department applied to be dismissed from proceedings against the wishes of the applicant. - whether Department or Board of Governors was the applicant's employer. - who was responsible for paying the salaries. - employment functions of Department and relationship between Department and applicant when contract of employment exists between applicant and Board of Governors. - tribunal decided that Department as second named respondent be dismissed from the proceedings 9405/03IT 29 APRIL 2005

NOEL BENSON v ULSTER CARPET MILLS
Unfair dismissal. - personal use of telephone, internet and email. - applicant summarily dismissed for gross misconduct over misuse of company's IT policy. - whether respondent's investigation was reasonable and whether the conclusions reached and punishment imposed were reasonable. - whether gross misconduct, given the applicant's poor disciplinary record. - whether offences should be viewed on a free standing basis with the disciplinary record subsequently being considered. - tribunal decided summary dismissal was unfair, but that it justified dismissal, not summary dismissal. - tribunal decided that the applicant should receive the amount of notice pay to which he would have been entitled had he been dismissed with notice, a total of £2,438 411/04IT 6 APRIL 2005

CHERRI COMYNS v LEEANOY LTD T/A VIDEO CITY
Whether applicant was unfairly dismissed contrary to art. 126 Employment Rights (NI) Order 1996. - whether dismissal was automatically unfair since she had been dismissed while on maternity leave contrary to art. 131 Employment Rights (NI) Order 1996. - claim of sex discrimination. - tribunal decided that the applicant was not dismissed from her employment, and that she was not therefore unfairly dismissed and that the applicant did not suffer unlawful discrimination on the grounds of her gender or maternity 9589/03IT 1 APRIL 2005

PAUL DEVINE AND MICHAEL MCBRIDE v THE FOYLE FOOD GROUP LIMITED
Refusal of permission to take time off to attend training run by the trade union. - whether contrary to art. 92 Employment Rights (NI) Order 1996. - whether the reasons for refusal put forward by the employer were reasonable. - tribunal decided that the complaints made by the applicants were well founded and respondent ordered to pay applicants £50 and £65 respectively as well as the costs of the proceedings 1096/03IT; 1097/03IT 8 MARCH 2005

ELIZABETH EDWARDS v JOANNE ELIZABETH FERGUSON
Claims of unfair dismissal and pay in lieu of notice and failure to provide itemised pay statements. - tribunal decided that the dismissal was unfair since the respondent never explicitly told the applicant that the applicant was being accused of theft, did not give the applicant sufficient time to respond or explain herself. - tribunal reduced the amount of compensation to nil since police recovered stolen items from the applicant's home. - tribunal decided the applicant was not entitled to any pay in lieu of notice of termination. - tribunal decided the respondent had failed to give the applicant any pay statement, but that the applicant is not entitled to any payments 2187/00IT 29 APRIL 2005

JAMES HAROLD CRAIG FITZSIMMONS v ROYAL MAIL
Whether summary dismissal of applicant was fair or for a reason within art. 130 (1)(b) of the Employment Rights (NI) Order 1996. - applicant charged under the respondent's disciplinary procedure with threatening other members of staff and was summarily dismissed on grounds of gross misconduct. - subsequent appeal dismissed by Appeals Manager. - tribunal decided it was satisfied that the respondent had reasonable grounds for believing that the applicant had issued a threat and had carried out a reasonable investigation with a view to the applicant's medical background of anger management issues. - claim dismissed 2635/02IT 11 APRIL 2005

KIRSTEN GARRETT v POLICE SERVICE FOR NORTHERN IRELAND AND THE CHIEF CONSTABLE OF POLICE SERVICE OF NORTHERN IRELAND
Sex discrimination. - applicant claimed she was discriminated against on the grounds of her sex since her employers failed to discount her absence from work when suffering from a post-natal illness. - respondents failed to treat applicant's absence as maternity related because it was after her period of maternity leave. - applicant failed to satisfy the eligibility criteria for a new post since her absence on sick leave exceeded the permissible level, and appeal subsequently rejected by Appeal Panel. - tribunal decided that the applicant was unlawfully discriminated against and respondents ordered to pay the applicant £2675.76 in compensation for injury to feelings 84/03IT 29 APRIL 2005
GILLIAN CATHERINE GRATTON v PAUL CRAWLEY AND THE ANCHOR PUBLIC HOUSE LTD
Sex discrimination. - whether respondent had made remarks to applicant regarding her sexual orientation which amounted to sexual harassment or discrimination within the grounds of the Sex Discrimination Order 1976 or the provisions of the Employment Equality (Sexual Orientation) Regulations 2003. - tribunal decided that since the applicant could not establish that a man would have been treated more favourably than she was by the respondents that the application be dismissed 2424/03IT 16 MARCH 2005

MARTIN HARKIN v NETWORK RAIL INFRASTRUCTURE LIMITED
Claimant's was contracted to work in London. - whether tribunal had jurisdiction to hear claimant's allegations of disability discrimination. - tribunal held that it had no jurisdiction to determine the claim, and claimant ordered to pay respondent £100 costs 1728/04IT 5 JULY 2005

GODFREY ERNEST HINDERKS v KAREN DONALDSON, SEATRUCK FERRIES LIMITED AND THE CRESCENT GROUP
Sex discrimination and victimisation. - whether application presented within the specified time limit and if not, whether it was just and equitable for tribunal to consider the complaint. - claimant was not given complete and accurate information by the various bodies he approached regarding his claim. - tribunal decided the respondent would suffer any prejudice as a result of granting the extension. - tribunal decided that the claim was not presented within the time limit, but that it was just and equitable for the tribunal to consider the complaint 1897/04IT 2 JUNE 2005

WILLIAM JONES v MONTGOMERY TANK SERVICES
Applicant employed as a driver whose vehicle overturned due to the way in which the vehicle was driven. - applicant subsequently dismissed. - whether dismissal was unfair in that there was no investigation prior to the disciplinary hearing. - tribunal held that the disciplinary process was fair and that the applicant was not unfairly dismissed 9031/03IT 5 APRIL 2005

JULIE KERR v ARCADIA GROUP LIMITED
Unfair dismissal and breach of contract. - applicant off work due to stress and after 16 months was dismissed for lack of capability due to ill health. - tribunal held that the respondent showed no evidence of wilfulness which could have caused the applicant's psychiatric illness, and that the dismissal was therefore fair and claim dismissed 9149/03IT 8 MARCH 2005

SUSAN MCKEEMAN v ROBIN MERCER T/A HILLOMOUNT NURSERY CENTRE
Breach of contract. - applicant had poor working relationship with fellow employees and was given notice of termination of employment. - length of time it would have taken to conduct a proper and reasonable disciplinary procedure against the applicant. - tribunal decided applicant was never given the benefit of a full investigation or an interview, nor was she informed of the specifics of the charges against her and was never advised of her right to appeal the decision to dismiss her. - tribunal decided that the respondent was in breach of the applicant's contract of employment, and applicant was entitled to £717.36 compensation 1745/IT 22 APRIL 2005

JAMES MCQUOID v VANGUARD RENTAL CORPORATION
Dismissal. - whether unfair dismissal and breach of contract, as alleged by the applicant, or summary dismissal for gross misconduct, as alleged by respondent. - tribunal decided that the decision to dismiss was not within the bands of reasonable responses which a reasonable employer would have taken, bearing in mind the applicant's level of education, length of service and the fact they had failed to ensure the applicant knew that his contract merited dismissal. - tribunal also decided the applicant contributed to his dismissal and reduced the award of compensation by 70% to £4124 1511/03IT 16 MAY 2005

JOHN MONTGOMERY v JAMES MCBAIN, BOARD OF GOVERNORS OF OMAGH ACADEMY, BILL REILLY, ARTHUR RAINEY, CYNTHIA GAMBLE, WESTERN EDUCATION AND LIBRARY BOARD
Claim for unfair and constructive dismissal. - applicant was teacher whose work was deemed unsatisfactory by headmaster and Education and Training Inspectorate. - Board of Governors initially decided to initiate procedures to terminate the applicant's contract of employment, but subsequently had withdrawn from that position and indicated that the applicant's contract would continue, subject to conditions. - applicant felt that he had no option but resign and that there was a concerted effort to remove him. - burden of proof on applicant to demonstrate that relationship of trust between employee and employer had been damaged, contrary to the contract terms which
would justify the applicant terminating the contract. - tribunal decided that there was no unreasonable behaviour on the part of the Governors or their employees, nor was there a breach of any contract term and consequently there was no constructive dismissal. - application dismissed 759/03IT 24 MARCH 2005

LEONARD ALEXANDER QUINN v TREGACO LTD (IN LIQUIDATION) AND THE DEPARTMENT FOR EDUCATION AND LEARNING
Whether claimant had sufficient evidence to support a redundancy claim. - revenue authorities confirmed that the applicant had been employed by the respondent company, although no administration details existed due to the death of the sole director. - tribunal decided the applicant was entitled to a redundancy payment 2193/04IT 11 MAY 2005

SHIVENDRA SHUKLA v TILAK RAJ PURI, MUKESH SHARMA, NISHA TANDON, RAY PARMAR AND THE INDIAN COMMUNITY CENTRE
Unfair dismissal. - applicant was a priest in the Indian Community Centre whose role was primarily spiritual and pastoral. - whether applicant was an employee. - applicant had been provided with a job description. - tribunal decided it did not have jurisdiction to deal with the application since the applicant's appointment was a spiritual one and not subject to obligations under civil law 407/04IT 26 APRIL 2005

TONY STEVENSON v MCCRORY SCAFFOLDING (NI) LIMITED
Unfair dismissal. - whether the respondent had satisfactorily investigated the circumstances surrounding the alleged offence. - whether respondent had reasonable cause to believe the applicant had behaved in the alleged way. - whether disciplinary procedures were fair and punishment reasonable. - tribunal decided that the applicant, although guilty of gross misconduct, was unfairly dismissed due to the respondent's unsatisfactory procedures in handling the investigation 690/04IT 13 APRIL 2005

ANDREW TUCKEY v PRAXIS
Unfair dismissal claim. - whether reason for dismissal fell under the class of reasons contained in Employment Rights (NI) Order 1996 and whether respondent had acted reasonably in all the circumstances in instigating disciplinary proceedings and whether they had conducted a fair and adequate investigation and had drawn fair conclusions. - claimant had allegedly used inappropriate force in dealing with a client. - tribunal held that respondent had acted fairly and reasonably and application dismissed 8823/03IT 28 APRIL 2005

The full text of these decisions are available on the Library's Libero database at www.lawsoc-ni.org or by contacting the Library
Recommended Reading

CORPORATE MANSLAUGHTER

Articles

Corporate manslaughter - a new regime? (Examines the need to identify a directing mind and create the new offence of corporate manslaughter.)

Corporate killing (Considers who may face prosecution, how the law will be enforced and the proposed penalties)
Pickford: 2005 S J 149(26), 784-785

Much ado about nothing (examines the proposals in the draft Corporate Manslaughter Bill)
Watkins: 2005 JP 169(26), 488-492*

Corporate manslaughter: where are we now? (explains the provisions regarding management failure and gross negligence and outlines the bodies which are exempt from the provisions)
Forlin: 2005 NLJ 155(7176), 720-722*

* Due to the implementation of the Copyright Directive this article must be ordered directly from the publisher

Useful Internet Sites

Hanson to extend corporate manslaughter laws to Northern Ireland. Northern Ireland Office. May 2005
http://www.nio.gov.uk/media-detail.htm?newsID=11533

Corporate Manslaughter: Northern Ireland - Proposals for a new offence. May 2005
http://www.nio.gov.uk/corporate_manslaughter_northern_ireland_-_proposals_for_a_new_offence.pdf

Corporate Manslaughter Northern Ireland: Regulatory impact


New Books in the Library


Morgan & Burden on computer contracts. 7th edition. Sweet & Maxwell. 2005 (formerly Morgan & Stedman on computer contracts)

Re: Daniel Robinson (deceased)
Late of:
51 Maghery Road, Dungannon,
County Tyrone
Date of death:
4 September 2004
Would any person having knowledge of the whereabouts of the original Will of the above named deceased dated 2 September 1991 or any information as to the particulars of any subsequent Will or codicil please contact the undermentioned Solicitors within 28 days of publication of this notice:
Gus Campbell
Solicitors
42-44 Carleton Street
Portadown
County Armagh BT62 3EP
Tel: 028 3833 4801 & 3833 1834
Fax: 028 3835 0519

Re: Lucy Armstrong (deceased)
Late of:
26 Main Street, Glenavy
Date of death:
26 July 2005
Would any person having knowledge of the whereabouts of a Will for the above named deceased please contact:
W G Maginess & Son
Solicitors
68 Bow Street
Lisburn
County Antrim BT28 1AL
Tel: 028 9267 2161
Fax: 028 9267 0997

Re: Sandra McFarland (deceased)
Late of:
151 Ballyree Drive, Bangor
Would any Solicitor having any knowledge of the whereabouts of any Will for the above named deceased please contact:
Ms Sarah Quinn
Messrs Wilson Nesbitt
Solicitors
33 Hamilton Road

Re: Eva Matilda Clarke (deceased)
Late of:
26 Marcella Park, Newtownards and formerly of 2 Shimna Close, Newtownards
Date of death:
10 July 2004
Would any person holding an original Will or any instructions relating to the preparation of a Will for the above named deceased please contact:
Russell & Co
Solicitors
11 Lower Mary Street
Newtownards
County Down BT23 4J]
Tel: 028 9181 4444
Our Ref: C848-1CGH

Re: Robert Anderson (deceased)
Late of:
57 Lowood Park, Belfast BT15 4BD
Date of birth:
6 September 1950
Would any person knowing the whereabouts of a valid Will for the above named deceased please contact:
Mrs M Anderson
57 Lowwood Park
BELFAST BT15 4BD

Re: Catherine Gorman (deceased)
Late of:
141 Joanmount Gardens, Belfast BT14 6NZ
Would any person having knowledge of the whereabouts of a Will made by the above named deceased please contact:
Nixon & Co
Solicitors
2-4a Kilcoole Park
BELFAST BT14 8LB
Tel: 028 9071 9703
Folio: 11288  
County: Londonderry  
Registered Owner: Governors or Rainey Endowed School  
Lands of: Rainey Street, Magherafelt  
Take notice that any person having custody of or information as to the whereabouts of the Land Certificate relating to the above mentioned Folio should forthwith produce said Certificate or communicate such information to the undermentioned solicitors.  
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.  
Elliott Duffy Garrett Solicitors  
Royston House  
34 Upper Queen Street  
BELFAST BT1 6FD  
Ref: RAIN3-18\ZG

Premises:  
24 Miller Street, Derry  BT48 6SU  
Registered Owner: James Breen  
Any person having knowledge of the whereabouts or security of the Title Deeds for the above premises is asked to contact the undersigned acting on behalf of the Registered Owner, James Breen.  
James McNulty & Co Solicitors  
25/27 George’s Street  
Omagh  
County Tyrone  BT78 1DE  
Tel: 028 82 24 2177  
Fax: 028 8224 9834

Folio: DN 46576 L  
County: Down  
Registered Owner: James Jamison  
Registered Owner of a Charge: Abbey National plc  
Address of Premises:  
17 New Close, Portavogie, County Down BT22 1DZ  
Take notice that any person having knowledge of the whereabouts or custody of the Land Certificate Folio DN 46576L regarding a dwelling house and premises at 17 New Close, Portavogie, County Down BT22 1DZ, registered owner, James Jamison, subject to the registration of a charge in favour of Abbey National plc, is required to produce same to or contact the undersigned Solicitors who act on behalf of Abbey National plc, the registered owner of the charge.  
Fitzsimons Kinney Mallon Solicitors  
6-7 John Mitchel Place  
Newry  
County Down BT34 2BP  
Tel: 028 3026 2269  
Fax: 028 3026 5660  
Email: pfitzsimons@fkmlaw.co.uk

Registered Owner: Mary Ellen Brown  
Property at:  
4 Orkney Street, Belfast, BT13  
Would any person having custody of or information as to the whereabouts of the Title Deeds to the above property please contact:  
Ivor Moffitt  
Holmes & Moffitt Solicitors  
289 Shankill Road  
BELFAST BT13 1FT  
Email: imoffitt@holmf.co.uk  
Tel: 028 9023 0836

Folio: DN 114128 L  
County: Down  
Registered Owner: James Robert Walker  
Registered Owner of a Charge: Abbey National plc  
Address of Premises:  
29 Meadowvale Crescent, Bangor, County Down BT19 1HQ  
Take notice that any person having knowledge of the whereabouts or custody of the Land Certificate Folio DN114128L is required to contact the undermentioned Solicitors who act on behalf of Abbey National plc, the registered owner of a first legal charge against Title within 10 days from the date of this publication. Failing which an application to the Land Registrar will be made for the issue of a duplicate Land Certificate without further notice.  
Fitzsimons Kinney Mallon Solicitors  
6-7 John Mitchel Place  
Newry  
County Down BT34 2BP  
Tel: 028 3026 2269  
Fax: 028 3026 5660

Our Client:  
Abbey National plc  
Borrower’s Name: Martin Spackman & Marion Spackman  
Premises:  
33 Dalewood, Giengormley, Newtownabbey, County Antrim BT36 5WR  
Take notice that any person or firm having knowledge as to the whereabouts of the Title Deeds for the above premises are asked to contact the undermentioned Solicitors urgently who act on behalf of Abbey National plc, the registered owner of a charge in respect of the said premises as the Title Deeds have been lost or mislaid.  
Fitzsimons Kinney Mallon Solicitors  
6-7 John Mitchel Place  
Newry  
County Down BT34 2BP  
Tel: 028 3026 2269  
Fax: 028 3026 5660
Take notice that any person having knowledge of the whereabouts or custody of the above Land Certificate is required to contact the undermentioned Solicitors who act on behalf of Abbey National plc, the registered owner of a first legal charge against Title within 10 days from the date of this publication. Failing which an application to the Land Registrar will be made for the issue of a duplicate Land Certificate without further notice.

Fitzsimons Kinney Mallon Solicitors
6-7 John Mitchel Place
Newry
County Down BT34 2BP
Tel: 028 3026 2269
Fax: 028 3026 5660

Folio:
19230
County:
Down
Registered Owner:
Robert Caughey
Lands at: 11 Ballyfounder Road, Portaferry, County Down
Take notice that any person having custody of or information as to the whereabouts of the Land Certificate relating to the above Folio should forthwith produce the said information to the undermentioned Solicitors. 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 the publication of this notice, a duplicate Land Certificate may be applied for.

Fitzsimons Kinney Mallon Solicitors
6 John Mitchel Place
Newry
County Down BT34 2BP
Tel: 028 3026 2269
Fax: 028 3026 5660

Folio:
2260
County:
Down
Registered Owner:
Sean McElroy
Lands of: Ballyward
Take notice that any person having custody of or information as to the whereabouts of the Land Certificate relating to the above mentioned Folio should forthwith produce said Certificate or communicate such information to the undermentioned solicitors. 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.

Fitzsimons Kinney Mallon Solicitors
6 John Mitchel Place
Newry
County Down BT34 2BP
Tel: 028 3026 2269
Fax: 028 3026 5660

Folio:
FE 6763
County:
Fermanagh
Registered Owner:
Adrian Burns & Angela Roofe
Registered Owner of a Charge:
Abbey National plc
Address of Premises:
34 Hillview Road, Enniskillen, County Fermanagh BT74 6EY
Take notice that any person having custody of or information as to the whereabouts of the Land Certificate relating to the above mentioned Folio should forthwith produce said information to the undermentioned Solicitors. And take further notice that unless the said Land Certificate are so produced or adequate information as to their whereabouts is so communicated within three weeks of publication of this notice, a duplicate Land Certificate may be applied for.

Fitzsimons Kinney Mallon Solicitors
6 John Mitchel Place
Newry
County Down BT34 2BP
Tel: 028 3026 2269
Fax: 028 3026 5660

Folio:
M 101676
County:
Down
Registered Owner:
James Halliday, Helen Halliday & Trevor Halliday
Registered Owner of a Charge:
Abbey National plc
Address of Premises:
4 Glenwherry Place, Belfast BT6 8DJ
Take notice that any person having knowledge of the whereabouts or custody of the above Land Certificate is required to contact the undermentioned Solicitors who act on behalf of Abbey National plc, the registered owner of a first legal charge against Title within 10 days from the date of this publication. Failing which an application to the Land Registrar will be made for the issue of a duplicate Land Certificate without further notice.

Fitzsimons Kinney Mallon Solicitors
6 John Mitchel Place
Newry
County Down BT34 2BP
Tel: 028 3026 2269
Fax: 028 3026 5660

Folio:
2260
County:
Down
Registered Owner:
Sean McElroy
Lands of: Ballyward
Take notice that any person having custody of or information as to the whereabouts of the Land Certificate relating to the above mentioned Folio should forthwith produce said Certificate or communicate such information to the undermentioned solicitors. 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.

Rodgers & Company Solicitors
The Bedeck Building
463-469 Lisburn Road
BELFAST BT9 7EZ

Solicitor Required
Solicitor with good general experience, especially conveyancing, required for busy Newry Practice. Part-time considered. Salary £25,000+ depending on experience. Apply in writing with a CV to:
Jonathan McKeown Solicitors
1 Monaghan Street
Newry
County Down BT35 6BB
Or email: jonathan@jmksolicitors.com
Closing date: 31st October 2005

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Locum Solicitor required (October 2005 to March 2006). Litigation and Matrimonial experience necessary. Please send CV to:
Con Lavery & Co Solicitors
34 Bridge Street
Banbridge
County Down BT32 3JS
Solicitor required for a busy general practice. Vacancy would ideally suit a newly qualified Solicitor or a recently qualified Solicitor with Criminal and Matrimonial experience. Please apply in writing with CV to: The Partners Conway, Todd & Co Solicitors 22 Market Square Antrim County Antrim BT41 4DT

Solicitor required for general practice in Glengormley. 2/3 years plus PQE. Salary commensurate with experience and ability. Please apply in writing with CV to: Susie Ellis James J Macaulay Solicitors 22 Cammoney Road Glengormley County Antrim BT36 6HW Fax no: 028 9084 4878

Thompsons Solicitors require an Assistant Solicitor to undertake general litigation work. PQE in general practice desirable but not essential and applications from newly qualified Solicitors are welcome. Salary and benefits commensurate with experience. Please apply in writing with CV to: Mark Jackson Thompsons Solicitors 39 Frances Street Newtownards County Down BT23 7DW email: mj@thompsons-solicitors.co.uk

Rafferty & Boyle Solicitors, Coleraine, require an Assistant Solicitor with at least 2 years post qualification experience for work in general practice. Attractive salary. Please apply in writing with CV to: Mr Paul Boyle Rafferty & Boyle Solicitors 3 Castleロック Road Coleraine BT51 3HP

Chartered Accountants 24-38 Gordon Street BELFAST BT1 2LG

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General Practice sought by expanding regional firm wishing to open office in Belfast or greater Belfast areas. Ideally sole practitioner in established practice seeking to form partnership with view to a full take over within five years. Apply in strict confidence to: PO Box 157 c/o Burnside Public Relations Ltd 128a High Street Holywood County Down BT18 9HW

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Recently retired litigation solicitor seeks part-time employment in Lisburn area. Can work flexible hours. Please contact: PO Box 156 c/o Burnside PR Ltd 128a High Street Holywood County Down BT18 9HW

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For a free consultation/quotations or further information contact;

Gary Millar at GMA
Pinetree Lodge, 40 Tullyhubbert Road Ballygowan, Newtownards, BT23 6LZ
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