I am pleased to introduce the 150th edition of The Writ. You will have noticed already a very obvious change in its appearance. I hope that you will agree that the visual impact is much improved but we are attempting more than a cosmetic makeover.

The first edition of The Writ appeared in August 1986. Published quarterly at that time, it was designed to meet the need for regular provision of information of practical value to the profession. The Writ has continued to serve the profession well in the intervening years.

In previous survey exercises we have received positive feedback about the accessibility of the journal, as a relatively quick and easy read, its local interest and relevance.

In thinking about the development of The Writ therefore we have sought to preserve and build on these strengths.

At the same time we have recognised that new technology, notably the Society website, has opened up more immediate means of making basic information available to the profession, and indeed to the public.

So we are attempting to place The Writ within a broader strategic context of improving all our communication and services, particularly those provided for the benefit of Society members.

I would like to mention a particular feature of our planned development to which I personally attach a high value.

In the course of contacts with the profession during my time as President, again and again I have been struck by the absence of information about what is going on within the Society. At the same time my appreciation and admiration for the many colleagues who serve selflessly on the Council and Committees of the Society has become the more profound. The obvious information gap does need to be addressed, and so we plan in coming months to communicate on a more systematic basis about the work of the Council and Committees.

In one sense there is nothing new under the sun and the theme of better communication was very much to the fore at the inception of The Writ.

I hope that the new format will not only renew the commitment of the Society to a more effective communication but will do so in a way which symbolises a modern, professional approach on the part of the Society in the conduct of our business.

Finally a word about participation. Within the next few months we will be organising a meeting with representatives of local associations about The Writ, the Society website and other communications issues.

This will provide an important opportunity not only to receive feedback on the new format but also to canvass further suggestions as to how The Writ can be improved. In the meantime, however, I would encourage all readers to let us know what you think by writing to the Editor.

We will be delighted in particular to receive articles (or even ideas for articles), which you think might be of interest to professional colleagues.

Thank you in anticipation of your continued support for The Writ.

J A Donnelly
President
Coming Soon...

From 1st November the Northern Ireland Legal Services Commission assumes its full responsibilities. In this article the Chief Executive of the Law Society, John Bailie offers a preliminary analysis of some of the implications for the solicitors’ profession.

If the new Legal Services Commission was opening at a cinema near you, what type of movie would it be? Charlie's Angels? The Usual Suspects? Mission Impossible, or maybe Apocalypse Now?

Much depends on your point of view or to whom you listen. Almost certainly the reality will confound both the hype of the pre-publicity and the worst of the rumours. So what can we anticipate at this early stage?

Context
The Commission is of course a government production, screen play in the Access to Justice Order, financing by the Treasury, directed by the Lord Chancellor. The main plot and themes are familiar, largely uncontroversial and have many positive features. Judging by the advance publicity we will continue to hear much about independence, value for money, high-quality legal services, meeting unmet need, accountability, and modernisation under the rubric of improving access to justice. By and large the values and objectives of the Commission are likely to be shared by the Society. Anyone who understands the realities of modern professional life will recognise that the interests of the profession lie in the promotion of value for money, accessible well-regulated efficient and consumer-friendly practice. A properly resourced administration of publicly-funded legal services is welcome and overdue. It may well be to the benefit of the profession to put an end to the perception, even if misconceived, that there has been an irreconcilable conflict of interest in the Society’s involvement in legal aid administration.

We can expect that in the coming months there will be much more of this new-found and didactic enthusiasm for improving access to justice. We should welcome fresh interest and insights into the many problems which lie ahead in securing genuine improvements in access to justice. This is so, notwithstanding the natural scepticism of those who have been concerned about these matters for many years, and in particular the solicitors who have been involved in the grindstone business of actual delivery of access to justice day-in and day-out in communities throughout Northern Ireland.

At the same time, we need to be clear sighted about the less obvious sub-plot.

Perhaps the grimmest of many ironies surrounding the establishment of the Commission is this: under the banner of improving access to justice the Government is imposing for the first time a cap on civil legal aid. What has always been a demand-led service responsive to need is to be abolished. Crucially, however, there is no commitment to provide additional resources to meet unmet need. The policy underpinning the new arrangements, dressed up in the respectable vocabulary of better ‘targeting’ in fact involves robbing Peter to pay Paul or, perhaps, better still, getting someone else (the Commission) to do the job (and take the rap).

The justification for this is said to be cost, and specifically the rate of increase in overall expenditure on legal aid over recent years. When we see these figures, it is worth remembering some key facts about which little will be said. There is the hard evidence that the base line against which these increases are calculated suggests strongly that there has been a chronic underfunding of legal aid provision in this jurisdiction for many years. See, for example, the comparative per capita figures set out below:

### Legal Advice and Assistance and Civil Legal Aid - Expenditure per Head of Population

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<td>97/98</td>
<td>98/99</td>
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<tr>
<td><strong>Gross Expenditure per head of population (£)</strong></td>
<td>14.40</td>
<td>14.85</td>
<td>12.10</td>
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<tr>
<td><strong>Expenditure (£million)</strong> (net)</td>
<td>11.30</td>
<td>14.16</td>
<td>52.90</td>
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<tr>
<td><strong>Net expenditure per head of population (£)</strong></td>
<td>6.77</td>
<td>8.43</td>
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Then there is the fact that, despite legitimate concerns about the level of increase in unit costs per case, no funds have been available to the Legal Aid Department to research the causes. Whatever the causes of the increases, these are unlikely to be attributable to increased profit margins for solicitors.

To take an obvious example, in the period from 1996 to 2003 criminal legal aid rates have not been increased at all. Contrast this with salary increases in the public sector which over the same period amount to some 25%.

We need to be clear also as to the very limited sense in which the Commission is independent. It is patently true that the Commission is independent of the profession. Whether it is independent of the Government in any meaningful sense is seriously open to question. The Access to Justice Order confers on the Lord Chancellor an extraordinarily extensive range of controls. At a conservative count the Lord Chancellor has some 50 powers to prescribe for and direct the Commission. Any objective review of the nature of the powers reserved to the Lord Chancellor will confirm that the autonomy of the Commission is severely circumscribed. It is government by remote control.

The Commission is undoubtedly a blockbuster with high production values. There are of course many positives here, apart from more obvious benefits such as improved staff working conditions. The process of determining the needs of the Commission for purposes of its core business of administering legal aid, and the high level of political commitment to the success of the Commission are potentially productive. To date these factors have secured greater resources on a more stable basis and an acceptance, if only tacit, of the resource problems under which the Legal Aid Department has laboured.

We will perhaps now see an end to the scandalous and commercially crippling delays in payment.

However we should have a healthy wariness about this addition to the public sector superstructure and its inevitable tendency to generate disproportionate systems, to over-manage and to manufacture work for other people. As has been recently observed Belfast is already the European Capital of Bureaucracy.

**Composition and Credibility**

The cast-list is impressive (see details elsewhere in this edition). Headed up by Sir Kenneth Bloomfield through the public appointments process including the new Chief Executive, Gerry Crossan, will bring to their roles a well-intentioned and serious minded commitment.

We should have a healthy wariness about this addition to the public sector superstructure and its inevitable tendency to generate disproportionate systems, to over-manage and to manufacture work for other people. As has been recently observed Belfast is already the European Capital of Bureaucracy.

So far as the profession is concerned, it is important that we should not rush to judgement. We are entitled to expect the same of the Commission.

But we should not pretend that there is no cause for apprehension. Let me set out briefly the reasons why we are right, at the least, to reserve our position.

First the Commission contains no solicitor with recent experience of private practice. With no disrespect to the Commission members, there is a world of difference between the secure public sector environment within which the majority of them have achieved distinction and the ‘eat what you kill’ environment of modern legal practice. Solicitors deliver professional services within the small business sector. As such, they are subject to the same pressures, in terms of the burden of government regulation, taxation and other overheads as the rest of that sector.

It would be unwise not to be alert to the potential difficulties which the predominance of a public sector culture may create in the relationship between the Commission and the profession.

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Criminal Legal Aid - Expenditure per Head of Population

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<td>Expenditure (£million) (net)</td>
<td>17.55</td>
<td>15.93</td>
<td>82.08</td>
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<tr>
<td>Net expenditure per head of population (£)</td>
<td>10.51</td>
<td>9.48</td>
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*The Waterfront Plaza - the new Headquarters of the Legal Services Commission*
Secondly there is the structural dominance of the Lord Chancellor to which I have referred. From all we have seen to date, particularly through the enactment of the Access to Justice Order, the script for the Commission is being written in London, there is little or no room for improvisation, for adjustments to the script or use of the local dialect. None of this is promising, but again we can hope that our concerns in this respect will prove groundless.

Thirdly there are particular sensitivities arising out of the advance publicity which has been far from reassuring. It would be unrealistic to imagine that there are no potential problems attaching to any suspicion, however unjustified, of an anti-lawyer predisposition within the Commission.

The Chairman, Sir Kenneth Bloomfield is a class act and a person of exceptional distinction. As the profession cannot help but be aware, one of Sir Kenneth’s many previous roles was as the designer of the Trojan horse which enabled the Government to secure a decisive breach in the walls of the court-based criminal injuries compensation assessment process.

That system had been unsuccessfully besieged on previous occasions and was laid waste, incidentally, in the face of unanimous cross-party opposition from the Northern Ireland Assembly. This particular scar may be of little permanent significance, and it would be unfair, and in some cases ludicrous to regard the Commission members as mere apparatchiks. Nevertheless there have been other more recent indications of a tendency to pre-judge the issues.

According to Sir Kenneth by 5th September (Belfast Telegraph) it had been determined by the Commission that there is a need for ‘radical reform’. Within that piece and elsewhere Sir Kenneth proceeds from premises which are part-informed or contentious or research-dependent.

It may be that there is a need for radical reform and the Law Society needs to be ready and willing to engage in fair-minded debate.

What is remarkable and disturbing is that these conclusions have been reached by the Commission based on minimal experience of the subject-matter, no research, no substantive briefings on these matters other than from the sources of which the Commission is meant to be independent, and on no prior discussion with the Law Society. We are right, and fully entitled, to be concerned.

Consultation

In these circumstances, where the practising profession are not within the counsel’s of the Commission, much will depend upon the approach and attitude of the Commission. Solicitors, whether regarded as customers of the Commission, stakeholders in the Commission, partners with the Commission or providers of legal services to clients funded by the Commission have been given no formal part to play. Whether this is a good or bad thing may depend on your perspective.

What is undeniable is that the double whammy is to deprive the Commission of the benefit of the distinctive experience and perspective of the private practitioner, and at the same time to diminish the confidence which the profession can at this early stage repose in the Commission.

This being so I suggest that the way in which the Commission chooses to set about its task is vital. I hope that our initial concerns are not well founded. I hope also that the Commission will make every effort to proceed in a spirit of co-operation, on the basis of agreed and unbiased research, with the aim of building on the strengths of the present system rather than undermining it. I hope the Commission will also demonstrate a willingness to contend with rather than be supine before funding provision which is inadequate to meet unmet need.

The degree to which the Commission will enjoy the confidence of the profession will be in direct relation to the quality of the process of dialogue established by the Commission. The type of inclusive dialogue we have in mind can best be described by what it is not. That is, it is not the kind of consultation described by Lord Falconer as follows in The Times (16th September).

"The right course is to make clear what you are going to do and then - after consulting fully and properly - then do it."

Conclusions

The purpose of this analysis is to raise preliminary questions not only of the Commission but also of ourselves. It is possible to be positive overall about the Commission because, as I have indicated, the Commission and the profession will continue to share a commitment to improving access to justice.

Of course it would be wrong to suggest that the Commission is the enemy of the profession. We should be prepared to recognise readily that Sir Kenneth and the other Commission members are all persons of very considerable distinction, eminence, good intentions and proven ability with an impressive depth of expertise and experience. We have no reason to doubt their integrity and good faith.

It is important equally that we should not pretend that the present legal aid system is incapable of improvement and reform. We need to be realistic in our dealings with the Commission.

Major challenges lie ahead, many questions will arise for the Society and for the profession and we need to be open to new ideas, prepared for change and ready to adapt.

But we also need to continue to be robust in asserting the rights of all those who have need of access to publicly funded legal services. We must be vigilant in the protection of our independence, the integrity of the solicitor - client relationship and the defence of our core values.

Whether the Commission turns out to be a box-office smash or a dismal flop remains to be seen. I conclude with some suggestions by way of request, invitation and (free) advice to the Commission. Engage with the Society in pursuit of a common cause and proceed by agreement. Take time to listen and learn.

See the general practice network of solicitors which still exists here as an asset to be valued and refined rather than demeaned and alienated.

As with so many aspects of our situation going forward in Northern Ireland, success will be secured only through partnership and inclusion.
The Criminal Justice Review 2000 recommended that restorative justice approaches should be developed in suitable cases involving young persons. In particular it proposed a system of youth conferencing available for all juveniles.

In essence a youth conference is a meeting or series of meetings held to consider how a young person should be dealt with for an offence. The recommendations of the Review are now enshrined in the Justice (NI) Act 2002.

A Youth Conferencing Pilot Scheme will commence at Belfast Youth Court from 18th December 2003. It will apply to all young persons falling within the provisions of the legislation who both reside and commit an offence in the Petty Sessions District of Belfast and Newtownabbey.

In order to inform legal practitioners about this scheme and about their role therein, the Society has arranged for an Information and Training Seminar to be held at Law Society House on Tuesday 18th November 2003 at 2.00pm. Nigel Broderick Solicitor has agreed to act as chairman and presentations will be given by Alice Chapman, Director of the Youth Conference Service, by Raymond Kitson of the Public Prosecution Service and by a representative of the Legal Services Commission. Mrs Kelly, Resident Magistrate for the Belfast Youth Court, will also be present and will bring the seminar to a close. An Information Pack will be distributed to those attending. Attendance at the presentation which will last 1-1½ hours will qualify for CPD. Tea/coffee and sandwiches will be served from 1.45pm onwards.

For anyone involved with advising young persons at police stations in the District and/or representing them at Belfast Youth Court, attendance at this presentation will be essential. A downloadable reply slip is available at www.lawsoc-ni.org or from Lyn Williams at Law Society House.
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For a free consultation/quotiation or further information contact;

GARY MILLAR AT GMA
PINETREE LODGE, 40 TULLYHUBBERT ROAD BALLYGOWAN, NEWTOWNARDS, BT23 6LZ
TEL 028 97 528427 MOBILE 07831 530178 FAX 028: 97 521256
The Law Society’s Annual Advanced Advocacy Course was held last month with 26 successful participants, bringing to 100 the number of solicitors in this tiny jurisdiction who have completed the Course and received the Society’s prestigious Certificate in Advanced Advocacy.

The successful applicants had all earlier taken the Advanced Evidence Course delivered in the Society’s lecture room in late Spring and left firms, family, friends and phones behind for a stimulating week of demonstrations, workshops, video reviews and critiquing. All this took place under the guidance and expert tutelage of the faculty members from NITA in the USA. This year’s team was led by Bob Stein from New Hampshire, who has travelled here three times and who has cultivated a huge circle of friends and admirers from the legal profession in that time. Bob was accompanied by Brian Johnston from Minnesota, also visiting here for the third time; Terre Rushton from Colorado and Mike Kelly from California. All of use who witnessed their talent and skills over that week felt that we were privileged indeed to have experts such as these give up their time to teach our profession.

The evaluation sheets from the participants were unanimously complimentary on the quality of the teaching provided.

The Course depends very much on our American visitors but is quite unique in another respect. The Advocacy Course has developed partnerships and associations that reflect the integrity and quality of the programme and highlight the esteem in which the solicitors’ profession is held in Northern Ireland. It is impossible to set out a comprehensive roll call of all those who contributed to the delivery of this overwhelmingly successful Course but several institutions and individual should be specifically mentioned.

First and foremost the Course and the Law Society are indebted to the Institute of Professional Legal Studies, its Director, Anne Fenton and Course Co-ordinator, Senior Lecturer Fiona Donnelly. Without the Institute’s management of the course, its generous provision of the wonderful facilities at Lennoxvale and Fiona Donnelly’s tireless exertions in co-ordinating everything from adapting case files to creating timetables, the law Society could not have put the programme together.

The Bench has contributed enthusiastically to the Course by providing a number of faculty members (tutors) throughout the week and adjudicating at the mock trials held in the Royal Courts of Justice at the conclusion of the programme.

This year we were particularly gratified to see all three High Court Judges attend the award ceremony and dinner in the elegant dining room of the Ulster Reform Club.

The Bar itself lent its support by supplying a number of Bar pupils to play the roles of expert witnesses in the trial exercises during the week. Of course our most loyal and expert local faculty member, Eileen McBride, is a member of that esteemed profession.

The list goes on to include Law Society secretariat and staff, particularly Jennifer Shevlin and Yvonne Blackstock, students,
apprentices, Court Service and various members of the Northern Ireland hospitality industry. The academic world also entered the frame during the evidence module when Sean Doran, John Jackson and Mary O’Rawe delivered a series of stimulating lectures that left such a lasting impact on the participants.

All of these protagonists interacted so successfully with our own members, participants, past participants, local faculty drawn from senior practitioners and the members of the Advocacy Working Party itself, that the future success and popularity of the course is assured.

Many of the evaluation sheets testify to the satisfaction many found at working in co-operation and as a team with other members of the profession with whom they had previously thought they had nothing in common.

The aim of this Course is to enhance solicitor advocacy, to increase awareness among the profession as to its role and potential in a solicitor’s practice and to improve the skills of advocacy and confidence in oral argument of all practitioners.

Whether as advocates or litigators, the Course makes solicitors more discriminating as to the issues to be addressed and proven at an oral hearing.

Next month’s edition of The Writ will flag up the details of next year’s Course which will attract an even greater number of applicants as more and more of our members fall within the CPD criteria.

On this, the occasion of the successful conclusion of the fourth Advanced Advocacy Course, the Law Society can take a bow and feel that its endeavours are widely appreciated and its achievements are real and lasting.

Congratulations to all concerned.
My Lords, Members of the Judiciary, Distinguished Guests, Fellow Council Members, Ladies & Gentlemen. It has been the tradition at this dinner for the President to give a ‘State of the Nation’ speech and being an extremely conventional President - I will start by saying what an honour it has been for me to represent the Society this past year, both at home and on the international scene.

We lawyers must be concerned about the upholding of the rule of law wherever we practice and that is why both at the Commonwealth Conference in Australia and at the American Bar Association Conference later in the year in San Francisco, I joined with many other Bar Leaders in calling for the Guantanamo Bar detainees to be allowed to exercise the right to a fair trial and to be represented by the lawyers of their choice. When our American friends proffer advice on human rights we listen to them and I hope our expressions of concern are accepted in the same spirit.

It is a source of great pride to me to have confirmation that lawyers from Northern Ireland are held in considerable esteem by our colleagues from other jurisdictions and it is no surprise that when a complex and controversial enquiry across the water requires a person of honour and integrity to chair, a senior Northern Ireland judicial figure is chosen. I refer, of course, to Lord Hutton.

I was touched when, at a function in England recently, a young Muslim solicitor lavished praise on the Irish, North and South, for having worked through their political problems - while that may have been a somewhat simplistic way of looking at things here, we in the legal profession must do what we can to support the return of the local Assembly - the economy here not only needs stable political institutions but our people must also have more input into the political process. I was privileged to lead our delegation to Stormont which made submissions on the then draft Access to Justice (N.I.) Order.

I was impressed by the level of understanding and concern shown by the MLAS in the cross-party Committee. Unfortunately their report, which largely endorsed our submission, was ignored by the then Lord Chancellor’s Department.

The legislation was introduced by Order in Council (a system which neatly circumvents serious debate) and the Legal Services Commission, headed by Sir Kenneth Bloomfield, will take over the Society’s legal aid functions on 1st November 2003.

While the profession will be pleased to hear that on the administration front applications will continue to be processed by the Commission as heretofore until the Commission settles in, it is properly concerned that there seems to be a lack of commitment by government to increase the amount available for legal aid. Solicitors are also rightly concerned that criminal remuneration rates have not risen since 1996.

In most cases, expert witnesses are being paid at a higher rate than the solicitor in charge of the case. This is inequitable and cannot continue.

Already we see that in England where there is a contract system, firms cannot afford to do legal aid work with the resultant creeping ‘in’-access to justice. Serious concerns are being expressed, not only by the Law Society there, but also by the Bar Council whose Chair, Matt Kelly QC, is with us this evening.

The Legal Aid Department of the Law Society here has administered legal aid on behalf of government for some thirty years. In the face of financial cutbacks and resource difficulties it has sought to provide
May I say how grateful we are to Allan Johnston, Chief Executive of the Legal Aid Department and his staff and also our own Legal Aid Committee under the Chairmanship of G. Andrew Carnson, for their hard work and for helping to ensure a smooth takeover by the Commission. It is worth mentioning at this juncture that Jimmy Doran has served on that Committee almost since its inception.

Our discussions with Northern Ireland Court Service regarding the implementation of Civil Justice Reform continue, though some of us may question whether a compensation system which in Northern Ireland is inexpensive and involves no delay, requires anything other than very fine tuning. While the Society has been pro-active in drafting pre-action protocols, we have pointed out that a too-formal front leading in terms of the claims process may well result in the very expense and delay which government states it wishes to avoid.

The current County Court costs scale would have to be revised upward, with annual reviews - in short, the introduction of unwieldy English systems in this area will have to mean parity for Northern Ireland solicitors in terms of pre-action cost scales.

The Society continues to support the modernising of Property Law and the Conveyancing process. Our Home Charter quality scheme for domestic conveyancing was a first in these islands and is now compulsory for members. We welcome the computerisation of many Land Registry functions and it is our hope that compulsory first registration will not result in any other types of registration being delayed.

The Society's intention has been to simplify as much as possible the process, although clients must be made aware that only so much simplification and speed can be achieved, when solicitors are managing the house-purchase process (for that is what we do). Recent government changes on the other hand - and I refer to the more complex stamp duty collection and money laundering policing that we are required to do - do not assist us in that endeavour. With all this added work and responsibility, with the overheads that we accrue nowadays, I continue to be amazed at the very low fees some firms charge. We are a profession and I have no hesitation in reminding you that if you do not put a proper value on yourself and your services, no one else will, certainly not the clients who will be queuing at the door of our Complaints Committee when your business fails. This is an area of remuneration which within members' control and solicitors must have the confidence to charge a proper fee for a job well done - forget the quantity argument - if you are losing £100 on a file, ten files will lose you £1000 unless you are living in Arthur Anderson land!

It is regrettable, but vital, that the Society has proper complaints investigations and monitoring procedures. There is a responsibility on all of us to run our practices efficiently - if we fail to do so the profession as a whole will suffer - not only in claims resulting in increased insurance premiums (I commend our Professional Indemnity and Risk Management Committee for the hard work they have done in keeping our professional premiums at a tolerable level to date) but also in the complaints processes being taken out of the Society's hands. In this regard, I emphasise the considerable lay involvement in our client complaints procedure.

It is also comforting to be able to tell you that the Lay Observer’s Report was again positive this year - just the latest in a series of positive endorsements of the efficiency of the Society's procedures, not just by the present distinguished Lay Observer, but also by all of his illustrious predecessors.

It is, however, with unease that the Society has watched our colleagues in England and Wales proclaim the advent of 'Tesco Law'. Serious questions remain as to how the Law Society there proposes to regulate and supervise solicitors employed by large companies to dispense legal services 'over the counter'. The Society has no doubt that legal services in Northern Ireland should continue to be provided by the excellent network of small firms of solicitors, solicitors who comprise a truly independent legal profession.

We also see difficulties of regulation in the English proposal for multi-disciplinary partnerships (MDPs) - the fact is that in the wake of Enron and World. Com. Every professional body of lawyers in these islands, with good reason, opposes MDPs except for the Law Society of England and Wales.

On a more pleasant note our compulsory Continuing Professional Development (CPD) scheme continues to flourish and I commend our membership and our local associations for the positive way in which they have embraced the scheme.

Our energetic Alternative Dispute Resolution Committee has been working hard as ever, and I was very pleased to be asked to present their Accreditation Certificates. This is an area of work which is expanding and it is good to see our members taking such an interest in ADR. The Advanced Advocacy course was again a tremendous success and the organising Working Party is to be congratulated as are the participants and our American colleagues who act as tutors.

I want to extend a very personal thanks to all of you who attended the Annual Conference at Ashford Castle. I want also to thank my organising team, (who even got the weather right!) and of course, our most generous sponsors.

The Council of the Society has shown foresight in approving plans for a new Law Society House. Members will know that the building needs considerable refurbishment at present and the lack of accommodation for our staff has reached the stage where it is unacceptable. Building costs do not come down, and although there will no doubt be short term problems for our staff when work begins, there will be great gains for them and for our membership in the long term.

The Society in serving the profession, depends greatly on the hard work and commitment of our Council members and Committee co-optees who travel from all over the province and who do not get paid for the time they give on behalf of the membership. I would like to acknowledge their tremendous contribution.

We are keen to keep our members abreast of all developments and in this connection we hope the new look Writ [our in-house magazine] will also help us to that end.
At the Council Dinner...

(L-R) Mr Ian McMorris and Mr Brian Brown.

(L-R) Mr Colin Gowdy, Mr George Palmer and Mr Alastair Rankin.

(L-R) Mr Michael Lavery QC, Master John Wilson QC and Mr John Comerton.

(L-R) His Honour Judge Marrinan QC, Mr Brian Stewart, Ms Suzanne Bryson, His Honour Judge Finnegan QC.

(L-R) Mr Denis Mackie and Mr John McCormick.

(L-R) Mr Pat Toal, Ms Petra Shiels, Mrs Mary O’Neill and Mr Oswyn Baulin.

(L-R) Mr John Pinkerton, Mr Alan Hewitt and Mr Norville Connolly.

(L-R) Mr Andrew Carnson, Mr Alan Shannon and Mr Tom McGrath.

(L-R) Mr Gary Thompson, Mr Richard Palmer, Mr Steven Miller and Mr John Ross.

(L-R) Mr David Preston (Past President, Law Society of Scotland), The Honourable Mr Justice Weir (Speaker), Mrs Catherine Dixon and Mr John Witchell.
(L-R) Mr John Witchell, Mr Lowry Manson and Mr Sid McDowell.

(L-R) His Honour Judge Hart QC, Mrs Agnes Donnelly and the President.

(L-R) Mrs Catherine Hewitt, Master Charles Redpath and Mrs Ethne Harkness.

(L-R) The Right Honourable Lord Justice Campbell, Mrs Jeanette Jones and Ms Michelle Edgar.

(L-R) Mr John Meehan, RM and Mr Eugene Creally.

(L-R) Mrs Joan Harbinson, Mr Mike Mills and Mrs Laura Cuthbertson.

(L-R) Mr Alan Logan, Mr James Doran, RM, Mr Maurice Butler, Mr Richard Wilson.

(L-R) Mrs Nuala O’Loan and David Lavery.

(L-R) Mrs Anne Fenton, the President and Mrs Sarah Witchell.

(L-R) Mr John Bailie greets Mrs Anne McCann.
Three's a Crowd
When taking instructions from a new client it is always important to establish immediately whether there will be any third parties involved in the work.

It could be that there will be other professionals involved, accountants or surveyors, for example.

Alternatively, your firm could be using two different departments to advise on separate issues or you could be acting with lawyers outside the jurisdiction.

Whatever scenario you find yourself in, it is important to be aware that joint instructions are a common cause for notifications being made against a solicitor’s professional indemnity insurance.

Often, if one party is negligent when working on joint projects, all parties will be held partly responsible.

When working in conjunction with either another professional firm or another department or office within the practice, it is important to establish proper working guidelines at the outset. Below is a list of action points which should be implemented when working with joint parties:

• Sit down at the beginning of the case with all parties and the client and agree areas of responsibility and time limits.

• Make sure that this meeting is properly minuted and distributed to everyone involved. The minutes should show who is responsible for which area of work and should also include a clear timeline with all deadlines highlighted.

• Confirm that all parties agree the minutes and time limits.

• Update your office calendar and files with all the time limits, even those for the other parties involved.

• If confidentiality agreements allow, organise regular meetings with written updates from all parties, so everyone knows how work is progressing.

• If the timetable needs amending, you must check with all parties and the client that everyone still has time to complete work in a timely fashion.

• Keep clear records of all telephone conversations, e-mails and faxes from the other parties and in all cases date and sign written records and include names of all participants where necessary.

• Keep your client properly updated. More often than note a client does not fully understand what each party is doing or what has already been completed. If the client is kept informed at all stages of work being undertaken, he is less likely to make a notification against one or all of the parties.

Good risk management is the key to working with third parties. If you have the above procedures in place, and your general risk management is good, then the chance of your practice being held partly responsible if another party is negligent, will be minimised.

This column was prepared by Alexander Forbes Risk Services UK. This article first appeared in ‘The Gazette’, the journal of the Law Society of England and Wales, 100/23 12 June 2003.
The European Lawyer

• MyTravel (formerly Airtours), Britain’s largest tour operator, is seeking record damages in the sum of £518m from the European Commission. In a landmark judgment, the Court of First Instance, the lower court at the European Court of Justice, ruled last year that the Commission had blocked a merger between Airtours and First Choice on the basis of a hypothesis it could not prove. MyTravel’s legal challenge marks the first time a company has claimed damages from the European Commission on the grounds that it wrongly blocked a deal.

• The European Commission has adopted (June 2003) a proposal for a new piece of EU legislation aimed at harmonising the rules on non-contractual obligations. The goal of the legislation is to ensure that courts in all Member states apply the same law to cross-border disputes involving non-contractual liability. The initiative focuses on the question of civil liability for damage caused to others, particularly in the case of road traffic accidents or accidents caused by a defective product.

• In a landmark judgment, the Court of First Instance overturned an £273m fine imposed by the European Commission on 15 ship owners, but upheld the ruling that an agreement between the companies to coordinate freight rates infringed competition rules. The Court of First Instance delivered its judgment on 1 October 2003.

We are grateful to Fionnula Connolly BL for this update on EU developments.

• Can Nestle register the slogan ‘Have a Break’ for their chocolate bar as a separate trademark? The Court of Appeal has decided that the issue is of far reaching importance in the EU and therefore should be decided upon by the European Court of Justice. The case was referred to Luxembourg before the summer.

• On 23 October 2003, the Court of First Instance in Luxembourg will deliver judgment in one of the most prominent and long-running Irish cases before the European courts. Van den Bergh Foods is asking the CFI to annul a European Commission decision which held that its exclusivity arrangements for the provision of ice cream freezers to retailers was contrary to EC competition law. The judgment concerns the Irish market but has important implications for all other Member states.

• The European Commission has taken legal action against the United Kingdom and Ireland for failing to comply with EU waste laws. The rules relate for example to general waste management, hazardous waste, landfills, packaging waste and sewage sludge. According to the Commission, if the member states do not properly implement the laws, they may face serious problems such as illegal dumping. In January 2002, the European Court of Justice condemned the United Kingdom for failing to adopt waste management plans in compliance with three EU directives.

Legal Appointments

General Solicitor, Fermanagh.
Small general practice seek lawyer with general litigation exp. Great opportunity to join dynamic team. 3 yrs PQE.

General Solicitor, Co Tyrone.
Excellent opportunity to join prestigious practice. Opportunity towards partnership. 3-7 yrs PQE.

2 x Criminal Solicitor, Belfast.
Busy city centre practices seek experience lawyers. 1-6 yrs PQE.

Matrimonial Solicitor, Belfast.
Expanding firm require ambitious lawyer. 1-5 yrs PQE.

Conveyancing Solicitor, Belfast.
Excellent opportunity to join reputable firm. Fantastic career prospects. 3-7 yrs PQE.

General Solicitor, Co Tyrone.
Great opportunity to join expanding practice, suit Newly qualified - 4 yrs PQE.

For more details contact Orla or Brona on Blueprint Legal Appointments on 90 323333 or email legal@blueprintappointments.com
AFP CONSULTING LAUNCH EVENT

Following the recent acquisition of The Ridley Partnership, AFP Consulting celebrated the launch of its business in Belfast at the Alexander Forbes offices on 9th September.

AFP Consulting’s Managing Director, Jane Ridley, and Stephen Park, who has been appointed to head the Northern Ireland business, lead the celebrations. Many dignitaries, clients and intermediaries attended the event, including John Pinkerton – the incoming President of The Law Society of Northern Ireland.

AFP Consulting provides a range of management consultancy services to the legal profession, assisting practices on all aspects of practice management from quality standards (such as Lexcel) and risk management to strategic and business development, marketing, money laundering, human resources, and IT.

For further information on AFP Consulting, please call: 0845 600 2729 or email: consulting@aforbes.co.uk

Please see adjacent page for details of our forthcoming CPD seminar programme.
Adopting good practice management and best practice to ensure a quality service is the key to future success. This seminar will provide valuable insights into quality management for those considering introducing a quality management programme into their practice.

This seminar features information on how the money laundering regulations (MLR2003) will affect your practice. The seminar covers: money laundering strategies, the legislation, responsibilities of the nominated officer, Suspicious Transactions Reports, protected disclosure and statutory immunity, record keeping and internal reporting procedures, ethical issues.

This seminar examines: the Trustee Act (Northern Ireland) 2001 (which is a considerable development in the legislation relating to the powers and duties of trustees); the regulatory issues raised by the Financial Services and Markets Act 2000; statutory duty of care; general powers of investment; and the role and responsibilities of trustees.

Gaining and retaining clients through seminars and business functions. Many professional practices invest substantial amounts of money and time hosting and attending seminars, hospitality events and other professional networking functions. Learn how to make the most of these important business development opportunities.

Building profits through improved client care. Learn how to increase repeat business, build client loyalty and keep clients happy - a key factor in competitiveness. It has never been more important for practices to provide excellence in client care.

Seminar examining the complex issues surrounding the long term care of the elderly.

Speakers include a representative from Help The Aged.

For more information or to reserve a place on any CPD seminar, please copy & fax form to 028 9023 3902.
The Northern Ireland Legal Services Commission is a non-Departmental Public Body established under the provisions of the Access to Justice (Northern Ireland) Order 2003 and will replace the Legal Aid Department of the Law Society of Northern Ireland. The Commission will be responsible for administering publicly funded legal services and will be accountable to the Secretary of State for Constitutional Affairs.

The Chair and members of the Commission are as follows:-

**The Chair**

**Sir Kenneth Bloomfield, KCB**

Education at Oxford, Sir Kenneth Bloomfield, KCB is an Honorary Fellow of St Peter’s College, Oxford and holds Honorary Doctorates from Queen’s University, The Open University and the University of Ulster. A career civil servant, he headed the Northern Ireland Civil Service from 1984 to 1991. He is currently Vice-Chairman of Museums and Galleries Northern Ireland.

**Chief Executive**

**Mr Gerry Crossan**

Educated at Queen’s University, Belfast and the University of Ulster, Gerry Crossan is currently Head of Corporate Services with the Northern Ireland Council for Curriculum Examinations and Assessment, a position he took up in January this year. Prior to this he was Director (Corporate Services) with the Labour Relations Agency and has also worked in the Rivers Agency, the Northern Ireland Audit Office and the Department of Finance and Personnel. Mr Crossan has a high level of professional knowledge of accountability and performance management within public sector organisations.

**Mr Les Allamby**

Educated at Durham University and Queen’s University, Belfast, Mr Allamby has been the Director of Northern Ireland Law Centre since 1994, where he has worked from 1982. He spent six months in Bombay in 1991 carrying out research into international drugs law and has monitored and supervised elections in Bosnia and Pakistan for the OSCE and European Union.

**Mrs Maeve Bell, OBE**

Educated at Queen’s University, Belfast, Maeve Bell was Director/Chief Executive of the General Consumer Council of Northern Ireland from 1985 until 2003. She has been a member and Vice Chair of the Sports Council for Northern Ireland, a member of the Higher Education Review Group and a member of the Broadcasting Council for Northern Ireland.

**Professor Sean Doran**

Sean Doran is Professor of Law at Queen’s University, Belfast and a practising member of the Bar of Northern Ireland. He is also a member of the Council of Legal Education for Northern Ireland. He was educated at Queen’s, where he graduated in law in 1985 and at Trinity Hall, Cambridge, where he attained an M.Phil in Criminology in 1986. Subsequent to his call to the Bar in 1987, he lectured in Law at the University of Manchester from 1988 to 1993. He returned to Queen’s as a senior lecturer in 1994 and has been a Professor since 2000. His specialist subjects are Criminal Evidence and Procedure.

**Ms Breidge Gadd**

Educated at Queen’s University and the University of Ulster, Breidge Gadd was the Chief Probation Officer in Northern Ireland from 1986 to 2000. She is currently a Board member of the New Opportunities Fund and a Development Officer for the De Bono Foundation, as well as being involved in voluntary work for a number of other organisations.

**Ms Jennifer Greenfield**

Graduating in Law in 1982, Jennifer Greenfield spent a number of years as a Solicitor in private practice. In 1993 she joined the Equal Opportunities Commission for Northern Ireland and its successor, the Equality Commission in a job sharing position as Legal Director.
Dr Jeremy Harbison, CB

Dr Harbison graduated in Psychology from Queen’s University in 1964 and completed a D.Phil in the same subject at the University of Ulster in 1983. After a ten year spell as a Clinical and Research Psychologist with Belfast City Hospital and Queen’s, he joined the Northern Ireland Civil Service in 1974.

He has held the post of Deputy Permanent Secretary at the Department of Health and Social Services, the Department of the Environment and the Department of Social Development. He is currently Chair of the Northern Ireland Social Care Council and Honorary Vice President of the Northern Ireland Council for Voluntary Action.

Mr Frank Hewitt

A graduate of Queen’s University, Belfast, Frank Hewitt has spent his career within the industrial development field, first with the Department of Commerce for Northern Ireland in West Germany and then with the Industrial Development Board.

His career has included spells as HM Consul in Los Angeles and Chief Executive of Growth Challenge, Northern Ireland. He was Deputy Permanent Secretary at the Department of Culture, Arts and Leisure from 2000 to 2002 and is currently Chief Executive of the Northern Ireland Chamber of Commerce and Industry.

Mr Micheal McCoy

A graduate in Rural Economic Development at University College, Galway, Micheal McCoy has spent his career working in the agricultural, rural and livestock sectors.

He is currently a manager within the European Rural Programme. He was Chairman of NIAPPA from 2000-2002 and he has continued to farm since leaving school.

Mr Peter Osborne

Peter Osborne has extensive experience working with statutory agencies, both in the North and South of Ireland. A consultant in the business sector, Mr Osborne has also carried out economic, community and enterprise relating projects in the UE, Eastern Europe and the USA. He has been a self-employed consultant since 1999. He founded and chairs Landmark East, a not-for-profit urban regeneration business.

Mr Ronny Spence, CB

Mr Spence is a company director and a consultant. He is also an Honorary Senior Research Fellow of the Institute of Governance at Queen’s University, Belfast and Chair of the Northern Ireland Community Convention. Mr Spence was formally a civil servant and was Permanent Secretary of the Department for Regional Development from 1999 to 2001.

Contact details for the new Legal Services Commission are:-

Legal Services Commission
2nd Floor, Waterfront Plaza
8 Laganbank Road
Mays Meadow
Belfast
BT1 3LR
Tel: 028 90 246441
Fax: 028 90 408990
Email: accesstojustice@nilsc.org.uk

Republic of Ireland Agents

All legal work undertaken on an agency basis
All communications to clients through instructing solicitors
Consultations in Northern Ireland if required

Contact: Seamus Connolly
S.C. Connolly & Co. Solicitors
Bank Building or Arran House
Hill Street 35/36 Arran Quay
Newry Dublin 7
County Down Tel: (01693) 65311
Tel: (003531) 8725622
Fax: (01693) 62096 Fax: (003531) 8725404
This is the first of two articles concerning the introduction of Stamp Duty Land Tax on 1 December 2003 and sets out the new processes for notifying the Inland Revenue of a transaction in land and buildings in the UK by the completion of submission of new Stamp Duty Land Tax return forms.

Introduction

The Finance Act 2003 sets out the framework for Stamp Duty Land Tax, which will be introduced on 1 December 2003 to replace the existing stamp duty regime on UK land and buildings for all transactions completed on or after that date. Stamp duty in its current form will therefore cease to apply to transfers of other property for contracts entered into on or after 1 December 2003.

Reform of the stamp duty regime paves the way for the introduction of e-conveyancing systems which will allow purchases of property to be effected or registered electronically, making the acquisition of property faster and more efficient.

The vast majority of individuals buying or renting residential property will see no immediate changes under the new regime, though there will be some administrative changes of which practitioners need to be aware. In most residential purchase cases liability to Stamp Duty Land Tax should be reported and duty paid, as now, within 30 days of completion.

The reform builds on measures introduced in Finance Act 2002 to tackle avoidance of stamp duty on certain property transactions, and modernises the compliance regime for stamp duty by bringing it into line with other taxes and incorporating appropriate enforcement powers. There will be new processes for reporting the details of land transactions and for paying any tax due.

Scope of stamp duty land tax

Broadly the scope of Stamp Duty Land Tax will cover all transactions involving land in the UK. There are a number of exclusions, including mortgages and similar security interests, licences to use or occupy land and transactions for no chargeable consideration. The charge will include transfers of freehold property and assignments and assignations of leases, grants of leases (including in Scotland, exchange of missives of let), and options and rights of pre-emption in respect of land transactions.

Reform of the stamp duty regime paves the way for the introduction of e-conveyancing systems which will allow purchases of property to be effected or registered electronically, making the acquisition of property faster and more efficient.

There will also be a charge on contracts for land transactions which are 'substantially performed' either by the payment of rent, or by the payment of substantially the whole (normally at least 90%) of the purchase price or because the contracting purchaser takes possession.

The new regime will expand a range of anti-avoidance powers to discourage the transfer of properties into companies (sometimes called special purpose vehicles) in certain circumstances. A number of changes to the group and acquisition relief clawback provisions will be introduced with immediate effect, including extending the period in which these clawbacks can be withdrawn to three years.

It will also see the abolition of stamp duty on transactions involving property other than land, shares and interests in partnerships.

This de-regulation will take many transactions out of stamp duty altogether, including transfers of book debts and other receivables.

The existing stamp duty regime will continue to apply to stocks, marketable securities and bearer instruments, and transfers of land into or out of partnerships by partners or former partners, and acquisitions of an interest in a partnership. It may also apply to transactions completed and leases granted on or after 1 December 2003 where those conveyances and leases fulfilled contracts or agreements entered into on or before Royal Assent of the Finance Act 2003 on 10 July 2003.

Stamp Duty Land Tax will also introduce the concept of a 'liable person' for the purposes of the tax. In most cases this will be the purchaser or lessee - whoever is acquiring the benefit of the property.

Further consultation

Consultation will continue on certain key aspects of the regime.
These include the transfer of land into and out of a partnership by a partner, and the transfer of interests in partnerships that hold UK land, the approach to large developments, sale and leaseback deals and securitisation of land. Any changes arising from the consultation may be enacted either on implementation of the new regime or in Finance Act 2004.

The new process from 1 December 2003

Stamp Duty Land Tax is a tax on transactions, not documents. For transactions in land and buildings in the UK, completed on or after 1 December 2003 you will no longer need to send in documents for stamping but will be required instead to complete and send in a land transaction return (SDLT 1) to our data capture centre. The land transaction return should be submitted to notify:

- any transfer of a freehold or assignment of a lease for consideration, whether or not giving rise to a charge
- any transaction for which relief is being claimed
- the grant of a lease for a contractual term of 7 years or more or which gives rise to a charge
- any other transaction giving rise to a charge

N.B. Transactions where the rate is 0% will be notifiable, under Stamp Duty Land Tax, from 1 December and a land transaction return will need to be completed for these transactions. The 0% upper threshold remains at £60,000 for residential transactions but rises to £150,000 for non residential transactions. A list of the circumstances in which no land transaction return is required but where a self certificate will be required by HM Land Registry, Registers of Scotland or Land Registry Northern Ireland for registration of title or documents, is detailed at the end of this note. For example, when there is a transaction in connection of a divorce. Particulars Delivered forms are no longer needed, and will not be accepted, for transactions completed on or after 1 December 2003.

Although there are six pages to the new form, for most transactions (eg. simple residential conveyances), less than half the boxes will need to be completed. The information requested is necessary for the correct liability to be established and for the tax to be properly and fairly administered. Comprehensive and accurate data supplied to us will be invaluable in building up a detailed picture of the property market and will help inform possible future policy and operational decisions on Stamp duty Land Tax.

For the vast majority of straightforward conveyances, the completion of the land transaction return and its submission to us along with the correct payment will be all that will be required of you.

Where additional information is required supplementary returns are required as follows;

SDLT2 - where there are more than two vendors (sellers) and/or two purchasers (buyers)
SDLT3 - where land is involved and further space is required in addition to the space provided on SDLT 1
SDLT4 - for complex commercial transactions and leases.

You will be able to obtain land transaction returns, supplementary forms and guidance notes on how to complete the forms, from the IR Orderline by telephoning 0845 302 1472 from 17th November. To assist this changeover, Stamp Offices will be forwarding blank land transaction returns when returning documents to you during November, for your use from 1 December for transactions within the scope of Stamp Duty Land Tax.

In line with other taxes administered by the Inland Revenue, the new arrangements for Stamp Duty Land Tax are built on the basis of a ‘process now, check later’ system. In order to undertake the ‘check later’ part of this, from the filing date of the return, there will be an ‘enquiry window’ (the period during which the Inland Revenue can open an enquiry or an individual can request that an enquiry be opened into a transaction) and accordingly we will select a small number of transactions for enquiry. This will be a period of nine months for all transactions. In those cases we will ask for supporting evidence concerning the particular property transaction. All records supporting transactions must be kept for six financial years from the effective date. It is the responsibility of the purchaser to ensure records are kept. Examples of the types of records that need to be retained are detailed below but the list is not exhaustive;

- a contract/agreement for sale and any related papers
- professional valuations of the land, if such valuations were obtained at the time, and any apportionments of consideration to chattels (movables),
- relevant instruments relating to the transaction, in particular any contract or conveyance, and any supporting maps, plans or similar documents

There will be transitional provisions for land & property transactions that take place around the December 2003 changeover date. These transitional provisions are contained in Schedule 19 Finance Act 2003. This Schedule provides the rules for determining whether a transaction, entered into prior to 1 December 2003 which is completed after 1 December, is chargeable to Stamp Duty or Stamp Duty Land Tax. A flowchart is available to help you decide if the transaction is subject to Stamp Duty Land Tax on our website at: www.inlandrevenue.gov.uk/so/sdlt_flowchart.pdf

Also, information and examples our provided in our Customer Newsletter Issue 3 available at www.inlandrevenue.gov.uk/so/newsletter3.pdf.

Submission of plans

Accurate identification of property is of vital importance. If you are able to find out the National Land and Property Gazetteer Unique Property Reference Number (UPRN) (box 31 on the land transaction return), you should enter it on the return, as this
will assist greatly in ensuring the correct identification of the property. Many Government Departments will increasingly identify property with this number. The aim is to allow for any citizen or business to quote the reference to any Government department, Local Authority or public utility. This will, in the long run, save time.

However, a plan submitted with the return can also be of great help in the identification process for certain types of property. Plans are required for development land, agricultural land and small ‘garden’ plots. You do not need to submit plans for domestic property - this includes new housing developments where properties are often referred to by plot numbers.

Completing and signing the land transaction return

The detailed guidance notes should be used when completing the form which must be completed in black ink. The completed land transaction return must legally be signed by the purchaser (buyer). If there is more than one purchaser it must be signed by all purchasers. The return may not be signed by the purchaser’s solicitor or agent, although the holder of a Power of Attorney may sign. The holder of a Power of Attorney must indicate they are signing in that capacity within the land transaction return.

The purchaser’s National Insurance number is only required where the purchaser, or one of the purchaser’s, is an individual, rather than a company.

The Inland Revenue’s main record system uses National Insurance numbers and as part of our modernisation programme we are linking into this system. This will allow Stamp Duty Land Tax to be administered more efficiently and fairly.

This is again in line with our other mainstream taxes. We do however appreciate that not all individual purchasers may have a National Insurance number for example if the purchaser is a non-UK national. Our guidance notes to the form cover what you need to do in these circumstances.

Each form has a unique reference number, so photocopies may not be used.

We are currently looking at a number of ways to allow the form to be completed on-screen and are working closely with representative bodies and others.

We’ll keep you informed of our progress as we appreciate that many of you would welcome the opportunity to complete the form this way. Please look out for information about this in future bulletins and on our website.

Where to send the land transaction return

The land transaction return must be sent to the Inland Revenue’s rapid data capture centre within 30 days of the effective date of the transaction. The full address is:

Inland Revenue
Stamp Taxes
Comben House
Farriers Way
Netherton
Merseyside L30 4RN

It is important not to send the returns to local Stamp Offices as this will delay the issue of a certificate. Local offices will not be able to process land transaction returns and will re-direct them to the data capture centre. You should send payment of Stamp Duty Land Tax at the same time as you submit the land transaction return. Payment may be made by:

- Cheque, enclosed with the return
- electronic payment (BACS, CHAPS etc.)
- at your bank or Post Office using the payslip

Envelopes will be available, via the Orderline, with the Netherton DX (Document exchange) number provided for those firms that have this postal service.

What happens at the rapid data capture centre

The Inland Revenue’s rapid data capture centre in Netherton is one of the sites used for scanning a variety of Inland Revenue forms. This is where completed land transaction returns will be scanned and the data ‘optically-captured’ in order to produce a Stamp Duty Land Tax certificate. Centralising and automating the process in this way will streamline the capture of your property information data and the production of the certificate with the aim of providing rapid and consistent turnaround times for you throughout the year. It is worth noting that our local Stamp Offices will not have this scanning facility so will be unable to offer an alternative
service to that provided by the Netherton centre.

The return will only be processed if it contains:

- a unique reference number
- the liable person’s name and address (the liable person is generally the purchaser)
- a signed declaration, signed by all purchasers
- the effective date of the transaction

For the majority of transactions, the effective date is the date of completion of the transaction, whether or not this is evidenced by a document. However, if a contract is substantially performed before completion, the date on which substantial performance takes place is the effective date. Broadly, substantial performance is the point at which:

- payment of a substantial amount of the consideration (generally 90% of the total amount) is made
- the purchaser takes possession, or is entitled to possession, of the property
- the first payment of rent is made
- option or right of pre-emption - is when the option or right is acquired

Land transaction returns that do not meet these basic requirements cannot be processed and so will be returned to customers. If other areas of the form are not completed, although we may be able to accept the form for processing, we will seek that additional information through a follow-up letter. To assist us in providing you with a quality service, we would urge you to complete the return as fully as possible to avoid delays. A further article on Stamp Duty Land Tax will appear in the next issue of ‘The Writ’ which will cover further aspects of the changes and provide details of publications we have produced to keep customers informed.

In the meantime for further information please visit our website at www.inlandrevenue.gov.uk

Article supplies by Des Newman, Modernising Stamp Duty, Project Support Officer.
Flexible Working

Along with the changes to maternity rights and introduction of related paternity and adoption rights the Employment Order 2002 creates a wholly new right for employees, the right to request flexible working. Daire Murphy, employment legal adviser at Law Centre (NI), gives an overview of the new rules.

The right to request flexible working aims to afford employees the opportunity to tailor working patterns to suit their childcare needs. It is part of a set of measures designed to foster a ‘family friendly’ culture in business which strikes an appropriate balance between family responsibilities and business efficiency. While it expresses the hope that the new system will benefit employees by encouraging employers to consider serious requests for a change in working practice, the government is also keen to emphasise the potential benefits for the employer, in encouraging staff with valuable skills and experience to stay in work. It remains to be seen, however, whether these measures will have much effect in changing the traditional and widely prevalent view of employers that new rights for the individual such as flexible working have a negative impact on the interests of the business as a whole.

What is flexible working?

‘Flexible working’ is shorthand for a wide range of changes that can be made to an employee’s working pattern. Currently, the request can be for a change to the hours, the times or the place where an employee is required to work. In future, the scheme could be extended to cover other aspects of the terms and conditions of employment by way of regulation. The application and combination of these criteria can cover a wide variety of desired working practices, such as compressed hours (working more hours per day but on fewer days) flexi-time, working from home, job-sharing, tele-working, term-time working (working only during school term), shift working and many others. It could be something as simple as starting half an hour later in the morning to allow transport to school. While many of these options sound attractive, it may be worth noting at this stage that a change which effects a reduction in the hours that the employee works will also have the effect of reducing her/his wages in proportion.

Who qualifies?

Under the Order and implementing regulations, an employee who has worked for the employer for a continuous period of at least 26 weeks (existing rules on continuity of employment apply) and who is involved in caring for a child who is under the age of six (or under the age of eighteen if the child is disabled) has the right to apply for flexible working.

A qualifying employee could be the child’s mother, father, adopter, guardian or foster parent, or the...
partner or spouse of one of the above. The applicant must have or expect to have responsibility for the child’s upbringing, and the aim of the application must be to enable her/him to enhance her/his care for the child.

Agency workers cannot claim the right, nor can members of the armed forces.

Due to the prospective cost to the employer of following the prescribed process, the eligible employee is limited to one application in any twelve month period. The cut-off date for applications is two weeks before the child’s sixth birthday (or eighteenth birthday for a disabled child). Interestingly, although this time-limit determines when the right can be exercised, it has no relevance to when the flexible working pattern is implemented. Therefore, an application made when the child is five to work flexibly when the child turns ten must be given proper consideration by the employer.

How to apply

Initially, the onus falls on the employee to set out the desired change and to make a considered and persuasive case for that change. There are a number of procedural requirements. The application must:

- be in writing;
- be dated;
- stipulate that it is an application for flexible working under the Employment Order (NI) 2002; and
- certify to the employee’s eligibility through a relationship with a child (see above).

The employee must also set out details of the change desired, the date on which it should commence and the date of any previous applications for flexible working. Finally, the employee must consider what impact the change will have on the business and how its effects can be dealt with.

If the employee has omitted any of the required information, the employer should inform her/him and invite her/him to re-submit a complete application. Although there is no requirement to use a specific form, the government department responsible (DEL) has produced a draft application form and other documentation which should prove very useful for employees and their advisers, since they contain sections for all the essential information. These forms, along with detailed and valuable guides to the application process can be downloaded from the internet (www.deln.gov.uk).

Applicants would be well advised to be thorough and invest some thought into their applications at this stage. For one thing, any change in working pattern will be permanent - there will be no automatic right to return to the old way of working. The application represents the employee’s main opportunity to state her/his case and persuade the employer, so it is particularly important to present a feasible proposal and to fully examine what impact the changes will have on the business and on colleagues. If the change could create problems, the employee should consider how these could be solved and present possible solutions, for example, suggest that other staff would be re-deployed to cover any absence without impacting negatively on the business, or suggest staff training to allow others to take on a particular role. The employee should also aim to show that the change might actually be beneficial to the employer, perhaps by allowing a reduction in staff levels during quiet periods or ensuring extra cover during peak hours. The government website mentioned above provides guidance and case studies to illustrate a positive approach which can be customised to the particular circumstances.

A detailed, well presented application will ensure that the employer has to meet the points raised and give full consideration to the proposed change.

The process

The legislation sets down a procedure which must be followed by the employer. Failure to meet the statutory requirements could form the basis of a complaint by the employee to an Industrial Tribunal or the Labour Relations Agency Arbitration Scheme. At any stage, the employer can give written and dated notice that the proposed change is accepted, including details of the date on which the change will take effect. This would have the effect of varying the employee’s contract in the terms agreed.

On receiving the application, the employer must hold a meeting with the employee to discuss the proposal within 28 days. It is envisaged that this meeting will allow both sides to explore the position in depth and consider alternative options if appropriate. This time limit, as with others, can be extended by agreement or in other limited circumstances but failure to adhere to the time limits can be a basis for an action before a tribunal.

The employee has the right to have a companion at the meeting, who can address the meeting and confer, but not answer questions for the employee. The companion must be another employee of the employer, and is entitled to be paid for the time spent attending the meeting. If the companion is refused time off to attend the meeting, s/he can complain to an Industrial Tribunal. If the employer refuses the right to be accompanied then the applicant employee can lodge a complaint.

Within fourteen days of the meeting, the employer must notify the employee of the decision taken. A decision to refuse the request must be dated and in writing and must specify the grounds for refusal. The employer can only base a refusal on one of the ‘business grounds’ set down in the legislation:

- burden of additional costs;
- detrimental effect on ability to meet customer demand;
- inability to reorganise work among existing staff;
- detrimental impact on quality;
- detrimental impact on performance;
- insufficiency of work during the periods the employee proposes to work;
- planned structural changes.
There must also be an explanation of how the business ground(s) relate to the applicant in the circumstances. Failure to specify one of the above grounds can be the basis of a complaint to a tribunal.

The employee can then lodge a written dated notice of appeal within fourteen days, setting out the grounds of appeal (perhaps with regard to procedure or explanation of business grounds), whereupon the employer must hold an appeal meeting within fourteen days. Once again, the employee is entitled to bring a companion (under the same terms as outlined above).

Notification of the outcome in writing and dated must be issued within fourteen days and, in a case where the appeal is rejected, the grounds for so doing must be specified and explained. This concludes the internal process.

Tribunals

The time limit for presenting a tribunal complaint is three months from the date of the breach of procedure or from the date of the notification of the outcome of appeal. Where a tribunal finds for the applicant, it can order reconsideration of the employee’s request and/or award compensation of eight weeks wages (up to a current maximum weekly wage of £260), with the possible award for failure to allow a companion limited to two weeks wages.

In common with other new employment rights, employees involved in the process (applicants and companions) are protected from suffering any detriment due to the request for flexible working and can complain to a tribunal if they are penalised or dismissed for their involvement.

Procedural breaches aside, an employee’s recourse to an industrial tribunal for refusal of a request for flexible working is quite limited, becoming actionable only if the grounds of rejection are not among those statutorily specified or if the employer has based its decision to refuse on incorrect facts. A tribunal has no authority to investigate or judge whether the business grounds cited are reasonable or fair, only whether the facts relied on are accurate.

The legislation is designed to encourage serious consideration of requests, hence the power to penalise procedural breaches, but not to give employees the right to compel their employer to grant those requests.

The only occasion where a tribunal will have the power to re-examine and scrutinise the reasonableness of the business reasons given is where the new right is asserted in a case brought jointly with discrimination legislation, for instance where refusal of the request is alleged to also constitute sexual discrimination. This can considerably broaden the scope of the claim, the tribunal’s ability to investigate and indeed the potential compensation and is well worth bearing in mind.

Publications


Sanctuary in a cell update, a progress report on the detention of asylum seekers in Northern Ireland, £4.95.

The original Sanctuary in a cell report has been reprinted and can be purchased for £9.95.

All available from: Publications Department, Law Centre (NI), 124 Donegall Street, Belfast BT1 2GY.

CPD

Law Centre courses attract CPD points for solicitors.

Courses range from Taking an Employment Case, Introduction to Immigration Law and Rights of Migrant Workers to Dealing with Social Security Fraud and Errors of Law: Taking a Case to the Commissioners.

A copy of the training programme can be viewed on the Law Centre’s website: www.lawcentreni.org

Membership of the Law Centre gives you access to the advice line and entitles you to receive Law Centre publications free of charge and to avail of our training courses at reduced rates.

Solicitors can become members of Law Centre (NI) for £55 per year. Application forms can be obtained from: Finance Department, Law Centre (NI), 124 Donegall Street, Belfast BT1 2GY.

Supreme Court of Judicature of Northern Ireland Offices of the Supreme Court

Pursuant to Order 64, rule 5(1) of the Rules of the Supreme Court will be closed to the public on the following days:

- Wednesday 24th Dec 2003
- Thursday 25th Dec 2003
- Friday 26th Dec 2003
- Thursday 1st Jan 2004

The Courts will not sit during Halloween Recess from:

Monday 3rd November until Friday 7th November 2003 (both days inclusive).

Simon Rogers
Principal Secretary of the Lord Chief Justice
Diary Date,

2004 Law Society Conference

Peebles Hotel Hydro Scotland
Friday 26th March -
Sunday 28th March 2004

A privately owned resort hotel with a magnificent elevated location providing wonderful views across the Tweed River Valley and the Scottish Borders.

This award winning hotel provides an excellent range of leisure activities on site as well as an ideal place in which to explore the historic Border towns or go shopping in Edinburgh only 50 minutes away.

The hotel is particularly well suited to families with its own designated children’s play room and facilities in addition to a superb indoor leisure complex and health club.

Booking form and further details on conference to follow in November Writ.

Four Jurisdictions

Family Law Conference Belfast 2004

The Four Jurisdictions Family Law Conference is to be held at the Hilton Hotel Belfast on Friday 20th to Sunday 22nd February 2004.

This annual conference moves around each jurisdiction every four years and provides members of the profession and the judiciary with the opportunity to exchange ideas and update on subject matters relating to Family Law. An interesting programme of speakers for Belfast 2004 is being put in place at present and more details will follow.

In addition to the working part of the conference, delegates will be invited to a Reception at the Royal Courts of Justice with an opportunity to tour the recently opened ‘state of the art’ Bar Library.

On Saturday evening there will be a Champagne Reception at the Belfast City Hall followed by a Gala dinner and dance.

The Conference programme and delegate cost will be available from late October and details will be found on the Law Society of Northern Ireland web site www.lawsoc-ni.org and in Family Law publications and Law Society publications.
THE REFORM OF WATER AND SEWERAGE SERVICES IN NORTHERN IRELAND TENDER FOR THE APPOINTMENT OF LEGAL ADVISERS

Procurement Service, on behalf of the Department for Regional Development (DRD) invites experienced and competent service providers to tender for the provision of the following service:

- Legal Advisers on the Reform of Water and Sewerage Services in Northern Ireland.

The legal advisers will provide expertise on a wide range of water industry, regulatory, and environmental issues. Specifically, they will assist the Department for Regional Development (DRD) in developing the legislation required to implement the wide-ranging agenda of Reform of the provision of water and sewerage services in Northern Ireland.

All service providers will be issued with a copy of the tender together with an outline of requirements upon receipt of a written request. Such requests should be directed to:

The Purchasing Manager
Procurement Service
Room 246 Rosepark House
Upper Newtownards Road
BELFAST
BT4 3NR

Tel 028 9052 6461
Fax 028 9052 6335

Completed tenders must be returned to the address above to arrive not later than 2.00 p.m. on Friday 28th November 2003

This contract will be awarded on the basis of the most economically advantageous tender. Details of the evaluation criteria will be outlined in the Instructions to Tenderers section of the tender document.

Procurement Service does not bind itself to accept the lowest or any tender in respect of this competition.
NIYSA CHRISTMAS DISCO

O’Neill’s Bar - 4 Joy’s Entry, Belfast
Friday 19th December 2003
9.00PM - Late
Admission: £5.00

BRITISH COUNCIL VISIT DINNER

Belfast Castle
Wednesday 18th February 2004

The annual visit from European students to Northern Ireland for a week long study tour will take place in February next year. The NIYSA will be hosting a dinner at Belfast Castle on Wednesday 18th February 2004.

A limited number of places will be available to our members (all solicitors under 36). All those who have attended in previous years will know that this is a lively, social occasion with good food, wine and entertainment on offer!

If you are interested in attending, tickets priced £15.00 are available from Nuala Sheeran, c/o Mills Selig Solicitors, 21 Arthur Street, Belfast BT1 4GA. E mail to nuala.sheeran@nilaw.com

NIYSA MEMBERS’ DATABASE

The NIYSA is presently compiling a database of its members’ e mail addresses. We propose to e mail members about upcoming NIYSA CPD lectures/seminars and events. If you wish to be notified of these, please contact Catherine Calvert at Samuel D. Crawford & Co. Solicitors, 105-109 Victoria Street, Belfast BT1 4PD with your e mail address. Tel: 028 9059 5300 catherine@sdcrawford.co.uk

FORTHCOMING EVENTS

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Life is precious.
Your legacy is priceless.

Every year in Northern Ireland, almost 10,000 people die from a Chest, Heart or Stroke related illness.

However, we can leave our children the priceless legacy of a healthier tomorrow. The NI Chest Heart & Stroke Association is working today - providing support and advice, funding research in hospitals and universities - so that we can help find a cure for tomorrow.

To continue our work, we rely on legacies and voluntary donations, with ALL money raised spent on helping people in Northern Ireland.

For a leaflet on leaving a legacy to NI Chest Heart & Stroke Association please phone 028 9032 0184
Or write to us at our temporary address: Chamber Of Commerce House, 6th Floor, 22 Great Victoria Street, Belfast BT2 7LX
Alternatively, ask your solicitor for a leaflet.

www.nichsa.com
The annual BSA Dinner Dance is to be held on Saturday 17 January 2004 at the Ramada Hotel, Shaws Bridge, Belfast. Drinks reception at 7.30pm followed by dinner at 8.30pm with dancing ‘til late with The Booze Brothers.

Tickets are £35.00 per person and members are asked to note that the following arrangements apply.

Bookings are on a ‘first come - first served’ basis and must be made in writing addressed to Gavin Patterson, BSA Dinner Dance, Hoffman & Company Solicitors, 27-29 Gordon Street, Belfast, BT1 2LG;

A reservation cannot be made unless a cheque (made payable to Belfast Solicitors Association) is received with the booking request. Tables are for 10 people and any requests for vegetarian meals should be made at the time of booking.

This year a donation from every ticket sold will be made to the Solicitors’ Benevolent Association and members are encouraged to show their support by attending.

As there is always a high demand for places members are recommended to book as early as possible to avoid disappointment.

The Ramada Hotel is offering a preferential room rate of £65.00 bed & breakfast. Room reservations should be made direct with the hotel on 9092 3500, requesting the preferential rate for the BSA Dinner Dance.

We look forward to seeing you there.

Engineer Fees

‘Engineers Fees’ - The committee of the BSA have been informed by some members of the Association of concerns they have about Engineers fees in Employer liability cases.

Traditionally the view has been taken that where liability is an issue, and where such a report would assist the Court in the presentation of the Plaintiff’s case that it was proper and necessary to commission an engineer. However, recent reports would suggest that outlay incurred in this very circumstance has not been allowed by the court on a number of occasions. If this is a live concern and has been raised as an issue in such liability disputed cases the committee of BSA would invite you to inform us of the details.

AGM

This year’s AGM will be held at Law Society House at 1pm on Tuesday 18th November 2003. The support of our membership would be greatly appreciated.

CPD Seminar Programme

Friday 5 December 2003
‘The EJO and what it can do for you’
by Jim McManus

All Seminars will take place at Law Society House. Coffee and sandwiches will be available from 12.30pm and the talks will start at 1.00pm.

The cost of all lunchtime seminars is £10.00 for BSA members and £20.00 for others.

Cheques payable to BSA c/o Joanne Timoney at Cleaver Fulton & Rankin Solicitors.
I/we wish to join/re-join EPLANI and enclose a cheque made out to EPLANI for the appropriate fee. Please tick the appropriate box.

**Subscription rates**

- Individual Membership: £20.00  
- Unwaged/student Membership: £10.00  
- Corporate Membership: £75.00

**Name:**

______________________________________________________

**Firm/Organisation:**

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**Address:**

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__________________________________________________________________________

**DX Address:**

______________________________________________________

**Telephone:**

______________________________________________________

**Fax:**

______________________________________________________

**Email:**

__________________________________________________________________________

Please complete and return Membership Form to Claire Duffy, Secretary, EPLANI, c/o Cleaver Fulton Rankin, 50 Bedford Street, Belfast, BT2 7FW, DX 421 NR Belfast.
Met Office Changes

From Monday 3rd November 2003 the Met Office will be introducing significant changes to the way it services the Legal Profession in Northern Ireland as follows:

All Met Office legal work for Northern Ireland will now be handled by our Edinburgh Office. The correspondence address is:

Met Office
Saughton House
Broomhouse Drive
Edinburgh
EH11 3XQ
Fax: 0131 528 7345

Correspondence received at Met Office Belfast and Met Office Headquarters in Exeter will be forwarded to our Edinburgh Office.

Weather Reports
Weather reports will now be offered either as:

A. ‘CERTIFIED DATA’
This comprises lists of daily and/or hourly meteorological readings for the most representative weather stations of the incident locus. The main drawback with these data is that two solicitors may draw differing conclusions from them and a Met. Office expert witness then has to be cited to appear in Court to be cross-examined about the data. Cost of ‘Certified Data’.

£350 + VAT

B. ‘CERTIFIED STATEMENT OF WEATHER’
A comprehensive package comprising properly certified data plus explanatory text and our inferences and opinions. This format is almost always accepted in Court without the need for an expert witness, but a Met. Officer can be cited in this capacity if required. Cost of ‘Certified Statement’.

£400 + VAT

In making your decision of whether to opt for ‘Certified Data’ or a ‘Certified Statement’, please remember that in order to infer weather conditions at the incident locus from ‘Certified Data’, it is necessary to:

• interpolate horizontally between weather stations.
• take account of difference in altitude.
• be aware of coastal and urban effects.
• consider ground conditions (ground frost can occur with air temperatures above freezing).

It is also relevant to note that:

• Automatic rain gauges do not work properly at temperatures below freezing.
• There is still some data of variable quality on the archive, despite quality control procedures.

In the case of the main aspect of the weather being wind/rain, the main difference between certified data and a certified statement is that the latter places the observations into context by estimating a frequency of occurrence, or ‘return period’.

The Certified Statement, with our expert and impartial interpretation, leads to the weather evidence being agreed in the majority of cases, thus avoiding costly Court appearances. Please tell us as much as you can about the case to enable us to concentrate on the most relevant aspects of the weather and optimise the value of our report. Please also tell us the time of the incident.

Urgent Requests
Urgent requests will be considered where workloads allow. In such cases urgent requests will be given priority over all other work for which a surcharge will be made. For more details and for quotations for urgent work please contact Mr R Tabony directly at our Edinburgh Office on: 0131 528 7330, or alternatively by fax on 0131 528 7345.

Attendance at Court
The scale of charges for Met Office staff attending Court as an Expert Witness is as follows.

A. Two hours administration and preparation time at £110 + VAT per hour. His expense will not be incurred if more than seven days notice of cancellation is provided.

B. Absence from this office (including travelling time) during normal working hours, to attend Court at £110 + VAT per hour.

C. Rail/air/bus/taxi fares, as appropriate, or mileage allowance at the Civil Service rate.

D. Subsistence for the period of absence at the appropriate Civil Service rate.

From the above you will see that the minimum charge for a Court appearance is of the order of £660 + VAT, comprising two hours preparation plus half a day at Court.

For Court cases in Northern Ireland, arrangements have been made for the Expert Witness to be Donald Campbell of the Belfast Met Office. This arrangement has been made to provide maximum flexibility in the timing of Court appearances and to minimise costs. However, if this is not acceptable, then the following cancellation charges apply.

Cancellation eight-14 days in advance £250+VAT.
Cancellation seven days or less in advance £400+VAT.
Calling all Probate Practitioners in Northern Ireland!

Inland Revenue: Capital Taxes invites you to attend an Open Day being held in the Europa Hotel, Belfast on Wednesday 3 December 2003.

The Open Day will have as its theme ‘Avoidance and Evasion’ and will include talks from our Capital Taxes Compliance and Technical Teams. There will also be a question and answer session.

The programme will begin at 10.00am and close no later than 4.00pm. A detailed agenda will be available nearer the time. Lunch and refreshments will be provided.

If you wish to attend this Open Day please e-mail us with your name and address to:-
IRCTcustomerserviceteam@gtnet.gov.uk
Please also tell us how many people will be attending.

Alternatively, you can send these details to the Customer Service Team, IR Capital Taxes, Ferrers House, PO Box 38, Castle Meadow Road, Nottingham NG2 1BB or DX 701201 Nottingham 4 or by fax to 0115 974 3041.

If you require any further information, please contact Janet Harney or Mairead Gallagher, in Belfast on 028 9050 5367 or 5355.

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Bar Library Update

We reproduce below the text of a letter received from the Chief Executive of the Bar Council explaining some further developments and refinements of the services offered at the new Bar Library.

The Bar Council has used the period of time between the opening of the new Bar Library in April and now to observe the operation of the new building in conjunction with the traditional Library and also to obtain feedback from professional clients. In response to this the Council has identified operations at the former Bar Library reception in the High Court as one of the areas needing some adjustment. A number of changes have been implemented which should mean an improved service henceforth.

(a) Use of Old Library
The reception desk in the old building now has full cover apart from the lunch period. Information about consultation room bookings is shared between staff operating the old and the new reception desks. A house phone has been made available at the old reception desk which will enable Solicitors to speak directly with reception staff at the new Library building or with Counsel if they desire. A set of instructions for its use is available nearby.

(b) Text Messaging Service
The Bar Council has also devised and implemented a new Text Messaging System. The system operates from the reception desks in both the new Library and from the old Library. It operates at the moment for those members of the Bar who have provided the Bar Council with their mobile telephone numbers. It is intended to send text messages to members in all circumstances for which the tannoy system was previously used. This includes notification of telephone calls, notification of visitors attending the reception desk in either building, requests for members to contact reception and requests for members who are currently in one building to contact the other. It will take approximately 3-5 seconds for a message sent at the reception desk to reach the members’ mobile telephone. For the present the existing tannoy system will continue for those who do not take up the paging system but its continuance will be kept under review.

(c) The Council has installed a wireless Internet connection which will be used in the reception area of the new Bar Library. This will enable Solicitors, who have the necessary interface on their laptops and who purchase a card from the Bar Library reception desk to access the Internet and to pick up emails from their offices etc.

Finally, we are always pleased to receive feedback since it allows it to continuously review operations to ensure that they meet the needs of professional and lay clients.
Republic of Ireland Agents

We are willing to act as agents in most legal matters.

Our offices are close to Courts, Government Buildings and Commercial Centre.

Fee splitting by arrangement.

Hughes & Liddy Solicitors
2 Upper Fitzwilliam Street
Dublin 2

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or (00 3531) 6789701
Fax: (00 3531) 6766702

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• All Litigation and Conveyancing work undertaken on an agency basis.
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Procurement Service for The Equality Commission for Northern Ireland

Contract for the Provision of Legal Services for the Equality Commission

The Procurement Service on behalf of its client The Equality Commission for Northern Ireland is inviting tenders from suitably qualified individuals / organisations, to undertake the above.

The successful tenderer/s will be expected to provide a mechanism within which the Commission can effectively exercise cost and quality control in respect of work carried out by solicitors and counsel while respecting their professional dignity and standing.

Tender documents and a full specification can be obtained only by applying in writing or by fax quoting reference no. S/9687/03 to: -

Procurement Service
Room 275F
Rosepark House
Upper Newtownards Road
Belfast BT4 3NR
Tel: 028 9052 6325
Fax: 028 9052 6591

The closing date for the receipt of completed tenders is 15:00hrs on 21st November 2003. Late Tenders will not be accepted.

The Procurement Service may accept all or any part of tenderer’s offer but is not bound to accept the lowest or any tender.

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Pertemps Legal

Solicitors Required for Portadown/Belfast

3 Years plus PQE in Litigation, Conveyancing or Criminal Law.

Interested?

Contact Colm or Paddy at Pertemps
028 9023 6999
or email
belfast@pertemps.co.uk
Dear Editor

I read with interest the article by Vincent Sheils entitled Power of Attorney in the September issue of The Writ.

Professor David Bamford is chairing The Review of Mental Health and Learning Disability (Northern Ireland). There are currently four Expert Working Committees: Social Justice and Citizenship; Legal Issues; Learning Disability; and Adult Mental Health. A further five Expert Working Committees will be established: Mental Health Promotion; Child and Adolescent Mental Health; Mental Health Issues in Old Age; Alcohol and Substance Misuse; and Forensic Services.

The Legal Issues Working Committee is chaired by Master Hall. I have the honour of being the only solicitor in private practice on the Committee.

We are currently considering the proposals for England and Wales contained in their Mental Incapacity Bill.

If any member wishes to let me have his or her views on any aspect of mental health and learning disability I will ensure their views are conveyed to the Committee.

Yours sincerely,

Alastair J Rankin
Managing Partner
Cleaver Fulton Rankin
50 Bedford Street
Belfast
BT2 7FW

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APPOINTMENT OF PANEL LAW FIRMS

The Council for the Regulation of Healthcare Professionals (CRHP) was established by the National Health Service Reform and Health Care Professions Act 2002 (Act) and started work in April 2003. CRHP oversees the regulatory work of nine organisations and its main purpose is to promote the interests of patients and the wider public in the regulation of the healthcare professions. More information about CRHP can be obtained at www.crhp.org.uk.

CRHP wishes to appoint up to 2 law firms to advise in relation to CRHP’s power under section 29 of the Act to refer certain decisions of regulatory bodies to the High Court in Northern Ireland. The caseload for any one firm may be small but this is a new power and the work would be innovative. Firms interested in applying for appointment to the panel should have experience in the following areas:

- Providing advice which enables clients in complex and high profile organisations to reach defensible decisions
- Acting for defendants in judicial review proceedings
- Acting for applicants in appeals to the High Court
- Acting for clients in the field of regulation (whether in healthcare or any other sector)
- Acting for public sector clients

Expressions of interest, listing in summary form relevant experience, should be made to Anthony Armitage at FirstLAW, 6-8 Bouverie Street, London EC4Y 8DD, by fax on 020 7353 8877 or by email to aa@firstlaw.co.uk. Please do not contact CRHP direct. Expressions of interest should comprise no more than five pages of A4 and if sent by email the file size should not exceed 250KB. The closing date for expressions of interest is 4pm on Monday 10 November 2003. Full tender specifications will be issued to qualifying applicants the following week.

CRHP is committed to ensuring that selection, appointment and advancement is on merit, on the basis of justifiable requirements and equality of opportunity for all applicants. Participating firms will therefore be expected to demonstrate effectiveness in applying principles of equality and diversity.

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Provision of Legal Services for the Office of the Police Ombudsman

Procurement Unit on behalf of its client the Police Ombudsman invites tenders from experienced and competent service suppliers for the Provision of Legal Services.

It is expected that the contract will commence on 1st January 2004 and will run for 3 years with the option to increase for a further two 12 month periods.

Requests for tender documents should be forwarded in writing or by fax to the address below:

Procurement Unit, Room 252
Rosepark House,
Upper Newtownards Road
Belfast, BT4 3NR
Phone: 028 9052 6111
Fax: 028 9052 6555

Completed tenders must be received by 3.00pm on 24th November 2003 Late tenders will not be accepted
Re R Iris Scott deceased
Late of 13 Catherine Street,
Killyleagh, County Down
Date of death - 4th September 2003.
Would anyone having knowledge of the whereabouts of a Will of the above named deceased, please contact:
Millicent Tate
James Murland & Co Solicitors
15 English Street
Downpatrick
Co Down
BT30 6AP.
Tel: 028 4661 9980
Fax: 028 4661 3527

Re George Murdock Deceased
Late of: 11 Portmore Lea, Lower Ballinderry, Lisburn, County Antrim (formerly of 11 Ardclinis Gardens, Antrim, County Antrim)
Date of Death: 28TH MAY 2003.
Would anyone holding a Will of the above named deceased or having any knowledge of the whereabouts of same please contact:
Macaulay Wray Solicitors
35 New Row
Coleraine
County Londonderry
BT52 1AH
Tel: 028 7035 2421
Fax: 028 7035 2425
Email: macwraysol@aol.com

Re William Hutton Taylor
Deceased late of
42 Gilford Road, Portadown
Date of death - 9th January 1999.
Would any solicitor holding a Will of the above named deceased or having any knowledge of the whereabouts of same, please contact:
Jennifer Moffett
John P Hagan Solicitors
17-21 Church Street
Portadown
Co Armagh
BT62 3LN.
Tel: 028 3833 3333
Fax: 028 3835 0011

Re Thomas Jordan (deceased)
Late of 53 Langley Road,
Ballynahinch, Co Down
Born 8th September 1916
Would any person having knowledge of the whereabouts of a Will of the above named deceased, please contact:
Paul McMullan
Solicitors
10 Church Street
Ballynahinch
Co Down
BT24 8AF.
Tel: 028 9756 2357
Fax: 028 9756 5915
Reference PMcMDG.J10.1

Re George Murdock Deceased
Late of: 11 Portmore Lea, Lower Ballinderry, Lisburn, County Antrim (formerly of 11 Ardclinis Gardens, Antrim, County Antrim)
Date of Death: 28TH MAY 2003.
Would anyone having knowledge of the whereabouts of a Will of the above named deceased, please contact:
Millicent Tate
James Murland & Co Solicitors
15 English Street
Downpatrick
Co Down
BT30 6AP.
Tel: 028 4661 9980
Fax: 028 4661 3527

Take notice that any person having custody of or information as to the whereabouts of the Land Certificates relating to the above mentioned Folios shall forthwith produce said Certificates or communicate such information as to their whereabouts to the undermentioned solicitors. And further take notice that unless the said Land Certificates are so produced or adequate information as to their whereabouts is so communicated within twenty one days of publication of this Notice, an application may be made for the issue of duplicate Land Certificates.

Stephen Begley & Co Solicitors
9 Merchants Quay
Newry
Co Down
BT35 6AL

Take notice that any person having custody of or information as to the whereabouts as to the Land Certificate relating to the above mentioned Folio shall forthwith produce said Certificate or communicate such information to the undermentioned solicitors. And further take 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.

Sheridan & Leonard
Solicitors
19-21 High Street
BELFAST
BT1 2AA

Folio: 20402 & 23659
County: Armagh
Registered Owner: Hugh Mackin deceased
Lands at:
Drumalane, Dublin Road, Newry.

Take notice that any person having custody of or information as to the whereabouts of the Land Certificates relating to the above mentioned Folios shall forthwith produce said Certificates or communicate such information as to their whereabouts to the undermentioned solicitors. And further take notice that unless the said Land Certificates are so produced or adequate information as to their whereabouts is so communicated within twenty one days of publication of this Notice, an application may be made for the issue of duplicate Land Certificates.

Stephan Begley & Co Solicitors
9 Merchants Quay
Newry
Co Down
BT35 6AL

Re: 63 Crawfordsburn Road
Bangor, BT19 1BG
Registered owner: Dorcas Ferguson Graham, deceased
Would any Solicitor holding or having knowledge of the whereabouts of the title deeds to the above property please contact:
Mr Kevin Hart
Hart & Co Solicitors
Gordon House
22-24 Lombard Street
Belfast
BT1 1RB.
Tel: 028 9032 3545.
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Salary commensurate with experience and ability.
Please apply in writing with CV to: Mr Emmet Kelly
Emmet J Kelly & Co Solicitors
21 Rathfriland Street
Banbridge
Co Down
BT32 3LA
Tel/fax: 028 4062 9397

Rosemary Connolly Solicitors require an assistant solicitor for their Warrenpoint practice.
Replies enclosing full CV to:
2 The Square
Warrenpoint
Co Down
BT34 3JT
Email: rosemaryconnolly@solicitorsni.net

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Newtownards
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**CONTACT**
Kevin H. McErlean, Solicitor
(Also admitted N.I. 1998)
High Court,

Court of Appeal and Tribunal Decisions

The full list of abstracted decisions is now included with the current awareness list of recent journal articles which accompanies the Writ as an insert.

We have, however, selected a few recent decisions for inclusion in this column:

REFERENCE BY HER MAJESTY’S ATTORNEY GENERAL FOR NORTHERN IRELAND (NO 5 OF 2003) (RICHARD HERBERT CROWE)
Possession of drugs with intent to supply. - referral by Attorney General that sentences unduly lenient. - previous probation period already imposed for drug offences when present offences committed and concurrent probation period imposed. - offender taking part in addiction programme. - whether this should be interrupted to impose custodial sentence. - HELD that sentence was not unduly lenient.
COURT OF APPEAL
29 SEPTEMBER 2003
CARSWELL, LCJ
NICHOLSON, LJ
MCLAUGHLIN J

IN THE MATTER OF AN APPLICATION BY KIERAN OWEN BUTLER AND THE POLICE OMBUDSMAN OF NORTHERN IRELAND FOR JUDICIAL REVIEW
Application for judicial review of Police Ombudsman and DPP - whether Resident Magistrate is entitled to issue summons under art. 118 Magistrates Court (Northern Ireland) Order 1981 for Police Ombudsman to produce documents and disclose material likely to be of assistance to complainant. - third party disclosure. - right to fair trial. - application dismissed: Police Ombudsman entitled to judicial review of Resident Magistrate’s decision.
HIGH COURT QUEEN’S BENCH
15 SEPTEMBER 2003
GILLEN J

JONES, PATRICIA ANN V FRIENDS’ PROVIDENT LIFE OFFICE
Sex discrimination and unfair dismissal. - appeal by way of case stated from industrial tribunal’s decision. - contract worker supplied by employer to appellant. - jurisdiction to hear and determine the respondent’s complaint of discrimination by appellant under art. 12 Sex Discrimination (NI) Order 1976. - appeal dismissed
COURT OF APPEAL
29 SEPTEMBER 2003
CARSWELL, LCJ
NICHOLSON, LJ
KERR J

MCGINN, CONAIL LIAM and OLIVER J KELLY AND CO, SOLICITORS
Solicitor. - order to pay money into court. - order not subject to appeal. - whether solicitor has lien over money. - whether lien exercisable
CHANCERY DIVISION
14 OCTOBER 2003
GIRVIN J

R V THOMAS NOEL ABERNEThY
Attempted murder. - shooting of 2 police officers. - identification and forensic evidence. - whether contamination of evidence. - HELD that defendant not guilty of charges
CROWN COURT
22 SEPTEMBER 2003
NICHOLSON, LJ

R V REILLY AND R HOGG & SONS LIMITED
Application for stay of proceedings. - whether trial prejudiced by delay contrary to art. 6 ECHR. - whether trial can take place within reasonable time. - whether right to fair trial has been violated by addition of count for manslaughter and whether abuse of process. - first prosecution for manslaughter arising from industrial accident. - HELD that delay has not prejudiced defendants and case should be tried against defendant
CROWN COURT
20 JUNE 2003
MCCOLLUM LJ

A WALLACE V MARTIN STOKES
Application for order directing a Resident Magistrate to state a case within a specified time. - application brought outside 14 day time limit. - request for Court to exercise power to extend time. - fraudulent use of insurance certificate under art. 174 Road Traffic (Northern Ireland) Order 1981. - whether Resident Magistrate should have revoked his decision to state a case in the ground that the applicant had appealed against conviction and sentence to county court. - HELD that once Resident Magistrate granted application for case stated the applicant’s right of appeal ceased. - time limit extended and Resident Magistrate directed to state case within 4 weeks.
COURT OF APPEAL
12 SEPTEMBER 2003
CAMPBELL, LJ

Tribunal Decisions

CAHILL, PATRICK V W D BOTHWELL INDUSTRIAL TRIBUNAL, 19 MARCH 2003, 1185/02
Applicant claimed respondent failed to pay him one week’s wages and holiday pay to which he was entitled. - Applicant was not present at hearing. - the evidence indicated that the applicant had been paid all wages due to him and that the respondent was exempt from a payment of holiday pay under the Working Time Regulations. - Tribunal dismisses application

DOHERTY, PATRICK V SEAGATE TECHNOLOGY, MCSORLEY, NIGEL and TAYLOR, ZACK INDUSTRIAL TRIBUNAL, 24 DECEMBER 2002, 03539/99UD; 03540/99SD
Applicant claimed constructive dismissal and unlawful sex discrimination. - First respondent denied that applicant had been dismissed. - Tribunal rejects these claims and orders applicant to pay costs to the first respondent owing to his unreasonable conduct of the proceedings to date.
Decision on a preliminary issue.
- Applicant alleged unfair dismissal.
- Tribunal dismisses this complaint because applicant had not been employed by the respondent for the minimum period. - Tribunal rules letter received by the Tribunal office was not a valid Originating Application and dismisses the application.

MILLKEN, WALTER V STRATTON, WILLIAM JAMES
INDUSTRIAL TRIBUNAL, 15 APRIL 2003, 1702/01

Applicant claimed unfair dismissal after being told by respondent that there was no work for him when he hoped to return after a period of sick leave. - Respondent failed to respond to his request for written reasons for dismissal. - Tribunal rules the applicant was unfairly dismissed and orders respondent to pay sum by way of compensation.

All decisions listed here and in the accompanying insert are available in full text and free of charge for the Libero database.
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