President’s Message

Looking outside the box

“St. Polyglot was born in circs. That influenced his later works, His father was a Serbo-Croat Who ran a daily ferry boat From Samothros to Mudros Bay, Stopping at Troy on market day ……………”

And so goes the poem (only a fraction of which I can manage to drag from the deepest recesses of my memory after some forty years) about how young Polyglot came to be accomplished in a whole range of languages. The reason this piece of doggerel leapt into my consciousness recently is because in the last two months I have spent a fair amount of time in the company of lawyers whose first language is not English.

In February I attended the annual conference of the Presidents of the European Bar Associations in Vienna along with Peter Cushi, Chairman of the Bar Council. Last week I was at a meeting in the joint office of the three home Law Societies in Brussels which was followed, of course, by the mandatory reception. Last weekend I had the privilege of being invited by the Law Society of Ireland to partake in their initiative to welcome the Presidents of the Bar Associations of the ten accession countries.

The theme of the conference in Vienna was cross-jurisdictional practice within the European Community, a topic given even greater significance with the accession of the ten new states on 1st May. There was much discussion about the recognition of qualifications, regulation, insurance and all the other issues that impede the free movement of lawyers within the EU. The most significant impediment to the movement of lawyers is, in my opinion, one which was barely touched upon and I refer, of course, to language. I believe that the reason it got so little consideration was because most of those partaking in the debate were capable of communicating effectively in at least one other major European language. I must admit that people like that make me feel totally inadequate.

Although English is, de facto, the principal common language of the EU, we are at a terrible disadvantage compared to our [mainland] European counterparts. Being able to order beer in six different European languages is all very well but being able to discuss the implications of the latest EU Directive on milk production with a client from Outer Numbdastadt in his own language (or at least another common language) is an entirely different matter altogether. And you cannot do it by simply speaking English slowly and very loudly!

For whatever reason, perhaps the hitherto lack of necessity, the vast majority of the inhabitants of these islands seem to be reluctant to learn a foreign language. However, the more European we become, the more important will become our ability to communicate in languages other than English. I know that there are solicitors in Northern Ireland who are fluent in various European languages but they represent a very small percentage of our profession indeed. I believe that as a matter of urgency we should be looking at initiatives to equip our members better if we wish to avail ourselves of the opportunities opening up in Europe.

Looking inside the box

On the theme of the need for improved cross-cultural dialogue — as announced in the last edition of The Writ, Sir Anthony Holland has been appointed as Chairman of the Legal Services Commission following the resignation of Sir Kenneth Bloomfield. Sir Anthony can claim some prior experience of attempts at conflict resolution here in his role as Chairman of the Parades Commission. Of more significance, perhaps, may be his experience as a legal practitioner and as a former President of the Law Society of England and Wales. Following on from the expression of serious concerns by the Council of the Society, together with Joe Donnelly, John Bailie and two co-opted members, Pearse McDermott and Karen Fox, have met twice in recent weeks with Sir Anthony and the Chief Executive of the Commission, Mr Gerry Crossan.

Discussion at these meetings has been robust but constructive. The Commission was left in no doubt as to the seriousness of the situation for many practitioners. I think it is right to record that Sir Anthony has responded readily and positively to our concerns and request for effective remedial action on delays and backlogs of work, and the several other issues we have raised. With the backing of the Commission there is now some prospect that proper attention and priority will be given to the bread and butter business of administration and that extra funding will be secured. Work is underway on a series of discrete projects to tackle Green Form, criminal legal aid, care centre/family proceedings and civil adjudication delays. Our dialogue will continue and all of this is to be welcomed. Of course as I have already mentioned, nothing will be achieved simply by speaking English very loudly — actions will speak louder than words. Good news for all concerned!

John W D Pinkerton May 2004

Inside this issue...

Money Laundering  
Page 10

Mental Health and Human Rights  
Page 16

SDLT Update  
Page 19

Solicitors Beware  
Page 27

Sexual Offences Act 2003  
Page 35
You are sitting in your office in the year 2010....will you be surrounded by masses of paper as now? Or do you imagine that your desk will be dominated by a computer terminal which will send and receive information to and from your staff, court offices, other solicitors, your clients and an electronically connected world out there? A fond imagining, perhaps, as even now experience suggests that IT and paper systems will co-exist and complement each other in different types of office into the future.

Let’s not try to imagine that future. What is becoming available now is more relevant. It will affect your practice and may even benefit it and you will do well to be aware of what is happening. So in this issue of “The Writ” we publish two articles about major projects from the Court Service and the Northern Ireland Office. The first, entitled “Technology Developments at Court Service”, was prepared by the Court Service team which is currently delivering an integrated computer system throughout all of the courts in Northern Ireland.

The article describes how the project – called ICOS – is already being introduced into the County Courts and how it will be rolled out in divisions of the High Court from July 2004. The second article, “Launch of Criminal Record Database”, is about the Causeway Programme developed by the Northern Ireland Office and which will allow all criminal justice organisations to be linked by an integrated computer system for the benefit of all users.

Technology Developments at Court Service

How will the Court Service’s continuing modernisation programme affect you?

Background

In August 2003 the Court Service in consultation with the Law Society published an article in The Writ on our modernisation agenda. One of the key features in this article was an explanation of the benefits that would accrue both to the Court Service and the profession through the implementation of the Integrated Court Operations System (ICOS).

ICOS is being developed to support the administrative process of the Civil, Family and Criminal Jurisdictions and is being implemented in a modular and incremental manner. Since the release of the Small Claims Module in November 2002, the following modules have now become operational:

- Jurors Notification Module - February 2003;
- Jurors Management Attendance Module – July 2003;
- County Court Civil Module – January 2004;
- Fees Collection Module – January 2004;

County Court Civil and Fees Collection Modules

Implementation of the County Court Civil & Fees Modules commenced in January 2004. The new system is already operating successfully in all County Court Divisions with the exceptions of Antrim and Belfast which will commence in June and July 2004 respectively. These modules provide automated support in respect of Civil Bills, Default Judgments, Criminal Damage, Minor Payments Out and Fee Collection.

As part of our Communications Strategy we have hosted a number of information days for local solicitor associations at each of the County Court Divisions. Two events for solicitors in Belfast were held on 12th and 13th May 2004 at Laganside Court Complex. The key messages communicated at these events were:

- The outcome of cases will now be recorded electronically in court.
- County Court Orders and Decrees will be prepared almost instantaneously using ICOS. Decrees will be issued on lodgment by the profession of a requisition containing cost details. It is hoped that this will provide an enhanced service to the profession and reduce the delay and level of correspondence in respect of the preparation and
Courtroom Technology

The Court Service has successfully introduced Courtroom Technology Services in Laganside, Dungannon, RCJ and Londonderry. This technology has been successfully used in a number of cases and in a variety of ways and now forms part of the training for IPLS students.

The Court Service proposes hosting a number of information days at these courts during June to September, to include a demonstration of the various technologies available for use by practitioners. The profession will be encouraged to use and test the technology and gain “hands on” experience on the day.

If you are interested in availing of this opportunity, you should register your initial interest by contacting Jim Coffey of Court Service on 90728826.

issue of County Court Orders and Decrees.

• All fees will now be linked directly to a case or application and a summary of the case details will now be captured on the payment of the fee.

• Introduction of a facility for the operation of Solicitors Pre-Paid Accounts to which the profession can lodge money at any court office. Payment of fees can then be drawn down at a later date at any court office for the issue of court documents.

• Details of how to set up and operate a Solicitors Pre-Paid Account are downloadable from our website (details at the end of this article) or alternatively by contacting Leslie Millar at the ICOS Project Team of Court Service on 90728821.

We believe that this new approach to management of Fee Collection and Documentation Issue will provide the following benefits:

Refunds – will reduce processing time as fees can be refunded into ICOS account to be reused

Payment Method – Increased choice of payment channels, namely Pre-Paid Accounts, Credit/Debit Cards, Account Holders as well as current payment methods

ICOS Account Statement – Available on request detailing Account Number, Name, Opening Balance and Case Details

• We would ask practitioners to note that the inclusion of postcodes on all court documents containing address details facilitates the use of postcode package software within ICOS, enabling full address details to be entered quickly and accurately onto the system. Full address details will then be displayed on all outputs produced from the system (ie Notification of Hearing Letters, all Orders and Decrees) and will facilitate future on-line services.

• In line with Corporate Governance controls, we can no longer accept and endorse blank Civil Bills. Given that case details are recorded at the point of fee payment, all Civil Bills received for fee endorsement must be completed with the participant details including full address and the amount of the claim in order that the correct fee can be endorsed on the document.

• County Court Lists across the province will be available on-line using the internet from August 2004.

High Court Implementation Plan

The implementation of the County Court Modules will be rapidly followed by the implementation of the High Court Civil & Family Module as follows:

• Central Office will become operational from July 2004.

• Bankruptcy and Chancery will become operational from November 2004.

• Probate will become operational both in Belfast and Londonderry from December 2004.

• Matrimonial will become operational both in the High Court and County Court from January 2005.

• Wardship and Adoption will become operational from February 2005

Summary

The implementation of ICOS provides an opportunity for both the profession and ourselves to consult on the introduction of new services and we look forward to our continued dialogue with the Law Society and with local solicitor associations.

Further information can be found at: www.courtsni.gov.uk/enGB/AboutUs/IcosAndCauseway
Launch of Criminal Record Database

Comprehensive, up to date and accurate information on convictions and criminal records is now available to all Criminal Justice Organisations (CJOs) with a relevant interest. Speaking at the recent launch of the Criminal Record Viewer, the Criminal Justice Minister, John Spellar said: “The ability for authorised users across all Criminal Justice Organisations to now access criminal records on one confidential database marks a considerable advancement in the modernisation of the criminal justice system. This unique achievement within the UK is the first tangible benefit to come from the multi-agency Causeway Programme, that will ultimately allow for the electronic flow of all information between the CJOs in Northern Ireland.

Causeway is an exciting programme which will revolutionise the way in which criminal justice partners interact. Instant access to the criminal record provided by the Viewer can only improve CJOs effectiveness and strengthen the system’s public protection role. The far reaching advantages will extend far beyond the CJO’s, importantly benefiting victims and witnesses who should see trials coming to court more quickly. Judges and magistrates will now be able to make bail and sentencing decisions based on a full understanding of the defendant’s record.”

The six Criminal Justice Organisations in Northern Ireland involved in Causeway are:

- The Police Service;
- Forensic Science;
- The Public Prosecution Service;
- The Court Service;
- The Probation Board;
- The Prison Service.

The Causeway Programme was initiated in May 2002. Its vision is that all the information shared within the criminal justice system will be accurate, consistent, up-to-date and accessible electronically by the staff who have a need to use it.

As a criminal case progresses, the same information is often used by different CJOs. Similarly, information needs to be passed from one CJO to another in order to move a case along. This information is currently shared between the CJOs in the form of paper files and documents that have to be moved from building to building. Some of the CJOs have computer systems that support their work, but information entered onto one of these systems has to be re-entered into all the others as there are currently no mechanisms for transferring information electronically. The use of paper-based records has many disadvantages. For instance it is often difficult to know where a file is and whether the papers in it are up to date. These problems can cause delay and mistakes, which undermine public confidence in the criminal justice system.

Causeway intends to address these issues by replacing paper-based records with systems based on the electronic storage, transfer and retrieval of information. Information will be captured once and then shared and re-used by all CJOs.

The ability for all the agencies to view criminal records will be followed by a phased rollout of additional functionality to over 10,000 users. The system will be fully operational in 2006.

Information Technology Survey - Reminder

The Society requests all firms to complete and return as soon as possible the recently issued Technology Survey.

A response by all firms, from the smallest to the largest and irrespective of the amount of technology employed by each firm, will assist the Society in this its first ever survey of the use of IT by the profession. The results will inform the Technology Committee of the Society on the use of IT by the profession and in relation to developments in the courts, government bodies and the business world which will impact on solicitors increasingly in the future.

We are encouraged by the response to date and thank those who have already replied. The survey should be returned to Kevin Delaney at Law Society House, 98 Victoria Street, Belfast BT1 3JZ.
**Future of Committal Proceedings**

The Northern Ireland Office has launched a consultation exercise on the future of committal proceedings.

Recommendation 32 of the Criminal Justice Review had recommended that “consideration be given to introducing simplified procedures for transferring cases to the Crown Court in Northern Ireland, while ensuring safeguards to a defendant who wishes to argue that there is no case to answer. Such a development could be accompanied by a major effort further to reduce time taken to bring cases to trial.”

The consultation is designed to obtain views on two proposals for taking this recommendation forward: -

• presumption of transfer with a right to elect for committal

• abolition with a defence right to make submission of no case to the Crown Court

Copies of the consultation document and a research report by Professors John Jackson and Sean Doran commissioned by Government to inform thinking on the issue can be obtained from www.cjsni.gov.uk or directly from the Criminal Justice Reform Division, Massey House, Stormont Estate, Belfast, BT4 3SX (Tel: 90527557).

The consultation will close on 31st July 2004.

Anyone interested in contributing to a response to the proposals should contact Peter O’Brien, Secretary to the Criminal Law Committee.
ATTENTION ALL CRIMINAL LAW PRACTITIONERS

BAIL HEARINGS
The Society has been informed by the Central Office of the High Court of new arrangements in relation to High Court bail hearings, applying from 19th April 2004.

Details include:
• procedure for first bail applications
• new arrangements for the hearing of second or subsequent bail applications to include variations and, unless a date has been set by the court, adjournments
• a table setting out dates provisionally assigned for bail hearings in recess periods for the rest of 2004 until the end of 2005

Full details of the notification may be downloaded from the Court Service website at www.courtsni.gov.uk

Visit by Criminal Cases Review Commission

The President and a number of criminal law practitioners recently met with members of the Criminal Cases Review Commission who were on a fact finding and profile raising awareness visit to Northern Ireland. Professor Graham Zellick recently appointed as Chairman of the Commission said, “Although the Commission has excellent links in Northern Ireland, further work needs to be undertaken to raise wider awareness of our role and remit.”

The Criminal Cases Review Commission is an independent body responsible for investigating suspected miscarriages of criminal justice. It was set up in 1995 in response to public concern after a series of well-publicised miscarriages of justice had come to light.

The Commission’s principal role is to review the convictions of those who believe they have either been wrongly found guilty of a criminal offence, or wrongly sentenced.

The Commission can seek further information relating to a case and carry out its own investigations, or arrange for others to do so.

Once the investigations have been completed to the Commission’s satisfaction, it decides whether or not to refer the case to the appropriate appeal court – Crown Court cases back to the Court of Appeal or Magistrates Court cases back to the County Court on appeal. It will normally not do so, unless it is satisfied that there is a real possibility that the verdict or sentence passed will not be upheld.

Since its introduction in 1995, the Commission has completed processing 5791 eligible cases. Of the 178 cases which were referred to and heard by the Court of Appeal, the original decision was quashed in 121 cases, upheld in 55 and reserved in 2.

During these eight years, only 96 cases have come from Northern Ireland (the rest are from England & Wales), the vast majority of which have been either directly related to sectarian crime or are for the most serious type of offence.

It is intended to hold a seminar on this topic in Autumn 2004 – further details to follow.

To advertise in the Writ

If you wish to advertise in the Writ please contact Karen Irwin for rates, specification and copy deadlines at:

Citigate NI Public Affairs Ltd
128a High Street
Holywood
BT18 9HW

Tel: 028 9042 8899
Fax: 028 9042 8877
Email: karen.irwin@citigateni.co.uk
The Children Order – An Introduction

This course is aimed at all legal practitioners as an introductory course. The focus is practical, explaining both the law and how to put it into effect. For those with little or no Children Order experience this course will be invaluable.

Under the private law sections we will look at the rights of parents, the rights of children in respect to the expression of their wishes, where the child will live and who will make the decisions regarding the child’s education, religion etc. The discussion is set within the legislative context of the Children (Northern Ireland) Order 1995 and the Article 8 Orders made under the 1995 Order. Residence, contact, prohibited steps and specific issues will be individually and clearly explained.

The 1995 Order governs the Health & Social Services Trust’s responsibility for children and its duty to provide and regulate child care services and protect children from risk. We will examine the various Orders, such as Care, Supervision and Emergency Protection available to local Trusts.

The seminars will be facilitated by experienced Children Order Practitioners and members of the Judiciary. The course co-ordinators are Gillian McGaughey and Kate McKnight.

**Session 1**
- Basic principles of the Children (NI) Order 1995
- Private & Public Law Orders
- Paternity & Blood Tests
- Basic principles of Adoption Law
- Care Plans

**Session 2**
- Court Rules and making applications
- Article 4 – Welfare Reports
- Article 66 – Assessments
- Recent case law developments
- Legal Aid
- Example/Precedent Forms

When: Monday, **13th September** and Monday, **20 September 2004**

Time: 6.00p.m. – 9.00p.m.

Venue: Institute of Professional Legal Studies, 10 Lennoxvale, Belfast, BT9 5BY

Cost: Full course fee **£130**, and either Seminar **£75**.

This course attracts 3 hours Law Society of Northern Ireland C.P.D. points per session.

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, 3 September 2004**

---

**BOOKING FORM The Children Order – An Introduction**

I am interested in attending (*please indicate*) :  Session 1 □  Session 2 □

Name: ________________________________

Firm: ________________________________

Address: ________________________________

Tel. No: ___________________ I enclose remittance of £ ___________________
The Children Order Advisory Committee (COAC) has presented a report to Ministers into the issue of Delay in Children Order Cases in the Court System.

The Committee is keen to obtain views on their recommendations. To this end it would be appreciated if any comments you might have were forwarded to the Secretariat c/o Mr Michael Williamson, Child Care Policy Directorate, DHSSPS, Castle Buildings, Belfast (email michael.williamson@dhsspsni.gov.uk) or to Mr Austin Harper, NICTS, Bedford House, Bedford Street, Belfast (email austinharper@courtsni.gov.uk)

A copy of the Report is available at www.courtsni.gov.uk/en-GB/Publications

Calling All Masters

As many of you will be aware, the release of first round results from the IPLS will be delayed this year. Due to an unfortunate typographical error in one of the admissions tests papers, an alternative test paper had to be set and all candidates were given an opportunity to take it.

The circumstances giving rise to this sequence of events are very much regretted and sincere apologies to all who have been adversely affected.

The first round letters will now issue to successful candidates on May 7th. All those wishing to take up their place at IPLS must have registered with the Law Society by 23rd August. This involves finding a Master before that date. If you are interested in taking an apprentice this year, please put your plans in place as early as possible. Leaving it until the last minute may result in disappointment for you and an otherwise successful candidate losing their place at IPLS.

If you are interested in taking an apprentice and have not already registered with the Law Society as a potential Master or you have any queries regarding taking an apprentice, please contact Yvonne Blackstock at 028 9023 1614.

Career Opportunities for Solicitors

A new section has been added to the Society’s website entitled “Appointments”.

Any advertisement received and accepted for inclusion in The Writ in relation to the “Solicitors Required” section will now immediately be placed on the Society website without awaiting publication of The Writ. This will afford solicitors an additional facility for advertising any full-time, part-time or locum positions they may have available.

Practitioners should also note that this section will include, from time to time, details of vacancies notified to the Society with regard to judicial appointments, social security appeal tribunals, industrial tribunals etc.

News from the Remuneration Committee

The Remuneration Committee has received evidence from both an experienced costs drawer and Professor McCutcheon (who carried out the Cost of Time Survey of solicitors in Northern Ireland) to the effect that an appropriate hourly rate for solicitors’ remuneration (the “A” rate) at present is £86.00 per hour.

The Remuneration Committee is aware that a number of solicitors are intending to seek a decision from the Taxing Master on the appropriate hourly rate for solicitors’ remuneration (the “A” rate) at present is £86.00 per hour.

Concerning probate costs and following the decision of the English Court of Appeal in Jemma Trust Co Limited v Liptrott & Others, the Committee has asked a cost drawer to prepare a guide for the profession on the appropriate manner in which to charge for work done in the administration of estates.
The Money Laundering Regulations 2003 require all persons carrying on relevant business* to “establish such procedures of internal control and communication as may be appropriate for the purpose of forestalling and preventing money laundering”.

Procedures must therefore be set up for:-

1. verifying the identity of clients;
2. maintaining record keeping;
3. implementing internal reporting procedures;
4. training of all relevant staff.

1) Client identification

Do I have to identify clients?

Yes – if satisfactory evidence of the identity of new clients is not obtained then the business relationship or one-off transaction as the case may be must not proceed any further.

Remember you may also need to verify the identity of parties who are not your clients e.g. where a third party is providing funding for a purchase by a client.

When is evidence of identity satisfactory?

When it is reasonably capable of establishing that the client is the person he claims to be and when the person who obtains the evidence is satisfied, in accordance with the procedures maintained under the Regulations, that the evidence does establish that the client is the person he claims to be.

The firm’s identification procedures must provide for the client’s identity to be checked as soon as is reasonably practicable after contact is first made between solicitor and client.

Individual clients

For individual clients it is suggested you obtain:
1. the full name and/or names used
2. current permanent address, including postcode
3. “wherever possible” the date and place of birth
4. a photocopy of a document from a reputable source which has a photograph of the applicant e.g. a current valid passport, a valid photo card drivers licence or an electoral identity card should be requested.

Other suggestions:
1. check the voters’ roll
2. make a credit reference agency search
3. see an original recent electricity, gas, telephone, rates, rent bill or bank statement
4. check a local telephone directory
5. visit their home

Dealing with young people or disadvantaged individuals may require further enquiries to be made to confirm their identity.

Corporate clients

No specific steps are needed if clients are:
1. a listed company or a subsidiary of a listed company
2. a private company or partnership one or more of whose directors/partners are already known to the firm.

Steps are needed if clients are:
1. an unquoted company or a partnership and none of the directors/partners is already known then the firm should verify the identity of one or more of the principal directors/partners and/or shareholders as applicable as if they were individual clients (see above).

It is suggested you also obtain copies of:
1. Certificate of Incorporation/Certificate of Trade or equivalent.
2. Perhaps for Companies their latest report and accounts (audited where applicable).

How do I explain this to my clients?

Fortunately with most financial institutions carrying out verification checks on all customers, most clients are familiar with what is required.

The Society has also issued a helpful Information Brochure entitled Money Laundering – Your Solicitor and you. These are available from the Society at a cost of £3.50 for 50.

2) Record keeping procedures

What records do I have to keep and for how long?

The evidence of identity needs to be kept for at least 5 years from completion of the relevant business or transaction concerned. This can either be contained in a fact sheet in
each file or alternatively in a central record, filed in such a way as to make future reference possible.

The size of your firm will determine how sophisticated your record procedures are. Whilst normal file retention rules would generally cover the time you are required to keep evidence of verification of identity, your procedures should ensure that evidence which was obtained for the first piece of work which you do for a client is not destroyed along with the first file which you opened for that client. This suggests that, rather than keep this evidence on individual matter files, a central system which contains the evidence of verification of identity of all clients of a firm is the sensible way to proceed.

A key part of this system is also being able to check compliance. You should have a system whereby someone double checks that the correct verification of identity checks have been done for all new clients and the information has been stored in the system. You may wish to consider a system where the person who collates the record gets a printout of all new clients logged onto your practice management system each month and a check is done to ensure that each client on the list has a corresponding record of verification of identity. This check has, to a certain extent, also to be qualitative, in terms of the evidence which has been recorded.

In respect of records of transaction details, these should also be kept for at least 5 years from the date on which all activities taking place in the course of the transaction in question were completed.

**Does the Proceeds of Crime Act affect the position of my records?**

Yes. The Act does create specific powers to allow an investigation of your client accounts, files and records. It is important to keep detailed records including notes of meetings and telephone calls. An examination of these records will expect to find explanations or evidence which demonstrate the reasonable enquiries made by you of the client at the appropriate time. It also requires you to obtain permission to proceed with any suspect transaction.

(3) Internal reporting procedures

**Do I have to have a Money Laundering Reporting Officer?**

Yes. It is desirable that the he/she should be someone with sufficient seniority and credibility within the firm.

**What do I have to tell the Money Laundering Reporting Officer?**

Any information or other matter which comes to the attention of the person handling relevant financial business which in the opinion of the person handling the business gives rise to a knowledge or suspicion of money laundering.

**What does the Money Laundering Reporting Officer have to do?**

Consider all such reports and any other relevant information and decide if this gives rise to a knowledge or suspicion of money laundering. If so, he/she must pass the information to NCIS (the National Criminal Intelligence Service). Once a disclosure has been made, permission to proceed must be obtained. This will be prioritised if you make a disclosure on the appropriate form under the Proceeds of Crime Act 2002. A period of up to seven days may be needed to obtain consent.

**How should this information be passed?**

Use the reporting form which can be downloaded from the NCIS website at www.ncis.gov.uk

In serious cases telephone or fax the NCIS duty officer for guidance on how to proceed with a suspicious transaction. In all such circumstances advice/permission to proceed is essential.

Telephone No. 020 7238 8607/
Fax: 020 7238 8286

**What else should the Money Laundering Reporting Officer do?**

Keep a record of what he/she decides to do and why — our next issue will look at the broader responsibilities of the Money Laundering Reporting Officer.

**What happens if I do not comply?**

Failure to comply with the Regulations constitutes a criminal offence, punishable by a fine and/or imprisonment for a term of up to two years. The Proceeds of Crime Act 2002 carries penalties of up to 14 years and/or fines.

(4) Training of all relevant staff

**Who do I have to train?**

All relevant employees. You need to train any member of staff who deals with clients or clients’ funds. Thus staff in the probate, property, family and corporate practice areas will clearly need detailed training. Clerical, secretarial, accounts and administrative staff (and perhaps the receptionist) are also likely to need training because they may see information that is not obvious to fee earners.

**What do I have to teach them?**

They need to know what the Regulations are (so they need to understand the rules about verification of identity, record keeping and reporting), the implications of the Proceeds of Crime Act and the Terrorism Act and need to be trained how to recognise and deal with transactions which may be related to money laundering.

**How do I train them?**

All staff who need to be trained need to be given an introductory training session soon after arrival and refresher training should be provided at least every two years with updates of any changes in legislation or procedures when appropriate, for example the Proceeds of Crime Act. This training needs to be carried out by someone with the right skills or using suitable training materials.

* See April Writ
The AFP Consulting Anti-Money Laundering Procedures Manual

Our team of experts has produced a template Anti-Money Laundering Procedures Manual that can quickly and easily be tailored to suit your own requirements.

By purchasing this manual, your practice will be licensed to use the recommended systems and procedures, thus providing a concise, cost-effective and immediate solution.

The AFP Consulting Anti-Money Laundering Procedures Manual provides a sample of best practice, based on our experience of working with practices on risk management and anti-money laundering strategies. The manual can be used as a stand-alone document or can be incorporated into your existing office manual. Written in plain English, it provides easy to use directions for solicitors and non-qualified staff.

In addition, the manual provides appropriate template forms, again licensed for your practice’s immediate use.

Contents Include:

• Summary of Key Legislation
• Duties of the Money Laundering Reporting Officer
• How to Identify Clients
• New Matters
• Client Account and Cash
• Reporting
• Record Keeping
• Training
• Confidentiality

• Types of Suspect Businesses
• Examples of Potentially Suspicious Circumstances
• New Client Identification Forms
• Matter Opening Forms
• Suspicious Transaction Report
• Retainer Letters

Costs

For a fee of £250 + VAT, you will receive the Anti-Money Laundering Procedures Manual in both a hard copy and on a CD-Rom (with clear instructions for its easy use).

Why Choose AFP Consulting?

AFP Consulting is a specialist consultancy for the legal services sector, advising practices and legal departments on all areas of management.

We have a team of leading anti-money laundering specialists experienced in working with the legal profession to identify a client’s management issues and provide appropriate solutions.

As a Division of Alexander Forbes Risk Services UK Ltd, AFP Consulting is part of one of the largest independent insurance brokers in the world.

The AFP Consulting Anti-Money Laundering Procedures Manual provides a comprehensive, yet quick-and-easy solution to your practice’s need to address the new Money Laundering Regulations (MLR 2003).

To purchase your copy of the Anti-Money Laundering Procedures Manual, please complete and return the form below.

---

I would like to purchase a copy of the Anti-Money Laundering Procedures Manual at a cost of £250 + VAT

Please complete your contact details.

METHOD OF PAYMENT

Please find enclosed a cheque for £293.75 (£250 + VAT) made payable to “AFP Consulting” OR

Please issue me with an invoice for £293.75 prior to dispatch (£250 + VAT)

I would also like to receive further details on consultancy assistance with:

Strategic and organisational development
Quality systems and implementation (eg Lexcel)
Strategic and operational risk management
Information and communication systems
Training and development
Business development and marketing

---

Other:

Name:
Position:
Practice:
Address:
Postcode:
Tel:
Fax:
Email:

---

If paying by cheque, please return this form by post to: AFP Consulting, 40 Linenhall Street, Belfast BT2 8BA

If you require an invoice, please fax this form to: 0845 080 4542. Or telephone: 0845 600 2729 if you have any queries.

AFP Consulting, A Division of Alexander Forbes Risk Services UK Ltd
A Member of the General Insurance Standards Council. A Lloyd’s Broker
For more details contact Orla or Brona at BluePrint Legal Appointments on 028 9032 3333 or email legal@blueprintappointments.com

Legal Appointments

Conveyancing Solicitor, North Down, £25k+
Reputable practice seek an experienced and dedicated Lawyer to run their successful Conveyancing department. Suit 3 yrs + PQE.

Litigation Solicitor, Belfast.
Excellent opportunity has arisen to join a well established plaintiff firm. The ideal candidate will have good experience in general Litigation, whilst knowledge of mix consumer credit would be advantageous. Opportunity of career advancement. Suit 4 yrs + PQE.

Conveyancing Solicitor, Co Antrim, £25-35k.
General practice wish to recruit a lawyer with excellence in General Conveyancing. The emphasis of the role will involve Residential Conveyancing. Suit 3 yrs + PQE.

4 x Locum, Belfast/Armagh, 12 mth contract, £26k+.
Excellent opportunity has arisen to join large public sector body to examine and direct prosecutions cases in Magistrates court. Solicitor’s/Barrister’s must have experience in Criminal Law and hold a full clean driving licence. Contract could go permanent for the right person.

Senior Conveyancing Solicitor, Belfast.
Reputable firm seek an ambitious Solicitor to join their professional team. The ideal candidate must have a good track record in Conveyance whilst management exp. preferred. Opportunity towards partnership. Suit 4 yrs PQE.

THE MAGISTRATES’ COURTS (AMENDMENT) RULES (NI) 2004 SR2004 NO 204

The purpose of these Rules which came into operation on 17th May 2004 is to amend the Magistrates’ Courts Rules (Northern Ireland) 1984 ("the principal Rules") and contain provision relating to the service of United Kingdom processes abroad under the Crime (International Co-operation) Act 2003 ("the Act").

Rule 2 inserts new Rules 52D-52F into the principal Rules. New Rule 52D provides an interpretation of certain terms used in the new Rules.

New Rule 52E prescribes the information that shall be contained within the notice required by section 3(4) of the Act to accompany a process served outside the United Kingdom.

New Rules 52F provides that service of a process under section 4 of the Act may be proved by a certificate given by or on behalf of the Secretary of State, which shall be admissible as evidence of any facts stated therein.

SUSPENSION OF CROWN COURT SITTINGS

The Lord Chief Justice has issued a Direction, suspending the sittings of the Crown Court in Northern Ireland on the date of the European Parliamentary elections, Thursday 10th June 2004.
Annual Lecture Series 2004

Ronald Bentley QC
‘How to Maximise Fatal Accident Claims’
Thursday 3rd June 2004

Sarah Witchell
‘Conveyancing – the Future’
Thursday 17th June 2004

Dr Joseph McMahon FRCP
‘The Medical Legacy of Shipbuilding’
Thursday 24th June 2004

John Beattie and Ann Williams
‘Capital Taxes on assets based in the Republic of Ireland - Why Irish Capital Taxes could cause unwelcome liabilities, even for those who may have a good UK Tax Strategy’
Thursday 9th September

Paul Kerr
‘Taxation – an Update’
Thursday 7th October 2004

H A Yeates FRCS
‘The Facts and Myths of Whiplash’
Tuesday 2nd November 2004

Tony McGleenan
‘Human Rights Law in Practice; An analysis of recent NI Jurisprudence – the up to date position’
Thursday 4th November 2004

Joe Rice
‘Presenting Cases in Magistrates Court’
Thursday 2nd December 2004

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

The cost of all lunchtime seminars is £10 for BSA members and £20 for others.

Cheques payable to the BSA, c/o The Administrator, BSA, Suite 7, Merrion Business Centre, 58 Howard Street, Belfast BT1 6PJ.

BSA Handbook
Further to the recent publication of the BSA Handbook, members are advised that further copies may be purchased from the BSA Administrator, Suite 7, Merrion Business Centre, 58 Howard Street, Belfast BT1 6PJ, at a cost of £10.00 per copy.

The Handbook, amongst other useful matters, contains a handy guide to High Court, County Court, Conveyancing and Non-contentious Probate matter costs. It also contains the CPD lecture programme for 2004.

A must for every practitioner’s desk or briefcase

NorthernMRI
The first choice for MRI in Northern Ireland
MRI Medico Legal Scans
Regional Specialists in Musculo Skeletal and Neurological diagnosis
• Northern Ireland based regional specialists, all of whom are Consultant Radiologists
• No waiting list
• All inclusive pricing

Tel: 028 9066 0050
Fax: 028 9038 6733

BSA On-Line
The BSA website can be found at:

www.belfast-solicitors-association.org
NIHE takes new measures to deal with anti-social behaviour

A new initiative to clamp down on anti-social behaviour in Housing Executive estates has been launched by the Department for Social Development. From 5 April 2004, all new Housing Executive tenancies are being let on an "introductory" basis. New tenants will be "on probation" for the first 12 months of the tenancy and can be evicted quickly during that time if they engage in anti-social behaviour.

The Housing (Northern Ireland) Order 2003 enables the Housing Executive and registered housing associations to offer introductory tenancies. Introductory tenants have limited security of tenure for a 12 month trial period and, if the landlord applies for an order for possession during the trial period, the court will be required to grant it. Introductory tenants whose conduct is satisfactory during the trial period will be granted secure tenancies. It is expected that registered housing associations will follow the Executive's example shortly.

In addition, the Order allows the Housing Executive to refuse permanent accommodation to applicants who have been guilty of unacceptable behaviour. The Order also enables the courts to grant injunctions against any individual whose anti-social behaviour affects public or private rented sector accommodation, and extends the existing grounds for possession of secure tenancies. For example tenants can be held responsible for the behaviour of guests and visitors.

Since April 2003, the Housing Executive has repossessed a total of 23 properties for anti-social behaviour and, in two cases, has obtained injunctions to prevent individuals from engaging in such activity.
Mental health and human rights

The Department of Health, Social Services and Public Safety has estimated that at any point in time, one in six people will have mental health problems, which will in turn affect family and friends.¹

The Northern Ireland Human Rights Commission has published a report on human rights and mental health in Northern Ireland. The research was carried out by Gavin Davidson, team leader in Homefirst Community Health and Social Services Trust, Maura McCallion, solicitor, Law Centre (NI) and Michael Potter, barrister.

The report, Connecting Mental Health & Human Rights is timely given the government’s recent establishment of a Review of Mental Health and Learning Disability that will consider the reform of mental health legislation, policy and provision in Northern Ireland.² It aims to stimulate further consideration and discussion of the complex issues arising in this area. It makes recommendations aimed at better protecting and promoting the human rights of people with mental health problems.

This article focuses on the findings on the operation of the mental health review tribunal in Northern Ireland.

A person seeking to challenge her/his detention has a right to apply to a tribunal for a hearing. The mental health review tribunal for Northern Ireland derives its current statutory authority from the Mental Health (NI) Order 1986 and the Mental Health Tribunal Rules 1986. The tribunal is designed to be an independent judicial mechanism for adjudication upon the lawfulness of decisions made under the 1986 Order in relation to involuntary detention or control under guardianship. At present, an application from the person with mental health problems or her/his nearest relative initiates the tribunal process, other than for long term detainees when there is an automatic review after a certain period of time. In general, there is no automatic review of the detention. This is at odds with international standards. The UN Principles for the Protection of Persons with Mental Illness and for the improvement of Mental Health Care set a standard of automatic and immediate independent review. It is also thought that Strasbourg jurisprudence may develop, in light of the judicial acknowledgement of the particular problems faced by those detained under mental health legislation, so as to impose an obligation on states to arrange legal advice or even an automatic hearing for detained patients. This would be particularly important for people with a low level of capacity.

At present, the 1986 Order still places the burden of proof on the person applying to the tribunal to show that the detention is not lawful. The equivalent section of the legislation in England has been declared incompatible with article 5 ECHR in R (on the application of H) v Mental Health Review Tribunal, N and E London Region and another (2001). Remedial legislation has been introduced there to place the burden of proof on the detaining authority. An application for judicial review by Sharon McBurney to have the relevant provision in Northern Ireland struck down was heard on 29 April 2004. Those representing applicants at a tribunal should be aware of the dual role of the medical member of the tribunal. The medical member may...
carry out an examination of the person detained and advise the other members of the tribunal of any conclusions or findings prior to the hearing. In many cases the nature of the examination and the conclusions reached are not disclosed to the parties to the tribunal, preventing representations being made. This raises issues of natural justice and fair hearing in terms of articles 5 and 6 ECHR. This issue will be raised in the forthcoming application for judicial review by Deirdre Hamill.

There is also some concern about the time taken from the application to listing for hearing. In England, as a result of R (on the application of C) v Mental Health Review Tribunal, London S & SW Region (2001), the routine practice of listing cases for eight weeks after the date of the application, with no regard to the individual circumstances of the case, was held to be contrary to article 5(4) ECHR. Consideration has to be given to the balance of ensuring justice and achieving a speedy hearing but, for example, delay caused by the lack of availability of a medical member was held in that case to be a breach of article 6 ECHR.

The research also highlighted the need for specialist representation of people before mental health review tribunals given the complexity of mental health law. The Law Centre has commissioned research from Queen’s University on whether legal need is being met in this area in Northern Ireland. The research is ongoing but likely to be published this summer.

Connecting Mental Health and Human Rights is available on line at www.nihrc.org.


2 The review, which was initiated by the DHSSPS in October 2002, is chaired by Professor David Bamford and is expected to last approximately two years.

Training for advisers
Law Centre courses count towards CPD for solicitors.

Courses to be held in June:
- Human Rights Act and Community Care
- Introduction to Child Support Reform
- Decision Making and Appeals
- Rights of Migrant Workers
- Introduction to Employment Law

For more info and an application form, contact: Training Department, Law Centre (NI), 124 Donegall street, Belfast BT1 2GY, or access our website: www.lawcentreni.org.

Northern Ireland Court Service

APPOINTMENT - COUNTY COURT JUDGES

The Lord Chancellor invites applications for appointment as COUNTY COURT JUDGE. It is intended to hold the interviews early in July 2004.

It is anticipated that up to three appointments may be made at this time and that this scheme may also be used to fill vacancies arising within 12 months from the date of the interviews.

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

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

The statutory retirement age is 70 and the Lord Chancellor will expect a reasonable period of service before retirement.

Remuneration
The current salary for County Court Judges in Northern Ireland is £122,193 per annum.

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

Candidates will be appointed following a selection process, which may include shortlisting and will include an interview. All candidates will be required to submit an application form. Where it is necessary to shortlist candidates for interview, only those candidates who appear to best meet the stated criteria for each competencies will be called to interview. It is therefore important that applications forms reflect how and to what extent a candidate meets the specified criteria.

The Lord Chancellor will recommend for appointment a candidate who appears to him to be best qualified regardless of ethnic origin, gender, marital status, sexual orientation, political affiliation, religion, disability (except where the disability prevents the fulfilment of the physical requirements of the post), age (subject to the statutory age limit) or whether or not the candidate has dependants.

The Lord Chancellor is committed to equality of opportunity in the appointments process for all those who are eligible for for judicial office.

How to apply
Further information relating to these appointments can be found on the Court Service website, www.courtsni.gov.uk or by telephoning 028 9072 8718.

An application form together with supplementary information is available from:
Mrs Melanie Dill
Judicial Appointments Unit
Northern Ireland Court Service
Headline Building, 10-14 Victoria Street
Belfast BT1 3GG (DK 571 NR, Belfast 1)
or email judicial.appointments@courtsni.gov.uk

Completed forms must be returned to arrive at the above address not later than 4.00pm on 4 June 2004.
New Draft Code of Practice on Disciplinary and Grievance Procedures

The Labour Relations Agency is updating its Code of Practice on Disciplinary and Grievance Procedures mainly to take account of new statutory procedures set out in the Employment (Northern Ireland) Order 2003. The Agency invites comments on a draft Code which has been published for consultation.

The draft Code aims to provide typical guidance to employers, workers and their representatives on:

- the statutory requirements relating to disciplinary and grievance issues
- what constitutes reasonable behaviour when dealing with disciplinary and grievance issues
- producing and using disciplinary and grievance procedures, and
- a worker’s right to bring a companion to grievance and disciplinary hearings.

The new statutory procedures will apply to all employers and employees. The procedures are designed primarily to encourage employers and employees to attempt to resolve employment disputes within the workplace. They set out minimum standards for handling disciplinary and grievance matters. However, as the Government has emphasised, simply following the minimum dismissal and disciplinary procedures will not necessarily ensure that a dismissal is fair under the unfair dismissal legislation. Industrial tribunals will still be required to consider whether employers behaved reasonably in all the circumstances.

The revised Agency Code aims to give guidance on both the new statutory procedures and on standards of good practice which tribunals will take into account when considering how employers have handled a dismissal.

Failure to observe the statutory procedures, where these are applicable, can lead to sanctions which would include findings of automatically unfair dismissal, increases and reductions in awards by up to 50% and refusals by tribunals to accept certain applications.

The Agency envisages that the new Code will come into effect in October 2004 to coincide with the planned commencement date of the new statutory procedures. Whilst the procedures themselves are set out in the Employment (Northern Ireland) Order 2003, the detail of their implementation will be contained in the Employment (Northern Ireland) Order 2003 (Dispute Resolution) Regulations (Northern Ireland) 2004 which have recently been the subject of public consultation by the Department for Employment and Learning.

Public consultation on the draft Code will end on Friday, 4 June 2004. Copies of the draft Code are available for downloading from the Agency’s website (www.lra.org.uk).

Responses can be sent by post, e-mail or fax for the attention of:

Mr D McGrath
Director of Advisory Services
Labour Relations Agency
2-8 Gordon Street
Belfast BT1 2LG.
Fax: 028 9033 0827
e-mail: info@lra.org.uk

Draft Roads (Amendment) (Northern Ireland) Order 2004

A twelve week consultation period has been launched on the proposal for a draft Roads (Amendment) (Northern Ireland) Order 2004.

The Department for Regional Development issued a policy consultation document for comment in early 2003. This document proposed amendments to the Roads (NI) Order 1993 to allow the three strands of the statutory processes relating to the development of roads schemes, i.e. Environmental Impact Assessment, Direction or Designation Order and Vesting Order, to be taken together in a single comprehensive inquiry, in order to make the process more efficient.

Further research into the most pragmatic way of streamlining procedures has led the Department to make a minor amendment to its original proposals. Accordingly the proposal for a draft Order in Council provides for the three strands to retain their separate legal status, but enables the proceedings to be taken concurrently, as part of a single inquiry process, as far as is practicable. This will introduce procedures which mirror those which have operated successfully in England and Wales for some twenty years and will achieve the objective of streamlining statutory procedures in respect of roads projects.

A copy of the proposed draft Order in Council and Explanatory Memorandum is downloadable from www.drdni.gov.uk/foi.

Comments should be received by 23 June 2004.
SDLT UPDATE

Budget Changes

A newsletter has been published by the Inland Revenue in relation to changes to SDLT resulting from Budget 2004. These include clarification of the SDLT provisions with regard to Shared Ownership Leases.

SDLT Manual – Lease chapter update

The Lease chapter of the Manual has been completed and is available in a draft format. It will be added to the SDLT Manual in due course.

Treatment for SDLT on works of construction etc on land sold

The Inland Revenue has published its view on the treatment for SDLT purposes where a vendor agrees to sell land to a purchaser and the vendor also agrees to carry out work (commonly works of construction, improvement or repair) on the land sold.

All of the above are downloadable from www.inlandrevenue.gov.uk/so/news.htm

Frequently Asked Questions

The five most frequently asked questions posed to the Revenue last month were :-

Q1 Do I include the payment for fixtures & fittings with the purchase price on my SDLT 1?

A1 Where a purchaser agrees to buy a property for a price that includes an amount properly attributed to ‘chattels or moveables’, that amount will not be chargeable to Stamp Duty Land Tax and as such should not be included in Box 10 on the SDLT 1. But, ‘fixtures’ are regarded in effect as being part of the land and thus are chargeable to Stamp Duty Land Tax and as such should be included in Box 10 on the SDLT1. ‘Fixtures’ are items which are attached to the land or building transferred with the intention of benefiting the use of that land or building.

Q2 What should I do if I want to pay my Stamp Duty Land Tax by BACS/CHAPS?

A2 You must give the Bank the following information:
   • The unique reference number from the payslip
   • Inland Revenue account number
   • The amount of duty

Q3 Is ‘Goodwill’ chargeable?

A3 Free transferable goodwill was exempted from Stamp Duty in 2002. Stamp Duty Land Tax applies only to land, and so this exemption continues into SDLT. However, goodwill that arises from the location of the land cannot be sold separately, and is part of the value of the land. Any payment attributed to this type of goodwill is within Stamp Duty Land Tax.

Q4 How does Stamp Duty Land Tax affect Trusts?

A4 There is a charge to Stamp Duty Land Tax on anyone purchasing an interest in a trust that gives them an interest in land. e.g. a beneficiary of a trust might have the right to a house when the person living in it dies. If that right is sold, the purchaser will be liable to Stamp Duty Land Tax.

Q5 What is Code of Practice 10 (COP10)?

A5 COP10 covers information and advice on I.R. policy to help taxpayers, including businesses, to understand their rights and obligations, to get their tax affairs right and to pay their tax on time. This code of practice sets out the various ways in which the Revenue aim to achieve this. It includes ‘pre-transaction guidance’ and ‘post-transaction rulings’. A copy of Code of Practice 10 can be obtained from the Revenue’s website’s Leaflets page.

For help with personal injury claims in England & Wales contact:

John Whitcroft
LL.B. Hons (QUB)
Solicitor
(Admitted NI 1978)
Tel: 0117 922 77 40
Fax: 0117 925 02 02
Email: johnwhitcroft@onetel.net.uk
59 Queen Charlotte Street
Bristol, BS1 4HL

Member of The Association of Personal Injury Lawyers
Member of the College of Personal Injury Law
Society of Young Solicitors Ireland
Spring Conference 2004 in Dromoland Castle, Co. Clare

Three of the NIYSA Committee members attended the SYS Spring Conference in Dromoland Castle in February. The NIYSA was particularly keen to have a presence at this Conference because it will host a Four Nations Conference with the SYS Ireland, the YSG and the Scottish Young Solicitors’ Association in May 2004 in Newcastle upon Tyne.

There was an impressive programme of events scheduled for the weekend to include a welcome reception on the Friday evening, a series of lectures on the Saturday morning and a formal dinner on the Saturday evening in the Banqueting Hall of Dromoland Castle.

The lectures on Saturday morning covered a wide variety of topics to include operation of the Commercial Court in Ireland, a lecture from recruitment specialist, BrightWater Selection on career moves and recent developments on competition law.

There was a variety of activities planned for the Saturday afternoon to include clay pigeon shooting and horse-riding. Some of the delegates took advantage of these activities while others preferred to avail of the leisure facilities, pool and spa attached to Dromoland Castle.

The Conference was a great success for the NIYSA in terms of forging further links with the SYS. In particular, delegates took the opportunity to discuss the forthcoming Conference in Newcastle Upon Tyne and plans were made in terms of its organisation. It is anticipated that there will be a large attendance at this Conference.

Salary Information 2004

NIYSA is aware that many of its members do not have access to any information or guidance on appropriate and fair rates of salary for solicitors in their position. With all solicitors under the age of 36 automatically included in the NIYSA membership, it is a large administrative undertaking to carry out a full scale salary review although this is an issue which we believe is extremely important and will be considering further in the near future.

However, in the meantime, and to assist our members, BrightWater Selection (Belfast) Limited have kindly provided us with the following results of a recent survey which they carried out in respect of approximate salary rates for solicitors in various areas of work in Northern Ireland.

You will appreciate that this is not to be regarded as an accurate survey result in respect of solicitors in Northern Ireland but simply a guide, which BrightWater Selection has compiled based solely on information which has been provided to it by solicitors and from its position as a recruitment consultancy in Northern Ireland.

Legal Salary Survey 2004

<table>
<thead>
<tr>
<th></th>
<th>Corporate</th>
<th>Property</th>
<th>Litigation</th>
<th>Banking</th>
<th>Employment</th>
<th>Private Client</th>
</tr>
</thead>
<tbody>
<tr>
<td>Senior Salaried Partner</td>
<td>£63,000 - £85,000</td>
<td>£65,000 - £90,000</td>
<td>£60,000 - £80,000</td>
<td>£65,000 - £90,000</td>
<td>£63,000 - £85,000</td>
<td>£55,000 - £75,000</td>
</tr>
<tr>
<td>Salaried Partner</td>
<td>£42,000 - £55,000</td>
<td>£44,000 - £58,000</td>
<td>£38,000 - £55,000</td>
<td>£38,000 - £55,000</td>
<td>£38,000 - £53,000</td>
<td>£38,000 - £53,000</td>
</tr>
<tr>
<td>In-house Head of Legal</td>
<td>£35,000 - £55,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Solicitor 4 - 5yrs</td>
<td>£24,000 - £32,000</td>
<td>£24,000 - £34,000</td>
<td>£24,000 - £32,000</td>
<td>£24,000 - £34,000</td>
<td>£24,000 - £32,000</td>
<td>£24,000 - £32,000</td>
</tr>
<tr>
<td>Solicitor 2 - 4yrs</td>
<td>£22,000 - £26,000</td>
<td>£22,000 - £26,000</td>
<td>£22,000 - £26,000</td>
<td>£22,000 - £26,000</td>
<td>£22,000 - £26,000</td>
<td>£22,000 - £26,000</td>
</tr>
<tr>
<td>Solicitor 0 - 2yrs</td>
<td>£18,000 - £22,000</td>
<td>£18,000 - £22,000</td>
<td>£18,000 - £22,000</td>
<td>£18,000 - £22,000</td>
<td>£18,000 - £22,000</td>
<td>£18,000 - £22,000</td>
</tr>
<tr>
<td>Legal Executive</td>
<td>£12,000 - £16,000</td>
<td>£12,000 - £16,000</td>
<td>£12,000 - £16,000</td>
<td>£12,000 - £16,000</td>
<td>£12,000 - £16,000</td>
<td>£12,000 - £16,000</td>
</tr>
</tbody>
</table>

Typical Benefits: Depending on position held/size of organisation, the benefits may include performance related bonuses, health insurance, pension, car space & study package. For industry roles, additional benefits may include share options & car/car allowance.

NIYSA would like to pass on its thanks to BrightWater Selection (Belfast) Limited for the provision of this survey.
NORTHERN IRELAND YOUNG SOLICITORS’ ASSOCIATION PRESENTS A LUNCHTIME LECTURE ON:

FAMILY LAW - RECENT MESSAGES FROM EUROPE

Speaker: Ms Siobhan O’Hagan BL
Date: Wednesday 2 June 2004
Time: 1pm-2pm (tea, coffee and sandwiches from 12.30 pm)
Venue: Law Society House, Victoria Street, Belfast
Cost: £10 for members of the NIYSA* and £20 for non-members.

Attendance at this Seminar will provide one hour’s CPD entitlement.

Cheques and Booking Forms to NIYSA c/o Nessa Agnew, Education and Library Board Solicitors, DX 6500 NR Dundonald 2 OR Block 1, SEELB HQ, Grahamsbridge Road, Dundonald BT18 2HS Tel: 028 9056 6472. Email to nessa.agnew@seelb.org.uk

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

BOOKING FORM

NAME _________________________________
FIRM _________________________________
ADDRESS ____________________________________________
__________________________________________
E-MAIL ADDRESS __________________________
TEL _________________________________
NUMBER OF PERSONS ATTENDING __________
I ENCLOSE REMITTANCE OF £ ________________

RECENT DEVELOPMENTS IN EMPLOYMENT LAW

Speaker: Mark McEvoy BL
Date: Friday 25 June 2004
Time: 1pm-2pm (tea, coffee and sandwiches from 12.30 pm)
Venue: Law Society House, Victoria Street, Belfast
Cost: £10 for members of the NIYSA* and £20 for non-members.

Attendance at this Seminar will provide one hour’s CPD entitlement.

Cheques and Booking Forms to NIYSA c/o Emma Duffy, Carson McDowell Solicitors, Murray House, Murray Street, Belfast BT1 6DN. Tel: 028 9024 4951. Email to emma.duffy@carson-mcdowell.com

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

BOOKING FORM

NAME _________________________________
FIRM _________________________________
ADDRESS ____________________________________________
__________________________________________
E-MAIL ADDRESS __________________________
TEL _________________________________
NUMBER OF PERSONS ATTENDING __________
I ENCLOSE REMITTANCE OF £ ________________
MID-SUMMER’S BALL
FRIDAY 25TH JUNE 2004
Tickets £35.00

At the exclusive and historic 18th century venue
CLANDEBOYE COURTYARD, CLANDEBOYE ESTATE,
BANGOR

* DRINKS RECEPTION : 7.30pm
DINNER IN BANQUETING HALL
AND LIVE BAND

Places for this year’s event are limited to 160 guests. Interested parties should
complete the booking form below.
Cheques are to be made payable to NIYSA.
Cheques, booking forms and table plans of 10 to be sent to Darren Toombs, c/o
Carson McDowell Solicitors, Murray House, Murray Street, Belfast, BT1 6DN.
Telephone: 028 9024 4951.
(No reservation confirmed until cheque received).
A limited number of rooms are available from Clandeboy Estate for £25 per
head.
Coaches for the return journey to Belfast may be provided, subject to level of
interest. Each party should confirm on booking form below if they require
places on the coach.

Booking Form  Mid-Summer’s Ball

Name: __________________________________________
Firm: __________________________________________
Address: _________________________________________
____________________________________
Email: __________________________________________
Tel: ____________________________________________
I enclose remittance of £ __________________________
I require/do not require a place on a return coach to Belfast

To advertise in the Writ

If you wish to advertise in the Writ please contact Karen Irwin for rates,
specification and copy deadlines at:
Citigate NI Public Affairs Ltd
128a High Street
Holywood
BT18 9HW

Tel: 028 9042 8899
Fax: 028 9042 8877
Email: karen.irwin@citigateni.co.uk

NOTICE OF AGM/ Nominations for NIYSA Committee 2004-2005

Please note that the Annual General Meeting of NIYSA will take
place on Thursday 22 July 2004 at 5.30pm at Law Society House.
The deadline for nominations is Thursday 17 June 2004 and any such
nominations should be sent to:
Emma Duffy
Membership Secretary, NIYSA
Carson McDowell
Solicitors
Murray House
Murray Street
Belfast
BT1 6DN
NOTE: All solicitors under the age of 36 are members of NIYSA and
are eligible to nominate committee members, stand as
committee members and attend the AGM.

To advertise in the Writ

If you wish to advertise in the Writ please contact Karen Irwin for rates,
specification and copy deadlines at:
Citigate NI Public Affairs Ltd
128a High Street
Holywood
BT18 9HW

Tel: 028 9042 8899
Fax: 028 9042 8877
Email: karen.irwin@citigateni.co.uk
From an early stage in their careers, many lawyers have to decide what area of the law they wish to specialise in. There are always exceptions to this, namely those who change specialisms during their careers, and sole practitioners and lawyers in smaller practices who do not have the luxury of being able to focus on one type of law. Being in a specialised practice or division is mostly a good thing as the lawyer knows his area inside and out. However, problems can stem from the fact that there are still practices trying to advise on areas of law in which they have little or no experience and knowledge.

In the past, we have come across claims made against solicitors who were trying to do their client a favour. These favours have backfired because the lawyers did not know all the intricacies of that particular area of law.

For example, a tax practice was asked by its client to undertake work on some properties he was trying to buy for development. The client wanted to use this law firm as it had always worked successfully for him in the past. However, the practice had little experience of property law. As a result, the team was not up to speed on the latest planning and development laws and, more importantly, the firm missed some important planning details in the contract. A professional indemnity claim was made against the firm and the client took all his business elsewhere.

Another example was a case where a partner believed that he could add value to his client by providing advice in relation to an area of law with which he was unfamiliar. He thought he could save his client money, but in fact he ended up losing money for the client as the advice he gave was not complete. He had missed a couple of important details, and this resulted in a claim of negligence being made against the practice.

It is important, from a risk management point of view, to ensure that any new cases being taken on fit into a practice’s areas of knowledge and expertise. It is far better to refuse work if you are not certain that you can do a proper job. The alternative is to run the risk of a disaffected client, a claim of negligence against your professional indemnity insurance and the chance that all of that client’s work will be taken away from your practice.
The European Lawyer

- The European Commission is due to unveil an EU legislative proposal setting out the rules applicable between Member States on cross-border recovery of family maintenance obligations payable to recipients living in a different EU Member State. The Commission’s discussion paper addresses issues such as the determination of the relevant court which has jurisdiction to grant or modify maintenance and the applicable law to the maintenance application. The aim of the legislative proposal is to accelerate and simplify cross-border maintenance claims within the EU.

- The European Court of Justice has recently held, that a worker in any Member State must be able to take her annual leave during a period other than her maternity leave even if the latter coincides with the general period of annual leave fixed for the entire workforce by a collective agreement. The case was referred to the ECJ by a Spanish court which was hearing the dispute brought by Maria Paz Merino Gomez when she applied to take her annual leave following her maternity leave and was refused by her employer.

- On 18 May 2004, an Advocate General of the European Court of Justice delivered his opinion on a case involving the UK residency rights of a Chinese mother and her daughter who has Irish citizenship. Man Lavette Chen gave birth to Catherine Zhu, an Irish national, in Belfast. Both mother and daughter, now resident in Cardiff, were refused residency rights by the Home Office on the basis that Catherine was only 8 months old at the time of the application, and as such could not exercise her rights as an EU citizen. Mrs Chen argued that EU citizenship confers rights on an individual from birth.

The Advocate General has recommended that the European Court of Justice find as follows:-

(i) a young child who is a national of an EU member state is entitled to reside in another Member state provided he or she is covered by sickness insurance and has sufficient resources;

(ii) in the interests of family unity, the mother must be able to invoke a right of residence deriving from her child as otherwise the child’s rights of residence would be deprived of any effectiveness.

(article to appear in the next edition).

- The European Union has adopted a new Directive on intellectual property which will require all Member States to apply effective remedies and penalties against counterfeiting and piracy. The Directive will allow right holders of copyright, trademarks, patents etc remedies such as destruction and permanent removal as well as injunctions and damages. The legislation does not provide for criminal sanctions.

FIONNUALA CONNOLLY BL

INCREASED WORKLOAD FOR ECJ

The Court of Justice of the European Communities has published its Annual Report for 2003.

The number of cases brought to a close in 2003 was 494 by the Court of Justice and 339 by the Court of First Instance (in 2002, 513 and 331 respectively). However there was an appreciable increase in the number of new cases lodged - 561 new cases for the Court of Justice and 466 for the Court of First Instance (in 2002, 477 and 411 respectively).

The distribution of the subject matter of the cases highlights the significance of cases concerning the environment and consumers (13%), agriculture (10%) and harmonisation of laws (9%). In 2003, 86 cases against Member States for failure to fulfil obligations were brought to a close, the Court finding in 77 of them that the Member State had breached its obligations.

In the course of the year, the Court also took the steps necessary to implement the changes in its operation provided for in the Treaty of Nice which entered into force on 1st February 2003. These changes include the creation of the Grand Chamber, the election of the Presidents of the chambers of five Judges for a period of three years and the possibility of determining cases without an Opinion from the Advocate General where no new point of law is raised. The Court likewise began to consider how to adapt its working methods to take account of the increase in the number of Judges from 15 to 25 on 1st May 2004 when 10 new member countries acceded to the EU.
This joint EPLANI and RTPI event on Affordable Housing will include informative and insightful talks from the following guest speakers with experience and knowledge in this area:

**Joe Frey, Head of Research, Northern Ireland Housing Executive**

Joe Frey was awarded a BA Hons in Geography and a MSc in Town and Country Planning from Queen’s University, Belfast, and gained his professional qualification from the Institute in 1987. Joe managed the Strategic Planning Unit in the Housing Executive for three years, up to his appointment as Head of Research in 1998. He is also a lecturer in housing at the University of Ulster.

**Alan Murie (University of Birmingham)**

Alan Murie is Professor of Urban and Regional Studies and Head of School of Public Policy at the University of Birmingham. He has spent some 30 years carrying out research on housing and related matters including work on Northern Ireland and is a leading contributor to research-based publications in the field.

**Bill Thompson**

Bill Thompson currently works as an economist with the National Economic and Social Council in the Republic of Ireland. NESC is representative of the major economic and social interests in society and its main task is to advise government on the development of the national economy and the achievement of social justice. He has recently been involved in a study of housing and land markets in Ireland commissioned from NESC under the national partnership agreement ‘Sustaining Progress’ and which is close to being finalised. Bill is a native of County Tyrone originally and previously worked in the Department of Environment, Transport and the Regions in London where he was responsible for the provision of economic advice to the planning directorate.

The event will be rounded off with a panel discussion.

*(This seminar carries 3 hours CPD)*

---

**BOOKING FORM - “Affordability in the Housing Market – NI/GB/RoI”**

Name of Attendee(s): ______________________________________________________________________

Company: ________________________________________________________________________________

Please reserve the following number of places at the above event

<table>
<thead>
<tr>
<th></th>
<th>Members</th>
<th>Non-Members</th>
<th>Unwaged</th>
</tr>
</thead>
<tbody>
<tr>
<td>£35.00</td>
<td>□</td>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td>£50.00</td>
<td>□</td>
<td>□</td>
<td></td>
</tr>
<tr>
<td>£15.00</td>
<td>□</td>
<td>□</td>
<td>□</td>
</tr>
</tbody>
</table>

I enclose a cheque for £________ as a non-refundable fee made out to the Environmental and Planning Law Association for Northern Ireland.

Please confirm whether you wish to attend the sandwich lunch.

I will/will not attend the sandwich lunch.

Please return completed Booking Form to Claire Duffy, Secretary, EPLANI, c/o Cleaver Fulton Rankin, Solicitors, 50 Bedford Street, Belfast, BT2 7FW, DX 421 NR Belfast
Human Rights Commission publishes report on a Bill of Rights

The Northern Ireland Human Rights Commission has published a further report dealing with the important topic of a Bill of Rights for Northern Ireland, one of the key requirements of the Belfast (Good Friday) Agreement.

Entitled ‘Progressing a Bill of Rights for Northern Ireland: An Update’, the report presents the Commission’s latest thinking on what should be contained in a Bill of Rights. It builds on the proposals contained in its September 2001 consultation document, ‘Making a Bill of Rights for Northern Ireland’. The Commission has carefully considered all the views submitted to it on that consultation document, especially the negative criticisms. It hopes that this new report will help to unite all shades of opinion in Northern Ireland on this crucial issue.

Amongst the differences between this new set of proposals and those issued in 2001 are the following:

- The new proposals are significantly shorter than the earlier set. They cover most of the same ground, but not in so much detail. Repetitions and digressions have been avoided.

- The section in the proposed Bill on identity and community rights has been reformed in the light, especially, of advice from experts at the Council of Europe. While providing for the protection of the identity and ethos of both main communities in Northern Ireland the proposed Bill now also explicitly provides protection for other minorities here.

- The proposals on equality have been altered slightly to make it even clearer that they are intended to build on existing protections and not in any way to undermine them.

- A section has been inserted in the proposed Bill on the right to dignity and physical integrity, highlighting the state’s duty to prohibit and, where appropriate, punish all forms of violence, including violence in the home.

- Clarity has been added to the earlier draft’s proposals concerning access to justice and the right to a fair trial.

- The new proposed Bill of Rights no longer draws as rigid a distinction between the rights of victims of the troubles and the rights of other victims of crime in Northern Ireland. There is now a proposal that all public bodies in Northern Ireland must carry out their functions in relation to children in accordance with the UN’s Convention on the Rights of the Child. On the other hand, the Commission’s earlier proposal to lower the voting age to 16 has been dropped.

- The proposed section on language rights has been strengthened, with one option being to make both English and Irish official languages in Northern Ireland.

- The proposed section on social, economic and environmental rights has been modified to make it clear that these are substantive rights enforceable through the courts as well as in other ways, and not just in situations where the rights have been granted in a discriminatory way or in the absence of due process.


The Commission is happy to take comments on its new report, with a request that they be submitted by 1 August 2004. It would also be pleased to meet with interested groups. The Commission intends to issue a further paper on the Bill of Rights around the end of the year.

A copy of the report is downloadable from www.nhrc.org
And watch your firm enjoy the benefits

To find out how your firm can benefit from our solutions please contact our team in Belfast.

TFB plc, Floral Buildings
2–14 East Bridge Street, Belfast, BT1 3MQ
Tel. 028 9092 3851
or e-mail enquiries@tfbplc.co.uk
www.tfbplc.co.uk
Equality Duty & Section 75

There have been two recent developments with regard to section 75 of the Northern Ireland Act 1998 which creates a duty to promote equality of opportunity.

New research and information website

A new on-line resource providing information in relation to equality and section 75 is now available.

Section 75 sets out that certain designated public authorities must assess new and existing policies in terms of their impact on nine equality categories:

1. persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
2. between men and women generally;
3. between persons with a disability and persons without; and
4. between persons with dependants and persons without.

Schedule 9 of the Act requires public authorities to prepare Equality Schemes and to conduct Equality Impact Assessments (EQIAs) on the likely impact of their policies (existing and proposed) on the promotion of equality of opportunity amongst these groups. The first stage in carrying out an EQIA is to consider all available data. Whilst there is a wealth of data available from a variety of sources, to identify and gather all relevant information for each EQIA can prove time consuming and result in duplication of work.

To help with this task the Northern Ireland Statistics and Research Agency (NISRA) has developed a central, web-based resource containing information on Section 75 categories sorted by general policy area. Currently the website contains information already in the public domain from government departments. This will be expanded over time to include information from additional sources such as public bodies and the voluntary and community sector. It is envisaged that this will be of greatest value to those involved in EQIAs, however, it may also prove useful to others involved in the field of equality or who just have an interest.

The website is available at the following address: www.equality.nisra.gov.uk

Review

The Northern Ireland Office has announced a Review of the section 75 equality duty, as proposed in the Joint Declaration of April 2003. Professor Eithne McLaughlin and Neil Faris have been appointed as independent reviewers to conduct the Review.

It will examine the operation of the section 75 equality duty including effective monitoring and enforcement mechanisms (without diminishing its current effectiveness in legislation or in the Equality Commission’s Guidelines).

The Chairs will be assisted by an Advisory Group which will draw together interested parties from a variety of fields. To ensure wide consultation, there will also be a broadly-based Consultative Forum. The Equality Commission will be consulted on the independent element of the Review and will, along with the Government, respond to its recommendations.

The Chairs plan to complete their work by the end of June.
QUEEN'S BENCH SUMMONS COURT
Sitting during the Long Vacation 2004

1. Having regard to representations made to the Masters on behalf of Solicitors, the Queen's Bench Summons Court will again sit on a number of specified days during the Long Vacation.

2. The Master will generally not entertain an application for adjournment of a summons listed for a specified day, but where such an application is allowed the summons will be adjourned to a Thursday or Friday Court after the commencement of the Michaelmas Term, and not a subsequent specified day during the Vacation.

3. The Master will not adjourn a summons listed for a specified day to enable Counsel to be briefed or to facilitate the attendance of Counsel.

4. The specified days on which the Summons Court will sit during the Long Vacation 2004 will be:-

   Thursday 1 July
   Thursday 22 July
   Thursday 5 August
   Thursday 19 August

J W WILSON       C J McCORRY
Master (Queen's Bench and Appeals) Master (High Court)

UNINCORPORATED ASSOCIATIONS

Further to its Discussion Paper of September 2002 seeking views of consultees, the Law Reform Advisory Committee for Northern Ireland has published a Report on Unincorporated Associations which sets out recommendations for reform in this area of the law.

Practitioners will find the Report of considerable interest as it also:

- reviews the existing law relating to unincorporated associations;
- considers the legal problems and practical difficulties in the existing law e.g. holding of property, gifts, devises and bequests to such associations, the ability of associations to contract, the liability of members and committee members for contracts and proceedings against such an association;
- deals with the law relating to the liability of unincorporated associations to members in tort.

Having considered the consultation responses, the Committee recommends the setting up of a voluntary incorporation system, similar to that in New Zealand and the adoption of protective legislative provisions for associations which do not choose to incorporate.

The Committee welcomes any further comment on this topic.

A copy of the Report is downloadable from www.olrni.gov.uk/advisory-site/home.htm. It can also be purchased from the Stationery Office, 16 Arthur Street, Belfast.

COUNTY COURT LIAISON COMMITTEE

The Presiding Judge of County Courts in Northern Ireland, His Honour Judge Hart QC, the Recorder of Belfast has established a County Court Liaison Committee. Other members of the Committee include His Honour Judge Curran QC, His Honour Judge Lockie, District Judge Brownlie, Adrian Colton BL and Noreen Sweeney BL.

The Society nominees are:
- Brendan Maguire,
  T S McAllister & Son, 32-36 Mill Street, Ballymena, BT43 5AE, Tel: 25652469
- Amanda Wylie,
  Arthur Cox Northern Ireland, 3 Upper Queen Street, Belfast, BT1 6PU, Tel: 90230007

Mr Andrew Boyd, Deputy Chief Clerk at Laganside Court Complex will act as Secretary to the Committee.

The remit of the Committee will be limited to civil matters only – it does not include criminal or family proceedings.

The Committee will provide a channel for practitioners to communicate any suggestions or problems they may have in relation to practice and procedure in the County Court.

If any practitioner wishes to raise any relevant matter, it would be helpful if this was communicated in writing to Peter O’Brien, Secretary to the Society’s Contentious Business Committee, who will arrange to forward it on to the Society’s nominees.

SOLICITORS’ DISCIPLINARY TRIBUNAL

David E K Carson Solicitor, formerly practising as David Carson & Co, 4 Market Street, Bangor.

A hearing of the Disciplinary Tribunal on 21st January 2004 ordered that the above named solicitor should be restricted from practice on his own account, whether in partnership or otherwise with effect from that date.
GMA Management Consultants

would like to take this opportunity to congratulate our clients

Arthur Cox Northern Ireland
Mcfarland Graham McCombe*
Robert Sinclair & Co

on the successful completion of their ISO 9001:2000 (* Lexcel) Assessments by

SGS YARSLEY ICS Ltd

As Ireland’s leading Quality Consultants for the Public and Private Legal Sector, we provide consultation on:

ISO9001/2000 & LEXCEL
COMPUTERISED CASE MANAGEMENT

Listed below are some of the companies we have assisted and their respective assessments

<table>
<thead>
<tr>
<th>Company</th>
<th>Assessment</th>
<th>Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>BCC Legal Department</td>
<td>ISO 9001</td>
<td>Lexcel</td>
</tr>
<tr>
<td>Caldwell Warner Solicitors</td>
<td>ISO 9001</td>
<td>Lexcel</td>
</tr>
<tr>
<td>Campbell &amp; Grant Solicitors</td>
<td>Lexcel</td>
<td>Lennon Toner O’Neill</td>
</tr>
<tr>
<td>Campbell Fitzpatrick</td>
<td>ISO 9001</td>
<td>MacElhatton &amp; Co.</td>
</tr>
<tr>
<td>Cunningham and Dickey</td>
<td>ISO 9001</td>
<td>Macaulay &amp; Ritchie</td>
</tr>
<tr>
<td>Carson &amp; McDowell</td>
<td>ISO9001</td>
<td>McKinty &amp; Wright</td>
</tr>
<tr>
<td>Carnson Morrow Graham</td>
<td>Lexcel</td>
<td>Murphy &amp; O’Rawe</td>
</tr>
<tr>
<td>Ciaran Rafferty Solicitors</td>
<td>Lexcel</td>
<td>Napier &amp; Sons Solicitors</td>
</tr>
<tr>
<td>Comerton &amp; Hill</td>
<td>ISO 9001</td>
<td>Nelson Singleton Solicitors</td>
</tr>
<tr>
<td>D &amp; E Fisher</td>
<td>ISO 9001</td>
<td>Lexcel</td>
</tr>
<tr>
<td>Directorate of Legal Services CSA</td>
<td>ISO9001</td>
<td>Lexcel</td>
</tr>
<tr>
<td>Donaghy Carey Solicitors</td>
<td>ISO 9001</td>
<td>Rosemary Connolly Solicitors</td>
</tr>
<tr>
<td>Donnelly Neary Donnelly</td>
<td>ISO 9001</td>
<td>Rory McShane &amp; Co.</td>
</tr>
<tr>
<td>Elliott Duffy Garrett</td>
<td>ISO 9001</td>
<td>Stephen Begley &amp; Co</td>
</tr>
<tr>
<td>Fitzsimons, Kinney &amp; Mallon</td>
<td>ISO 9001</td>
<td>Education &amp; Library Board Solicitors</td>
</tr>
<tr>
<td>Geo. L Maclaine &amp; Co</td>
<td>ISO 9001</td>
<td>Tughans</td>
</tr>
<tr>
<td>Gordon F W McIlrath &amp; Co</td>
<td>ISO 9001</td>
<td>Walker McDonald Solicitors</td>
</tr>
<tr>
<td>Harrisons</td>
<td>ISO 9001</td>
<td>Wilson Nesbitt Solicitors</td>
</tr>
<tr>
<td>Johns Elliot Solicitors</td>
<td>ISO 9001</td>
<td>Lexcel</td>
</tr>
</tbody>
</table>

For a free consultation/quotations or further information contact;

Gary Millar at GMA
Pinetree Lodge, 40 Tullyhubbert Road Ballygowan, Newtownards, BT23 6LZ
Tel 028 97 528427 Mobile 07831 530178 Fax 028 97 521256
The Departments of Education and Employment and Learning have announced the start of a consultation exercise on draft legislation for Special Educational Needs and Disability (SEND).

Explaining the background to the Draft Order, a Government spokesman said: “The Special Educational Needs and Disability Order will implement the Government’s policy of strengthening the rights of children with Special Educational Needs (SEN) to be educated in mainstream schools. In addition it will remove the current exemption of the education sector in Northern Ireland from the Disability Discrimination Act 1995, thereby increasing access to schools and institutions of further and higher education for children and young people with disabilities. The legislation will be of benefit to society as a whole.

The draft Order will have an impact on all schools and institutions of further and higher education, pupils and students and parents. It is important that all interested parties take part in the consultation exercise. Their views on how the proposed new law will give effect to the changes which the Government wishes to introduce are important. This legislation will promote inclusion and disability rights in schools and further and higher education institutions. It will give school pupils and students in Northern Ireland the same rights of access to schools and further and higher education institutions as exist in the rest of the United Kingdom. It will provide children and young people with disabilities with improved opportunities and choices in education.”

The consultation will run until 28 June 2004 and all interested parties are encouraged to make their views known.

The main proposals of the SEND Order are:

1. The new law will strengthen the right to a mainstream school place for children with a statement, where parents want this and it is compatible with the efficient education of others.

2. Boards will be required to provide advice and independent conciliation services to parents.

3. Schools will be prohibited from discriminating against children who have disabilities in their admissions arrangements, in the education and associated services provided by the school and in relation to expulsions and suspensions from the school.

4. Schools will have to take reasonable steps to ensure pupils who have a disability are not placed at substantial disadvantage, in comparison to pupils who do not have a disability, in relation to the education and associated services provided to them.

5. Boards and schools will have to produce accessibility strategies and plans for making their buildings and curriculum more accessible over time.

6. The Special Educational Needs Tribunal will hear disability cases.

7. Institutions of further and higher education will be prohibited from discriminating against people who have disabilities in their admissions arrangements and in the education and associated services provided.

8. Institutions of further and higher education will have to take reasonable steps to ensure students who have a disability are not placed at substantial disadvantage, in comparison to those who do not have a disability, in relation to the education and associated services provided to them.

9. They will have to comply with a deadline for making their premises physically accessible to pupils with disabilities.

The document is available on the Department of Education website: www.deni.gov.uk/about/consultation/consultation.htm

---

**Advertisement**

CJ Higgins - High quality specialist advice for:-

- Trustee Investment
- Inheritance Tax Planning
- Corporate & Business Planning

For further details contact Dermot Cleere or Keith Liggett
Telephone 028 9083 0830

CJ Higgins Financial Services Ltd
22 Mallusk Road, Newtownabbey, Co. Antrim BT36 4PP
www.cjhiggins.co.uk financial.services@cjhiggins.co.uk

Authorised and Regulated by the Financial Services Authority
**SEXUAL ORIENTATION GUIDE**

To raise awareness of new employment laws protecting people from discrimination in employment and vocational training on grounds of their sexual orientation ie because they are lesbian, gay, bisexual or heterosexual, the Equality Commission has launched a good practice guide: “Sexual Orientation Discrimination in Northern Ireland – the Law and Good Practice” which is available free of charge from the Commission or from its website – www.equalityni.org.

From 2 December 2003, the Equality Commission has had responsibility for enforcing the Employment Equality (Sexual Orientation) Regulations (NI) 2003. The Regulations confer on the Equality Commission the general duties of working towards the elimination of discrimination, promoting equality of opportunity between persons of different sexual orientation and keeping the working of the Regulations under review.

In the Regulations sexual orientation is defined as:-

- orientation towards persons of the same sex (this covers gay men and lesbians);
- orientation towards persons of the opposite sex (this covers heterosexual men and women);
- orientation towards persons of both sexes (this covers bisexual men and women).

The Regulations only prohibit discrimination in the areas of employment, vocational training and further and higher education. They do not extend to goods, facilities and services.

The Regulations apply to all employers regardless of size, and to all employees regardless of how long they have been employed. Agency workers are also covered by the Regulations.

If a person believes they have been discriminated against because of their sexual orientation, or their perceived sexual orientation, they can seek free and confidential advice from the Equality Commission. They also have the right to make a complaint to an Industrial Tribunal.

---

**SENIOR SOLICITOR**

The successful candidate will have at least 10 years experience in Contract and Litigation. The person to be appointed will be responsible for the legal department of one of Northern Ireland’s leading international companies.

There is an excellent remuneration package for the candidate with suitable experience.

Candidates should send full personal, career and salary details, quoting reference number 5969, to Geraldine Lloyd, KPMG Executive Search and Selection, Stokes House, College Square East, Belfast BT1 6HD. Tel: 028 90 243377 Fax: 028 90 893893 E-mail: geraldine.lloyd@kpmg.ie

Criminal Justice Act 1998
(Offensive Weapons)
(Amendment) Order 2004

The above-named Order, which extends to Northern Ireland, was made on 5th May 2004 and is to come into force one month from that date (on 6th June 2004).

Section 141 of the Criminal Justice Act 1988 provides that any person who manufactures, sells or hires or offers for sale or hire, exposes or has in his possession for the purpose of sale or hire, lends or gives to any other person, a weapon to which that section applies shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or both. The importation of any such weapon is prohibited.

The Criminal Justice Act 1988 (Offensive Weapons) Order 1988 specified descriptions of weapons to which section 141 of the Criminal Justice Act 1988 applies. This Order adds the stealth knife and straight, side-handled or friction-lock truncheons, to the list of specified weapons contained in the 1988 Order.
• **Prisoner Ombudsman**

The Northern Ireland Prison Service has published a public consultation document outlining proposals to introduce a new Prisoner Complaints Procedure and a Prisoner Ombudsman.

The appointment of a Prisoner Ombudsman in Northern Ireland has been raised by the Northern Ireland Affairs Committee, Her Majesty’s Chief Inspector of Prisons and more recently the report by the Steele Review Team on safety at Maghaberry Prison noted that the appointment of an Ombudsman could make a valuable contribution towards defusing the tensions that inevitably arise within any prison system.

The document which is available on the Prisons Service website (www.niprisonservice.gov.uk) outlines the existing complaints process, sets out the proposals for a new complaints process, makes proposals regarding the appointment of a Prisoner Ombudsman, identifies the changes to legislation required if the proposals are to be implemented and outlines the proposed timetable for implementation.

• **Relocation of Female Prisoners and Immigration Detainees**

Following public consultation, the Prison Service has announced its intention to relocate female prisoners from Mourne House, Maghaberry to Hydebank Wood and immigration detainees from Mourne House, Maghaberry to its facility in Belfast, adjacent to the former prison at Crumlin Road.

Some minor alterations are required to facilitate these moves but it is expected that they will take place as soon as is practicable.

Others affected by these moves are separated female prisoners and prisoners currently held in isolation for their own safety. These two groups will be separated from other prisoners but within the body of the main prison at Maghaberry.

When these transfers are complete Mourne House will form part of the Prison Service’s emergency accommodation but will not routinely hold any prisoners.

There are currently 19 female prisoners in Maghaberry, 2 of whom are separated from the rest of the prison population. There are 9 immigration detainees.

• **Compact for Separated Prisoners**

In September 2003 the Secretary of State formally accepted the recommendations of the Steele Review which recommended that prisoners with paramilitary affiliations should be accommodated separately from each other, and from the rest of the prison population.

One aspect of implementation has been the development of a prisoner compact which makes clear the routine and facilities available to separated prisoners and what will be required of them in return. This compact which sets out the parameters of the regime in the separated facilities is available on the Prison Service website.

• **Pre-Release Arrangements**

The Prison Service has issued a circular setting out new arrangements by which sentenced prisoners, coming towards the end of their sentence, may apply for periods of temporary release. While the primary concern for considering any form of temporary release is the safety of the public, the circular recognises the benefits to all prisoners of a family reintegration programme and provides periods of release specifically for this purpose.

The new arrangements are exclusive of any leave arrangements at Christmas which will continue to be notified to prisoners by separate circular. Similarly the Compassionate Temporary Release scheme and the Home Visits scheme will continue to operate in their present format.
New measures to combat sex offences

The Sexual Offences Act 2003 became effective throughout the UK on 1st May 2004. This means a completely new body of sex offences for England and Wales, along with some changes for Northern Ireland. It also means more stringent notification requirements for convicted sex offenders.

The Sexual Offences Act 2003 is in two parts. Part one introduces a new body of sex offences for England and Wales, some of which extends to Northern Ireland. Part two strengthens the notification requirements of the 1997 Sex Offenders Act, all of which extends to Northern Ireland.

The sex offence reforms follow on from a review into that area of the law in England and Wales (not Northern Ireland). The sex offender reforms also have their origins in a review of the 1997 Act (which applied to Northern Ireland).

Key changes in Northern Ireland are:

Part One
- New offence of meeting a child following sexual grooming
- Strengthened abuse of trust offences incorporating more positions of trust
- New offences to protect children from abuse through prostitution and pornography
- New offences of causing, inciting or controlling prostitution for gain
- New offences of trafficking people into, within or out of the UK for sexual exploitation
- New or updated offences of exposure, voyeurism, intercourse with an animal, sexual penetration of a corpse
- New offence of sexual activity in a public toilet

Part Two

Sex offender notification
- A conditional discharge will now be considered a conviction for the purposes of the notification requirements
- The notification period for a caution will be reduced from 5 years to 2 years
- Offenders will have to notify a change to their notified details (such as name or address) within 3 days of the change taking place (the current period is 14 days)
- Offenders will have to notify any address in the UK at which they reside for 7 days or more, whether that is 7 days consecutive or 7 days within any 12 month period (the current period is 14 days)
- All offenders will have to re-confirm their notified details annually ("periodic notification")
- All notifications will have to be made in person and the police may take fingerprints and photographs at initial notification, whenever an offender notifies any changes to his details and at periodic notification
- Offenders will have to notify their National Insurance number at initial notification.
- It will be possible to notify a change of details in advance of the change taking place
- Schedule 3, which lists the offences that trigger the notification requirements of Part 2 of the Sexual Offences Act 2003, includes most of the new sexual offences contained in Part 1 of the 2003 Act (some have disposal or other thresholds that must be met before notification is triggered).

Civil preventative orders

Notification orders
- This is a new order which can be made, on application by police, in respect of individuals who have been convicted abroad for sexual offences equivalent to the sexual offences listed in Schedule 3 of the 2003 Act
- The effect of the order is to make such offenders subject to the notification requirements of Part 2 of the 2003 Act as if they had been convicted in the UK
- Sexual offences prevention orders (SOPOs)
- This order replaces both the sex offender order and the restraining order. Therefore, a SOPO can be made on application by police in respect of a convicted sex offender or by a court at conviction
- It will be possible to make a SOPO in respect of an offender convicted of certain violent offences listed in Schedule 5 where such an order is necessary to protect the public from serious sexual harm

Foreign travel orders
- This is a new order which will enable the courts to prohibit those convicted of sexual offences against children aged under 16 from travelling overseas where there is evidence that they intend to cause serious sexual harm to children in a foreign country.

Risk of sexual harm orders (RSHOs)
- This is a new order, similar to the SOPO, which aims to restrict the activities of those involved in grooming children for sexual activity. A previous conviction, caution etc. for a sexual offence is not a prerequisite in applying for a RSHO.
- Part 2 of the Sexual Offences Act 2003 also provides a procedure to remove the notification requirements from offenders convicted of buggery and indecency between men where the Secretary of State is satisfied that the offence involved consensual sexual activity with a person aged 17 or over.


Guidance on Part one and Part two of the Act is available on the Home Office website at www.homeoffice.gov.uk/justice/sentencing/sexualoffencesbill/index.html

The Solicitors’ Benevolent Association is a voluntary charitable body, consisting of all members of the profession in Ireland. It assists members or former members of the solicitors’ profession in Ireland and their wives, husbands, widows, widowers, family and immediate dependants who are in need. The Association was established in 1863 and is active in giving assistance on a confidential basis throughout the 32 counties.

In the past, the Association traditionally helped elderly widows living on inadequate incomes. The Association still has a number of such cases but, over recent years, the circumstances of new applicants has altered dramatically, in that new applicants now frequently tend to be from younger age groups and there are often a number of dependant children involved.

The amount paid out during the year in grants was €375,339. (£252,000 approx.) Currently, there are 51 beneficiaries in receipt of regular grants and approximately one-third of these are supporting spouses and children.

There are currently 13 directors, two of whom reside in Northern Ireland and they meet monthly in the Law Society’s offices at Blackhall Place. The meet at Law Society, Belfast, every other year. The work of the directors, who provide their services entirely on a voluntary basis, consists in the main of reviewing applications for grants and of approving new applications. The directors also make themselves available to those who may need personal or professional advice. The directors have available the part-time services of a professional social worker who, in appropriate cases, can advise on state entitlements, including sickness benefits.

The directors are grateful to both Law Societies for their support and, in particular, wish to express thanks to Geraldine Clarke, past-President of the Law Society of Ireland, Joe Donnelly, past-President of the Law Society of Northern Ireland, Ken Murphy, Director General, John Bailie, Chief Executive and all the personnel of both Societies.

I wish to express particular appreciation to all those who contributed to the Association when applying for their practising certificates, to those who made individual contributions and to the following:

- The Law Society of Ireland
- The Law Society of Northern Ireland
- Dublin Solicitors’ Bar Association
- Faculty of Notaries Public in Ireland
- Limavady Solicitors’ Association
- Kerry Law Society
- West Cork Bar Association
- Sheriffs’ Association
- Waterford Law Society
- Southern Law Association
- Wexford Bar Association
- Contributors to Irish conveyancing precedents
- Oisin Publications, publishers of the Gazette Yearbook and Diary
- Contributors to The Law Society of Ireland, 1852 - 2002

To cover the ever greater demands on the Association, additional subscriptions are more than welcome as, of course, are legacies and the proceeds of any fundraising events. Subscriptions and donations will be received by any of the directors or by the secretary, from whom all information may be obtained at 73 Park Avenue, Dublin 4 and I would urge all members of the Association, when making their own wills, to leave a legacy to the Association. You will find the appropriate wording of a bequest below.

I note, with deep regret, the death in December last year of our Northern Ireland colleague, Desmond Doris, who was a director of the Association for many years and, during that time, gave up his time and energy in furthering the aims of the Association. His kindness and courtesy will be long remembered by all those with whom he came in contact, both as a colleague and as an able representative of the Association.

I would like to thank all the directors, the Association’s secretary Geraldine Pearse and Brendan Walsh, solicitor, for their valued hard work, dedication and assistance during the year.

Thomas A Menton
Chairman

---

**FORM OF BEQUEST**

I give and bequeath the sum of ________________ to the trustees for the time being of the Solicitors’ Benevolent Association, c/o the Law Society of Ireland, Blackhall Place, Dublin 7, for the charitable purposes of that Association in Ireland, and I direct that the receipt of the secretary for the time being of the Association will be sufficient discharge for my executors.
### DIRECTORS AND OTHER INFORMATION

**Directors**  
Thomas A Menton (Chairman)  
John Sexton (Deputy Chairman)  
Sheena Beale, Dublin  
Felicity M Foley, Cork  
John Gordon, Belfast  
Colin Haddick, Newtownards  
Niall D Kennedy, Tipperary  
Mary H Morris, Swinford  
John M O’Connor, Dublin  
Brian K Overend, Dublin  
Colm Price, Dublin  
David Punch, Limerick  
Andrew F Smyth, Dublin  
Trustees (ex officio Directors)  
Brian K Overend  
John M O’Connor  
Andrew F Smyth  

**Secretary**  
Geraldine Pearse  

**Auditors**  
Deloitte & Touche  

**Chartered Accountants**  
Deloitte & Touche House  
Earlsfort Terrace  
Dublin 2  

**Stockbrokers**  
Bloxham Stockbrokers  
2-3 Exchange Place  
IFSC  
Dublin 1  

**Bankers**  
AIB plc  
37/38 Upper O’Connell Street  
Dublin 1  
First Trust  
31/35 High Street  
Belfast BT1  

**Offices of the Association**  
Law Society of Ireland  
Blackhall Place  
Dublin 7  
and  
Law Society of Northern Ireland  
Law Society House  
90/106 Victoria Street  
Belfast BT1 3JZ

### RECEIPTS

<table>
<thead>
<tr>
<th></th>
<th>2003</th>
<th>2002</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subscriptions</td>
<td>€296,042</td>
<td>€256,029</td>
</tr>
<tr>
<td>Donations</td>
<td>€30,559</td>
<td>€39,416</td>
</tr>
<tr>
<td>Net investment income</td>
<td>€37,692</td>
<td>€31,416</td>
</tr>
<tr>
<td>Bank interest</td>
<td>€2,778</td>
<td>€4,301</td>
</tr>
<tr>
<td>Repayment of grants</td>
<td>€3,174</td>
<td>€16,380</td>
</tr>
<tr>
<td></td>
<td><strong>370,245</strong></td>
<td><strong>347,542</strong></td>
</tr>
</tbody>
</table>

### PAYMENTS

<table>
<thead>
<tr>
<th></th>
<th>2003</th>
<th>2002</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grants</td>
<td>€(375,339)</td>
<td>€(359,302)</td>
</tr>
<tr>
<td>Bank charges</td>
<td>€(1,165)</td>
<td>€(1,048)</td>
</tr>
<tr>
<td>Administration expenses</td>
<td>€(17,194)</td>
<td>€(17,582)</td>
</tr>
<tr>
<td></td>
<td><strong>(393,698)</strong></td>
<td><strong>(377,932)</strong></td>
</tr>
</tbody>
</table>

### DEFICIT FOR THE YEAR BEFORE

**SPECIAL EVENTS**  
(€23,453)  
(€30,390)  

<table>
<thead>
<tr>
<th></th>
<th>2003</th>
<th>2002</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lawyers Diaries and Christmas Cards</td>
<td>€20,630</td>
<td>€22,554</td>
</tr>
<tr>
<td>Royalties from</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The Law Society of Ireland 1852-2002</td>
<td>€1,364</td>
<td>-</td>
</tr>
<tr>
<td>Irish Conveyancing Precedents</td>
<td>€1,007</td>
<td>€983</td>
</tr>
<tr>
<td>Proceeds of sale of library books</td>
<td>€828</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>DEFICIT FOR THE YEAR BEFORE LEGACIES</td>
<td>€376</td>
<td>€(6,853)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>2003</th>
<th>2002</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legacies</td>
<td>€6,080</td>
<td>€27,324</td>
</tr>
<tr>
<td>SURPLUS FOR THE YEAR</td>
<td>€6,456</td>
<td>€20,471</td>
</tr>
</tbody>
</table>
Tribunal decisions

BRANNIGAN, JOHN V
BELFAST CITY COUNCIL
FAIR EMPLOYMENT TRIBUNAL, 00040/98FET, 31 MARCH 2004
Applicant discriminated against on the grounds of his religious belief. - Applicant subjected to sectarian harassment. - Whether respondent took reasonably practical steps to prevent sectarian harassment. - Applicant had to transfer to another depot. - Tribunal decided that the respondent had been subjected to religious discrimination and injury to feelings. - Respondent ordered to pay £6,908 to the applicant.

CURRY, ALAN V TULLYALLY & DISTRICT DEVELOPMENT GROUP LTD
FAIR EMPLOYMENT TRIBUNAL, 2285/02IT, 7 APRIL 2004
Applicant claimed unfair dismissal. - Applicant employed as a youth worker for a fixed period. - Serious allegation made against him and he was subsequently suspended pending an investigation. - No explanation given to applicant by respondent. - During his suspension funding was available for a youth leader during summer period. - Applicant's employment terminated. - Respondent did not act reasonably in dismissing the applicant. - Applicant denied opportunity to make any representations. - Tribunal decided applicant was unfairly dismissed but a remedies hearing should be arranged.

AUSTIN, BRIAN V DIARMUID O'TUMA AND BOARD OF GOVERNORS OF BUNSCOIL PHOBAL FEIRSTE
INDUSTRIAL TRIBUNAL, 1510/02IT, 4 MARCH 2004
Claim for sexual discrimination. - It was agreed by all parties and the Tribunal to remove Diarmuid O'Tuma's name from the list of respondents. - Applicant applied for position of Vice-Principal. - Unfairly treated in selection process as other two applicants received interview letter by hand, while he received his by post a day after the interview. - Applicant less favourably treated. - Tribunal decided applicant was discriminated on grounds of his sex and was awarded £5,000 for injury to feelings.

DEVINE, JOSEPHINE V M & D CRAWFORD
INDUSTRIAL TRIBUNAL, 335/03IT, 23 MARCH 2004
Applicant claimed unfair dismissal by way of constructive dismissal. - Employed as a sales assistant in the butchery department of the respondent's shop. - Respondent searched the applicant's bag in full view of staff and customers. - Applicant's perception was that she was being accused of theft. - Tribunal satisfied that applicant gave a full account of how she was affected by the incident and therefore found that the applicant had been constructively dismissed. - Respondent paid compensation of £1316 to applicant.

EDGAR, LISA V EAST ANTRIM INSTITUTE OF FURTHER AND HIGHER EDUCATION
INDUSTRIAL TRIBUNAL, 1618/03IT, 31 MARCH 2004
Applicant claimed unfair dismissal. - Applicant employed on a six month fixed term contract with a possibility of extension. - Conditions of service mistakenly described job status as employed in a permanent part time capacity. - Tribunal held that the dismissal was fair under Article 130(1)(b) of Employment Rights (Northern Ireland) Order 1996. - Application dismissed.

CAROLINE EDMONSDON, SHARON SMYTH AND OLIVE MCAULEY V MICHAEL ALLEN, BRIAN BURTON AND CHIEF CONSTABLE OF THE ROYAL ULSTER CONSTITUARY INDUSTRIAL TRIBUNAL, 02239/97SD, 6 APRIL 2004
Applicants claims sexual discrimination. - Matter came by way of preliminary hearing to consider if the application was presented within the specified time limit. Applicants asked to take part in an unauthorised fitness test in male changing rooms. - Applicants had been the victims of a prank. - Tribunal decided that the applications were out of time but that it was just and equitable to consider the complaint of discrimination on the grounds of sex of each applicant.

EKIN, NORMAN V UNITED HOSPITALS HEALTH & SOCIAL SERVICES TRUST
INDUSTRIAL TRIBUNAL, 3254/01IT, 1 APRIL 2004
Applicant did not receive appropriate compensatory rest periods in accordance with Regulations 10, 11, 21 and 24 of the Working Time Regulations 1998. - Applicant alleged his health had been affected by disruption to his rest entitlement. - No medical evidence produced. - Respondent operated an adhoc system of compensatory rest. - Tribunal satisfied that the adhoc arrangement provided appropriate protection to safeguard the applicant's health and safety. - Application dismissed.

HEWITT, ANNE V THE BOARD OF THE CATHEDRAL OF ST. ANNE
INDUSTRIAL TRIBUNAL, 2607/02IT, 5 APRIL 2004
Applicant claimed unfair dismissal as she resigned as a result of pressure exerted by the respondent. - Applicant claimed Respondent refused to allow her to withdraw her resignation. - Tribunal did not believe the respondent exerted pressure and dismissed the claim.

TEIXERA, PAULO AND ELIZABETH DA GAMA V ATLANCO LIMITED AND MOY PARK LIMITED
INDUSTRIAL TRIBUNAL, 2230/01IT, 5 APRIL 2004
Applicants discriminated against on the grounds of their racial origin and unlawful deductions had been made from their wages. - Employed by Atlanco for Moy Park. - Before beginning work applicants had agreed a written statement of employment in Portugal before travelling to Northern Ireland but disputed the signatures on the statement. - Tribunal dismissed the claim of unfair dismissal as the applicants failed to establish that the treatment they received was due to their racial origin. - Tribunal also dismissed the unlawful deductions from their wages as the applicants had agreed their hourly rate in escudos before taking up employment in Moy Park. - The terms and conditions did not allow for sick pay.
Library Articles

Due to the requirements of the new Copyright Directive each article will now cost £5. There is no longer a requirement to complete a copyright declaration form. Simply tick each box as required and return the signed form to the Librarian, Law Society of Northern Ireland, Law Society House, 98 Victoria Street, Belfast, BT1 3JZ.

If you have an account with the library, this will be deducted. Alternatively, cheques should be made payable to ‘The Law Society’.

EU Copyright Directive (2001/29/EC)

Contract

☐ The Contracts (Rights of Third Parties) Act 1999
    Stevens: 2004 April LQR 292-323

Criminal law

☐ Life in crime (discusses anti-social behaviour orders)
    Rhodes: 2004 14 SJ 411

☐ Anti-social Behaviour Act 2003 and parental responsibility
    Blair: 2004 April Legal Action 24-27

☐ Social control and “Anti-social Behaviour”: the subversion of human rights
    Ashworth: 2004 April LQR 263-291

☐ Improper searches (discusses the implications of body searches after the Wainwright decision)
    Murdie: 2004 13 SJ 374-375

☐ The Sexual Offences Act 2003: Tinkering with child pornography
    Gillespie: 2004 May CLR 361-368

Data protection

☐ A deletion too far: Huntley, Soham and data protection (discusses the deletion of Huntley’s personal data)
    Wildish: 2004 Feb/Mar Comp & Law 29-30

Employment

☐ The Working Time Regulations 1998 – Part 2 (caselaw on the right to paid annual leave, exclusions and enforcement)
    2004 734 IRLB 3-11

☐ Breaking up (guidance on some consequences of the fragmentation of an undertaking into smaller parts)
    McMullen: 2004 15 SJ 434-435

Environment

☐ All gone to waste (abandoned landfills)
    Jackson: 2004 0416 EG 105

Family law

☐ Age of innocents (discusses Irish child law under the European Convention on Human Rights, 2003)
    Shannon: 2004 April IncLSG 12-17

☐ Ant-social Behaviour Act 2003 and parental responsibility
    Blair: 2004 April Legal Action. 24-27

Information technology

☐ Broadband: the reality (installation of a broadband internet connection for small to medium-sized firms)
    McKenzie: 2004 15 SJ 432

Insolvency

☐ Fixed charges over book debts (the Spectrum case)
    Berg: 2004 3 Ins Int 33-39

Litigation

☐ Turning tide of privilege (examines the law following the Three Rivers case)
    Jamieson: 2004 14 SJ 399-400

☐ Private bar (legal professional privilege)
    Robins: 2004 14 Lawyer 16-17

☐ The secret’s out (professional privilege and its implications for solicitors)
    Rhodes: 2004 14 Lawyer 23

Money laundering

☐ Know your client (money laundering rules require solicitors to check clients’ identity)
    Silk: 2004 14 SJ 415

☐ In the open (discusses the Money Laundering Regulations)
    Sherrington: 2004 15 Lawyer 25

Practice management

☐ Broadband: the reality (installation of a broadband internet connection for small to medium-sized firms)
    McKenzie: 2004 15 SJ 432

☐Understanding accounts (explains the profit and loss account)
    Ingall: 2004 15 SJ 442-443

☐ Know your client (money laundering rules require solicitors to check clients’ identity)
    Silk: 2004 14 SJ 415

Signed__________________________________________

Date ____________________________

Name ____________________________________________

Firm _____________________________________________

Branch ___________________________________________
Re: Rodgers, William Andrew (Andy) (deceased) and Rodgers, Catherine Maria (Connie) (deceased)
Late of: ‘Rachra’, Coast Road, Malahide, County Dublin. Would any person having knowledge of a Will made by either of the above named deceased who died on 27th November 2003 and 4th February 2004 respectively, please contact Ronald J Clery & Co, Solicitors, 3 Centaur Street, Carlow.
Tel: 00353 5991 34702 or Fax: 00353 5991 37855 or Email: rjclerysolrs@eircom.net.

Re: Mary Gerrard O’Brien, (deceased).
Would anyone knowing the whereabouts of the Last Will and Testament of Mrs Mary Gerrard O’Brien, deceased late of 32 Orient Gardens, Belfast and Rosecroft, 10 Croft Road, Carlisle, England, please contact:- Messrs P J McGrory & Co Solicitors 52 Andersonstown Road Belfast BT11 9AN Tel: 028 9060 2986 Fax: 028 9062 1201 Email: mail@pjmcgrory.com

Re: John William Francis Stewart, (deceased).
Late of: 10 Cranley Gardens, Bangor. Would any person having knowledge of the whereabouts of a Will for the above named person please contact: Christopher Reilly Solicitor John Boston & Company Solicitors 565 Upper Newtownards Road Belfast BT4 3LP Tel: 028 9048 0460 Fax: 028 9048 9563

Re: Edward Gerald Calvert (deceased)
Late of: 35 Hollybrook Grove, Glengormley Born: 2nd June 1935 Died: 26th March 2004

Would any person having knowledge of the whereabouts of a Will for the above-named deceased please contact:
Mr Peter Ford
Trevor Smyth & Company Solicitors 13 Chichester Street Belfast BT1 4JB Tel: 02890 320360 Fax: 02890 240480 E-mail: Joanne@trevorsmyth.com

Re: Brian Stuart Manning, (deceased)
Late of: 68 Strand Road, Portstewart, Co Londonderry Date of Death: 24th April 2004 Would anyone holding a Will of the above named deceased or having any knowledge of the whereabouts of same please contact:
Macaulay Wray Solicitors 35 New Row Coleraine County Londonderry BT52 1AH Tel: 028 7035 2421 Fax: 028 7035 2425 Ref: AM/DG/Manning

Re: George Moore (deceased)
Late of: 21 Craigantlet Road, Newtownards, County Down Date of Death: 1st February 2004 Would any Solicitor having possession of the original Will of the above named deceased or having any knowledge of the whereabouts of same please contact: Miss Sarah Quinn Wilson Nesbitt Solicitors 33 Hamilton Road Bangor County Down Tel: 028 9127 8180 Fax: 028 9127 8197

Re: Seamus (James) Kane (deceased)
Late of: 70 Ballyvennaght Road, Ballycastle, Co Antrim, BT54 6RL Date of death: 19th March 2004 Would any Solicitor having possession of the original Will of the above named deceased or having any knowledge of the whereabouts of same please contact:
Ciaran Campbell Campbell McKee Solicitors 84 Castle Street Ballycastle County Antrim Tel: 028 2076 2215/62236 Fax: 028 2076 9979

Folio: 13156
County: Down
Registered Limited Owner: Sarah Houston
Lands of: Edenticullo
Take notice that any person having custody of or information as to the whereabouts of the Land Certificate relating to the above mentioned folio should forthwith produce said Certificate or communicate such information to the undermentioned solicitors. And take further notice that unless the said Land Certificate is so produced or adequate information as to its whereabouts is so communicated within three weeks of publication of this notice, a duplicate Land Certificate may be applied for. Nelson-Singleton Solicitors 21 Gallows Street Dromore County Down BT25 1BG

Folios: 30516, 29983 and 27365
County: Tyrone
Registered Owner: Unipork Ltd
Lands known as: The Bacon Factory, 70 Molesworth Road, Cookstown
Take notice that any person having custody of or information as to the whereabouts of the Land Certificates relating to the above mentioned folios should forthwith produce said Certificates or communicate such information to the undermentioned solicitors. And take further notice that unless the said Land Certificates are so produced or adequate information as to their whereabouts is so communicated within three weeks of publication of this notice, duplicate Land Certificates may be applied for. Cleaver Fulton Rankin Solicitors 50 Bedford Street BELFAST BT2 7FW
Folio: DN 90560L  
County: Down  
Registered Owner: Ross Thomas Blaney of 10 Meadowlands, Bangor, County Down and Nicola Lisa Marie Waring of 10 Meadowlands Bangor, County Down are full owners.

Take notice that any person having custody of or information as to the whereabouts of the Land Certificate relating to the above mentioned folio should forthwith produce said Certificate or communicate such information to the undermentioned solicitors.

And take further notice that unless the said Land Certificate is so produced or adequate information as to its whereabouts is so communicated within three weeks of publication of this notice, a duplicate Land Certificate may be applied for.

Michael Ferguson  
Solicitors  
249 Lisburn Road  
BELFAST  
BT9 7EN  
Tel: 028 9038 2030  
Fax: 028 9038 2107

Solicitors Required

Busy Ballymena practice seeks solicitor. Conveyancing experience preferred but not essential. Part-time applicants considered.

Apply in writing, enclosing full cv to: Jack McCann & Son Solicitors  
20 Ballymoney Road  
Ballymena  
Co Antrim, BT43 5BY or by emailing emma.mccann@jackmccann.com

Due to the continuing growth in our Matrimonial and Litigation Departments, we require an ambitious, hard-working Solicitor.

Salary commensurate with experience. Good working conditions and prospects. Apply in confidence with CV to the Managing Partner at the address below.

Closing date for applications – 11 June 2004.  
R M Cullen & Son Solicitors  
16-22 Edward Street  
Portadown  
County Armagh BT62 3NA

Solicitor required for Newry practice. Would suit candidate with three years plus PQE with a general background. Excellent opportunity to join young, expanding practice. Apply in writing with CV to:- Jonathan McKeown  
Solicitors  
1c Monaghan Street  
Newry  
County Down BT35 6BB  
or email: jonathan@jmksolicitors.com

Assistant Solicitor required for busy central Belfast practice. Applicant should have one year’s PQE in Conveyancing but this is not essential. Recently qualified solicitors are invited to apply. Applicants should contact:

Francine Mooney or Clare Simpson  
Hart & Co Solicitors  
Gordon House  
22-24 Lombard Street  
BELFAST  
Tel: 028 9032 3545

Solicitors Seeking Employment

Sollicitor with nine years PQE seeks partnership opportunity in Newry, Banbridge or Armagh firm. Specialises in Conveyancing (Commercial and Domestic), Probate and Licensing. Also has experience of all areas of general practice. High achiever seeking new challenge. Discretion assured.

Please reply to PO Box 132,  
c/o Citigate Northern Ireland Public Affairs Ltd,  
128a High Street,  
Holywood, Co Down  
BT18 9HW

Experienced litigation Solicitor is available for employment (locum or full-time). Would consider plaintiff, defence or employment law caseload.

Apply in writing to PO Box 125,  
c/o Citigate Northern Ireland Public Affairs Ltd,  
128a High Street,  
Holywood, Co Down BT18 9HW.

Bookkeeper Seeking Employment

Experienced legal bookkeeper seeks employment in Newtownabbey or City Centre area. Full or part-time. Please contact telephone number 028 9084 0767.

To advertise in the Writ

If you wish to advertise in the Writ please contact Karen Irwin for rates, specification and copy deadlines at:

Citigate NI Public Affairs Ltd  
128a High Street  
Holywood  
BT18 9HW

Tel: 028 9042 8899  
Fax: 028 9042 8877  
Email: karen.irwin@citigateni.co.uk

Copy deadline for June Monday 7th June 2004

Editor: John Bailie.  
Published by the Law Society of Northern Ireland,  
98 Victoria St, Belfast, BT1 3GN  
The views expressed are not necessarily those of the Law Society of Northern Ireland.
Recommended Reading -
Workplace Stress – Employer’s liability

Caselaw

Barber v Somerset County Council
The House of Lords decision is the sequel to the earlier Court of Appeal decision in Hatton and Sutherland in which 4 conjoined appeals were decided upon. B appealed against a decision ([2002] EWCA Civ 76, [2002] 2 All E.R. 1) that the local authority had not been in breach of its duty to take reasonable care to avoid injuring his health. Appeal held. Employers are liable to pay compensation for workplace stress only if the employee’s illness is foreseeable and that the employer took no action to prevent it. [2004] UKHL 13
Times, April 5, 2004
http://www.publications.parliament.uk/pa/ld200304/ldjudgmt/jd040401/barber-1.htm

Sutherland v Hatton; Jones v Sandwell MBC; Barber v Somerset CC; Bishop v Baker Refractories Ltd
(Liability of an employer for an employee’s psychiatric illness caused by stress at work)
Available from the Law Society Library

Articles

Lords limit for stress at work
Dyer: Guardian, April 2, 2004, 9
(Available in Law Society Library)

House of Lords ruling on workplace stress
IDS Brief 2004: 755, 17-18

More Stress (discusses the Barber case)
Fairclough: 2004 16 S.J. 463

New Books in the Library

Pema: Anti-Social behaviour orders – a special bulletin: Jordans. 2003


LIBRARY CLOSURE
Please note that the Library will be closed from Monday 12 July – Friday 23 July 2004 inclusive.

Law Society Library Email:
info@lawsoc-ni.org
LEGAL AID (FINANCIAL CONDITIONS) REGULATIONS (NI) 2004 SR2004 NO.86

These Regulations amend the Legal Aid, Advice and Assistance (NI) Order 1981 (the 1981 Order) so as to:

(a) increase the upper income limit to make legal aid available to those with disposable incomes of not more than £8,595 (instead of £8,443), or in connection with proceedings involving a personal injury £9,475 (instead of £9,307) (Regulation 3);

(b) increase the lower income limit below which legal aid is available without payment of a contribution to £2,902 (instead of £2,581) (Regulation 4).

LEGAL ADVICE AND ASSISTANCE (AMENDMENT) REGULATIONS (NI) 2004 SR2004 NO.87

These Regulations amend the Legal Advice and Assistance Regulations (NI) 1981 so as to substitute a new scale of contributions payable for legal advice and assistance under Article 7(2) of the 1981 Order.

LEGAL ADVICE AND ASSISTANCE (FINANCIAL CONTRIBUTIONS) REGULATIONS (NI) 2004 SR2004 NO.88

These Regulations amend the 1981 Order so as to:

(a) increase the upper income limit to make legal advice and assistance available to those with disposable incomes of not more than £197 per week (instead of £192) (Regulation 3);

(b) increase the lower income limit below which legal advice and assistance is available without payment of a contribution to £83 per week (instead of £81) (Regulation 4).

The above three Regulations came into operation on 12th April 2004.

LEGAL AID (ASSESSMENT OF RESOURCES) (AMENDMENT) REGULATIONS (NI) 2004 SR2004 NO.167 and LEGAL ADVICE AND ASSISTANCE (AMENDMENT NO.2) REGULATIONS (NI) 2004 SR2004 NO.168

These regulations which came into operation on 17th May 2004 amend the Legal Aid (Assessment and Resources) Regulations (NI) Order 1981 and the Legal Advice and Assistance Regulations (NI) 1981 to provide that the resources of an applicant and anyone with whom the applicant normally resides as a couple, including a person of the same sex, are to be treated as the resources of the applicant for the purpose of determining financial eligibility for Legal Aid, Advice and Assistance under Part II of the 1981 Order.

LEGAL ADVICE AND ASSISTANCE (AMENDMENT NO.3) REGULATIONS (NI) 2004 SR2004 NO.169

These regulations which came into operation on 1st May 2004 amend Schedule 3 to the 1981 Order to replace proceedings for a sex offender order under Article 6 of the Criminal Justice (NI) Order 1998 with specified proceedings under the Sexual Offences Act 2003 as proceedings which attract assistance by way of representation.

LEGAL ADVICE AND ASSISTANCE (AMENDMENT NO.4) REGULATIONS (NI)2004 SR2004 NO.180

These regulations which came into operation on 17th May 2004 amend Regulation 17(3) of the Legal Advice and Assistance Regulations (NI) 1981 to include proceedings under Part XIII A of the Prison and Young Offenders Rules (Northern Ireland) 1995 as proceedings which attract assistance by way of representation.
Siska is Dutch. While working in France, she met Michael, who is Irish. The child that they are expecting shortly will be born in Marseilles. She wants to go back to the Netherlands and ask for a divorce. Michael does not agree. This raises several questions of civil law...

European rules exist. Did you know? www.eurocivil.info