THIS MONTH:
RECENT DEVELOPMENTS
AT THE ENFORCEMENT
OF JUDGMENTS OFFICE
Brightwater is a leader in the Northern Ireland recruitment market. Our success has been based upon our level of expertise and professional service. Our specialist Legal Division recruits professionals into practice and in-house roles from support staff to partner level. We guarantee a full confidential service to our candidates, identifying suitable career opportunities with genuine prospects.

**Employment Solicitor**
Belfast * 3-5 years’ post qualified experience.  
£20,000 - £40,000  
Ref: 26024

**Conveyancing Solicitor**
Newtownards * Min. 5 years’ post qualified experience.  
£20,000 - £35,000  
Ref: 26412

**Conveyancing Solicitor**
Downpatrick * 2 years’ post qualified experience.  
circa £24,000 p.a.  
Ref: 25973

**General Practice Solicitor**
Belfast * 2 years’ post qualified experience.  
£18,000 - £30,000  
Ref: 26432

**Employment Solicitor**
Belfast * Min. 1 year’s post qualified experience.  
£Negotiable  
Ref: 26282

**Litigation Solicitor**
Belfast * 0-2 years’ post qualified experience.  
£18,000 - £24,000  
Ref: 26162

For further information on these roles and other opportunities, please contact Nicole Dowling for a confidential discussion on 028 90 325 325 or email n.dowling@brightwaterNl.com
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Relocation Update

The timescale for relocation of the Society to permit the redevelopment of Law Society House has been changed. It is expected that this will not take place for several months.

In the interim all existing facilities at Law Society House remain available to members with the exception of The Law Club.

Once an exact date for the relocation has been confirmed, this will be advised to members. Updated information will also be posted on the Society’s website.
Recent developments at the Enforcement of Judgments Office

The Enforcement of Judgments Office (EJO) is the only organisation within the United Kingdom with centralised responsibility for all aspects of the civil judgment enforcement process within a single jurisdiction. In this article the EJO details various aspects of its Modernisation Plan.

In recent years business improvement activity in the EJO has been driven by staff through a series of improvement projects. Major projects included a total re-structuring of the business, the introduction of a modern, effective computer system, the creation of an EJO Users Forum chaired by the Master, the development of a Social Responsibility Policy and the publication of a Customer Action Plan developed into Service Level Agreements with major stakeholders.

To assess business improvement, the European Foundation for Quality Management (EFQM), through the Northern Ireland Centre for Competitiveness, organise an annual award known as Steps to Excellence. EJO (and the Supreme Court Taxing Office (SCTO)) went through this external assessment process and were delighted to be awarded a Gold Award at this year’s presentation. To put this in context, EJO & SCTO is the only Court Service department to achieve this award and indeed, is one of only 12 Gold winners since the awards were first introduced in 1994.

VALUE FOR MONEY

The successes that resulted in the Gold Award are numerous and ultimately reflect a vastly improved customer service. In real terms, EJO can point to huge improvements in value for money and the speed and effectiveness of its business processing. In 1999, prior to its improvement programme, the total debt collected by EJO amounted to £5.8 million - this represented 46% of the total debt lodged for enforcement. Last year the total debt collected totalled £9.7 million, meaning EJO recovered almost 80% of the total debt lodged.

Another effective measurement of EJO success is the ‘debt ratio’. This reflects the amount of debt recovered in respect of every £1 paid in enforcement fees. EJO believes this to be a very useful statistic when reviewing how effective it actually is. It is also useful for customers who may wish to compare its performance against debt recovery in other jurisdictions and even in comparison to recovery rates through bankruptcy. Performance from 1999 to last year is set out below. (See Chart 1.)

DEBT RATIO

<table>
<thead>
<tr>
<th>Year</th>
<th>Debt Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999</td>
<td>£4.33</td>
</tr>
<tr>
<td>2000</td>
<td>£5.04</td>
</tr>
<tr>
<td>2001</td>
<td>£6.47</td>
</tr>
<tr>
<td>2002</td>
<td>£7.01</td>
</tr>
<tr>
<td>2003</td>
<td>£6.34</td>
</tr>
<tr>
<td>2004</td>
<td>£6.44</td>
</tr>
<tr>
<td>2005</td>
<td>£8.00</td>
</tr>
</tbody>
</table>

IMPROVING PROCESS TIMES

Along with the overall effectiveness of enforcement processes, the Office has also made a concerted effort to improve turn around times in relation to the acceptance and processing of business. One of the main criticisms from customers was that it took too long to accept new business and to take the necessary action. By re-engineering its processes, results in this area have improved dramatically.

Notices of Intentions: EJO’s current target is to issue a Notice of Intention within three days of receipt. Performance against this target since 2002 is set out below. (See Chart 2.)

% OF NOTICES WITHIN Target

<table>
<thead>
<tr>
<th>Year</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>52%</td>
</tr>
<tr>
<td>2003</td>
<td>75%</td>
</tr>
<tr>
<td>2004</td>
<td>93%</td>
</tr>
<tr>
<td>2005</td>
<td>95%</td>
</tr>
</tbody>
</table>
EJO has introduced a number of process changes to help reduce the turn around times for satisfaction of a Possession case. This is a business area that it is eager to continue to improve and there have been very positive results achieved thus far. (See Chart 5.)

E-BUSINESS IN THE ENFORCEMENT OF JUDGMENTS OFFICE

To support its modernisation programme over the past number of years, the EJO has been working on improving case information to customers via electronic means via the Court Service website www.courtsni.gov.uk. Information on its electronic services can be found on the ‘Services’ and ‘On-Line Service’ pages. So far, four IT systems have been introduced, Case Tracking, On-Line Debt Register Searching, its Web-based Information Provision and E-mail communication.

Applications: EJO’s current target is to accept enforcement applications within 12 days. Performance against this target since 2002 is set out below. (See Chart 3.)

Investigation of means: Once a case has been accepted for enforcement, the next stage is to ascertain the debtors’ means to pay. This is achieved by completing a financial report upon which decisions about future enforcement action are based. Efforts are continuing to decrease the time between acceptance of an application and the completion of a debtor report. At the forefront of these efforts has been the successful implementation of a Best Practice Manual for Enforcement Officers. This manual sets out protocols and objectives and has resulted in improved performance. The current target from acceptance of a case to completion of a report is 42 days.

<table>
<thead>
<tr>
<th>Year</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
</tr>
</thead>
<tbody>
<tr>
<td>Quantity of reports completed</td>
<td>2466</td>
<td>2469</td>
<td>3254</td>
<td>3315</td>
</tr>
<tr>
<td>% completed within target</td>
<td>88%</td>
<td>87%</td>
<td>93%</td>
<td>95%</td>
</tr>
</tbody>
</table>

Enforcement of non-money (Possession) Orders: The number of Possession Orders being granted by the Courts is on a steady upward trend and this is being replicated through the number of cases being accepted by the Office. (See Chart 4.)
To access and use EJO’s on-line services requires customers to register as a user with the Court Service website. Once registered, access can then be granted through the web manager at the following e-mail address: WebmasterNIC1S@courtsni.gov.uk

**EJO CASE TRACKING**

The central aim of the case tracking system is to provide customers with immediate access to current and accurate information on their cases. The additional business benefits include:

- Reducing the need for written and telephone enquiries regarding the present position of cases, for example:
  - Balances on enforced judgments
  - Adjustments made to account balances
  - History of payments
  - Types of enforcement orders issued
  - Confirmation of service of enforcement orders
- Out of hours access

Efficiency gained by this method of case enquiry will enable the Office to dedicate more resources to casework and actual enforcement activity thereby making further improvements to business processing times by using IT to work to everyone’s advantage.

Currently approximately 66% of cases can be accessed by a number of subscribed customers using this facility.

**ON-LINE DEBT REGISTER SEARCHING (FEE BASED)**

In conjunction with Case Tracking, the EJO launched its second on-line service on the 1 February 2006 - On-Line Debt Register Searching.

On-line searching gives the user the ability to search the judgments register on-line via the Court Service website. The service is available in two forms, ‘Pay-As-You-Go’, or as an ‘Account Holder’. ‘Pay-as-you-go’ enables payment for judgment searches with a debt/credit type card. A voucher is purchased online enabling the processing of a maximum of 25 searches. The vouchers do not expire until the total number of searches has been completed. The current fee is £6 per search.

As an account holder, payment can be lodged into the EJO accounts office to credit an account and payment will be deducted from this for each search completed on-line.

Benefits of the facility include:

- Immediate search results
- Ease of use (the system looks for names of a similar nature (Smyth, Smith, Smythe)
- Out of hours access
- Ability to reprint lost documents (for 30 days)
- Lower costs

Introduction of this new service has been a success with 80% of all judgment searches now completed electronically by customers at their place of work or home.
WEB BASED INFORMATION PROVISION

Access to information plays a crucial part in access to justice and the EJO is at the forefront in supplying information about its processes to those who need it. This information is also available on the ‘Services’ page of the Court Service website. Here valuable information can be found about:

- Main contacts & Customer Liaison Officers
- Enforcement Orders issued by the office
- Application packs & forms for all types of enforcement work
- Fees structure
- Help & advice to other debt advice agencies

Within the facility, application packs can be downloaded which include information on fees and an explanation of the forms. It is also possible to find out what area of the province EJO teams deal with, their customer liaison officer, their e-mail addresses and direct line telephone numbers.

E-MAIL CONTACTS

Ensuring users can contact the office is of paramount importance to the EJO. The Office is keen to promote e-mail as a preferred means of communication. A comprehensive list of contact details including e-mail addresses as well as further information regarding on-line services is available on the EJO’s pages on the Court Service website www.courtsni.gov.uk or alternatively from the Office’s IT Development Officer, Brian McNair by telephone on 028 9072 4854 or by e-mail at brianmcnair@courtsni.gov.uk

WHAT NEXT?

The current improvement activity in the EJO has emphasised the need for legislative change in a number of key areas in order to further modernise its systems and make the enforcement process more effective. Whilst a full range of legislative changes will be considered it is currently concentrating on two major proposals:

Rules 75 of the Judgment Enforcement Rules (NI) 1981 to be amended so that Conditional Orders for the issue of a warrant of arrest no longer requires service by the creditor. Instead the Office feels this duty should fall to the EJO.

Articles 54 and 55 of the Judgments Enforcement (NI) Order 1981 to be amended to remove the requirement for EJO to remove and store the debtor’s goods when executing a Possession Order.

From a series of on going customer meetings and discussions at the EJO User Forum, early indications are that the changes would be welcomed and that they would greatly improve procedures for both the debtor and the creditor. EJO will consult on a wider basis with interested parties later in the year.

We are grateful to the staff at the Enforcement of Judgments Office for this article.
THE INSTITUTE OF MONEY LAUNDERING PREVENTION OFFICERS

The UK’s premier AML Institute comes to Northern Ireland - find out how IMLPO can help keep YOU clean!

Thursday 26th October 2006
Europa Hotel, Belfast

The Institute of Money Laundering Prevention Officers (IMLPO), established in 2001, is the organisation for the UK’s anti-money laundering community. It is a broad, cross-representative forum of anti-money laundering practitioners who - in a safe environment - share views, experiences and opinions of the day-to-day business of combating money laundering.

Because of the very nature of the anti-money laundering business, it is especially important for all those involved to be part of a network. Enabling our members to keep abreast of the latest issues and developments, and to establish connections and contacts to share queries and problems with, IMLPO provides that network - and more.

Our membership continues to grow steadily, currently standing at around 200 representatives of a wide range of types of organisations - not only financial institutions but also accountancy firms, law firms, barristers’ chambers, corporates, gaming companies, stockbrokers, casinos and money service businesses.

We are keen to broaden and deepen our membership still further, and we therefore very much hope to welcome you to this informal, introductory meeting where you will not only hear some fascinating and entertaining talks, but also find out how membership of IMLPO can benefit YOU.

For full details or to book a place, visit www.imlpo.com/belfast or call us on 020 8847 4074.

We look forward to meeting you!

17.00  Coffee and Registration
17.30  KEYNOTE PRESENTATION
       “THE SNEAK POLICE”
       Chris Moore, Author and Journalist
       Chris Moore is an award-winning journalist
       and author who has written and broadcast
       about the “seamier” side of Northern Ireland
       politics and business for many years. He
       has published several books, his latest
       detailing the inside story of the £25.6m
       Northern Bank robbery in 2004.

18.15  A GATEKEEPER’S LOT:
       NOT A HAPPY ONE?
       John Horan
       Harbinson Mulholland
       Member of IMLPO

18.35  WHAT IS IMLPO, WHAT DO WE DO,
       AND WHY SHOULD YOU JOIN?
       Steve Hancock
       Head of Group Money
       Laundering Prevention
       Prudential plc
       Chairman of IMLPO

19.00  DRINKS RECEPTION
       Stay and have a drink
       and a chat with us!

www.imlpo.com
News in Brief

HIP HOP

The Minister for Housing & Planning for England & Wales has announced that the Government has decided to drop the mandatory inclusion of a Home Condition Report (HCR) in Home Information Packs following consultation with the industry that it would not be sufficiently tested in time for introduction in June 2007.

Now that the HCR is to become voluntary, the compulsory parts of the pack essentially relate to legal information about the property and title, the results of local authority and other relevant searches. Maybe it should be rebranded as the Home Charter Scheme!

OMBUDSMAN’S ANNUAL REPORT

The Annual Report for 2005/2006 of the Northern Ireland Ombudsman, Tom Frawley, has recently been published. Mr Frawley holds the offices of Assembly Ombudsman and Commissioner for Complaints. The three main areas of complaint are planning, housing and health.

In the last year the Planning Service had more complaints against it than any other government-linked agency. Complaints were also upheld against the Housing Executive, the Royal Group of Hospitals and the Equality Commission.

With a major shake-up of public service bodies arising out of the Review of Public Administration, the Ombudsman has urged the introduction of internal complaints procedures to resolve problems at as early a stage as possible. The Report can be accessed at wwwНИ-ombudsman.org.uk/pubs/ombudsman%202006.pdf.

MORTGAGE ACTIONS

Statistics published by the Northern Ireland Court Service show that during the second quarter of 2006, 612 writs and originating summonses were issued in respect of mortgages in the Chancery Division of the High Court.

The comparable figure for the second quarter in 2005 was 663. There was an 8% decrease in the number of mortgage cases received in Chancery between April - June 2005 and 2006. There were 399 mortgage cases disposed of during the same time period with 404 orders made.

HUMAN RIGHTS COMMISSION PUBLISH STRATEGIC PLAN

The Northern Ireland Human Rights Commission has published a new Strategic Plan which details its programme of work for the next three years. The plan was developed following a wide ranging consultation process and focuses on four key aims:

- Building a human rights culture in Northern Ireland
- Challenging and preventing human rights abuse
- Building support for a Bill of Rights and working in partnership with others for its implementation, and
- Building a strong and effective Human Rights Commission.

The plan can be accessed on the Commission’s website at www.nihrc.org

INSIDE ISSUES

The second issue of Inside Issues has been published by the Prisoner Ombudsman. The newsletter provides a round up of some complaints recently dealt with by his office. He also reports that following a complaint from a prisoner about being prevented from telephoning the Ombudsman in confidence and at no cost, a freephone telephone number (0800 7836317) has now been provided for this purpose.

The newsletter and further details about the role of the Prisoner Ombudsman can be accessed at www.prisonerombudsman.gov.uk.

NOISE COMPLAINTS ON THE INCREASE

A new report from the Department of Environment reveals that noise complaints in Northern Ireland have increased by 13% over the last year.

The statistics show that for 2005/06 there were 11,337 noise complaints made to district councils who have the main responsibility for investigating and dealing with most types of complaint about noise nuisance from the general public.

The vast majority of complaints made (85%) were in relation to noise from domestic premises, such as barking dogs and loud music. Commercial premises and leisure facilities accounted for 6% of all noise complaints, with the main source being pubs and clubs. Only 2% of complaints related to noise from industrial activities.

MINI MOTOS

The PSNI has warned that it takes very seriously the legal and safety issues surrounding the use of mini-moto, quad and scrambler motorbikes and is aware of the potential dangers and disruption they pose to the community and those who use them.

The courts have determined that go-peds and electric scooters are motor vehicles. Quads, scramblers and mini-motos are legally defined as mechanically propelled vehicles and when used on a public road/place, they too are regarded as motor vehicles.

The police state that anyone found using a motor vehicle on a public road or place without insurance, a driving licence, tax or a helmet will be guilty of an offence under road traffic legislation.

DRAFT TAXIS ORDER

The DoE has published a draft Taxis Order (NI) Order 2006. The aim is to have the legislation in place by March 2007, although it will not all be commenced at that time.

The draft Order proposes a new legal framework for taxi regulation. It covers the licensing of taxi operators, drivers and vehicles, fares and taximeters, hiring at separate fares and enforcement.

The consultation period closes on 7 November 2006. A copy of the consultation document can be found at: http://www.roadsafetyni.gov.uk/consultations

DISPOSAL OF UNCLAIMED HUMAN ORGANS AND TISSUE

The Human Tissue Authority has published its first Codes of Practice on the removal, storage, use and disposal of human tissue and organs.

Following the publication of these Codes, the Acting Chief Medical Officer for Northern Ireland has announced the end of the suspension on the disposal of post mortem human organs and tissue imposed in May 2003. This related to human tissue kept from post mortem examinations carried out before 2001.

From 1 September Health Trusts and other establishments in Northern Ireland that kept human organs and tissues may begin disposing of both identifiable and unidentifiable holdings of organs and tissue in accordance with the new Codes, provided that they are not the subject of an enquiry from the family.
Land Registers update

In this article, Patricia Montgomery, Chief Executive/Registrar of Titles, provides an update on the work of the Land Registers and highlights a number of important future developments.

**Landweb Direct**

As you may be aware our Landweb Direct project was highly commended at the e-Government National Awards ceremony in January 2006 – the only Northern Ireland finalist and only one of three highly commended projects out of 249 entries.

We went one better in April winning the Government to Business category at the Government Computing Awards. The judging panel chose the winner “because of its creation of a real community of interest and how LRNI has broadened its user group and raised the number of online transactions”.

Our success came from the fact that we were able to advise that over the past five years LRNI has increased its business almost four fold.

In 2000/2001 – we completed 32,000 registrations.

In 2005/2006 – we completed 116,000 registrations.

In 2000/2001 – we completed 230,379 Land Information Services (LIS) transactions.

In 2004 – we completed 556,887 LIS transactions.

In 2005 – we completed 750,000 LIS transactions.

In the year to date we have completed over 1 million LIS transactions. 71% of these LIS transactions are completed online.

Landweb Direct is the most used website by members of the legal profession in Northern Ireland. Over 50% of solicitors’ practices are subscribers.

There are over 700 users of Landweb Direct: 33% are solicitors – 47% are other companies including law searchers, banks, lending institutions and Government departments. Over 200 users are based in Great Britain. Landweb Direct will be launched to the general public in 2007.

If you use our services we would welcome your feedback. We are currently working on plans to update the website and your input would be invaluable.

If you do not use Landweb Direct but would like to know more about the service then please contact Brigid McAlinden, LRNI Customer Services Manager on 028 9025 1760 or e-mail brigid.mcalinden@lrni.gov.uk.

**E-registration**

As we move forward we plan to develop Landweb Direct further to enable us to provide an e-registration service to the legal profession.

The first steps towards e-registration have already been taken with LRNI having undertaken a series of talks across Northern Ireland. We have formed a user group with representatives from solicitors’ practices right across Northern Ireland. From those practices we have nominees who have formed a Pathfinder Group and they have been working with us and BT to agree the requirements of the new system. This phase has now been completed and the technical specialists from BT are currently developing a prototype system which we hope to pilot at the end of 2006 or early 2007.

The aim is to enable solicitors to fill out their applications online and these can then be downloaded, signed and submitted. The online application will have a “wizard” approach and will prompt users for information. The system will not be able to correct applications which are legally incorrect but it will ensure that all information that is required is inserted on the form (it will not be dissimilar to applying for airline tickets online – where the system prompts you to include all relevant information).

Phase one of development will not allow solicitors to submit documents electronically as there still are some refinements which must be made to accommodate digital signatures. We also believe some legislative changes will be necessary in respect of e-signatures and we are currently considering this as a matter of urgency. However, phase one should assist us in agreeing the requirements of the new system.

LRNI is planning to hold, before end 2006, a set of further seminars for solicitors to advise and discuss progress in relation to the e-registration project.

**Dematerialisation of Land Certificates**

Ultimately for e-registration to be successful we must also move towards dematerialisation of Land Certificates. Land Certificates are no longer required for registration in England and Wales and will no longer be required in Scotland from 2007 and the Republic of Ireland from 2009. LRNI is currently drafting amended Land Registration Rules for consideration by the profession which will bring our legislation in line with the other Registries in the UK and ROI. We hope to be in a position to circulate the draft Rules for consultation with the profession and other interested bodies later this year.

Dematerialisation of Land Certificates will enable LRNI to speed up turnaround times. We currently have 1,000 applications in Land Registry which are the subject of Production Orders. These cannot be processed because Land Certificates have not been lodged. Many other cases are linked to these applications and much time and effort is wasted by staff and by the profession trying to locate missing Land Certificates. LRNI also has concerns about the increase in the number of applications for the issue of duplicate Certificates and the number of such Certificates which are now in existence.

**Document Image Processing Information System (DIPIS)**

The DIPIS system of scanning Dealing of Whole applications has been in place now for over 12 months and has been very successful. Applications are scanned in to our system and caseworkers complete registrations on screen. The paper applications are stored at intake and no applications received have “gone missing” since DIPIS was introduced. DIPIS has been rolled out to cover applications for Deeds of Rectification from 7 August 2006. Further types of transactions will move to the DIPIS environment later this year.

**Stamp Duty Land Tax**

Discussions are ongoing with HMRC in relation to SDLT forms. Registers of Scotland (ROS) plan to introduce a system whereby solicitors can lodge SDLT forms and cheques
along with e-registration applications through ROS. Should this system prove to be successful, it is anticipated that same will be extended to Northern Ireland.

**Training for Solicitors’ support staff**

LRNI and the Law Society have been working together to provide training for solicitors’ support staff in an effort to reduce high rejection rates. To date training has taken place in Enniskillen, Omagh, Londonderry and Cookstown. Further workshops are being organised. If you are interested in availing of this free training, please contact Brigid McAlinden at LRNI or Peter O’Brien at the Law Society.

**Complaints procedure**

LRNI has appointed Jodi Berg as Independent Complaints Reviewer. Ms Berg already fulfils this function for Her Majesty’s Land Registry. Our new complaints procedure leaflets are currently being printed and will be available shortly. Copies of same will be available from our Customer Information Centre or from Brigid McAlinden.

**Fees**

New Fees Orders for both Land Registry and Registry of Deeds will be introduced shortly. The Land Registry fees are being reduced and the Registry of Deeds fees are being restructured to ensure that there is no cross-subsidisation of fees between Land Registry and Registry of Deeds. The new Fees Orders will be operational before the end of 2006. Unfortunately this means that charging for Registry of Deeds Searching, which had been waived for the last few years, will recommence when the ROD Order becomes operational.

Details of fees are available on Landweb Direct and there is also a fees calculator on the site. The site will be updated to take account of the new Fees Order.

**OSNI**

The situation in relation to outstanding maps is steadily improving. OSNI is working with LRNI on this problem and we are assured that all outstanding maps will be available by the end of 2006. Middle management level meetings between the organisations now take place on a monthly basis and any issues which are causing difficulties for LRNI are raised at same.

**Registars hearings**

The position post Pye is that we are processing adverse possession cases and that hearings have been resumed. England, Wales and the Republic of Ireland have also recommenced processing adverse possession cases. We understand that the Pye appeal should be heard before the end of this year.

**Land and Property Services Agency**

The Secretary of State has announced that under the Review of Public Administration, he proposes to merge LRNI with OSNI, Rates Collection Agency and Valuation and Lands Agency.

The new Agency will come into operation in April 2008 unless there are further changes to be made in line with RPA which could affect this start date. Discussions are currently underway between the Agencies and their Parent Departments concerning this matter.

A scoping study has been prepared and will be made available to all interested parties including customers within the near future. All Agencies involved in the proposed merger are firmly committed to ensuring that service to customers will be maintained during this period of change.

**Patricia Montgomery**

Chief Executive/Registrar of Titles

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**Land Law Reform Project**

Land Registers of Northern Ireland (LRNI) and the Office of Law Reform (OLR) have commenced work on a collaborative Project in preparation for electronic registration.

To enable LRNI to offer e-registration services, consideration must be given to the reform and modernisation of both land law and conveyancing law and practice. In particular, property law needs to be examined with a view to the removal of anachronisms and anomalies. In addition, obstacles to the effective operation of electronic processes must be identified and removed.

A substantial and comprehensive reform in this area will facilitate modernisation of the whole conveyancing process, making it simpler and less protracted. It is the clear view of both LRNI and OLR lawyers that the law reform must come first; since without a basis of more substantive law, it would not be possible to introduce e-registration and/or, in the long term, e-conveyancing properly.

Northern Ireland must not be left behind when other parts of the United Kingdom as well as the Republic of Ireland and many other common law jurisdictions are engaged in creating the necessary legal framework for registered conveyancing to be conducted electronically.

We plan to arrange meetings with solicitors across the province within the next few months to explain how the project will operate and to learn what practitioners think are the issues that need to be dealt with. Any preliminary comments and suggestions are welcome.

The Project is being taken forward by Sarah Witchell and Diane Drennan who can be contacted at:

**Office of Law Reform**

Lancashire House
5 Linenhall Street
BELFAST BT2 8AA
Email: sarah.witchell@dfpni.gov.uk
OLR website: www.olrni.gov.uk

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**Journal of the LSNI**

September 2006
Did you see?

AMENDMENT TO CML HANDBOOK
In last month’s edition of The Writ we carried (at page 18), details of new requirements by the Council of Mortgage Lenders (CML) for new build homes in Northern Ireland. These amend paragraph 6.6.2 of the Lender’s Handbook.

Under the CML initiative, lenders will not release the mortgage funds for a new-build purchase unless the purchaser’s solicitor has received confirmation, in the form of a cover note, that the property has passed its pre-handover inspection. In practice, the new home warranty provider will give the cover note to the builder immediately after the property passes inspection. The builder or the builder’s solicitor will then pass the cover note to the purchaser’s solicitor (a faxed copy of the cover note is acceptable). The borrower’s solicitor is not permitted to request the mortgage funds without having first received the cover note, although there is no need for the lender to see the cover note.

This revised approach applies to all transactions involving new properties being built or converted in accordance with a new home warranty where acceptance of the contract occurs after 1 September 2006. It will not apply to self-build schemes or where the construction or conversion of a new property is supervised by a professional consultant without a new home warranty.

Updated customer guide to Inheritance Tax

HMRC has published an updated guide to Inheritance Tax. This guide is designed to assist with obtaining a grant of representation, completing an account of the deceased’s estate and paying any inheritance tax which may be due. It also gives advice about lifetime gifts and the taxation of discretionary trusts.

The changes introduced by the Finance Act 2006 which have significantly affected the way that Inheritance Tax is charged on trusts, lifetime gifts and some pensions are also covered.

This guide is designed to assist with obtaining a grant of representation, completing an account of the deceased’s estate and paying any inheritance tax which may be due.

Updated guidance is now available on the following topics:

- Accumulation and maintenance trusts
- Age 18 to 25 trusts
- Trusts for bereaved minors
- Gifts
- Relevant property trusts

There are also new and updated definitions in the Inheritance Tax glossary.

The Guide is accessible at www.hmrc.gov.uk/cto/customerguide/page1.htm

Which one is heading for a breakdown?
LawCare offers a Free Stress Seminar to Firms and Law Societies. For further details phone 0870 774 3663
If you need help, call 0800 279 6888
Health Support and Advice for Lawyers • www.lawcare.org.uk
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A very different place - or a glimpse of the future?

Once again English land law is about to take another step away from us. I refer this time to the expiry on 13 October 2006 of the transitional period granted by the English Land Registration Act 2002. It changed the law of adverse possession as regards registered land and reference was made to it in Pye v United Kingdom [2005] 3 EGLR 1.

However, it has also impacted upon squatters of unregistered land who may wish to seek first registration. A very useful summary is provided by Emma Slessinger in her article “Remains the Kings of the Castle” 2006 EG, 0628, p.99 (15 July 2006).

With the appeal in Pye due to be heard by the Grand Chamber on 8 November 2006, one wonders what effect, if any, the above will have. It will be remembered that the dissenting opinion commented at paragraph 3:

The Convention is intended to guarantee a minimum standard of human rights protection. It is open to the domestic authorities to provide a higher standard. The Court should not be unduly influenced by developments after the facts of the case. At the same time it leaves to the member states a margin of appreciation in determining the ways of implementation of those standards. This margin is wider in respect of the right protected under the Article 1 of Protocol No 1. We accept that the Land Registration Act 2002 provided additional procedural protection for negligent landowners but that does not mean that the previous position was in violation of the Convention. We note that the United Kingdom provisions on adverse possession appear never to have been challenged before the former Commission or the Court until the present case and we fear that the majority have been swayed by the legislative changes and judicial comments, rather than trying to assess what would have been the position if, for example, the 2002 Act had not been passed.

Should the appeal be dismissed, then one wonders when the “folks on the hill” may be asked to address the issues arising therein - or will we be faced with another Order in Council, which will seek to bring us into line with England and Wales and ignore the long-established peculiarities of this place.

We are grateful to EJ David McBrien LLB, LLM, Barrister-at-law of the Inn of Court of Northern Ireland and of the King’s Inns, Dublin for this note.

NORTHERN IRELAND HEALTH AND SOCIAL SERVICES CENTRAL SERVICES AGENCY

SOLICITORS £20,472 - £35,966 (under review)

Due to an expansion of work within the Directorate we are embarking on a major recruitment exercise.

Applications are invited from qualified Solicitors to join the Directorate of Legal Services, providing a wide range of Legal Services to Health and Social Services Boards, Trusts and other HPSS organisations. These include Social Services/childcare law, employers/occupiers liability, professional negligence liability, employment law, mental health, administrative law and conveyancing. The successful candidates will join an experienced team of Solicitors and administrative support staff providing a high quality professional and client-sensitive service.

At least 3 years’ post-qualification experience in providing legal services in any of the above areas is desirable. Candidates must also have experience in managing a substantial personal workload on their own initiative. The point of entry on the salary scale will depend on the successful candidate’s qualifications, experience etc. Successful candidates retained on a permanent basis may be eligible after an initial period for transfer to a higher salary scale as follows: £32,173 - £42,492.

Applicants should be prepared to work flexibly to meet the demands of an interesting and challenging workload within the HPSS. This is an excellent opportunity for Solicitors who are prepared to specialise in high quality legal services, advising and representing officers at the highest level within the HPSS.

A six month waiting list may be compiled for similar vacancies. Applicants should hold a current full driving licence and be prepared to travel throughout Northern Ireland.

Closing date for application forms is 4.00pm on Friday 20 October 2006.

For an application form and information pack, please go to www.centralservicesagency.n-i.nhs.uk or apply in writing, enclosing a stamped self-addressed envelope (15” x 10”) to the value of 75p to:

Human Resources Director, Recruitment Section, Central Services Agency, 2 Franklin Street, Belfast BT2 8DQ.

The Agency is committed to appointing the best person for the job irrespective of religious or political belief, gender, marital status, race, sexual orientation, disability, dependants or age. In pursuit of our Equal Opportunities Policy, we welcome applications from all sections of the community and especially from the Protestant community, which is currently under-represented in the workforce. Appointments, however, will be made on merit only.
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www.kpmg.ie
Admissions Ceremonies 2006

Copies of these photographs may be purchased by contacting Aurora Photography on 028 9092 3347.
Memories, stories and experiences of those who inhabited and worked at some of Northern Ireland's most famous prisons are to be recorded for future generations to explore and learn from.

The project hopes to film people who experienced life inside Armagh Gaol - ex-prisoners, prison officers, doctors, teachers, legal representatives, visitors, etc - in a bid to create an archive that will explore all sides of Northern Ireland's difficult history. It is also hoped that stories from Long Kesh/The Maze, Magilligan and Crumlin Road Prisons will be recorded in the future.

With the aid of a grant from the Heritage Lottery Fund (HLF), Cahal McLaughlin, a filmmaker and senior lecturer at the University of Ulster, will film and record stories which will touch on some of the most difficult times from the Troubles.

The proposed redevelopment of most of Northern Ireland's notorious prisons signals the removal of some of the most significant buildings from the Troubles, taking with it much of the hidden and contested heritage associated with them. Thousands of people including staff, prisoners, teachers, solicitors and visitors were touched by the prisons and their stories are a vital part of the peace process and Northern Ireland's history.

This previously hidden history will be made available to the public and will be used for educational and therapeutic purposes. A permanent home for the archive has yet to be decided. The project has been put together in close conjunction and consultation with user groups.

Commenting on the project, Cahal McLaughlin said: “This project is very important to the process of understanding our contested past. Thousands of people experienced the prisons in some way but their stories and memories have often remained hidden. It’s these stories and memories that we want to tap into before they are lost forever and I would encourage as many people as possible to come forward and share their experiences.”

Anyone solicitor who is interested in learning more, or participating in the recordings, should contact the project researcher, Lorraine Dennis on l.dennis@ulster.ac.uk or 07958 41074.
The Law Reform (Miscellaneous Provision) (NI) Order 2006


The Order deals with three issues: the defence of reasonable chastisement; the law relating to marriage; and a minor technical correction to the Civil Partnership Act 2004 (c.33).

The defence of reasonable chastisement
A. 2 of the Order restricts the defence of reasonable chastisement to a charge of common assault under s. 42 of the Offences Against The Person Act 1861 (c.100) by precluding its use on more serious charges, such as wounding, causing grievous bodily harm, assault occasioning actual bodily harm or cruelty to persons under sixteen.

It also precludes the use of the defence in a claim for civil damages where the harm caused amounted to actual bodily harm.

A. 2 makes corresponding provision to s. 58 of the Children Act 2004 (which applies in England and Wales) and is intended to take account of the judgment in A v UK [1998]. In that case, the European Court of Human Rights held that the UK had breached A. 3 of the European Convention on Human Rights (“the Convention”) by failing to provide a young boy with adequate protection from inhuman and degrading treatment in the form of beatings from his step-father.

The law relating to marriage
Arts. 3 to 5 of the Order repeal a number of provisions in existing legislation which prevent certain persons from marrying and also repeal as yet uncommenced provisions in the Civil Partnership Act 2004.

Those Articles will address the judgment in B and L v UK [2005], where the European Court of Human Rights held that the current law which prohibits a man from marrying his former daughter-in-law while his son and his son’s mother are still alive was in breach of A. 12 of the Convention (right to marry).

Minor correction
A. 6 effects a minor correction to Schedule 16 to the Civil Partnership Act 2004 to ensure that courts of summary jurisdiction have a full range of powers to vary orders for financial relief.

Conclusion
The above is a brief summary of the provisions in the Order and should be read in conjunction with it (the Order is available from the Stationary Office or can be viewed on http://www.opsi.gov.uk/si/si2006/20061945.htm). It is not, nor is it intended to be, a comprehensive description or interpretation of the Order.

We are grateful to the Office of Law Reform for this note.

NOTE:
On 12 September 2006, in a case brought by the Northern Ireland Commissioner for Children & Young People, the High Court granted leave for an application for judicial review of this new legislation. The Commissioner believes that it does not go far enough in protecting children as it does not prevent parents from assaulting their children while disciplining them. The hearing has been adjourned until 24 November.

Child's right to anonymity

In the recent case of Clayton v Clayton (2006) EWCA 878, the English Court of Appeal has held that a child’s automatic right to anonymity ceases once court proceedings relating to the child are concluded, entitlement to anonymity thereafter being dependent on balancing the rights of those involved under Arts. 8 and 10 of the European Convention on Human Rights.

From the language in s. 97 of the Children Act 1989 (see A. 170 of the Children (NI) Order 1995), the Court ruled that it was clear that restrictions on identification of children involved ended once proceedings were concluded. Thereafter, the parties will be able to put into the public domain any matter relating to themselves and their children which they wish to publish, provided that the publication does not violates. 12 of the Administration of Justice Act 1960 (which also extends to Northern Ireland).

However, this does not mean that parents are free to draw their children into an ongoing public debate, since the court retains its welfare jurisdiction enabling intervention where a child’s welfare is put at risk by inappropriate parental identification for publicity purposes.

A judge may, in the welfare interest of the child and in order to protect his or her privacy under A. 8 ECHR, make an injunction or order which prohibits the identification of the child not simply to the extent set out in s. 97(2) of the 1989 Act but for a period beyond the end of the proceedings.

However, in deciding to make a long-term injunction aimed at restricting the publication of proceedings involving children, the court is obliged in the face of challenge to conduct a balancing exercise between the A. 8 rights of the child and the A. 10 rights of the parents, or, where media interest in the case exists, the A. 10 right to report and discuss a case which is of public interest.

It seems that a practical consequence which flows from this decision is that it may be appropriate for every tribunal, when making what it believes to be a final order in proceedings under the Children Order, to consider whether or not there is an outstanding welfare issue which needs to be addressed by a continuing order for anonymity.
The recently issued Ancillary Relief Guidance Notes for applications in the High Court require that 21 days prior to the Second Review Hearing a written estimate of costs to date (to include a breakdown of solicitor’s professional fees together with outlays and VAT) be filed in the Matrimonial office.

In this seminar Paul Kerr, Costs Drawer will speak on how estimates of costs should be prepared and presented, the legal status of estimates and the possible consequences the giving of an estimate may have for solicitors in respect of clients, other parties to the proceedings and third parties such as retaining experts. Practical materials and helpful guidance will be available to all attending.

Attendance at this seminar will count towards the Client Care and Practice Management requirement of the CPD Regulations.

Light refreshments will be served in the half hour preceding the start of each seminar.

**CPD Allocation:** 1.5 hours  
**Cost:** £50
The requirement to lodge a bundle of pleadings in the Matrimonial Office of the Royal Courts of Justice in respect of undefended matrimonial and civil partnership causes has been removed.

The policy intention behind the amendments is to save the Matrimonial Office and practitioners the office time taken up in preparing papers for undefended causes. It was considered that the office time used in preparing the bundles in such cases was disproportionate to the short hearing time in court and that the judge could instead use the original documents on the court file at the hearing.

This change is contained in the Family Proceedings (Amendment) Rules (NI) 2006 SR 2006 No. 304 which amend the Family Proceedings Rules (NI) 1996 ("the 1996 Rules"). The new Rules which came into operation on 1 August 2006 also:

- require, in Ancillary Relief proceedings, a party with pension rights to provide information to the other party when the Board of the Pension Protection Fund is involved with the pension scheme; and

- make two minor amendments consequential upon the Constitutional Reform Act 2005 by amending the definitions of "civil partnership proceedings county court" and "divorce county court" in the 1996 Rules.
With more and more people ‘going on-line’, e-mail has emerged as a business-critical tool. As well as being central to communications with existing clients and business associates, it can be used to maximise the efficient running of a legal practice.

This ‘hands on’ workshop is intended to provide practitioners with a comprehensive look at all aspects of Microsoft Outlook from e-mail correspondence, address book management to best use of the electronic calendar. It is suitable for those with a range of IT skills - from those who have little knowledge to those who are keen to pick up further Outlook hints and tips.

The course will also cover legal issues surrounding the use of e-mail such as e-mail policies, disclaimers and Data Protection. There will also be a technology update covering the range of options available for those interested in remote or home working.

Attendance at this workshop will count towards the Client Care and Practice Management requirement of the CPD Regulations.

Due to the nature of these workshops places are limited, so early booking is advisable.

For more details and further course information, e-mail cpd@lawsoc-ni.org
Both Accountants’ Reports and inspections by the Society’s in-house accountants reveal a level of confusion in solicitors’ practices about the treatment of client deposits and in particular designated deposit accounts.

Such accounts fall within the definition of “client account” in Regulation 2(v) of the Solicitors’ Accounts Regulations 1998 and contain clients’ monies as defined by Regulation 2(vi). Care should be taken that deposit accounts are included in all reconciliations of clients’ monies required by the Regulations.

Appointments to the Legal Services Commission

The Secretary of State for Constitutional Affairs, Lord Falconer, has appointed four new members to the Northern Ireland Legal Services Commission:

- Mr Joseph Donnelly
- Ms Fiona Donnelly
- Mrs Hilary McCartan
- Mr Wilson Matthews

These new appointments replace members whose tenure had expired. The new members have been appointed to the Commission with effect from 1 September 2006 for a period of three years.

Joe Donnelly has been a partner in the firm of Anderson Agnew & Co, Solicitors, Ballymena since 1976. He has also been a very active contributor to the work of the Law Society. First elected a member of the Society’s Council in 1995, he became President of the Society in 2002-2003. He has also acted as Chair and been a member of many of the Society’s Committees. Since 2002, he has been closely involved with the organisation of the Society’s Annual Conference.

Fiona Donnelly has wide ranging experience in both academic and legal practice. She worked for Magill & Co, Solicitors, Belfast from 1987 – 1996, initially as an assistant solicitor before progressing to partner. From 1996 to 2006 she worked for Murty Toolan & Co as a partner and now runs Fiona Donnelly, Solicitors. She is currently Associate Director of the Institute of Professional Legal Studies. She is also Chair of the Children Order Accreditation Panel and a member of the Advocacy Working Party.

Hilary McCartan is a non-Executive Director of the Central Services Agency, a member of the General Consumer Council and a member of the Audit & Risk Committee of the Northern Ireland Commissioner for Children & Young People.

Wilson Matthews has long standing and wide ranging experience of finance in the provision of Health & Social Services. He is also a member of the Audit Committee Institute (NI).

The Lord Chancellor has also re-appointed the following five existing members to the Commission with effect from 1 August 2006 for a period of 3 years:

- Mr Les Allamby
- Mr Ronnie Spence CB
- Dr Jeremy Harbison CB
- Ms Briedge Gadd CBE
- Mr Miceal McCoy

Members of the Commission with continuing tenure are Sir Anthony Holland (Chair) and Mr Brian Fee QC.
A set of Consolidated Practice Notes (which commenced on 5 September 2006) has been published by Court Service. The Notes contain the main rules governing the listing of business before and the hearing of summonses by the Masters in the Queen’s Bench Division of the High Court of Justice.

These Notes replace previous Practice Notes issued by the Masters, namely:

Practice Note No 1 of 2001 – Adjournments in the Queen’s Bench Summons Court

Practice Note No 2 of 2001 – Proceedings by way of summons before the Masters

Practice Note No 1 of 2002 – Listing and Hearing of assessments of damages under Order 37

In addition Appendix 1 to the Consolidated Notes contains a Guide to Good Practice on Applications for Remittal.

A copy of the Consolidated Notes is downloadable from:-

www.courtsni.gov.uk/en-GB/Publications/Press_and_Media/p_pm_pr200610.htm

or the Law Society Library’s Libero Database.

A limited number of hard copies are also available from the Masters Office.

Proposed new debt relief scheme for Northern Ireland

The Department of Enterprise, Trade and Investment proposes to introduce a new debt relief scheme similar to one being introduced in England and Wales.

The Scheme will operate as an alternative to bankruptcy and will benefit individuals who have little in the way of income or assets and therefore are unable to afford the deposits payable to petition for bankruptcy.

Under this proposed scheme the Official Receiver will be able to make a Debt Relief Order (DRO) which will equate to a Bankruptcy Order issued by the Northern Ireland High Court. It is intended that the person subject to a DRO will be discharged from his insolvency after one year, similar to what happens in bankruptcy.

Individuals against whom a DRO has been made will be subject to restrictions similar to those in bankruptcy. If they acquire any significant assets, these would be liable to seizure for the benefit of their creditors. It will also be possible for Income Payments Orders to be made if the debtor’s income becomes such that it could be reasonably expected that payments could be made to creditors.

A system of Debt Relief Restriction Orders/ Undertakings will also be put in place similar to that currently in operation for bankruptcy orders. This will mean that debtors who are found to be culpable can be placed under continuing restrictions after the Debt Relief Order period has ended.

A consultation document was issued by the Insolvency Service in England and Wales setting out the background and the proposals for the scheme.

A copy of this consultation document, together with details of how to respond thereto, are available on the NI Insolvency Service website at www.insolvencyservice.detini.gov.uk

The closing date for receipt of comments is 18 October 2006.
**Litigation in the Commercial Court**

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<tr>
<td>Where:</td>
<td>Holiday Inn, Ormeau Avenue, Belfast</td>
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This afternoon seminar will consider key issues in Commercial Court litigation. The seminar will comprise three sections, with Mr Justice Coghlin kindly agreeing to participate as our keynote speaker in part one along with Gareth Jones (C & H Jefferson, Solicitors). Both will consider the practice and procedure of the Commercial Court from their differing perspectives.

In part two, presentations from a Forensic Accountant (Jeremy Harbinson of Harbinson Mulholland) and a Chartered Quantity Surveyor (Ferguson Bell LLM FRICS FCIArb MAE) will cover the issues surrounding the use of expert witnesses in the Commercial Court. Brian Speers (Carnson Morrow Graham, Solicitors) and Alva Brangam QC will bring the seminar to a close with a presentation on Mediation and Alternative Dispute Resolution.

If you are interested in attending the seminar, please complete the booking form below and return to The CPD Co-ordinator at Law Society House, 98 Victoria Street, Belfast, BT1 3JZ, along with a cheque for £90 (made payable to "Law Society of Northern Ireland").

Light refreshments will be served from 1.00pm.

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**Litigation in the Commercial Court**  Friday 27 October 2006 – Holiday Inn, Belfast

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The Northern Ireland Judicial Appointments Commission (the Commission) invites applications for appointment to the post of full-time Chairman of Industrial Tribunals and Fair Employment Tribunal. It is intended to make four appointments.

**Eligibility**
To be eligible for appointment a person must:

(i) have a seven year general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990;
(ii) be an advocate or solicitor admitted in Scotland of at least seven years’ standing; or
(iii) be a member of the Bar of Northern Ireland or a solicitor of the Court of Judicature of Northern Ireland of at least seven years’ standing;

The statutory retirement age is 70 years and the Lord Chancellor will expect a reasonable period of service before retirement. A full time Chairman is required to give at least 6 months notice of his/her intention to retire.

**Remuneration**
The current salary for a full-time Chairman is £94,418 per annum rising to £96,500 per annum on 1 November 2006.

A non-contributory pension scheme is available in respect of this post. Five years service is required in order to be eligible for a pension under the scheme.

**Selection Process**
Candidates will be appointed following an assessment and selection process, which will include shortlisting and an interview. All candidates will be required to submit an application form. It is intended to hold the interviews for these posts during late November / early December. All applications will be considered strictly on the basis of merit.

The Commission welcomes candidates from all backgrounds and sections of the community. The Commission will recommend for appointment, to the Lord Chancellor, the candidates who appear to the Commission to be the most suitable candidates based on merit regardless of ethnic origin, gender, marital status, sexual orientation, political affiliation, religion, disability, age (subject to the statutory retirement age for the office) or whether or not the candidates have dependants.

The Commission will engage in a programme of action to ensure, as far as is reasonably practicable, that a range of persons reflective of the community in Northern Ireland is available for consideration by the Commission for appointment.

**How to Apply**
Further information relating to this appointment can be found on the Northern Ireland Judicial Appointments Commission website, www.nijac.org. If you have any queries regarding the judicial appointments process please contact the Commission.

An application form together with supplementary information is available from: David Nolan, Northern Ireland Judicial Appointments Commission, Headline Building, 10-14 Victoria Street, Belfast BT1 3GG (028 9072 8562) or judicialappointments@nijac.org

Application forms can be provided in an accessible format on request.

Completed forms MUST be returned to arrive at the above address not later than 2.00pm on 6 October 2006.
Harassment in the workplace

The House of Lords has held in the case of Majrowski v Guy’s and St Thomas’ NHS Trust (2006) UKHL 34 that an employer can be vicariously liable if an employee breaches the provisions of the Protection from Harassment Act 1997.

Mr Majrowski claimed he had been subjected to bullying and intimidation by his departmental manager. He lodged a formal complaint of harassment - the Trust investigated and found that harassment had in fact occurred.

Mr Majrowski subsequently issued proceedings against his employers, seeking damages under s. 3 of the Protection from Harassment Act 1997 (the 1997 Act) for distress and anxiety and consequential loss caused by the harassment he had experienced in their employment. He did not make any claim against the departmental manager nor did he claim against the Trust for negligence or breach of contract. His claim was based solely on the Trust’s vicarious liability for the manager’s breach of the statutory prohibition of harassment.

Although it has long been established law that an employer is vicariously liable for an employee’s breach of a common law tort, there had been no authoritative determination of whether the same principle applied where the breach complained of is that of a duty imposed by statute on the individual employee rather than also on the employer.

Lord Nicholls delivering the leading judgment (with which all the Law Lords agreed) confirmed that “unless the statute expressly or impliedly indicates otherwise, the principle of vicarious liability is applicable where an employee commits a breach of a statutory obligation sounding in damages while acting in the course of his employment”.

The Law Lords also confirmed that the 1997 Act (which was originally passed to combat stalkers) applies to harassment of all types. This case may have significant ramifications for future cases of workplace bullying which are pursued through the civil courts. Employers will need to be aware of significant technical differences between cases pursued by employees (or ex-employees) through the Industrial Tribunal system on the grounds of harassment under the anti-discrimination legislation and employees who take cases of workplace bullying through the civil courts.

Such technical differences include the following:

- under the 1997 Act damages may be awarded for distress and anxiety, so there is no requirement to prove psychiatric damage - nor is there any requirement to show that any injury suffered was reasonably foreseeable
- an employer cannot rely on the statutory “reasonable steps defence” available in discrimination claims
- the applicable limitation period for a case under the 1997 Act is six years—this compares most favourably with three months for discrimination claims and the three year limitation period for normal personal injury claims
- legal aid may be available to the claimant
- contrary to the usual practice in employment tribunal cases, costs are recoverable in civil cases (although a claimant may also face liability for costs)

However the 1997 Act also offers statutory defences – most notably where the employer can show that it was reasonable to pursue the conduct. Accordingly disciplinary action or proper management of staff is unlikely to lead to a successful claim. Furthermore there must be “a course of conduct” (at least two incidents) that amounts to “harassment”.

There is no doubt that that this decision extends an employer’s liability for the actions of its staff. Its impact should not be underestimated. Indeed the stakes can be high.

In the recent case of Green v DB Group Services UK Ltd, the English High Court held the employer (Deutsche Bank) vicariously liable for the actions of four female employees who had subjected Ms Green to “a relentless campaign of mean and spiteful behaviour designed to cause her distress”. The plaintiff, who had suffered nervous breakdowns as a result of this bullying and harassment, was awarded £817,000 in respect of her claims for personal injury and under the Protection of Harassment Act.

Employers need to ensure that they take a pro-active role in the management of bullying and harassment and in particular where the victim is known to be vulnerable. Arranging for staff to attend harassment training was not considered a sufficient defence in the Green case because the alleged bullies did not take the training seriously and the High Court decided that the employer should have done more to prevent the harassment.

Locally the Labour Relations Agency and the Equality Commission have recently produced a publication on the subjects of harassment and bullying in the workplace – (see Writ June 2006 p21). The Guide is available as a free download in the publications section of the websites of both organisations.

Separately groups such as the Andrea Adams Trust are dedicated to the elimination of workplace bullying. As a charity it is independent from employer and employee groups, offering independent advice on this subject as well as organising events such as the Ban Bullying at Work Day (November 7 2006). For further information see: www.banbullyingatwork.com
Further to the provisions of the Fixed-Term Employees (Prevention of Less Favourable Treatment) Regulations (NI) 2002 (SR2002 No.298), the four year point has now been reached where, for the first time, fixed-term contracts can become permanent.

These Regulations came into effect on 1 October 2002. For the purposes of fixed-term contracts becoming permanent, continuous service prior to 10 July 2002 is not counted.

What effect do the Regulations have?

From 10 July 2006, employees who have been employed on successive fixed-term contracts (i.e. they have had the contract renewed previously or have been employed on more than one) for a period of four continuous years, will be able to ask their employer for a statement confirming that they are permanent and/or no longer on a fixed-term contract.

Employers have to issue this statement or one giving objective reasons why the contract remains fixed-term within 21 days of the employee’s request. The employer can only keep them on the fixed-term contract if they can objectively justify it at the point it was last renewed.

What can happen if the employer doesn’t issue a statement or issue one saying the contract is still fixed-term?

As long as the employee has requested the statement, and is still employed by the employer, he/she can apply to an Industrial Tribunal for a declaration.

If the Tribunal considers that the employer has deliberately failed to provide the statement without a good reason or they have provided one that is evasive, the Tribunal is entitled to draw any inference that they feel it is just and equitable to draw.

A guide to these Regulations can be downloaded from the Department of Employment and Learning’s website at www.delni.gov.uk/fixed-term-work-a-guide-to-the-regulations

Local workers will have their paid leave entitlement raised by either eight or ten days, under plans unveiled by the Department for Employment & Learning.

The proposals, which are being issued for consultation, will provide workers with the extra days in addition to their current statutory four weeks annual leave.

The right to 20 days paid annual leave was introduced by the Working Time Regulations (NI) 1988. Providing for an extra eight days would bring Northern Ireland into line with Great Britain, where there are eight bank and public holidays, whilst an extra ten days would reflect the number in Northern Ireland. They would also see the lowest paid, women, part-timers and those from ethnic minorities gaining the most.

Launching the consultation document Maria Eagle, Minister for Employment and Learning said:

“When we gave everyone the right to four weeks annual leave in 1998 many workers got paid holidays for the very first time. There are still many people, particularly the lowest paid, who have to take bank and public holidays from their leave entitlement. These proposals will mean that those workers will receive additional paid holidays.”

It is proposed that the additional leave will be phased in starting with an increase from 20 to 24 days (pro rata for part time workers) from 1 October 2007. In addition views are being sought on whether the rest of the leave should be introduced:

- in one stage, from October 2008;
- in one stage, from October 2009;
- in two phases, from October 2008 and October 2009.

The consultation closes on 19 October 2006 – it is entitled Increasing the holiday entitlement and can be found at www.delni.gov.uk
LUNCHTIME SEMINAR

The new 2006 TUPE Regulations

Speaker:  Alana Jones
Date:       Wednesday 25 October 2006
Time:       1pm (tea coffee and sandwiches from 12.30pm)
Venue:      Old Bar Library
Cost:       Members £5, Non-members £10.

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

Booking forms and cheques, payable to The Employment Lawyers’ Group (NI), should be sent to our Treasurer, Ms Alana Jones, Alana Jones Solicitors, 40b Frances Street, Newtownards BT23 7DN

BOOKING FORM

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Firm
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I enclose remittance of £

www.legal-island.com/elg.htm
Did you see?

**AMENDMENT TO THE PACE CODES OF PRACTICE**

In the June edition of the Writ we carried a piece about the new Video Identification Parade Electronic Recording (VIPER) system. The statutory authority for the revised procedures is the Police and Criminal Evidence (NI) Order 1989 (Codes of Practice) (Temporary Modification to Code D) Order 2006 SI 1081. The text of the amended Code can be found at: [http://www.opsi.gov.uk/si/si2006/20061081.htm](http://www.opsi.gov.uk/si/si2006/20061081.htm)

The amended Code of Practice sets out the methods which may be employed by police officers to identify suspects in an investigation and allows the PSNI to use video identification procedures as the primary method of identifying suspects instead of identification parades.

These modifications have effect for one year from 12 May 2006. We understand that it is intended that revised PACE Codes of Practice will be put in place before May 2007.

The Society is currently in discussion with the PSNI with a view to the provision of practical demonstrations of VIPER at the various custody suites across Northern Ireland where it is installed. Further details to be advised.

**Police Ombudsman to deal with immigration and customs complaints**

The Government has asked the Police Ombudsman’s Office to deal with serious complaints made against the Immigration Service and Her Majesty’s Revenue and Customs.

Legislation is also being enacted to make certain types of civilian police officers accountable to the police complaints system.

This information is contained in the Police Ombudsman’s fifth Annual Report, which was recently laid before Parliament. It explains that Police Ombudsman management is now in discussion with both the Immigration Service and HM Revenue and Customs about resourcing the new proposals.

In her Annual Report, the Police Ombudsman, Mrs Nuala O’Loan, outlines in detail the activities of the Office during the previous business year and addresses some of the issues facing the police complaints system in the near future.

In particular Mrs O’Loan has said she is concerned that the management of national security will pass next year from the PSNI to the Security Services.

She said: “It is vitally important that the police complaints system has the ability to access all relevant information and intelligence matters when investigating a complaint from the public.

“We are currently in discussion with the Security Services, who have no obligation to disclose material to us and are attempting to reach an agreement which would facilitate our access to material held by the Security Services. Of course it would be better if there was legislation which compelled the Security Services to disclose information.”

During the year the Office was the subject of an inspection by the Criminal Justice Inspectorate which described it as an efficient, effective and tightly managed organisation.

Last year the Police Ombudsman’s Office received more than 3100 complaints against the police - which represented an increase of 8% on the previous year.

Available statistics indicated that the majority of complaints (47%) came from people who described themselves as Protestant, 35% came from people who said they were Catholic and 18% from people who identified them as having another or no religion.

During the year the Police Ombudsman referred almost 170 cases to the Public Prosecution Service. In the vast majority she recommended that the officer/s should not be prosecuted. However, in five cases of complaint she recommended nine prosecutions against nine officers.

In 66 cases the Police Ombudsman recommended that the officer/s face disciplinary action.

The full text of the Report is available from [www.policeombudsman.org](http://www.policeombudsman.org)
Substantial increase in court fees proposed

A recently issued Court Service Consultation Paper setting out proposals for the revision of fees charged for civil business in the courts in Northern Ireland will have a major impact on how solicitors undertake civil litigation. In some cases the proposed increases are substantial, in others new fees are introduced into the litigation process.

This paper covers fees charged in respect of the business of the following court and business tiers:

- **Supreme Court**
- **County Court**
- **Magistrates’ Court**
- **Enforcement of Judgments Office**

The stated purpose of the consultation is to:

- assess whether the proposed new fees achieve a reasonable balance between a Treasury requirement to secure the full recovery of the cost of civil business and the need to ensure that the level at which fees are set does not inhibit access to justice and
- seek views on whether any individual fee proposal could have a disproportionate and adverse consequence on a particular group of customers

The Consultation Paper can be accessed at www.courtsni.gov.uk - follow Publications link.

Comments must be received by 27 November 2006.

To assist with the Society’s response to this consultation, James Cooper (Chair of the Contentious Business Committee) has convened a small Working Group of civil litigation practitioners.

If you have any comments to make on the fees proposals, please forward these, on or before 15 November 2006, to the secretary to the Group, Peter O’Brien at Law Society House – email: peter.obrien@lawsoc-ni.org.

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**Youth conferencing - roll out continues**

The ongoing roll-out of the Youth Conference Service will see it extend to North Down, South Down, Lisburn, Castlereagh and Ards areas with effect from 1st October 2006. In December 2006 it will also extend to the Coleraine and Derry areas.

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. Youth Court practitioners in each of the above areas will shortly be notified by the Society of CPD seminars to be held in order to inform legal practitioners about recent developments in the Youth Court and in particular about this new scheme and their role therein.

The Youth Conference Service is presently up and running in Belfast, Omagh, Strabane, Cookstown, Enniskillen Dungannon, Banbridge, Newry and Armagh Youth Courts.

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LexisNexis Butterworths are offering their top selling online products at reduced rates - firms of 3* fee earners or less are invited to join a syndicate of users and receive access to online products at a single user rate.

<table>
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<th>Number of users</th>
<th>All England Law Reports (£)</th>
<th>Encyclopedia of Forms and Precedents (£)</th>
<th>Halsbury Laws (£)</th>
<th>Employment online (£)</th>
<th>Company and commercial online (£)</th>
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<td>6,034</td>
<td>2,637</td>
<td>1,788</td>
</tr>
</tbody>
</table>

*Deals are also available for larger firms who wish to subscribe to any of the above products

Onsite training is available for all firms who take up this offer – similarly free trials can be arranged on any of the products on a 2-week basis.

Contact Heather Semple, Head of Library and Information Services, for further details of any of the products available.
Upcoming Legal-Island Events

Witness Statements - What are the lessons to be learned since the tribunal rules changed? (CPD: 3½ Hours)

Wednesday 18th October 06 9.30am – 1.30pm Grosvenor House, Glengall St, Belfast

With the advent last year of the requirement for witness statements in Industrial Tribunals/Fair Employment Tribunals in Northern Ireland the preparation of cases for hearing has fundamentally changed. This half day seminar aims to draw on advice from a leading practitioner in Britain who has worked with the new Rules since they entered into force there in 2004.

The small organisation rate (organisations with fewer than 50 employees) for the seminar is £118.40 + VAT = £139.12 The standard rate is £148.00 + VAT = £173.90. For a 10% discount on all rates book online at www.legal-island.com

Annual Review of Employment Law in Northern Ireland

Wednesday 25th October 2006
Thursday 2nd November 2006
Wednesday 15th November 2006

Glenavon Hotel, Cookstown
Seagoe Hotel, Craigavon
Culloden Hotel, Belfast

Last year’s event was a huge hit, with delegates being offered a day packed full of plenary and parallel sessions, breakfast and lunch-time seminars and a host of other features. This year we are offering the Annual Review at three different locations throughout Northern Ireland. An important new session this year looks at how the Industrial Tribunal in Northern Ireland has interpreted the law relating to time limits, costs and calculated awards for injury to feelings.

Cost: Notes Only £195.00 + VAT = £229.12
Full Rate £429.00 + VAT = £504.07
Small Firm Rate £321.75 + VAT = £378.06

Time: 9.00am (optional breakfast session) or 9.30am – 4.30pm

CPD Hours: 7 hours

A 10% discount is available to all who book online at www.legal-island.com

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Tel: 028 9446 3888 Fax: 028 9446 3516 Website: www.legal-island.com E-mail: siobhan@legal-island.com
Changing CPD Requirements

From January 2005 all solicitors in Northern Ireland are subject to the Continuing Professional Development Scheme (CPD).

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

• **Level 3** Senior Partners and Managers

• **Level 2** Staff and Solicitors who have some level of management responsibility

• **Level 1** Junior staff who need basic understanding of managing their work and the law firm environment

Please see below for forthcoming events:

**Winning & Retaining Clients** *(All Levels)*

**Wednesday 22nd November 2006 - The King’s Hall Exhibition Centre, Belfast**
How to increase your client list and market your services, build loyalty with your current clients and win back clients you may have lost.

**Lexcel Quality Standard** *(All Levels)*

**Wednesday 6th December 2006 – The King’s Hall Exhibition Centre, Belfast**
This is an introduction to the Quality Standards approved by the Law Society. The main areas of practice are covered with a discussion of how implementation may best be achieved and the barriers to be overcome.

**Client Care & Complaints Handling** *(All Levels)*

**Wednesday 13th December 2006 – The King’s Hall Exhibition Centre, Belfast**
This is an introduction to the principles of client care, the main causes of complaints and how to deal with them.

Qualifies for 3 hours CPD

All seminar times: 2.00pm – 5.00pm

Cost per seminar: £125.00 + VAT per delegate

To reserve a place on any CPD seminar please contact us on:

Tel: 0845 600 2729 or Email: info@theridleypartnership.co.uk
Mergers and Acquisitions Conference

30th November 2006  The Waterfront Hall, Belfast

Merging law firms can be a challenging process, but when effectively executed a merger will allow you to add leverage to your firm. Economies of scale and increased capacity can give you significant advantages and a more competitively balanced firm. In the changing legal landscape the desire to merge is becoming increasingly commonplace but the merger route is not always easy.

Attendance at The Ridley Partnership Ltd Mergers and Acquisitions Conference will give you the insight.

Hear about how to:

- Build the business case for the merger or acquisition
- Develop a strategy for the merger or acquisition talks and approach the initial discussions
- Organise and manage financial and commercial due diligence
- Identify and analyse the business and operational risk exposures
- Understand professional indemnity insurance implications
- Gain buy-in from your people and manage the change process post merger
- Integrate operational and compliance systems
- Communicate with clients and gain their support

Speakers:

Tom McGrath

Tom McGrath is a Fellow of both the Chartered Insurance Institute and the Institute of Administrative Management. He is also a Chartered Insurance Broker. Tom has been involved in risk management activity with a number of professions, particularly Solicitors.

Tom has been closely involved with the Master Policy Scheme in Northern Ireland since its inception. He continues to be engaged as an Expert Witness in insurance cases.

Tim Richmond

Tim is a Chartered Accountant by profession with vast wealth of experience in the management and leadership of professional services firms and the private business sector.

Tim has extensive experience in non-executive directorships in both the public and private sectors, including private equity backed companies. He was a non executive director of Nottingham Law School for some 10 years.

Jane Ridley

Jane is Chairman of The Ridley Group of companies with 20 years experience in management consultancy and people development, the past eleven years having been spent advising professional service firms and supporting the management development of executive managers, partners and lawyers.

The Ridley Partnership Ltd Mergers & Acquisitions Conference qualifies for 2 hours CPD

Cost per delegate: £150.00 + VAT

To book a place on the Mergers & Acquisitions Conference please telephone us on:

0845 600 2729

Or email us at: info@theridleypartnership.co.uk
Contract awarded to enforce parking restrictions

The Department for Regional Development has announced that following a rigorous procurement exercise, National Car Parks Ltd (NCP) has been awarded the contract for enforcing parking restrictions in Northern Ireland.

This will allow the transfer of responsibility for parking enforcement from the Police Service of Northern Ireland to the Department for Regional Development in Autumn 2006. As a result, traffic wardens will transfer to NCP.

The enforcement of on-street parking and waiting restrictions is currently the responsibility of the PSNI, mainly through the Traffic Warden service.

In 2001 the PSNI stated its intention to withdraw fully from such enforcement to target resources on areas of greater policing priority, including tasks related to road safety. The PSNI and Roads Service have been working in partnership since 2002 to take forward the process of changing parking infringements from being criminal offences to civil contraventions.

Following public consultation, the Traffic Management (NI) Order 2005 was passed in July 2005 to provide the primary legislative power to introduce decriminalised parking enforcement.

Roads Service has also recently made Regulations setting the level of parking penalties that will be in force when the new enforcement operation goes live at the end of October 2006.

The penalty charge for a parking ticket will be £60, reduced to £30 if paid within 14 days of receiving the ticket. This £30 level is the same as a fixed penalty notice currently issued by the PSNI for parking offences.

The de-clamp fee will be £40, while the cost to recover a vehicle that has been impounded will be £105. These are the same levels used in England and Wales, outside London. In both cases the parking ticket issued must also be paid.

Routine enforcement will be by the issue of penalty charge notices (parking tickets). Clamping and impounding will initially only be used to recover outstanding debt or in circumstances where persistent offenders are a problem.

Delays with Causeway

An innovative IT system enabling Northern Ireland’s criminal justice agencies to share information is facing delays of up to 18 months before rolling out its second phase.

A report published by Criminal Justice Inspectorate has revealed that the failure of agencies to understand and provide the necessary resources to support the Causeway IT programme led to problems in its early stages.

This has meant that the next stage of the process (which was due to ‘go live’ in April 2007) will now not be delivered until 2008.

"Inspectors found these initial delays continue to have a knock on effect by preventing other agencies from linking into the Causeway system on time. On the positive side though, the development of this integrated electronic case management system has improved relationships and working practices between the agencies," said Kit Chivers, Chief Inspector of Criminal Justice for Northern Ireland.

Mr Chivers explained that while delays were experienced at the beginning as the PSNI developed an interim IT system to allow:

<table>
<thead>
<tr>
<th>Information to be shared with the Public Prosecution Service (PPS) through Causeway</th>
<th>Long-term solution was now being implemented to assist with electronic case preparation.</th>
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<tr>
<td>The report has also shown work is in hand to address difficulties with the PPS’s element of the system so it can fulfil its role in the project. An example of the difficulties experienced by PPS was a two month delay in the Causeway programme because insufficient resources were available to take forward a specific task.</td>
<td>&quot;Any delay that occurs, whatever its source, is concerning as it increases the likelihood of the whole project exceeding its £43million budget. It also means other criminal justice organisations are unable to fully realise the benefits of the Causeway system,&quot; continued Mr Chivers.</td>
</tr>
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<td>Inspectors also found that due to a backlog of files awaiting action in some cases one version of a file could exist on the Causeway hub while at the same time, another version of the file existed within the PPS internal system awaiting manual intervention.</td>
<td>&quot;We have recommended the PPS, together with the PSNI, review how Form 1’s, which are applications to extend the time allowed to prosecute a case, are processed as the abandonment of cases because they are out of time rather than for evidential reasons does not serve justice,&quot; concluded Mr Chivers.</td>
</tr>
<tr>
<td>The Chief Inspector of Criminal Justice called for the PPS and PSNI to make further efforts after it was revealed that a number of cases were abandoned as they were statute barred.</td>
<td>The full text of the Report can be found at <a href="http://www.cjni.org">www.cjni.org</a></td>
</tr>
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</table>
Clampdown on untaxed vehicles

A new zero-tolerance campaign has begun to remove illegal and unsafe vehicles from the roads.

Driver and Vehicle Licensing Northern Ireland (DVLNi) in conjunction with Driver and Vehicle Licensing Agency (DVLA) has signed a new contract with NCP designed to double the number of untaxed cars removed from our roads. The rate of removal across the UK will be increased to 2,000 vehicles a week. Unclaimed vehicles will be crushed.

The Chief Executive of DVLNi, Brendan Magee, said: “This is not just about wheelclamping and removing untaxed cars. It is about fighting crime, stopping criminals and making the streets safer. The message here is for the small hard core of evaders who have no intention of paying tax; we will take your car, no more warnings.”

Since car tax can only be purchased with a valid MOT and insurance certificate, DVLNi's new zero tolerance approach is aimed at reducing the number of illegal and unsafe vehicles on our roads. By targeting untaxed vehicles, DVLNi hopes to fight wider criminal activity as it believes occupants of untaxed cars are more likely to be involved in activities involving drugs, anti-social behaviour, burglary and violent crime.

NCP's new fleet of vans is equipped with Automatic Number Plate Recognition (ANPR) technology and will scan number plates, automatically checking them against a list of untaxed vehicles. Those identified as untaxed will be clamped and impounded. Those that are not claimed after seven days can be crushed.

Bob Macnaughton, NCP Chief Executive, said: “The new vans will enable us to recognise untaxed cars much more quickly than was previously possible - and we have the national reach to ensure we can cover the whole of the UK. Untaxed cars traced by the new vans will then be clamped or removed to secure sites all over the country. If a vehicle remains unclaimed it can be disposed of by crushing within just seven days.”

In addition to the national scheme, DVLNi is also able to authorise local councils and PSNI to wheel clamp and impound untaxed vehicles in their local area. For clamped vehicles the fee for release is £80. In addition, a valid tax disc must also be produced. If a tax disc cannot be produced, a surety (£120 for a car or motorcycle, up to £600 for other vehicles) must be paid before the vehicle can be released. The surety payment is forfeited if a valid tax disc is not produced within two weeks.

Policing Board publishes Custody Visiting Reports

The Northern Ireland Policing Board has published Custody Visiting Reports on the work of the five Custody Visiting Teams based across Northern Ireland.

Section 73 of the Police (NI) Act 2000 obliges the Board to make and keep under review arrangements for designated places of detention to be visited by custody visitors. Patten Recommendation 64 also extended the role of the Custody Visiting Scheme to cover visits to terrorist detainees.

There are currently around 60 custody visitors carrying out this role, appointed to a Custody Visiting Team which covers the area in which they live. Each team has four or five designated police stations to visit. The five areas are Antrim, Belfast, Down/Armagh, North-West and Tyne-Fermanagh.

Custody visitors make unannounced visits to custody suites in police stations. The purpose of these visits, which can take place at any time, is to observe, comment and report on how people who are being held in custody are being looked after by the police. Checking on the welfare of people held in police custody involves speaking to detainees and inspecting the conditions in which they are being held.

Commenting on the value of the scheme, Vice Chairman of the Policing Board, Barry Gilligan, said: “Custody visitors provide a vital role in ensuring confidence in how the police treat people held in custody. Almost 1,200 random visits were carried out at police stations across Northern Ireland during 2005/2006. People who have been detained in a police station are often in a vulnerable situation and custody visiting is designed as a way of safeguarding their rights and entitlements and ensuring that they are looked after according to human rights principles.”

“Overall the custody visitors found that 79% of the visits were satisfactory and raised no issue about the treatment of detainees or the conditions in which they were being held. Most of the visits they found unsatisfactory were to do with the conditions of detention such as cleanliness of cells or repairs being needed. Such matters are brought to the attention of the Board and the Board is responsible for making sure they are addressed as soon as possible.”

In October 2005 the role of Northern Ireland custody visitors was extended to allow them to view on remote camera and with the permission of the detainee, live interviews with terrorist suspects. Mr Gilligan continued: “For the first time anywhere in the UK custody visitors in Northern Ireland have been able to view live interviews with those being held on suspicion of terrorist offences. In 2005/2006 the Belfast and Antrim Custody Visiting Team viewed 43 interviews in this way and found that 60% of these were satisfactory. Again, most of the visits they found unsatisfactory were due to the conditions of detention rather than the treatment of the detainee or the conduct of the interview.”

“In any cases where complaints relate to the treatment of detainees, custody visitors advise detainees of the role of the Police Ombudsman in dealing with complaints against police officers.”

Copies of the reports are available on the Policing Board website at www.nipolicingboard.org.uk
Information on the work of the Coroner’s Service and the inquest process is now available on the new website of the Coroner’s Service for Northern Ireland at www.coronersni.gov.uk.

Further to the formal launch of the Coroner’s Service in June 2006, the Service has also published a number of leaflets about its work. These leaflets, which are downloadable from the above website, are:

- **Coroner’s Service for NI** - to provide information on the role of the Coroner, post-mortem examinations, death registration and related matters.
- **Coroner’s Inquest** - to help understand what happens at an inquest.
- **Post-mortem Examination** - to help families understand what is involved in the post-mortem process and assists with their options in relation to the retention of tissue samples or organs.
- **Coroner’s Liaison Officer** - to provide details on the Coroner’s Service and in particular the Coroner’s Liaison Officer designated to a family following a recent bereavement when a coroners post mortem has been carried out.
- **Coroner’s Service Charter** - setting out the standards by which bereaved families who come into contact with the Service will be treated during the Coroner’s investigation and inquests.

Hard copies of the above leaflets are available from the Coroner’s Service at Mays Chambers, 72 May Street, Belfast, BT1 3JL (e-mail: coronersoffice@courtsni.gov.uk) and from the Court Service Information Centre, Windsor House, Bedford Street, Belfast (e-mail: informationcentre@courtsni.gov.uk).

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Belfast
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Our client, a well respected and busy firm, have an exciting opportunity to join their new Belfast city centre office. The role will mainly concentrate on Litigation but the suitable candidate will ideally have experience in Matrimonial and Criminal law. Superb benefits package available to the right candidate. Suit Newly Qualified to 2 yrs PQE. Ref no: 4649

Litigation Solicitor
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Large commercial firm has an excellent opportunity for an ambitious and hard working solicitor to work with a prestigious client base. Our client’s Litigation Practice acts on behalf of a number of leading insurance institutions, major industrial companies and public bodies. Suit 0-3 yrs PQE. Ref no: 4537

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Deportation of foreign national prisoners

Over the last few months, deportation of foreign national prisoners has become a live issue and it is increasingly clear that criminal practitioners need knowledge or access to immigration law. In this article, Buster Cox sets out basic principles and seeks to identify some of the key issues arising from an international perspective when representing foreign nationals who are on remand or imprisoned as a result of a criminal conviction.

**Note:** this article does not intend to address the general powers to detain under immigration law. Where a foreign national is being detained solely under immigration provisions, it is advised that s/he has access to specialist immigration advice.

It is estimated that approximately one in twenty of the present prison population in Northern Ireland is a foreign national. As a result of the ‘furore’, new formal arrangements have been introduced by the Immigration and Nationality Directorate to refer cases for consideration for deportation where the foreign national prisoner is in custody in Northern Ireland. It is intended that the Directorate will work in closer cooperation with the prison authorities. As part of this process, foreign nationals are now to be detained under both criminal and immigration powers. Moreover, a new enforcement unit has been set up which will specifically deal with deportations from Northern Ireland. Although their premises are not likely to open until July 2007, Immigration Officers in this unit are already present and part of their role will be to remove foreign national prisoners.

Where a foreign national has been convicted of a crime, it is not necessary for the court to recommend deportation before the Home Secretary can start deportation proceedings. If the court has not recommended deportation, it is likely that the Home Secretary will seek to rely on the ground that her/his deportation is conducive to the public good. However, in a case where the Crown asked for a recommendation to deport in the criminal proceedings and the judge refused this application, there is a duty on the Home Secretary to demonstrate that he took this into account and to give proper reasons for the decision.

A detailed consideration of the circumstances when a criminal court should make a recommendation for deportation is beyond the remit of this article, but practitioners should be aware that R v Nazari 71 CrApp. 87 CA has been recently considered by the Court of Appeal in Nelson Carmona v Regina [2006] EWCA Crim 508 & R v Ahmed Benabbas [2005] EWCA Crim 2113.

Until very recently, the immigration rules made it clear that the Home Secretary had discretion when considering whether or not to exercise the power to deport a foreign national. However, in line with the Home Secretary’s written ministerial statement of 23 May (Official Report, Column 80 WS) the rules have been changed to make clear that the presumption shall be that the public interest requires deportation and that it will only be in exceptional circumstances that the public interest in deportation will be outweighed. This rule took immediate effect from midnight on 19 July 2006. Nevertheless, each case ought to be considered on its merits.

The Home Secretary is also required to consider whether or not the proposed deportation will breach the UK’s national obligations if it were to take place. In this context, it should be noted that a person who has previously been granted refugee status is not automatically immune from deportation, the refugee may lose such protection in particular circumstances. However, where a person continues to have a real risk of torture and inhumane or degrading treatment if s/he were deported, the Human Rights Act would make such action unlawful. It would be a breach of her/his Article 3 rights under the European Convention for Human Rights (see Chahal). It is to be noted, however, that the Home Secretary is presently challenging the decision of Chahal before the European Court for Human Rights.

**LEGAL FRAMEWORK FOR NON-EEA NATIONALS**

Any foreign national who is in the UK whether lawfully or unlawfully can be deported, although EEA nationals are subject to special rules and the technical term is to be expelled (see below). There are three grounds on which a person may become liable for deportation, namely:

- the Home Secretary deems her/his deportation to be conducive to the public good;
- another member of the family to which s/he belongs is to be deported;
- the court recommends deportation after conviction of an offence punishable by imprisonment.

**PROCEDURE**

Following conviction, the police should submit a report to the Immigration and Nationality Directorate in cases where:

- the court has recommended deportation;
- conviction was for an offence under the Immigration Act 1971 and a custodial sentence was given (of whatever length and whether or not suspended); or
- a hospital order under A. 44 of the Mental Health (NI) Order 1986 was imposed for an offence involving violence against the person or drugs; or
- a custodial sentence of twelve months was imposed either in one sentence or over two or three sentences regardless of the nature of the offence.

The police also have discretion in certain circumstances to report cases falling outside these criteria.

Following a conviction, the Immigration and Nationality Directorate would normally write to the prisoner and advise her/him that it is considering whether to deport her/him and will give her/him a certain period of time in which representations could be made. If the Home Secretary decides to proceed with the deportation action, the person will be issued with a ‘Notice of Intention to Detort’ or a decision to ‘Detort’ (forms ICD.1070-1076 and ICD.1914). The documents should include reasons for deportation, how to appeal and the power to detain, although this will be unnecessary where a person has been recommended for deportation by the court (see the Home Office policy and the Operation Enforcement Manual, accessible at www.ind.homeoffice.gov.uk/lawandpolicy).

**RIGHTS OF APPEAL**

A person can appeal to the Asylum and Immigration Tribunal against the decision to make a deportation order on
a number of grounds, namely that:

- the decision was not in accordance with immigration rules and/or Home Office policies on removals; or
- on human rights grounds; or
- if s/he has claimed asylum, that her/his removal would be in breach of the Refugee Convention.

If a person is thinking about appealing the decision, it is essential that s/he seeks specialist immigration advice as these appeals raise fairly complex issues, especially if the criminal case involved offences including violence or a supply of drugs.

REMOVAL

If no appeal is brought or if the appeal is unsuccessful, the Home Office can make a Deportation Order. The Deportation Order becomes effective once it has been signed, even before it has been served on the deportee. The order will normally be signed by a Home Office Minister. It is possible at this stage to make further representations and ask that the order is revoked. However, if the appellant has already appealed and is relying on similar grounds to those raised at the appeal, it is extremely likely that such representations will be refused and would be ‘certified’ under Section 96 of the Nationality and Asylum Act 2002. This would have the effect of preventing a further appeal. Once appeal rights have been exhausted and the Deportation Order has been signed, an Immigration Officer will set removal directions. If the prisoner is serving a prison sentence, it is intended that arrangements for removal should be made to coincide with her/his release, although in practice this is still proving problematic. In these circumstances, the prisoner is very likely to remain in prison at the completion of her/his prison sentence, being detained under immigration powers, pending her/his removal.

EEA NATIONALS

If the prisoner is an EEA National who was exercising her/his Treaty rights then s/he can only be removed on grounds of public policy, public security or public health (see Article 27 of Directive 2004/38/EC of the European Parliament Council (the Rights of Citizens of the Union and their family members to reside freely in the territory of Member States)). ‘Measures taken on grounds of public policy or public security shall comply with the principle of proportionality and shall be based exclusively on the personal conduct of the individual concerned. Previous criminal convictions shall not in themselves constitute grounds for taking such measures. The personal conduct of the individual concerned must represent a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society. Justifications that are isolated from the particulars of the case or that rely on considerations of general prevention shall not be accepted’ (Article 27(2)).

In addition, before taking an expulsion decision, the authorities are required to take into account factors ‘such as how long the individual concerned has resided on its territory, his/her age, state of health, family and economic situation, social and cultural integration into the host Member State and the extent of his/her links with the country of origin’ (Article 28(1)).

However, if s/he is settled in the UK (i.e. has Indefinite Leave to Remain) s/he may only be expelled on ‘serious grounds of public policy or public security’ (article 28(2)). If s/he is a minor or has been resident in the UK for ten years or more then s/he may only be expelled if ‘the decision is based on imperative grounds of public security’.

As can be seen, these provisions have effectively limited the Home Secretary’s power to expel EEA nationals and this has already been acknowledged by the Courts (see Nelson Carmona and MG & VC (EEA Regulations 2006 ‘conducive’ deportation) [2006] UKIAT 53, accessible via the tribunal’s website at www.ait.gov.uk).

These provisions have been implemented into UK legislation by way of the Immigration (European Economic Area) Regulations 2006 (see in particular Regulations 19, 21, 24 and 25 to 29). It should be noted that an EEA National against which an expulsion action is being taken can be detained as s/he is to be treated as if the provisions of the 1971 Immigration Act relating to deportation apply. The EEA National will also have a right of appeal to the Asylum and Immigration Tribunal against such a decision; see Regulation 26 (1).

OBTAINING THE PRISONER’S RELEASE

Foreign nationals on remand or who are still being detained at the end of their criminal sentence have a right to a bail hearing before an immigration judge in the Asylum and Immigration Tribunal and/or to make an application for Bail to a Chief Immigration Officer. As in criminal courts, an immigration judge may release the prisoner on bail subject to conditions. The most common examples include requiring the individual to live at a certain address, to report to the police regularly and two sureties (usually each in the region of £2,000).

It may also be possible to challenge a continued detention of a foreign national following the end of his criminal sentence and seek his/her release either on temporary admission or on bail pending further attempts to remove him/her. Alternatively it may be appropriate to apply for a writ of Habeas Corpus. The above options would be available if:

- s/he has remained in detention for at least three months; and
- removal is not imminent or not likely for the foreseeable future; and
- s/he has cooperated with the immigration service’s attempts to remove her/him (see R v Governor of Durham prison ex parte Hardial Singh [1984] 1 WLR 704).

Another potential issue is the re-categorisation of a foreign prisoner’s security status, but this unfortunately falls outside the remit of this article.

CONCLUSION

The relentless pressure on the Home Secretary to address the failure of the State to remove foreign nationals who have been
convicted of criminal offences - driven by the media and himself - suggests that this issue is not likely to recede in the foreseeable future, especially as the number of foreign nationals in Northern Ireland has increased significantly in recent years. As such, criminal practitioners are likely to have to familiarise themselves with the policies and practices of the Immigration and Nationality Directorate, which on paper look manageable, but in practice are more complex. At the very least, they should ensure that their clients have access to specialist immigration advice, especially when considering whether or not to exercise their rights of appeal.

Law Centre (NI) provides a specialist immigration advice and representation service to its membership. The advice line is open from Monday to Friday, 9.30 to 1pm. To become a member, contact our Finance Department on 9024 4401.

B&O competition winner

Stuart Cairns (front) of L’Estrange & Brett was the lucky winner of The Writ’s recent competition to mark its 175th edition. He is pictured here with his prize - a Bang & Olufsen Serene mobile phone.

Also pictured are from left: Karen Irwin, Advertising Manager of The Writ; Stephen Anderson of Bang & Olufsen Belfast and Heather Semple, Deputy Editor of The Writ.

CPD training at Law Centre (NI)

Autumn/Winter 2006

**BELFAST**

- Asylum & Immigration Tribunal Reconsideration Hearings - 26 October 2006
- Age Discrimination in Employment - 15 November 2006
- Habitual Residence and the Right to Reside - 23 November 2006
- Advisers Guide to Community Care - 29 November 2006
- Taking Cases to the Social Security Commissioner - 7 December 2006

**DERRY**

- Age Discrimination in Employment - 29 November 2006
- Advisers Guide to Community Care - 6 December 2006

For more information, consult our website: www.lawcentreni.org or contact our Training Department on Tel: 028 9024 4401.
The Belfast Solicitors’ Association has confirmed a three year partnership with its nominated charity, NSPCC Northern Ireland. This particular charity was proposed by the BSA Committee because it is a very deserving local charity helping the most vulnerable children in our own communities. Many people perceive NSPCC to be a national charity but in fact, NSPCC Northern Ireland deals exclusively with children and young people in Northern Ireland.

The BSA is committed to assisting the charity with raising funds for the excellent initiatives they have established such as the Schools’ Counselling Service which provides a confidential refuge for bullied and abused children within their own schools and the Young Witness Programme, providing very vulnerable children with support and comfort when giving evidence in Court.

Further information on all social events is available through the BSA Administrator: info@belfast-solicitors-association.org. Tel: 028 9058 5974.

It is hoped that all BSA members and friends will support the forthcoming events as much as possible and thereby contribute to this very worthwhile cause.

BSA seals partnership with NSPCC Northern Ireland
Robert G. Sinclair & Co is a vibrant expanding firm situated in new purpose designed high specification city centre premises. The firm has a wide client base including major corporates, institutions and banks. We have invested substantially in our IT systems allowing us to deliver solutions both within the firm and externally.

We now have two exciting and challenging opportunities to join expanding and busy departments within leading areas of our firm. You would be joining close and supportive teams, sharing our commitment to customer satisfaction. The successful applicants will be energetic and motivated and expected to lead and assist in their respective areas of law and to participate in the team’s networking and targeting exercises.

The first opportunity is in our Litigation Department. The successful candidate will have at least 3 years PQE in general litigation and also particular experience in the area of employment law. The candidate will be able to show a track record both as a team player and a good communicator with a strong practical approach to their workload. You will be committed to your career and take your professional development as seriously as we will. You will be able to juggle a challenging workload and enjoy building relationships with new and existing clients. You will enjoy working as part of a team but be equally able to manage your own matters efficiently and promptly.

The second opportunity arises in the Commercial Department. The successful candidate will have at least 3 years PQE in commercial law. Banking experience is not essential but would be preferable. This presents an ideal opportunity for an individual who relishes a challenge and wishes to be at the cutting edge of the commercial property industry in a strong and market leading team. The successful candidate will have experience of a wide range of responsibilities in this field including corporate development with a variety of clients.

Both opportunities will offer attractive salaries and packages with career paths structured to include partnership.

Please apply in writing with CV to

The Managing Partner,
Robert G Sinclair & Co Solicitors,
Sinclair House,
23 Bedford Street,
Belfast BT2 7EJ

Closing date for applicants 31 October 2006
Local solicitor cycles coast to coast for Christian Aid

It seemed like a good idea at the time. Get some much needed exercise, raise some money for a wonderful cause and see some of the finest scenery in England. So back in March I registered to take part in Christian Aid’s Coast to Coast challenge - a three day, 186 miles cycle across England from Whitehaven on the Cumbrian coast to Whitby in Yorkshire. Plenty of time to prepare, I thought, no problem.

That’s how I came to be in Whitehaven at 7am on Saturday 15 July with 15 other intrepid souls as we performed the traditional ritual of dipping our bicycle wheels in the Irish Sea before setting off on the 73 miles to Dufton youth hostel in the shadow of the Pennines where our first day’s journey was to end. The Met Office was forecasting record temperatures (they were right) and our route notes were full of ominous phrases like “another very steep ascent” and “severe undulations” (they weren’t kidding). Three days of innumerable undulations, melting tarmac and stunning scenery later, we arrived in Whitby to a fine welcome from the local Christian Aid committee. If you would like to know more about the trip, please check our blog at www.nightingalesangatwcc.typepad.com/com

Christian Aid supports development throughout the world wherever the need is greatest. It helps local organisations which are best placed to understand local needs, strengthening people to find their own solutions to the problems they face.

The particular project which I chose to assist was building shatterproof housing in an earthquake devastated region of El Salvador. El Salvador suffered two earthquakes in 2001 which left one sixth of the population homeless - many still are. CORDES is helping people rebuild their homes using a new system called “electro-maya”. The framework consists of chicken wire which is lined either side with plaster and lime. The roofs are made of zinc and aluminium sheeting and the floors are of local stone. The houses are light but sturdy and can be constructed in a fortnight.

If another earthquake strikes, they may rock from side to side but are unlikely to fall down. Families receive the building materials and training on how to build the houses; in return they form their own reconstruction committees and carry out the labour. When built the house belongs to the family. The cost of the materials for one such house is just £893. My aim was to raise enough sponsorship to pay for at least five houses.

To date I have raised almost £4000 and to those colleagues who have already sponsored me, thank you for your generosity which will help to transform people’s lives in El Salvador.

If you would like to sponsor me you can do so by posting your donation to me, Brian McLoughlin, at Crown Solicitors Office, Royal Courts of Justice, Chichester Street, Belfast BT1 3JY.

Thank you.
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BluePrint Appointments is a market leader in legal recruitment. Our consultants are valued by both candidates and clients for their market knowledge, honest advice and ability to deliver results. Our reputation has been built on the professional confidential service offered to candidates and clients.

In-House Solicitor
This multi-national organisation based in Northern Ireland is seeking an In-House Solicitor to join its growing workforce. You will provide legal advice to the commercial property division as well as any other matters relating to personnel and commercial issues. You will be a minimum of 3 years' PQE and a team player with good communications skills. An excellent opportunity to join a forward-thinking, innovative and diverse company. Very attractive package offered. Ref: J0282775

Matrimonial/Conveyancing Solicitor
Our client, a two partner firm based in Belfast is seeking a Conveyancing/Matrimonial Solicitor. This forward-thinking firm is based in a thriving and busy modern three storey office building situated just 15 minutes walk from the heart of Belfast City Centre. Our client is seeking an ambitious candidate with ideally at least 3 years' experience. A great role in a reputable firm. Ref: J0282204

Conveyancing/Probate Solicitor
Our client, based just outside Belfast City, is seeking a Solicitor to deal with Conveyancing and Probate matters. Working alongside 2 Partners you will be a minimum of 1 year PQE. A good opportunity to join a well-established and respected firm. Ref: J0287575

Junior Legal Book-Keeper
Our client, one of the largest law firms in Belfast is seeking a Junior Book-Keeper. Ideally you will have some previous book keeping experience but if not a keen interest in accounts and good academics is required. Duties will include account transactions, issuing cheques, lodging cheques, bank reconciliations, petty cash etc. A great role for a candidate wishing to ultimately train as a Legal Book Keeper. Ref: J0280669

Paralegal
Our client, a public sector body is seeking a Paralegal to work on a number of public enquiries. This will be a 12 month placement with the possibility of this being extended. The ideal candidate will have experience of representing interviewees and preparing briefs for counsel. You must also be able to work at times unsupervised. Ref: J0282204

For more details on these and other interesting opportunities contact Flannuala or Katherine on 028 9032 3333 or e-mail legal@blueprintappointments.com
Northern Ireland Young Solicitors’ Association presents

Practice Management half day seminar

Date: 20 October 2006

Time: 1.00pm - 5.00pm (refreshments provided and talks to commence at 1.30pm)

Venue: Europa Hotel, Belfast - please see www.niysa.com for full details

Cost: £50 for members of the NIYSA* and £70 for non-members

The seminar will include the following speakers and topics:
2. Business Risk Management - Gary Thompson, Ulster Insurance Services Limited
3. General Practice Management Issues, including a look at UITF 40 and Valuation of Work in Progress - Michael Barnett, Director and Mervyn Dolan, Senior Tax Manager, Moore Stephens Chartered Accountants
4. The Recruitment Process - Interview Techniques - Representative of Brightwater Recruitment

Attendance at this Seminar will provide three hours practice management CPD entitlement.

Cheques and Booking Forms to NIYSA c/o Darren Toombs, Carson McDowell, Murray House, Murray Street, Belfast BT1 6DN. Email: darren.toombs@carson-mcdowell.com

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

BOOKING FORM - Practice Management half day seminar

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FIRM

ADDRESS (DX if possible)

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NUMBER OF PERSONS ATTENDING

I ENCLOSE REMITTANCE OF £
Northern Ireland Young Solicitors’ Association enjoy their Midsummer Ball at Bar Red in Belfast

Photographs courtesy of the Ulster Tatler.
So you think you work in a safe Solicitor’s Practice?

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**When?** 13th October 2006

**Time?** 9am - 1pm

**Where?** Dunadry Hotel Dunadry

**How much?** £85 per person, including tea / coffee / scones and lunch (sandwiches & refreshments)

For further information or to make a booking, please contact or return this slip to:

**Srt Donnelly + Associates**
Health and Safety Legal Specialists

**Tel: 078 1044 0414**
**Email: srtdonnelly@aol.com**
Or send a cheque payable to **SRT Donnelly and Associates,** 3 Clady Road, Dunadry, BT41 4QR

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Please photocopy for multiple bookings
High Court, Court of Appeal and Tribunal Decisions

IN THE MATTER OF AN APPLICATION BY JOSEPH LENAGHAN FOR JUDICIAL REVIEW AND IN THE MATTER OF A DECISION OF THE EQUALITY COMMISSION FOR NORTHERN IRELAND

Funding of applicant's costs in a discrimination claim against the Equality Commission. - relevant policy to be followed. - change of policy. - legitimate expectation. - equality policy of Commission. - engagement of independent counsel by Commission to advise. - whether identity of counsel had to be agreed

HIGH COURT
18 MAY 2006
GIRVAN J
http://lawsociety2.lawsoc-ni.org/unreported/JUDICIAL_REVIEW.doc

MCGIVERN, ISOBEL v GREEN, PATRICK AND GREEN, ELLEN

Damages for personal injuries sustained in a fall allegedly caused by 2 alsatian dogs of which the defendants were the keepers. - whether an offence occurred and whether actionable under arts. 29 and 53 Dogs (NI) Order 1983. - plaintiff suffered fractures to the leg. - HELD that the defendants were keepers and liable to injuries sustained by the plaintiff. - general damages of £25,000 awarded

HIGH COURT
11 AUGUST 2006
MORGAN J
http://lawsociety2.lawsoc-ni.org/unreported/MCGIVERN_V_GREEN.doc

R v MARTIN HUME

Sentencing. - assault and gross indecency. - degree of harm to the victim, level of culpability of the offender and the level of risk posed by the offender to society. - aggravating and mitigating factors

CROWN COURT
29 JUNE 2006
GILLEN J
http://lawsociety2.lawsoc-ni.org/unreported/R_V_MHUME.doc

R v MCAULEY

Murder. - previous ruling that evidence in the voire dire should be evidence in the trial. - defendant in police custody in England on deception and burglary charges. - while being interviewed and in the presence of his solicitor, the defendant stated that he had killed one man, shot 4 others and also conspired to kill over 30 years previously. - suspicion of mental disorder. - whether appropriate adult should have been present at subsequent interview by virtue of PACE Code of Practice and Terrorism Act. - when interviewed by members of the PSNI over his admission of murder the defendant's version of events were self-contradictory and conflicted with evidence gathered at the time of the offence. - whether admissions were symptoms of defendant's personality disorder and could be regarded as reliable and truthful. - HELD that defendant made his murder admissions because he believed he could achieve some advantage from being dealt with in respect of older terrorist offences rather than having to face current offences in England

CROWN COURT
7 AUGUST 2006
MORGAN J
http://lawsociety2.lawsoc-ni.org/unreported/R_V_MCAULEYMORG.doc

R v JAMES JOSEPH MCCORRY

Appeal against sentence. - appellant convicted of cheating the Inland Revenue and making false statements with intent to defraud. - appellant placed business profits in tax free off-shore accounts which he did not declare to the Inland Revenue. - whether sentence excessive. - aggravating and mitigating factors. - consideration of personal circumstances. - full restoration made by defendant for the fraudulent offences to which he pleaded guilty. - whether sufficient credit given for guilty pleas. - determined and persistent effort to defraud and conceal the frauds. - appeal dismissed

COURT OF APPEAL
24 JUNE 2005
KERR LCJ
http://lawsociety2.lawsoc-ni.org/unreported/R_MCCORRY.doc

HELEN SMYTH v DRD

Damages for personal injuries sustained as a result of a fall. - appeal from County Court dismissal. - liability of defendant under A. 8 Roads (NI) Order 1993. - whether defect in step a result of a fall. - appeal from County Court

HIGH COURT
11 AUGUST 2006
MORGAN J
http://lawsociety2.lawsoc-ni.org/unreported/MCCORRY_V_DRD.doc

AMICUS v IRLANDUS CIRCUITS LIMITED

Claimant claimed that the respondent had failed to comply with its duties under A. 216 of the Employment Rights Order 1996 by its failure to notify the claimant about redundancies. - Tribunal found that the respondent did not meet its obligations under A. 216(9) and there was no process of consultation. - Tribunal orders that a protective award should be made for a period of 90 days and that each member of the union engaged by the respondent is entitled to be paid under the award.

970/05IT
ANDERSON, JAMES v CAUSEWAY HEALTH AND SOCIAL SERVICES TRUST
Claimant claimed unlawful deduction from wages contrary to A. 45 of the Employment Rights (NI) Order 1996. - respondent had been offered a secondment with a higher grade and salary with the respondent. - at the end of the secondment it was agreed that the claimant would return to his original grade and salary. - when the secondment ended the applicant was offered a position based on his original grade and salary. - Tribunal determined that there had been no unlawful deductions as the contractual position between the parties had always stipulated that the Claimant would revert to his original Grade and salary when the secondment ended.
2097/02IT
17 MAY 2006
http://lawsociety2.lawsoc-ni.org/tribunal/IT_209702_ANDERSON_V_CAUSEWAY.pdf

BOND, VICTOR v CLONDUFF DEVELOPMENT ENTERPRISES LTD
Claimant claimed unlawful deduction from wages contrary to A. 45 of the Employment Rights (NI) Order 1996. - claimant had worked over the 45 hour week as he was verbally contracted to work. - respondent had reached an agreement with the claimant via a committee meeting that when he took up the position, irrespective of the number of hours worked over a five day period he would receive £525 per week. - as part of the agreement it was not necessary that the claimant kept time records. - tribunal found that the claimant had not suffered unlawful deduction for paid overtime as there had been no contractual entitlement to payment for overtime.
83/06IT
12 JUNE 2006
http://lawsociety2.lawsoc-ni.org/tribunal/IT_8306_BOND_V_CLONDUFF.pdf

ANYON, IAN ROGER v SUAVAK PRODUCTS LTD (IN LIQUIDATION), G VAUGHAN AND DEPARTMENT FOR EMPLOYMENT AND LEARNING
Claim dismissed. - claimant received statutory redundancy payment of £943.20 and payment in lieu of notice in the sum of £452.56 from the third named respondent.
705/05IT
1 MARCH 2006
http://lawsociety2.lawsoc-ni.org/tribunal/IT_70505_ANYON_V_SUAVAK.pdf

CHARINGTON, COLIN AND WILLIAM ROSS ADAMS v LOMAX MOBILITY LTD, THOMPSON CARE LTD AND SHILOH MOBILITY LTD
Decision on a pre-hearing review. - whether there has been a relevant transfer for the purposes of R. 5 of the TUPE Regulations 1981. - tribunal found that there was a relevant transfer of part of the undertaking of the first named respondent to the fourth named respondent who was the claimant's employer.
1378/05IT
28 JUNE 2006
http://lawsociety2.lawsoc-ni.org/tribunal/IT_137805_CHARINGTON_V_LOMAX.pdf

FULTON, AMANDA JAYNE v CAROLINE ELLIS HAIRDRESSING
Claimant claimed unfair dismissal from her job as a Grade D nurse. - claimant had been accused of mistakenly attempting to give the wrong medication to a patient and then attempting to conceal the mistake and not reporting it.
1230/05IT
21 JUNE 2006
http://lawsociety2.lawsoc-ni.org/tribunal/IT_123005_FULTON_V_CAROLINE.pdf

CRATE, MICHAEL v HELICOPTER TRAINING & HIRE LTD, ERNEST MOORE, PEADAR HUGHES AND J CS AVIATION LTD
Decision on a pre-hearing review. - claimant alleged unfair dismissal, notice pay and redundancy pay. - need to determine the claimant's employer and to determine whether there was a relevant transfer within the meaning of the TUPE Regulations 1981. - tribunal found that there was a relevant transfer of part of the undertaking of the first named respondent to the fourth named respondent who was the claimant's employer.
1378/05IT
28 JUNE 2006
http://lawsociety2.lawsoc-ni.org/tribunal/IT_137805_CRATE_V_HELICOPTER.pdf

DIAMOND, MARGARET MARY v CAUSEWAY HEALTH & SOCIAL SERVICES TRUST
Claimant claimed unfair dismissal from her job as a Grade D nurse. - claimant had been accused of mistakenly attempting to give the wrong medication to a patient and then attempting to conceal the mistake and not reporting it.
1230/05IT
21 JUNE 2006
http://lawsociety2.lawsoc-ni.org/tribunal/IT_123005_DIAMOND_V_CAUSEWAY.pdf
High Court, Court of Appeal and Tribunal Decisions

**LINDSAY, AUDREY PAULINE v ULSTER UNIONIST ASSEMBLY GROUP**
Decision on a pre-hearing review. - whether the claimant was employed in the same employment as her comparators for the purposes of S. 1 of the Equal Pay Act (NI) 1970 as amended. - the four comparators were separately employed by the four individual MLAs and the claimant was employed by the respondent. - Tribunal concluded that the claimant was not in the same employment as her comparators and therefore the latter are not appropriate comparators for the purposes of an equal pay claim.

589/03IT
18 MAY 2006
http://lawsociety2.lawsoc-ni.org/tribunal/IT_58903_LINDSAY_V_UUAG.pdf

**MCCULLAGH, GEMMA AND GERALDINE O’DONNELL v BARRY FOX, CHRISTINE MEYLER AND KEVIN MCGUIGAN**
Decision on a pre-hearing review. - whether there was a relevant transfer within the meaning of the Transfer of Undertakings (Protection of Employment) Regulations 1981. - dissolution of a partnership and two new partnerships set up. - first named respondent set up in partnership on his own and the claimants transferred to him. - tribunal is satisfied that there was a relevant transfer of undertakings and that the claimant’s contracts of employment also transferred to the first named respondent.

95205_MCCULLAGH_V_FOX.pdf

**MCKERNAN, PATRICK v ROYAL MAIL**
Claimant claimed for unpaid wages when he was off work due to illness certified by sick lines. - whether claimant suffered an unlawful deduction from wages. - claimant had been assessed by an Occupational Health Physician and had been certified fit for work but failed to return on the date agreed by the physician and the respondents. - tribunal agreed that the respondent had correctly adhered to their company sick policy and the claimant had not suffered an unlawful deduction of wages.

60/06IT
10 JUNE 2006
http://lawsociety2.lawsoc-ni.org/tribunal/IT_6006_MCKERNAN_V_ROYALMAIL.pdf

**MCWILLIAMS, KIERON v CITY AIR EXPRESS (NI) LTD**
Claimant’s claim was withdrawn by letter and faxed to the respondent’s solicitors. - sent to the wrong number and the respondent was unaware of the matter. - respondent felt the claimant’s claim was vexatious. - tribunal decided that the claim had been dealt with in an unsatisfactory way and additional costs of £300 be paid to the respondent by the claimant.

claim dismissed
1234/05IT
23 JUNE 2006
http://lawsociety2.lawsoc-ni.org/tribunal/IT_123405_MCWILLIAMS_V_CITYAIR.pdf

**OMER, STEVEN v SHAWS OF BANGOR LTD**
Decision on a preliminary review. - claimant had made a claim to the Tribunal contending that he had been constructively dismissed and had been subjected to harassment during the course of his employment. - claimant did not follow the grievance procedure of the respondent and did not make a complaint directly to the respondent. - tribunal decided that it has no jurisdiction to hear the claim in view of Arts. 19(1) and (2) of the Employment (NI) Order 2003 regarding the requirement to present a grievance in writing to the employer. - claim is struck out

95205_MCCULLAGH_V_FOX.pdf
1316/06IT
25 July 2006
http://lawsociety2.lawsoc-ni.org/tribunal/IT_13106_SOMERS_V_SHAWS.pdf

**Fair Employment Decisions**

**CONNOLLY, MARTIN v EDMUND RICE COLLEGE**
Whether the Tribunal had jurisdiction to consider the claim in view of A. 71 of the Fair Employment and Treatment Order 1998. - claimant employed in a temporary position as a teacher. - applied for a permanent position in the same school but was unsuccessful. - Tribunal did not have jurisdiction to hear the claim as the claim involved the recruitment of a teacher which is contrary to the 1998 Order 353/04FET 13 April 2006
http://lawsociety2.lawsoc-ni.org/tribunal/FET_35304_CONNOLLY_V_EDMUND.pdf

**MC LAUGHLIN, EITHNE v THE QUEEN’S UNIVERSITY OF BELFAST**
Decision on a pre-hearing review. - claimant alleged she had been discriminated against in a recruitment procedure. - whether the claim was presented within the prescribed time limits. - claimant did not appear and was not represented. - claimant did not pursue a grievance of any kind with her employer and did not lodge her claim on time. - tribunal decided it did not have jurisdiction to hear the claim as it was outside the time limit and did not extend the time due to the claimant’s absence and the absence of an adequate explanation for delay on her claim form. 189/05FET 22 May 2006
http://lawsociety2.lawsoc-ni.org/tribunal/FET_18905_MCLAUGHLIN_V_QUB.pdf

**MOORE, DR JOHN EDMUND v FOOD SAFETY PROMOTION BOARD**
Decision on a pre-hearing review. - decision to make an amendment to an earlier decision to include a claim of race discrimination and also sex discrimination. - Tribunal is satisfied that the claim can be amended to include race discrimination as it is “merely putting a new label on facts already pleaded” but does not allow the amendment to include sex discrimination as the latter is outside the time limits 29/04FET 20 January 2006
http://lawsociety2.lawsoc-ni.org/tribunal/FET_2904_MOORE_V_FOOD.doc

**DEBAST, BEATRICE AND CAROLINE FLYNN v DR M J MALCOLMSON, LAUREHILL COMMUNITY COLLEGE BOARD OF GOVERNORS AND SOUTH EASTERN EDUCATION AND LIBRARY BOARD**
Decision on a pre-hearing review. - claim of unlawful discrimination on the grounds of religious belief. - tribunal does not have jurisdiction to consider the claims in view of Arts. 71(1)(b) and 1(A) of the Fair Employment and Treatment (NI) Order 1998. - claims dismissed 6/06FET; 7/06FET 26 June 2006
http://lawsociety2.lawsoc-ni.org/tribunal/FET_606_DEBAST_V_MALCOLM.pdf

**MORGAN, BRIAN v ALAN CARMICHAEL**
Claimant had filed an originating application in which he made complaints of unfair dismissal, failure to pay holiday pay and discrimination on the grounds of religious belief/political opinion. - respondent did not enter a Notice of Appearance and therefore shall not be entitled to take part in the proceedings. - respondent had behaved unreasonably in not entering an appearance and then seeking to enter a notice and participate in the proceedings which in the event had to be postponed. - Tribunal ordered the respondent to pay £600 to the claimant for legal costs incurred as a result of the postponement 183/04FET 26 June 2006
http://lawsociety2.lawsoc-ni.org/tribunal/FET_18304_MORGAN_V_CARMICHAEL.pdf

**Industrial Court Decisions**

**AMICUS v SANMINA SCI (UK) LTD**
Collective bargaining. - recognition. - decision on whether to accept the application. - discrepancy between the Union’s letter of request to the employer for statutory recognition and the application form submitted to the Court. - Court found that the 2 descriptions were irreconcilable and the application did not satisfy the validity and admissibility tests required of Schedule 1A and was therefore rejected IC-29/2006 16 January 2006

**AMICUS v SANMINA SCI (UK) LTD**
Collective bargaining. - recognition. - decision on whether to accept the application. - whether application valid and admissible. - employer did not agree with the Union’s estimate of membership. - Court accepted the application IC-32/2006 27 April 2006
http://lawsociety2.lawsoc-ni.org/unreported/AMICUS_V_SANMINA2.pdf
AMICUS v SANMINA SCI (UK) LTD
Collective bargaining. - recognition. - decision on whether the application is valid following agreement on the bargaining unit. - agreed bargaining unit differed from that proposed by the Union in its application. - whether there was an existing recognition agreement in respect of any workers covered by the new bargaining unit. - whether there was a 10% union membership in the new unit. - whether the majority of workers would favour recognition. - whether competing or previous applications. - Panel decided that the application was not invalid and that the Court should proceed with the application.
IC-32/2006
18 August 2006

AMICUS v SANMINA (UK) LTD
Collective bargaining. - recognition. - declaration of recognition. - employer and union confirmed to the Court that the bargaining unit had been agreed following extended periods of discussion. - agreed bargaining unit differed from that proposed by the Union. - whether application valid. - Panel determined that the application was not invalid. - whether Court should issue declaration that a Union is entitled to conduct collective bargaining on behalf of group workers constituting the bargaining unit if it is satisfied that a majority of the workers constituting the bargaining unit are members of the Union, unless qualifying conditions are met. - membership check and form of ballot. - Court declared that the Union is recognised by employer as entitled to conduct collective bargaining on behalf of the workers constituting the bargaining unit.
IC-32/2006
4 July 2006

BAKERS, FOOD AND ALLIED WORKERS UNION v DOHERTY & GRAY
Application for recognition for collective bargaining. - whether application valid. - Union’s letter of request to the employer for recognition was submitted 9 days before the submission to the Industrial Court for consideration. - Schedule 1A requires a 10 day working period starting on the day after the employer receives the request. - HELD that the Union’s application to the Court was submitted prematurely and is inadmissible.
IC 30/2006
3 April 2006
http://lawsociety2.lawsoc-ni.org/unreported/BAKERS_V_DOHERTY.pdf

BAKERS, FOOD AND ALLIED WORKERS UNION v DOHERTY & GRAY
Collective bargaining. - recognition. - decision on whether to accept the application. - previous application not accepted since was deemed to have been submitted prematurely. - whether current application valid and admissible. - employer did not agree with the Union’s proposed bargaining unit and did not accept Union’s contention that there was 10% Union membership and that the majority of workers were likely to favour recognition. - membership and petition check. - Court held that application is accepted.
IC-31/2006
27 April 2006

PRISON OFFICERS’ ASSOCIATION v YOUTH JUSTICE AGENCY
Whether to accept application for recognition of collective bargaining. - whether application valid. - HELD that since the application by the Union did not specify that the request was made under Schedule 1A it was not a valid request, and that furthermore the application was also deficient in other aspects.
IC33/2006
31 May 2006
http://lawsociety2.lawsoc-ni.org/unreported/POA_V_YJA.pdf
RECOMMENDED READING:

Asbestosis

LEGISLATION

Compensation Act 2006
An Act to specify certain factors that may be taken into account by a court determining a claim in negligence or breach of statutory duty; to make provision about damages for mesothelioma; and to make provision for the regulation of claims management services.

This Act extends to England and Wales only, except for Section 3 and Section 16(3) to (6) which extend to Northern Ireland

Commencement
(16) (3) Section 3 shall be treated as having always had effect.
(4) But the section shall have no effect in relation to -
(a) a claim which is settled before 3 May 2006 (whether or not legal proceedings in relation to the claim have been instituted), or
(b) legal proceedings which are determined before that date.
(5) Where a claim is settled on or after that date and before the date on which this Act is passed, a party to the settlement may apply to a relevant court to have the settlement varied; and-
(a) a court is a relevant court for that purpose if it had, or would have had, jurisdiction to determine the claim by way of legal proceedings,
(b) an application shall be brought as an application in, or by way of, proceedings on the claim, and
(c) a court to which an application is made shall vary the settlement to such extent (if any) as appears appropriate to reflect the effect of section 3.
(6) Where legal proceedings are determined on or after that date and before the date on which this Act is passed, a party to the proceedings may apply to the court to vary the determination; and-
(a) “the court” means the court which determined the proceedings,
(b) the application shall be treated as an application in the proceedings, and
(c) the court shall vary the determination to such extent (if any) as appears appropriate to reflect the effect of section 3.

CASELAW

Grieves v FT Everard & Sons Ltd
(Sub nom – Pleural Plaques Litigation)
2006 EWCA Civ 27
http://www.bailii.org/ew/cases/EWCA/Civ/2006/27.html

Barker v Saint Gobain Pipelines Plc
(whether defendant was liable for the claimant's mesothelioma as his exposure had occurred over several years with different employers and during periods of self employment)
2006 UKHL 20; 2006 2 WLR 1027 (HL)
http://www.publications.parliament.uk/pa/ld200506/ldjudgmt/jd060503/barker-1.htm

Fairchild v Glenhaven Funeral Services Ltd
(whether the claimant would be able to recover damages as he had been exposed to asbestos while working for more than one employer and there was no means of determining which exposure had caused the disease.)
2002 UKHL 22; 2003 1 AC 32
http://www.publications.parliament.uk/pa/ld200102/ldjudgmt/jd020620/fchild-1.htm

ARTICLES

The asbestos rollercoaster (comments on the Grieves and Barker cases)
Crowther: 2006, H & SL 6(2), 16-19

The very seamark of my utmost sail: Grieves and the continuing asbestos wars (examines cases from 1963 up to the Court of Appeal decision in Grieves v FT Everard & Sons ltd)
De Saulles: 2006, J.P.I.Law, 2, 119-161

Risk exposure and negligence (comments on Grieves case and the court’s approach to “injury” as a legal term)
Green: 2006, L.Q.R., 122(l ul), 386-390

Personal injury: negligence – asbestosis-pleural plaques-asymptomatic condition (whether pleural plaques development caused by exposure to asbestos was sufficient proof for a compensation claim)
McCarthy: 2006, J.P.I.Law, 2, C64-74

Lords in mesothelioma mesh (examines the Barker v Saint Gobain case)
Humby: 2006, HSB, 349, 23-24

Playing it fair (considers the problems in bringing personal injury claims after contracting mesothelioma as it can take between 20 and 50 years for symptoms to become apparent - comments on the Fairchild case)
McManus: 2006, NLJ 156(7226), 871*

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

RECOMMENDED READING:


MacDonald: Exemption clauses and unfair terms. 2nd edition. Tottel publishing. 2006

Re: John Alexander Simpson (deceased)
Late of: 243 Cushendall Road, Ballymena, County Antrim
Date of death: 14 July 2006
Would any person having knowledge of the whereabouts of the Will for the above named deceased please contact:
P M Coleman & Co
Solicitors
Dromore House
174 Dunminning Road
Glarryford
Ballymena
County Antrim BT44 9ET
Tel/Fax: 028 2568 5204

Re: Robert Alexander Bruce Stoddart (deceased)
Late of: 1B Terrace View, Waringstown
Formerly of: 23 Hall Road, Donaghcloney
Date of death: 15 June 2006
Would any person having knowledge of the whereabouts of the Will for the above named deceased please contact:
F G Patton
Solicitors
40 Church Street
Dungannon
County Tyrone BT70 1HN
Tel: 028 8772 4333
Fax: 028 8772 7313

Re: Maud Wallace (deceased)
Late of: Flat 36a Wandsworth Road, Belmont, Belfast BT4
Would any person having knowledge of the whereabouts of the Will for the above named deceased please contact:
Mr John F Gibbons
John F Gibbons & Co
Solicitors
40 Church Lane
BELFAST BT1 4FR
Tel: 028 9023 9990
Fax: 028 9023 9998

Re: Aidan Thomas Mawhinney (deceased)
Late of: 17 Clanrolla Park, Moyraverty, Craigavon, County Armagh, BT65 5HZ
Would any person having knowledge of the whereabouts of the Will for the above named deceased please contact:
Conor Downey & Co
Solicitors
Unit 8
First Floor
Legahory Centre
Craigavon
County Armagh BT65 5BE

Re: Anna Catherine Spence (deceased)
Late of: 15 Heathermount Crescent, Comber, County Down
Date of death: 6 November 2006
Would any person having knowledge of the whereabouts of the original Will of the above named deceased please contact:
Mrs Sarah Baillie
Harrisons Solicitors
15-17 Chichester Street
BELFAST BT1 4J B
Tel: 028 9032 3843
Fax: 028 9032 2998
Ref: RW/SB/2105

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Elliott Duffy Garrett
Solicitors
Royston House
34 Upper Queen Street
BELFAST BT1 6FD
Tel: 028 9024 5034
Email: zandra.gamble@edglegal.com
Ref: ZG/LA/DONA10-1

Folio: 3629
County: Down
Registered Owner: Una Hufhes

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Solicitors
11 Donegall Square South
BELFAST BT1 5JE
Tel: 028 9032 6241
Fax: 028 9032 2998

Ref: RW/SB/2105
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9 Merchant's Quay
Newry
County Down BT35 6AL
Tel: 028 3026 7538
Fax: 028 3026 9189

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Belfast City Centre Solicitors Office seeks Solicitor with experience in Family & Child Law work to join and assist in our Matrimonial Department. Experience in Conveyancing/Litigation/Criminal Law advantageous. Two years PQE preferred, although all applicants considered on merit. Competitive salary (commensurate with experience) and attractive conditions on offer. All applications by way of CV in the first instance to:
Mrs C. McLean
Sheridan & Leonard Solicitors
19-21 High Street

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Solicitor required for a busy general practice. Emphasis on Conveyancing. PQE preferred. Applicants seeking part-time work will be considered. Closing date: Friday 27 October 2006.

Apply with CV to:
John Neil
Watson & Neil Solicitors
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Lurgan
County Armagh BT66 8AH
or by e-mail to: jneill23@aol.com

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Solicitors
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County Armagh BT61 9AN

Experienced Conveyancing Solicitor required for busy Belfast practice. Salary commensurate with experience.

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John Boston & Company Solicitors
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County Antrim BT40 1TB
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Litigation

Would any Solicitor involved in litigation or contemplating litigation against any of the local hospital trusts arising out of the unauthorised and undisclosed retention of human organs, kindly contact:
Adrian Travers BCL
Solicitor
40 Rathfriland Street
Banbridge
County Down BT32 3LA
Tel: 028 4062 9990
The Family Mediators’ Association (FMA) will be delivering a Family Mediator Foundation Training course in Belfast.

The course is supported by Mediation NI which has kindly agreed to the use of its offices at 83 University Street, Belfast, as a venue. The course provider is the Family Mediators’ Association based in Bristol and the course is accredited by the UK College of Family Mediators.

The course will be delivered in three modules.

**Module 1:** 5 - 7 October

**Module 2:** 6 - 8 November

**Module 3:** 27 - 28 November

Attendance at the course will qualify for the Client Care element of the CPD Regulations. It is a course aimed at those involved in family law, social science, counselling, mediation and conflict transformation, who wish to add to their skills base in the area of family mediation.

If you would like to apply for the course or get additional information please contact:

- Tina Kaulbach from the Family Mediators’ Association on
  - Tel: 0117 946 7062 or
  - Email: info@thefma.co.uk
  - www.fmassoc.co.uk
  - or
  - Sheena Bell at Family Mediation NI
  - Tel: 028 9024 3265 or
  - Email: enquiry@familymediationni.org.uk

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**Judicial Review Group**

Mr Justice Girvan and Mr Justice Weatherup will host a short Seminar to promote the new JUDICIAL REVIEW PRACTICE DIRECTION

Thursday 26 October 2006 at 4.15pm
Royal Courts of Justice
Chichester Street
Belfast

Attendance at this seminar will attract one hour of CPD

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COMPANY AND COMMERCIAL LAWYERS' GROUP UP COMING EVENTS

ONE DAY SEMINAR:
Structuring Deals - what every lawyer needs to know on tax

Date: 12 October 2006
Presented by: Ernst & Young
CPD Hours: 6
Cost: £130 for members and £160 for non-members
Venue: Holiday Inn, Ormeau Avenue, Belfast
Time: Registration from 9.30am
Lunch and refreshments provided

A comprehensive look at the tax implications and planning opportunities arising from share versus trade and asset transactions using a case study and afternoon workshop. An essential for all M & A lawyers!

LUNCHTIME SEMINAR:
Consultation Requirements under TUPE

Date: 24 October 2006
Speaker: Adam Brett, partner, L'Estrange & Brett
CPD Hours: 1
Cost: free for members & £5 for non members
Venue: Law Society House
Time: 12.45pm
Light Lunch provided

MORNING SEMINAR:
Preliminary Announcement - “Acquisitions Accounting”

Date: 30 November 2006
CPD Hours: 4 1/4
Time: 9am - 1.30pm.
Lunch and refreshments provided
Details and venue to be confirmed – not yet available to book

Booking Form - Seminar (delete as applicable): Structuring Deals / TUPE

Title: Name:
Firm:
Address:
Postcode: Telephone Number:
E-mail:

Send cheque made payable to “Company & Commercial Lawyers’ Group” and booking form to Richard McLoughlin, J ones & Co, 4th Floor, The Potthouse, 1 Hill Street, Belfast BT1 2LB.

NORTHERN IRELAND COMMERCIAL PROPERTY LAWYERS’ ASSOCIATION

VAT & Commercial Property
by PriceWaterhouseCoopers

Thursday 12 October 2006 at 1pm - 2pm at Ten Square Hotel, 10 Donegall Square South, Belfast, BT1 5JD
The cost will be £10 for members and £15 for non-members. To register please send your cheque payable to the Northern Ireland Commercial Property Lawyers’ Association to Deirdre Magill at the address shown below.
Attendance at this seminar will attract 1 hour of CPD

Secretary: Patricia Johnston
c/o Stafford Thompson Johnston
Causeway Tower
9 J ames Street South
Belfast BT2 8DN
Tel: 028 9031 4466

Chairman: Rowan White
c/o Arthur Cox
Capital House
3 Upper Queen Street
Belfast BT1 6PU
Tel: 028 9023 0007

Treasurer: Deirdre Magill
c/o Tughans
Marlborough House
30 Victoria Street
Belfast BT1 3GS
Tel: 028 9055 3300
Institute of Professional Legal Studies

Road Traffic Collisions Seminar

The Institute of Professional Legal Studies is offering a Seminar on Road Traffic Collisions.

Facilitators: Forensic Science NI - Road Traffic Collision Unit
Police Service of Northern Ireland

When: Wednesday, 6 December 2006
Time: 2.00pm - 5.00pm
Venue: Institute of Professional Legal Studies, 10 Lennoxvale, Belfast
Cost: £100

Topics to include:
• PSNI Road Traffic Collision Reports
• Evidence Gathering – fatal accidents
• Collision Reconstruction
• Item Examination

3 CPD hours are awarded for attendance at this Seminar.
Booking form and cheques, made payable to QUEEN’S UNIVERSITY BELFAST, should be sent to Mrs Joan Playfair, Institute of Professional Legal Studies, 10 Lennoxvale, Belfast, BT9 5BY. Closing Date for applications: Friday 24 November 2006

Road Traffic Collisions Seminar - Booking Form

Name:
Firm:
Address:
Tel. No: I enclose remittance of £
Email address:

Confidentially...

President Rory McShane is determined to raise as much as he can for his nominated charity during the current presidential year.

The Writ has learned that he has got together with his fundraising team and plans are afoot for another night of music and craic in the Spring and Airbrake on Friday November 17.

Kind-hearted members of the Society and their friends have raised considerable sums for local charities at this event over the last few years and this year the event will benefit Macmillan Cancer Support.

Watch this space.
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IN BELFAST 2006

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24th Oct - Data Protection from A to Z
7th Nov - Records Management
15th Nov - Conducting an Information Audit
24th Nov - Handling Requests for Personal Data under FOI & DPA
29th Nov - FOI Update: Exemptions, Refusals and Cases

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All staff – whatever their job description – are an integral part of any firm and the work they do reflects on how a practice is perceived by the outside world. So how do you go about ensuring that all staff members are up to speed with ongoing developments and how do you know what they are supposed to be doing to ensure that your practice’s reputation is kept intact?

• First and foremost, are all new staff properly supervised? It is important, especially from a risk management point of view, that new staff or those who are learning a new area of the job, have adequate supervision. The excuse that an assistant overlooked a detail which may have benefited your client will hold little sway.

• Keep your staff’s knowledge and training up to date. You need to devise a structured competence and training programme. A proper training and appraisal programme will highlight areas of weakness which can then easily be addressed before mistakes have time to occur. It is also an important risk management tool in the sense that properly trained staff will be able to work as a team in the style to which your practice is accustomed.

  • Look into mentoring. If you have employees who are learning the ropes, do they have someone they can speak to should a problem arise? It is better practice to develop a culture within your firm whereby staff are not afraid to ask questions, as opposed to muddling through and making mistakes.

  • If you have new starters, make sure they know where everything is, their full job description and everything it entails, and who they report or refer to. Also, ensure they are aware of and understand all risk management procedures you have in place and that they know how to behave should a complaint or claim be made against them.

  • If you have a member of staff leaving, it is important to know what their current case load is and what they have done with their old work before they leave. If they have computer-based records make sure you know where they have stored them plus any passwords they have used to protect records.

  Also, make sure you know about any previous claims and those which have been logged against the practice since their departure. Proper claims management still needs to be practised even if the partner or lawyer has moved on.

The old adage that a firm is only as good as its staff is very true. It is important that staff feel competent and that they are being properly looked after. There is nothing worse for an employee than feeling neglected or unsure of what they are supposed to be doing. Competent, well-supervised staff will work more efficiently and with less mistakes than those left to their own devices.

This article was prepared by AFP Consulting’s risk management team. AFP Consulting is a division of Alexander Forbes Risk Services UK. The article first appeared in the Gazette, the journal of the Law Society of England and Wales.
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*Salary: Open to negotiation*  
Ref: L1146

A top Belfast firm requires a new Senior Solicitor with a view to a prospective Partnership. This is necessary to support the growing Commercial Property team. Regardless of PQE, you will offer leadership and rain-making abilities, excellent team management and strategic direction. Technical and legislative knowledge shall be exceptional without question.

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*Salary: Dependent on expertise/experience*
Ref: L1707

**Employment Solicitor**
*Salary: £30k to £45k*  
Ref: L1640

Exciting role in a leading firm in Belfast for an Employment Solicitor. Mixed role dealing with pure tribunals and provide corporate support e.g. Pension Disputes, TUPE. Min experience of 3+ yrs PQE.

**Co Armagh roles - Conveyancing Solicitor/Litigation Solicitor**
*Salary: Negotiable*  
Ref: L1757

Excellent role in a provincial firm for Residential Conveyancing Solicitor (Portadown) to deal with local clients and large developers. Civil Litigation Solicitor (Armagh) required to deal with RTAs, TSWs, PIs etc. Min experience of 2+ yrs PQE is preferable for both roles.

**Legal Support Staff**
*Salary: Variable*  
Ref: L185

Several roles available for top calibre Legal Secretaries, Legal Bookkeepers, Office Managers and Paralegals. All experience will be assessed on merit for roles available throughout NI and especially Belfast.

**Commercial Property Solicitor – English Qualified**
*Salary: Negotiable*  
Ref: L1534

Several clients are on market to expand Commercial Property Department. In particular, there is a demand for someone with experience of working in England. Great opportunities to generate high targets and benefits and working for strongly regarded team.