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04 Cover Story: Norville Connolly
New President of the Law Society

05 New Presidential Team

06 Statutory Charge

08 Public Protection Sentences

12 Solicitor Recognition Awards

14 Reciprocal Admissions

20 Admissions Ceremonies

22 A Masters’ Voice

25 BSA Annual Dinner Dance

27 High Court and Court of Appeal Decisions

33 Library update – Pre-Nuptial Agreements
Norville Connolly – new President of the Law Society

As I reflect upon my Presidential term it is important that I take this opportunity, as many of my predecessors have done, to consider where we are, the challenges ahead and my vision for the solicitors’ profession.

As a practising solicitor I am all too aware of the demands and challenges, which are now affecting our profession. The real impact of the economic recession, the changes to the substance, processes and application of the law and the ever-changing wider legal landscape in Northern Ireland have all undoubtedly redefined the work of a solicitor’s practice and indeed the Law Society. This will be all the more obvious when the expected devolution of policing and justice takes place. We must collectively work to shape our future rather than allow others do it for us.

As President I am tasked with ensuring that our profession is prepared to meet the challenges ahead with a renewed confidence and with a determination. It is perhaps timely that as I reflect upon my Presidential term I do so at the start of a new decade. This presents all of us with a clear demarcation line in which to assess the challenges ahead, to build on our successes and to set new goals.

As President I will seek to build on the work and the successes of my predecessor, Barry Finlay and to identify new opportunities and new horizons which will grow, promote and enhance the membership of our profession. Throughout the year ahead the Presidential and Chief Executive team will not shrink from its responsibilities in tackling the challenges and offering practical solutions.

The current recession poses some of the greatest challenges our members have faced for years. In dealing with the recession the Society has taken some successful initiatives including achieving much more timely legal aid payments, good complaints handling practice, strong governance, a strong CPD education programme and ensuring that Professional Indemnity premium increases were modest compared to our sister jurisdictions. The Society has also held a number of lectures on practice management in recessionary times and has set up a new Career Advisory Service to help those who need it. We have also established a new Practice Development Committee which will explore ways of attracting new legal business to our profession and to this jurisdiction and help firms to maximise their business potential.

On legal aid we continue to vigorously challenge those plans and policies which seek to impose an English model in this jurisdiction and which if implemented will create legal deserts in the most socially deprived part of the United Kingdom. These proposals we believe will undermine the ability of those most vulnerable within our community to seek access to justice. They will also reduce the level of payments to our members to such an extent that many of our members will find it economically impossible to take on such work. We will continue to engage with the Court Service, Legal Services Commission and all political parties both here and in Westminster on these matters.

As President and a graduate of the Solicitors’ Advocacy Course I will continue to champion not only the benefits of the Advocacy Course itself but also the sense of confidence and fulfilment conducting advocacy provides to a solicitor. For its part the Society will continue to promote our solicitor advocates and will seek recognition of them in the higher courts and associated parity of fees.

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Already we are working hard to have the Judicature (NI) Act 1978 changed to enable solicitors to enjoy rights of audience in the Higher Courts and importantly be properly remunerated for advocacy in all courts including the Magistrates’ Court. We expect to announce substantial advances in this regard quite soon. We are also working hard to have the Bar recommendation not to work with our Solicitor Advocates withdrawn. Resolution of this matter would cement the important and good relations between the Bar and the Society. I am confident that the Society’s work on this matter opens up for solicitors greater opportunities and will build upon the established rights of audience. I would encourage all solicitor firms and practitioners to realise the potential of the Solicitor Advocacy Course. We

Norville Connolly was educated at St Mary’s Christian Brothers School in Belfast and Trinity College in Dublin.

In 1974 he was apprenticed to Ian Bamford (now retired District Judge) in the well-known and established solicitors’ firm of D & E Fisher Solicitors in Newry. In 1977 he qualified as a solicitor before becoming partner at D & E Fisher Solicitors in 1978 where he currently practises specialising in land law and company and commercial transactions. He was admitted to the roll of solicitors in Southern Ireland in 1991 and currently practises there also.

He is a long standing member of the Law Society Council and a member of various committees including Policy, General Purposes and Finance and Client Communications and has chaired the Remuneration, Client Complaints and the Compensation Fund Rules Change committees.

He holds a Postgraduate Diploma in Laws in European & Commercial Law, has published articles in the Northern Ireland Legal Quarterly and The Writ and has lectured in and chaired various Law Society CPD events. He is a qualified Solicitor Advocate.
will pursue, through our new Rights of Audience Committee, all of these issues including seeking to ensure solicitors are equipped for all judicial offices including at High Court level.

In respect of the Bain Recommendations in the context of the devolution of justice and policing, I am confident that the Society through its engagement with politicians and decision makers will continue to press our views and opinions on key areas. Some time ago we commenced high level dialogue with all political parties on a series of such relevant issues, and matters of the public interest. This dialogue will continue and intensify as devolution is realised. We welcome the strong relationships we have with the political parties.

Throughout my Presidency, I will be putting greater emphasis on building on our service delivery and developing our communications with members. The Society has already begun this process and members can now avail of the new services available at Law Society House which offer a new lecture hall, seminar and consultation rooms as well as a modern café area. Members now have access to a new library and business centre which provides members with modern and efficient research, IT and study area facilities. I would encourage all our members to use these wonderful new facilities. Our new Law Society House built without a levy on our members is a building of space and light and is a statement of confidence to reflect the future which the Society sees for the solicitors’ profession.

We have already begun the process of developing our communications with members with the success of the E-nformer and a new ‘live’ interactive membership focussed website (www.lawsoc-ni.org) allowing you greater access to news, documents, policies, regulations and information about the Society. This information portal will provide you with direct access to the Society and I would encourage you to log on on a regular basis.

Over the course of the year the Society will be rolling out a number of new initiatives designed to promote the solicitor profession to our key stakeholders and underscore the value of the solicitor within our community and economy. As I previously mentioned we all have an opportunity to define who we are and to shape the direction we take. I would encourage members to respond to the Education Review document not because you feel compelled to do so but because you know it will contribute to the development of the next generation of solicitors coming through. The Chief Executive and I will be engaging more directly with members, local associations and representative solicitor groups to build on the contact that has already been made and to identify ways in which we can grow and build the profession together. We must further train, build up our experience and learn to value more our own advocacy skills and opportunities and our own advice and decision making so that as a profession we are more resilient and confident in our own worth.

I hope I have shown that the Society is working hard in many ways to build a stronger, prouder and more united profession. I am determined to progress this during my year as President.

Norville J Connolly

New Presidential Team

From left: Brian Speers, Junior Vice President; Norville Connolly, President & Barry Finlay, Senior Vice President
Changes to the application of the “Statutory Charge” in legally aided proceedings

- Phase 1 - a partial restatement of Regulation 17(9) of the Legal Aid (General) Regulations (NI) 1965
- Phase 2 - substantive amendments to Regulation 17(9)
- Phase 3 - replacement of Regulation 17 (property recovered or preserved for and costs agreed to be paid to or awarded to an assisted person) of the 1965 Regulations with new regulations made under the Access to Justice (NI) Order 2003

What is the Statutory Charge?

A.12 of the Legal Aid, Advice and Assistance (NI) Order 1981 defines the statutory charge. Briefly, it arises when a client, as a result of receiving legal aid, recovers or preserves monies or property in court or achieves a financial gain in settlement of an action, and there is a shortfall or deficiency in the Legal Aid Fund in that the costs of the case payable to the client’s legal representatives out of the Fund are greater than the aggregate of any costs recovered from the third party and the person’s legal aid contribution, if any. Any such excess is the amount of the statutory charge, and in civil proceedings it cannot be waived.

There are a number of exemptions to the statutory charge applicable in civil proceedings which are set out in Regulation 17(9) of the Legal Aid (General) Regulations (NI) 1965.

Phase 1 - restatement of Regulation 17(9)

As part of this work the Commission has reviewed the operation of the statutory charge, its application in legally aided cases under Regulation 17(9) of the 1965 Regulations and the previous guidance issued to the legal profession (particularly in relation to the exemptions from the statutory charge in matrimonial cases).

In order to clarify the correct operation of the charge, the Commission will be carrying out an exercise to “restate” those parts of Regulation 17(9)(a) which provide for the exemptions from the charge under the following legislation:

- Inheritance (Provision for Family and Dependents) (NI) Order 1979
- Matrimonial Causes (NI) Order 1978
- Children (NI) Order 1995

Regulation 17(9)(f), which provides for exemptions in relation to social security benefits will also be restated.

The Matrimonial Causes (NI) Order 1978

The restatement exercise will clarify that the exemptions from the statutory charge only extend to the recovery or preservation of monies in ancillary relief proceedings under the ambit of arts. 24, 25, 29 and 33 of the Matrimonial Causes (NI) Order 1978. Recovery under other articles of the 1978 Order will therefore be subject to the statutory charge, and the Commission would like to draw particular attention to the fact that the recovery or preservation of property under a. 26 of the 1978 Order is not exempt from the statutory charge under the existing regulations.

The process to restate Regulation 17(9)(a) was completed in February 2010, and will be put into effect on 1 April 2010. The “restated” charge will apply to legal aid certificates granted on or after that date. In cases where the Commission has not applied the charge in the past, it does not intend to apply it retrospectively to cases where the legal aid certificate was granted before 1 April 2010.

Legal representatives will recognise that under the existing regulations the charge will apply in some cases but not in others. In order to assist the Commission with making decisions on the application of the charge at the conclusion of proceedings, legal representatives will be required to answer more detailed questions on ancillary relief issues on the legal aid forms; new and amended forms have been designed for this purpose.

If, for example, legal representatives intend to conduct ancillary relief proceedings on the basis that settlement terms will attract an exemption from the charge under Regulation 17(9)(a)(ii), they will be asked to identify the provisions of the Matrimonial Causes (NI) Order 1978 which will allow the exemption.

Legal representatives should note that the Commission will normally consider any property (including monies) recovered or preserved to be subject to the charge unless the legal representative records on the form the statutory provision which allows an exemption. It will therefore be very important that legal aid forms are filled out correctly.

In light of this, and in order to facilitate the correct application of the statutory charge under the existing regulations, the Commission will be making some changes to the administration of legal aid in ancillary relief proceedings. The Commission will shortly issue further and more detailed guidance for legal representatives.

Phase 2 - amendments to Regulation 17(9)

The restatement under Regulation 17(9)(a) is the first phase of long overdue reform in this area. In Phase 2 the Commission intends to introduce a number of substantive amendments to the 1965 Regulations which, overall, will have the effect of narrowing the exemptions from the charge in ancillary relief proceedings.

The aim of these amendments is to help to bring the existing statutory charge regulations into line with the proposed reformed regulations under the Access to Justice (NI) Order 2003 (Phase 3). The aim of the reformed regulations is to bring greater focus on the cost of litigation and to deliver savings and revenue streams to the legal aid fund.
Developments in the Causeway Programme

What is Causeway?
Causeway is modernising the way in which the justice system works in Northern Ireland. It provides an integrated system supporting information sharing between the main criminal justice organisations.

The vision of the Causeway Programme 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.”

Causeway is replacing paper-based records with systems based on the electronic storage, transfer and retrieval of information. Information is captured once and then shared and re-used by all criminal justice organisations. It aims to transform the effectiveness and efficiency of the system by electronic information sharing, which will reduce rekeying, duplication, photocopying and the time spent passing information between organisations.

Causeway has already joined up the Police and Prosecution Services and Forensic Science in an electronic Case Preparation System. It has also provided an automated Criminal Record Viewer which enables authorised staff to check criminal records in a matter of seconds, rather than the 2/3 weeks which were required under the old paper-based system. On average, over 50,000 searches are carried out every month using the Criminal Record Viewer, supporting crucial work such as the vetting of those who work with children and vulnerable adults.

What is happening now?
The latest phase of Causeway, called ‘Data Sharing Mechanism 1’, went live at the end of November 2009. This joins the Court and Prison Services into the Causeway system, and introduces a number of improvements to business processes across the criminal justice system.

This will enable the Public Prosecution Service to exchange criminal case details electronically with the Court Service, and for the Courts in turn to share criminal court outcomes with other criminal justice organisations and update the Criminal Record Viewer through the Causeway system.

What difference will this actually make?
Over time, the benefits of Causeway will be:

- **Victims** will see their cases dealt with more promptly
- **Witnesses** will be able to testify while their recollection of incidents remains fresh
- **Defendants** will spend less time on bail or remand
- **Prisoners** awaiting sentence will see their pre-trial reports completed more quickly and on the basis of fuller information
- **Convicted prisoners** will be inducted into a correct prison regime on conviction rather than having to wait until the relevant paperwork catches up with them
- **Lawyers** should see fewer cases adjourned because of incorrect information, or through a lack of timely information
- **Judges and Magistrates** will not be asked to agree to adjournments caused by information management failures. Sentencing will take account of more accurate criminal records
- **The general public** will benefit through wcriminals being dealt with more quickly, and through reductions in the costs of administering justice

What are the implications for legal practitioners?
There will be some changes to the documentation presented in the Magistrates’ Court.

These changes include:

- the introduction by the Police of the concept of ‘Electronic Proof of Service’ to replace the current Affidavit of Service
- the introduction by the Public Prosecution Service of a new ‘Record of Approved Charges’ in certain cases
- the introduction of an electronic signature on an Arrest Warrant

Electronic proof of service
Magistrates’ Court Rules providing for electronic proof of service of summonses and accompanying documentation have already come into effect.

These Rules allow a police officer who has served a summons and accompanying documentation to input details of the service into the PSNI NICHE system. These details are then shared via Causeway with the Court Service line of business application (ICOS) and the information is then printed on the ICOS generated Order Book sheet.

Service details will then either be confirmed verbally by the court clerk (or court assistant) to the District Judge or the physical Order Book sheet will be presented to the District Judge for inspection.

Electronic proof of service will apply in the first instance only to summonses served personally and not to postal summonses.

Record of approved charges
In summary:

- Where the Public Prosecution Service (PPS) prosecutor does not approve all the charges on a charge sheet, the prosecutor will prepare and send a “Record of approved charges” indicating which of the charges put to the accused by a charging authority have been approved by the prosecutor. The Court will receive this via Causeway. A copy of the document will be provided to the defendant or his legal representative.
- Where the PPS approves all the charges, this document will not be sent; instead, the original charge sheet will be available to the Court via Causeway.
- Charges which are not approved will be withdrawn by virtue of s. 32 of the Justice (Northern Ireland) Act 2002 and hence will not need to be withdrawn in court.
- The Complaint, which is currently lodged in court and contains any additional or substituted charges, will also be transmitted to the Court via Causeway. A copy of this will be provided to the defendant or his legal representative as at present.

Electronic documents and signatures
Through the introduction of electronic signatures on documents, Causeway will make it possible to transfer documents electronically between criminal justice organisations.

What will happen next?
Following this phase, the Northern Ireland Office will be looking at the scope for continuing the development of Causeway in order to achieve even greater integration, as well as ensuring that the justice system derives the maximum benefit from the changes that have already been implemented.
Public Protection Sentences

This is the first in a series of articles to be presented in The Writ to assist in understanding the new sentences and measures that have been put in place through The Criminal Justice (Northern Ireland) Order 2008.

The sentencing framework – what are “Public Protection Sentences”?

Public Protection Sentences were introduced through the Criminal Justice (NI) Order 2008 to strengthen the ability of the system to protect the public by providing more effective powers to manage dangerous offenders. The sentences represent a new approach which empowers the system to respond not only to crimes committed, but also to the foreseeable risks posed by an offender.

Since 15 May 2008, these prison sentences have been available for offences of a sexual and/or violent nature. They can be used where there is a “significant risk” of the offender committing further offences which would cause “serious harm” to the public. In determining whether an offender poses this risk of serious harm, the sentencing judge will take into consideration both the facts of the case itself and a pre-sentence report (PSR) produced by a probation officer. The PSR will provide the judge with a risk assessment based on certain key factors, providing explicitly an assessment of whether the offender poses a risk of serious harm.

It is entirely a matter for the judge to decide whether the risk of serious harm is present. Where an offender has been assessed as presenting a risk of serious harm, the judge is automatically obliged to hand down a public protection sentence and must approach it in a specific way:

1 “Serious Harm” is defined in The Criminal Justice (NI) Order 2008 as death or serious personal injury, whether physical or psychological.

Extended Custodial Sentences (ECS)

An ECS is a determinate sentence which involves a period in custody (custodial term) and a period on licence (extension period). ECSs are available where the offender has been convicted of one of the ‘specified offences’ in Schedule 2 of the 2008 Order and has been assessed as posing a risk of serious harm to the public.

At the mid-point of the custodial period the offender will be assessed by the Parole Commissioners to determine whether he/she has reduced their risk of serious harm to a level where it is no longer necessary for the protection of the public to keep the offender confined.

If the offender is released by the Commissioners then he/she will serve the rest of their sentence on licence and be supervised in the community by the Probation Board. If the offender is not released, then he/she will stay in custody and will be reconsidered for release within two years, or earlier where directed by the Parole Commissioners.

Offenders released on licence can be recalled to custody if they breach their conditions.

Indeterminate Custodial Sentences (ICS)

An ICS is a sentence for which no release date is given. ICSs are available where the offender has been convicted of one of the ‘serious offences’ in Schedule 1 of the 2008 Order and has been assessed as posing a risk of serious harm.

Offenders who receive an ICS sentence will remain in custody for an undefined period and until the Parole Commissioners decide they can safely be released into the community. At the sentencing stage, the judge will impose a tariff which will be the minimum custodial period to be served and must be at least two years. This will be the earliest date at which the offender is entitled to a review by the Parole Commissioners but is not a guaranteed release date.

The same review processes which apply to ECSs also apply here. Offenders serving an ICS who are released into the community will be managed by the Probation Board and will remain on licence for at least 10 years from their release date, and potentially for the rest of their lives.

Parole

In both ECS and ICS sentences, the Parole Commissioners are a hugely important safeguard for the public. Commissioners make independent, impartial and informed decisions on whether or not to release offenders serving a public protection sentence. This decision is based on the level of risk posed by the offender to the general public. In order to recommend release, a panel of Commissioners must be satisfied that the offender no longer poses a significant risk of serious harm to the public. That offender must demonstrate to the satisfaction of the Parole Commissioners that they no longer pose such a threat. To do this they must undertake a sentence plan.

The PSR will provide the judge with an assessment of whether the offender poses a risk of serious harm.
focussed on rehabilitation and risk reduction.

A new Offender Management Unit in the prison has introduced a groundbreaking approach to addressing the risks posed by offenders through an integrated team of professionals across the probation, prison, and psychology disciplines. Each offender will have an individual and targeted sentence plan which will include programmes, interventions, courses and/or whatever else is deemed necessary to reduce the risks identified through the PSR stage and also through additional assessments completed throughout the custodial period. It is the offender’s success at following this plan and reducing their risk which will be examined by the Parole Commissioners.

It is anticipated that by introducing these new sentences and the measures outlined above which underpin them, that offenders will be provided with the motivation to confront and address their behaviour whilst in custody. The prison environment which now exists supports efforts to rehabilitate offenders and reintegrate them into society.

In the next issue we will be looking at the new licence conditions that can be imposed on offenders released from custody and how curfews can be supported by electronic monitoring.

If you would like to read more about the sentencing framework, please go to www.sentencingreformni.gov.uk or alternatively, let us know if you or your firm would be interested in a presentation on this topic by emailing us at info@.sentencingreformni.gov.uk.

Fact sheets on the topics covered are available from the Society’s Library.
The Annual Dinner of the Law Society was held in the Culloden Hotel on Thursday 26 November 2009. Over 260 guests attended including 40 newly admitted solicitors.

Speeches were delivered by the new President, Mr Norville Connolly, Miss Fiona Duane on behalf of the newly admitted solicitors and Miss Margaret Mountford.

A former solicitor and well known judge from the BBC television show “The Apprentice”, Miss Mountford took time to reflect on her career as a solicitor, business woman and TV judge. She also took time out to offer some words of advice and guidance to the newly qualified solicitors gathered in the room.

Those attending also had an opportunity to quiz her after her speech with an impromptu Q&A session on a number of topics including why she left the hit TV show.

The Society is grateful to her for taking the time out from her busy academic studies to attend the Annual Dinner.
The winners of the inaugural Law Society Solicitor Recognition Awards were announced at the Society’s Annual Dinner on 26 November 2009. The Awards were presented by the President, Norville Connolly and Dame Joan Harbison CBE.

The winners of the awards were:

International Pro Bono Award
MacCorkell Legal & Commercial Lisburn

Senior Solicitor Award
Noel Phoenix of Trevor Smyth & Co Belfast

Junior Solicitor Award
Maria Glover of Napier & Sons Belfast

Commendation
Conor Houston of John J Rice & Co Belfast
GMA Management Consultants

would like to take this opportunity to congratulate our clients

Doris & McMahon Solicitors
James F Fitzpatrick & Co

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<td>Education &amp; Library Board Solicitors</td>
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<td>Tughans Solicitors</td>
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<td>Walker McDonald Solicitors</td>
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For a free consultation/quotation or further information contact:

Gary Millar at GMA,
Pinetree Lodge, 40 Tullyhubbert Road, Ballygowan, Newtownards, BT23 6LZ
Tel: 028 9752 8427 Mobile: 07831 530178 Email: gary@gmass.com
Reciprocal admission of Northern Ireland and Republic of Ireland Solicitors to England & Wales

The Solicitors’ Regulatory Authority in England and Wales is proposing to introduce the possibility of examinations being required for Northern Ireland solicitors as a pre-requisite for admission in England and Wales.

As members will know in 2007, the Solicitors’ Regulatory Authority assumed responsibility from the Law Society of England and Wales for all matters in respect of the regulation and admission of solicitors in England and Wales. The Solicitors’ Regulatory Authority is proposing to replace current reciprocal admission arrangements between Northern Ireland and England and Wales and to make the required amendments to their Regulations in April 2010.

Despite strong representations from the Law Society of Northern Ireland and the Law Society of Ireland that current arrangements should continue, the Solicitors’ Regulatory Authority has indicated that it will proceed with its proposals. It intends to require solicitors qualified elsewhere, including the EU and Northern Ireland, before being admitted to the Roll of Solicitors in England and Wales, to have their transfer requirements set individually which may include requiring applicants to pass an assessment exercise, which may include examination.

The current arrangement for Northern Ireland solicitors being admitted in England and Wales is that subject to the relevant proofs being provided, admission to the Roll of Solicitors in England and Wales is automatic for practising members on the Roll in Northern Ireland. The Society and the Law Society of Ireland continue to make strong representations to the Solicitors’ Regulatory Authority that current arrangements should continue.

It will be important therefore that all members consider urgently whether or not they would wish to make application to be admitted to the Roll of Solicitors in England and Wales prior to the introduction of the new requirements. We therefore encourage members to give this matter their early consideration.

Alan Hunter
Chief Executive

ATTENTION ALL CHILDREN ORDER PRACTITIONERS

Launch of COAC Revised Best Practice Guidance
Knockbracken Healthcare Park, Belfast
Thursday 22 April 2010, 3pm-6pm

This event, to be chaired by Mr Justice Weir, will launch the Children Order Advisory Committee’s Revised Best Practice Guidance which aims to update the original 2003 document and take account of recent developments in Children Order proceedings and practice. It provides a coherent and consistent framework for the processing of Children Order proceedings through the court system, gives guidance and acts as a reference tool for all professionals involved. Subscription details will be provided at the launch.

Attendees can claim 3 hours of CPD. Cost £20.

Booking form is downloadable from the CPD section of the Society’s website at www.lawsoc-ni.org

NI Employment Lawyers’ Group Lunchtime Seminar

Speaker: Mr Craig Dunford BL
Title: Aspects of Insolvency Law for Employment Lawyers
Date: Thursday 25 March 2010
Time: 12:30pm to 2:00pm – a light lunch will be served.
Venue: Inn of Court, Royal Courts of Justice, Belfast.
Cost: Members £5.00. Non-members - £10.00 or join at the door.

To book a place on the seminar please complete the reply sheet below and fax a reply to Anne McKernan at 028 9033 1047

Cheques should be made payable to ELG(NI). The seminar will attract one CPD hour
2009 was LawCare’s busiest year to date partly, but not entirely, due to the additional stress the global recession has placed upon lawyers. Over the year, 549 case files were opened. This was almost a 10% increase over the previous year.

Helpline staff also noted that calls were becoming longer and more complex and callers were much more likely to call back for further help than in previous years. Over 2,500 additional calls were made or taken relating to these 549 case files, a 25% increase on the previous year.

- 410 cases (74%) related to stress
- 47 cases (9%) related to clinical depression
- 32 cases (6%) related to alcohol addiction,
  55% of alcohol related calls were from men and 45% from women
- There were also three cases related to illegal drugs and 54 “other” cases. These related to miscellaneous problems such as eating disorders, OCD and panic attacks.

For the first time in 2009 callers were asked the primary cause of their stress or other problem. Just over half (55%) were able to give a specific cause. Of these:

- 25% cited redundancy
- 24% cited financial problems
- 20% cited disciplinary issues
- 17% cited bullying
- Other causes given were relationship problems, ethical issues and bereavement

LawCare is a registered charity which provides free and confidential health support and advice for members of the legal professions, their staff and families. There is a comprehensive website and access to the Wellbeing Portal at www.lawcare.org.uk.

LawCare also offers free (except for expenses) CPD accredited presentations to firms, local law societies and groups.

LawCare’s online Wellbeing Portal one year on
Just over a year ago LawCare launched a free and confidential online tool designed to help lawyers assess, understand and manage the stress in their personal and professional lives. The Wellbeing Portal was unveiled and demonstrated on 29 January 2009 at an event hosted by Clifford Chance on the 30th floor of their offices in Canary Wharf, London.

Although the tool is completely confidential, with users logging in privately and securely, the statistics regarding the number of users and the outcome of their questionnaires have, at the end of the first year, shown an interesting picture of levels of stress within the legal profession. When the Wellbeing Portal first went live to a test group in October 2008, the average stress scores ran at 39%. By January 2010, this had risen to 52%. The rise was particularly noticeable among women, where the levels rose from 34% to 54%.

All solicitors who used the Wellbeing Portal recorded raised stress levels from 40% to 68% in the course of the year.

Barristers went from 46% to 53%, but spiking in July 09 at 63%. Law students went from 31% to 54%. Support staff from 30% to 43%.

These statistics support the trend amongst calls to our 365 day a year helpline, where LawCare had the busiest year ever, with a 10% increase in callers complaining of stress.

The LawCare Wellbeing Portal offers free and confidential help in identifying the sources of stress and creating a customised plan of action to combat the identified stressors. It also includes multimedia online learning about stress, its causes and how to reduce its impact and downloadable Fact Sheets on a wide range of stress and wellbeing related topics. It is available to all members of the legal profession, including those who have retired, and support staff and families of lawyers.

The LawCare Wellbeing Portal is very straightforward to use. Simply visit the website at www.lawcare.org.uk to create your personal account and then log in at any time, day or night, as often as required. It is a totally free service and entirely confidential.

The LawCare helpline number for solicitors in Northern Ireland is 0800 279 6869.

Health Support and Advice for Lawyers
April 2007 saw the introduction of a capital value system of rating in Northern Ireland, under direct rule. Legislative provision was made for a rates deferment scheme for owner occupier pensioners to be introduced by a returning Assembly. Following the re-establishment of the devolved institutions in May 2007, an Executive Review of the new domestic rating system was commissioned. It was decided that a rates deferment scheme should be introduced.

In announcing plans to introduce the scheme, the then Finance Minister, Peter Robinson, MP, MLA, stated: “Essentially, it will involve rolling up rate payments at a concessionary rate of interest until the sale of the house and then securing the debt by creating a charge on the property….such a scheme can suit better-off pensioners who are beyond the income limits of the lower income relief scheme.”

Given the scheme’s complexity there was further consultation on the policy detail (June to September 2008). This included liaison with key stakeholders and the Assembly’s Finance and Personnel Committee. The way forward was set out in a consultation report published in January 2009.

The scheme, which is not a new relief or allowance, will provide a payment choice for owner occupier pensioner ratepayers and remove rates from their day to day budgeting. The pensioner will be advised by the Department to seek independent legal and financial advice and will, at his or her own expense, have to arrange for a solicitor’s report on title to be made to the Department.

Legislative provision for the scheme was made through s.5 of the Rates (Amendment) Act (Northern Ireland) 2009, substituting a.29A of the Rates (Northern Ireland) Order 1977 (which was the power brought in through a.10 of the Rates (Amendment) (Northern Ireland) Order 2006). The draft Rates (Deferment) Regulations (Northern Ireland) 2010 will shortly be taken through, and debated in, the Assembly. Subject to the approval of the Assembly, it is intended that the scheme will come into operation on 1 April 2010.

The draft Rates (Deferment) Regulations (Northern Ireland) 2010, and associated Explanatory Memorandum, can be found at http://www.opsi.gov.uk/sr/dsr04-02
be met both prior to and during the deferment agreement. Deferment will not be permitted where the capital value of a property is less than £50,000 (approximately £300 rate bill) and partial deferment of annual rates will also not be permitted. An annual statement will be provided to participants showing their deferred debt (including interest and any fees).

**Age, property ownership and occupation:**

A person must be of pensionable age on 1 April in the year in which an agreement is entered into or the partner/surviving partner of such a person and own and occupy the hereditament on which rates are to be deferred as their sole or main residence. Pensionable age is defined, for the purposes of the scheme, as the qualifying age for state pension credit (which on 1 April 2010 is 60 years of age). Deferment will be limited to a person’s main home and not allowed for second or empty homes (with limited exceptions for residential care or hospital treatment). To enter into deferment, where there is more than one owner, all joint tenants/tenants in common must be of pensionable age (or be the partner/surviving partner of such a person) and own and occupy the property.

**Equity thresholds:**

Prior to entering into deferment there must be a minimum of 40% equity in the hereditament. The Department will also consider, before deciding whether to enter into a deferment agreement, if there will be at least 30% clear equity in the hereditament throughout the term of the agreement. Deferment is unlikely to be permitted where there is a variable charge/mortgage on the hereditament given potential debt recovery risks.

**Property title:**

Participants will be required, at their own expense, to arrange for a solicitor's report on title to be made to the Department and to provide any other necessary information to the Department. The charges involved in title verification and obtaining information may, once paid by the participant to the solicitor and any other relevant body, be rolled into the deferred debt.

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**Consent to a deferment agreement:**

Anyone with an estate in the land constituting the hereditament, eg mortgage lender, will have to consent to the deferment agreement being entered into. Any person in occupation of the hereditament subject to deferment must also consent in writing to the agreement being entered into and postpone any rights or interest in the hereditament to those of the Department.

**Deferred debt and statutory charge:**

The deferred debt (including rates, interest and any rolled up fees) will take the form of a statutory charge on the property. This will be enforceable as if it were a valid mortgage by deed created in favour of the Department. Interest will be levied, on a daily compound basis, calculated using 1% below the Bank of England base rate, subject to a minimum of 1%.

**Termination of deferment agreement:**

The deferred debt will be due and owing on the sale or transfer of a property, death of an agreement holder (where there is no other agreement holder) or agreement conditions having been breached by the deferee.

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**Energy Performance of Buildings (Certificates and Inspections) Regulations (NI) 2008 (as amended) - transfer of enforcement to district councils**

The Energy Performance of Buildings (Certificates and Inspections) Regulations (NI) 2008 were made on 10 April 2008. The Regulations introduced requirements to provide an Energy Performance Certificate (EPC) when a building is constructed, being sold or rented. The Regulations establish powers for enforcement and facilitate the issue of penalty notices (levying of fines) for non-compliance.

Initially, the Department of Finance and Personnel was the sole enforcement authority for the Regulations. However, on 12 November 2009 a new Statutory Rule was made that transfers the enforcement authority for Regulations from the Department to district councils. This legislation came into operation on 3 December 2009. The Department will continue to enforce the Regulations in respect of all district council buildings.

If you have any enquiries regarding enforcement, or to report non-compliance, these should now be directed to Belfast City Council Building Control which will be coordinating enforcement on behalf of all district councils.

**By post:** Building Control Service
Belfast City Council, 5th Floor, 9 Lanyon Place, BELFAST BT1 3LP

**By email:** buildingcontrol@belfastcity.gov.uk

**By phone:** 028 9027 0432

Enquiries regarding the Regulations should continue to be referred to the Department as before. Further information on the Regulations is available from our website: www.epb.dfpni.gov.uk.
High Court Personal Injury Actions
Certificate of Readiness

A Certificate of Readiness procedure in Personal Injury Applications in the High Court will come into operation on 12 April 2010. As of the above date, in every action in the High Court in which damages for personal injuries are claimed, including medical negligence actions, the Notice of Setting Down for Trial must be accompanied by a Certificate of Readiness.

The Certificate has been drawn up by the Queen’s Bench Judiciary in consultation with the legal profession and is designed to further the Overriding Objective by ensuring that all cases which are listed are in fact ready to be heard. The Certificate is a short document which can be easily and quickly filled in by the solicitors for each party, or by litigants themselves if unrepresented. It is accompanied by comprehensive guidance notes. A case will not be listed after the operative date if no Certificate of Readiness has been filed.

Copies of the Certificate are available to download at [www.courtsni.gov.uk](http://www.courtsni.gov.uk) or in hard copy from the Queen’s Bench Office in the Royal Courts of Justice.

NOTE

The Society has organised a **CPD seminar** on the new **Certificate of Readiness** procedure which will be presented by Mr Justice Gillen. It will be held at Law Society House on Friday 26 March 2010 - starting at 2pm. Please see CDP section on the Society’s website for Booking Form - [www.lawsoc-ni.org](http://www.lawsoc-ni.org).
Practice Notices

Regulation 19 of the Solicitors’ Practice Regulations 1987

The Home Charter and Professional Ethics and Guidance Committees wish to remind members, not for the first time, of the provisions of the above Regulations, particularly insofar as they relate to solicitors acting for both builders or developers.

Regulation 19 as a whole reads:

“(1) Subject as hereinafter provided, a solicitor shall not act for both vendor and purchaser on a transfer of land for value at arm’s length or for both lessor and lessee on the grant of lease for value at arm’s length.

(2) Provided no conflict of interest appears and the vendor and/or lessor is not a builder or developer selling or leasing as such this regulation shall not apply if:

(a) the parties are associated companies; or

(b) the parties are related by blood, adoption or marriage; or

(c) both parties are established clients and both parties have been informed in writing that:

(i) the solicitor is acting for both parties; and

(ii) no conflict of interest appears to the solicitor at the time of receipt of instructions; and

(iii) in the event of such a conflict of interest arising the solicitor will be unable to continue acting for either party in the transaction; or

(d) on a transfer of land the consideration is less than £3,000; or

(e) one of the parties is the Northern Ireland Co-Ownership Housing Association;

(3) Where the vendor and/or lessor is a builder or developer this regulation shall not apply if

(a) no conflict of interest appears; and

(b) the purchaser is:

(i) an associated company of the vendor/lessor; or

(ii) a director or partner of the vendor/lessor; or

(iii) a person related by blood, adoption or marriage to such director or partner; or

(iv) the solicitor himself; or

(v) an employee or partner of the solicitor or his firm and

(c) both parties have been informed in writing that:

(i) the solicitor is acting for both parties; and

(ii) no conflict of interest appears to the solicitor at the time of receipt of instructions; and

(iii) in the event of such a conflict of interest arising the solicitor will be unable to continue acting for either party in the transaction.

(4) Notwithstanding the provisions of paragraph (2) and (3) hereof a solicitor shall not in any circumstances act for the purchaser on the transfer of land for value at arm’s length or for the lessee on a grant of lease for value at arm’s length where he or a solicitor practising in a joint property selling practice with him is instructed to negotiate the sale of the property concerned.”

You will see that Regulations 19 (2) and (3) provide an almost complete embargo on a solicitor acting for both builder or developer and a purchaser.

“Solicitor” is interpreted as a firm of solicitors. It is not permissible for different solicitors within the same firm to act for two parties to avoid the Regulation. The creation of a so-called “Chinese wall” is not recognised.

The Regulation reflects the reality that a builder/developer client will almost certainly be a significant client for any firm and that conflict arises inevitably.

Recent inspections by the Society’s Home Charter Monitors and Accountants have shown breaches of this provision.

Breach of this Regulation has had significant adverse implications for Professional Indemnity Insurance claims. Experience has shown that the Courts have no sympathy for solicitors or firms of solicitors acting for both parties when a claim arises.

Breach will also result in consideration being given to a referral by the Society to the Disciplinary Tribunal.

Gifting back by vendors

It has been drawn to the Society’s attention that some Estate Agents have apparently contacted vendors at a point close to completion, asking them to effect a reduction in the consideration, by way of a so-called “gifting back” to the purchaser.

This apparently is to allow the purchaser to increase the “loan to value” ratio of mortgage finance.

Vendors’ solicitors should be careful to advise their clients as to the implications of effectively reducing the price. Purchasers’ solicitors should be zealous to report any price reductions obtained in this – and any other way – to lending institutions.
The President of the Law Society of Northern Ireland, Norville Connolly, joined the Lord Chief Justice of Northern Ireland, Sir Declan Morgan, as he presided over the admission ceremonies for newly admitted solicitors. This year’s admission ceremonies took place on 9 December 2009, 11 and 12 January and 22 February 2010 in the High Court in Belfast. The ceremony was followed by a reception provided by the Law Society for the newly admitted solicitors, their Masters, families and friends.

To order a copy of these photographs, please contact Aurora Photography on 028 9066 1227.
A Master’s Voice

At this time of year the scramble for places in the Institute and the Graduate School at Magee - and hence for places in solicitors’ offices reaches fever pitch. Those of us who have more years behind us than before us in the profession, have perhaps forgotten the anguish and stress experienced by young idealistic law graduates who have struggled to overcome many obstacles to put themselves on the brink of a career in the law only to find that the greatest obstacle of all is, to a large extent, outside their control. I refer of course to the lottery of finding a “Master”.

At a time when solicitors’ practices are facing strong competition, a substantial downturn in some areas of work, a curtailment of legal aid and increased costs, there is an understandable temptation to dismiss out of hand the prospect of taking on an apprentice with the attendant extra costs this will entail.

My opening remarks are not a prologue to an argument that we, as a profession, have a moral obligation to ensure that those graduates who make it through the system should, as a matter of course, find appropriate Masters and be given a solid training. There may well be some merit in that argument but I would prefer to commend to you the real benefits that the employment of an apprentice can bring to your firm:

1. Long term planning

How many times do we hear the complaint from our colleagues that they cannot get assistant solicitors? This is a common complaint, particularly in the provincial towns. I am always amazed at this. It seems to me that the employment of an apprentice gives the employer the option, two years down the line, to employ a solicitor who has been trained in the methods and ethos of the firm. An apprentice given good training, respect and good working conditions, will invariably reciprocate with loyalty.

2. Development and growth

When we look at how our firms are to grow and increase fee income, how many of us take into account the positive potential of an apprentice and later (if kept on) a young solicitor? Most of them have a wide circle of friends, some of them have many useful contacts and all of them will bring in varying amounts of work through these friends and contacts. Apart from this, it’s quite astounding, in my experience, how in a very short period of time, they develop their own contacts and build up their own portfolio of clients. Often they do this from the crumbs thrown from their Master’s table, whilst at the same time being available to deal with all that “loss leader” work which increasingly lands on our desks.

3. A breath of fresh air

Don’t forget that these students have all done their law degrees more recently than you. Whilst in your employment they are attending lectures on all aspect of law, practice and procedure. Whilst they may not have your experience, most of them are likely to know more about recent changes in the law than you do. You can learn from them. Furthermore, it is likely they can assess the law faster than you through their natural use of modern technology.

4. You think you cannot afford an apprentice?

“It’s not just the £240.00 per week you have to pay during those first four months – it’s the fact that they haven’t a clue what they are doing.”

This is by far the most common complaint about the current system and on the surface would appear to be a justifiable one.

This is in my view not so. On the contrary. You have on your hands a highly motivated individual who has worked extremely hard to get to this stage (often at great expense). That person will almost certainly be computer literate and, whether male or female, will have excellent typing skills. He/she will not need a secretary. You will be amazed at how quickly he/she will tune in to the working environment. As a rule apprentices have no hang ups or bad habits (the only bad habits they will pick up will be from you). They are extremely willing to turn their hands to anything and, without exploiting them, you will be able to extract from them a tremendous amount of work and at the same time, give them that insight into the reality of private practice, which will be invaluable to them when they attend the Institute or the Graduate School for the first time.

If you have used them properly you will be very disappointed to see them go to the Institute or the Graduate School in January and delighted when they turn up on your doorstep every Monday of term. Their shock and bewilderment of having to work during the two summers they are with you will only be matched by your delight at being able to solve some of your holiday dilemmas and having a few more days off than usual yourself. Adopt the correct approach and you will find that you have an employee worth every penny of his/her wages.

5. Generally

Firms can only grow through the introduction of young talent. Properly nurtured, that talent will reflect your own standards. Properly treated, that talent will stay with you. You will have little turnover of professional staff. Clients like continuity. A sensible approach to the employment of apprentices will provide that continuity. Sole practitioners and small firms wrongly believe that they cannot afford apprentices. I believe, on the contrary, that they can be their salvation. Often the best time to take an apprentice is when you think you do not need one.

6. And finally

Whether or not we have a moral obligation to ensure that those who have worked hard to qualify find placements can be debated elsewhere. I contend that you have an obligation to yourself and to your firm to give serious consideration to the employment of an apprentice. In the longer term, failure to do so may be your loss and someone else’s gain.

Gerry O’Hare, Senior Partner
J G O’Hare & Company Solicitors
Call for Masters

The Society each year draws up a list of members who are qualified and willing to act as Masters. This list will be provided on request to students who are seeking apprenticeships.

If you have:
1. practised as a solicitor for at least seven years, and
2. been a principal for at least three years, and
3. are willing to act as a Master for the two year term commencing September 2010 and
4. can provide a suitable training environment for an apprentice

please complete the attached form and return it to Mrs Valerie Neilly at the Society.

The relevant criteria are set out in the Solicitors’ Admission and Training (Qualification of Masters) Regulations 1988 as amended by the Solicitors’ Admission and Training (Qualification of Masters) (Amendment) Regulations 1992.

At present the minimum wage for apprentices is as follows:
(a) For the first 16 months of the apprenticeship £240.00 per week.
(b) For the last eight months of the apprenticeship £270.00 per week.
(c) During the Institute/Graduate School term, when the apprentice is in his/her Master’s office each Monday, a minimum wage of one-fifth of the prescribed first level rate (namely £48.00 per week).

Masters 2010/2011

I confirm that I am interested in acting as a Master as and from September 2010 and am willing for my name to be added to a list of potential Masters and circulated to students seeking apprenticeships.

Name of intending Master…………………………………………………………………............
Name of firm…………………………………………………………………………………............
Contact name and details of the person to whom application should be made
(if different from Master)
…………………………………………………………………………………………………….......

Please indicate preferred option for receipt of applications from prospective applicants:

CV by email ☐
CV by post ☐
Firm’s own recruitment procedure (please detail)...........................................................
……………………………………………………………………………………………………........

Date……………………………………….

Please return the completed form to:
Mrs Valerie Neilly, Law Society of Northern Ireland, Law Society House,
96 Victoria Street, Belfast BT1 3GN or DX422 NR BELFAST 1
The 2010 BSA Dinner Dance was held on Saturday 30 January at the Europa Hotel, Belfast.

From left: Mathew McKee; Laura McKinny; Adam Boyd & Aine Tyrell.

From left: Margaret Phoenix; Noel Phoenix and Rosemary McLaughlin.

From left: Blain Nugent; Cathy Fitzsimons; Gavin Doherty & Kelly Doherty.
Guide to the Housing Rights of People from Abroad

This latest publication from Housing Rights Service is an essential resource for anyone advising people from abroad on their rights to social housing, homelessness assistance and Housing Benefit, whilst residing in Northern Ireland.

Content includes:
- Detailed reference to Northern Ireland legislation;
- The right to reside and habitual residence tests;
- Definition of a “qualified person” and their economic status; and
- The rights of different groups of nationals including EEA (A8s and A2s), non-EEA, asylum seekers and refugees.

To order a copy contact Adele Pound on 028 9024 5640 or email adele@housingrights.org.uk
Price: £9.95 per copy (Members of Housing Rights Service pay £5.00 per copy)
Court of Judicature of Northern Ireland
Offices of the Court of Judicature

Pursuant to Order 64, rule 5(1) of the Rules of the Court of Judicature (Northern Ireland) 1980, the offices of the Court of Judicature will be closed to the public on the following days in 2010:

- **St Patrick’s Day Holiday**
  - Wednesday 17 March

- **Good Friday**
  - 2 April

- **Easter Monday**
  - 5 April

- **Easter Tuesday**
  - 6 April

- **Early May Bank Holiday**
  - Monday 3 May

- **Spring Bank Holiday**
  - Monday 31 May

- **July Bank Holiday**
  - Monday 12 July

- **July Privilege Holiday**
  - Tuesday 13 July

- **August Bank Holiday**
  - Monday 30 August

A notice setting out the Christmas and New Year closures will issue at a later date.

Simon Rogers
Principal Private Secretary to the Lord Chief Justice

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Appointed Court Judge in Northern Ireland

Her Majesty the Queen has appointed Patricia Mary Smyth to be a County Court judge in Northern Ireland. The judge was sworn into office before Sir Declan Morgan, the Lord Chief Justice of Northern Ireland, on 1 February 2010.

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Solicitors’ Benevolent Association AGM

Notice is hereby given that the One Hundred and Forty Sixth Annual General Meeting of the Solicitors’ Benevolent Association will be held at the Law Society, Blackhall Place, Dublin 7 on **Friday 16 April 2010 at 12.30pm**

1. To consider the Annual Report and Accounts for the year ended 30 November 2009
2. To elect Directors
3. To deal with other matters appropriate to a General Meeting

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From High Court to High Notes

**DO YOU HAVE WHAT IT TAKES?**

THE LAW SOCIETY IS INVITING ANYONE THAT LIKES TO SING, TO COME AND JOIN US AND BE PART OF A NEW SOLICITORS’ CHOIR.

IF YOU HAVE THE SOLICITOR FACTOR, FULL OF GLEE OR JUST LOVE SINGING, THEN WE WANT YOU!

FOR MORE DETAILS PLEASE CONTACT:

**JOE RICE OR SUSAN BRENNAN**

028 9031 3888

YOU WO’NT BE ASKED TO SING DOWN THE PHONE!
NIYSA are pleased to announce the

2010 Mid-Summer Ball

Date: Saturday 26 June 2010
Time: Champagne Reception 7.30pm
      Jazz Band
      Dinner 8.00pm
      Live Band The Untouchables
Venue: Queen’s University Great Hall
Cost: Tickets £30

Join us for the highlight of the NIYSA social calendar – our annual dinner dance in Queen’s University’s magnificent Great Hall. Places are limited so please book early.

Cheques, bookings forms and tables of 10 to be sent to:
Michael Graham, NIYSA
c/o Cleaver Fulton Rankin, 50 Bedford Street, BELFAST BT2 7FW
DX: 421 NR BELFAST 1 Tel. 028 9024 3141
or contact your Institute NIYSA representative
(No reservations will be confirmed until payment is received)

Booking Form:

Title _____________________________________________________________
Name ___________________________________________________________
Firm/Organisation ________________________________________________
Contact Address _________________________________________________
Telephone _________________________________________________________
Fax _____________________________________________________________
E-mail ____________________________________________________________

I will require vegetarian food. ☐ (please tick if appropriate)
I have other dietary requirements and would like to be contacted. ☐
I have specific needs in relation to sight, mobility, hearing, etc. and would like to be contacted. ☐
I enclose banker’s draft/cheque (drawn on a UK bank) for £ ____________________________
Made payable to ‘Northern Ireland Young Solicitors’ Association’

Please return this form as soon as possible to:
Michael Graham
NIYSA c/o Cleaver Fulton Rankin, 50 Bedford Street, BELFAST BT2 7FW
DX: 421 NR BELFAST 1
ADMINISTRATION OF JUSTICE

AN APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL REVIEW BY PHILIP BLACK AND DAVID CLEMENTS
Application for leave to apply for a judicial review of a decision of the Accountancy and Actuarial Discipline Board of the Institute of Chartered Accountants to examine the applicants’ role in the affairs of the Presbyterian Mutual Society and the refusal to adjourn the examination. - whether it would be unfair to proceed with the leave application with regard to multiple jeopardy in potential parallel proceedings and the prospect of Court proceedings under the statutory scheme for directors’ disqualifications. - whether adjournment is inappropriate and the leave application is unarguable. - whether no stay of the examination of the applicants would lead to a real risk of serious prejudice which may lead to injustice. - countereviling considerations against a stay. - HELD that the leave application should not be adjourned and leave for judicial review refused since there is no risk of serious prejudice to the applicants at this stage
HIGH COURT
24 NOVEMBER 2009
WEATHERUP J

IN THE MATTER OF AN APPLICATION FOR WRIT OF HABEAS CORPUS BY TERENCE MCCAFFERTY
Appeal against dismissal of motion on notice for a writ of habeas corpus directed against the governor of HMP Maghaberry.
- appellant convicted of possession of explosive substances with intent to endanger life contrary to s.3 Explosive Substances Act 1883. - appellant released on licence which was revoked on the ground that his continued liberty would present a risk to the safety of others and that he was likely to commit further offences. - whether the Secretary of State was permitted to delegate or devolve the decision to the Parole Commissioners in view of necessity to protect public. - HELD that the Parole Commissioners decision to recall the applicant was lawful
HIGH COURT
16 DECEMBER 2009
MCCLOSKEY J

AGRICULTURE

IN THE MATTER OF APPLICATIONS BY SEAN MCALINDEN AND HUGH HENNITY FOR JUDICIAL REVIEW
Appeals against orders made to refer back to Department of Agriculture and Rural Development for reconsideration decisions made by the Department refusing the respondents single farm payments under the Single Farm Payments Scheme. - Department refused to amend the application forms which they had submitted. - whether the applicants had made an obvious error in filling in and submitting their written applications under the Scheme and that the Department had jurisdiction to amend their applications and should have done so. - definition of obvious error. - HELD that there was no obvious error if the proper test were to be applied and Department’s appeal must be allowed
Court of Appeal
7 DECEMBER 2009
MORGAN LCJ, GIRVAN LJ, COGHLIN LJ

CONTRACT

TREVOR GRIFFIN V MY TRAVEL LIMITED
Appeal against dismissal of the plaintiff’s claim for damages for personal injuries and loss of earnings. - wooden bed collapsed on the plaintiff’s foot. - whether the design of the bed was inadequate and vulnerable. - whether the actions of a chambermaid in making the bed daily de-stabilised it. - liability of other party to the contract for proper performance of obligations under contract. - whether any breach of express contractual term. - nature and scope of the defendant’s duties. - duty of tour operator to exercise reasonable care in the provision of services and facilities to its customers. - HELD that the plaintiff has established a breach of contract, appeal allowed and general damages to the injury to the foot set at £2,240 to include costs
HIGH COURT
16 DECEMBER 2009
MCCLOSKEY J

CRIMINAL LAW

IN THE MATTER OF AN APPLICATION BY D/INSPECTOR JUSTYN GALLOWAY PSNI PARAGRAPH 5 OF SCHEDULE 5 OF THE TERRORISM ACT 2000
Application made under Terrorism Act 2000 whereby the PSNI sought all records and material in the possession of Suzanne Breen, Nl editor of the Sunday Tribune Newspaper relating to responsibility for terrorist murders. - application refused. - application for order that costs in resisting the application should be paid by the PSNI. - no legislative provision for costs. - duty of investigation of PSNI. - HELD that 75% of Ms Breen’s costs should be met by the PSNI
COUNTY COURT
4 DECEMBER 2009
BURGESS HHJ
CHIEF CONSTABLE PSNI V ARTHUR MCDONAGH
Sentencing. - assaulting police officers in the due execution of their duty and resisting arrest contrary to s. 66(1) Police (NI) Act 1998. - disorderly behaviour contrary to a. 18 Public Order (NI) Order 1987. - whether the police were acting in the due execution of their duty when executing the arrest warrant for non-payment of a fine. - consideration of two conflicting CA decisions. - validity of warrant and validity in execution of warrant where there is a delay. - HELD that the defendant be acquitted of all charges

MAGISTRATES COURT
12 NOVEMBER 2009
WHITE DJ

R V VINCENT McANESPIE
Possession of firearms and assisting an offender. - application to stay proceedings as an abuse of process of the court on the ground of delay. - a. 6 ECHR right to fair trial within a reasonable time. - whether defendant prejudiced given the period that elapsed was 28 years. - manner in which the case has been dealt with by the prosecuting authorities. - HELD that application be dismissed

CROWN COURT
9 OCTOBER 2009
COGHLIN J

R V VINCENT McANESPIE
Application on behalf of the prosecution which has served notice of its intention to adduce statements by way of hearsay evidence in accordance with the provisions of the Criminal Justice (Evidence ) Order 2004. - whether leave of the court should be granted in the interests of justice. - witnesses were unable to give evidence as a consequence of fear induced by intimidation and physical unfitness. - HELD that the hearsay statements of the witnesses may be admitted in evidence

CROWN COURT
9 OCTOBER 2009
COGHLIN J

R V MARTIN THOMAS MCDONNELL
Sentencing. - death by dangerous driving. - assessment of the defendant’s circumstances and the factors relevant to the determination of the appropriate sentence. - lack of aggravating circumstances and culpability. - mitigating factors. - HELD that the defendant be sentenced to a period of imprisonment of 18 months suspended for 3 years and be disqualified from driving for 10 years

CROWN COURT
30 NOVEMBER 2009
MILLER HHJ

R V ANDREW McGLINCHEY
Sentencing. - careless driving causing death. - doing an act to pervert the course of justice. - failing to report, failing to stop, failing to remain and driving without insurance. - culpability. - aggravating and mitigating factors. - HELD that the defendant be sentenced to four years imprisonment and disqualified from driving for 7 years

CROWN COURT
12 NOVEMBER 2009
GRANT J

R V ALAN GEORGE NURSE
Sentencing. - theft, forgery, false accounting committed by the defendant whilst practising as a solicitor. - defendant drew up inflated bills of costs and forged documents authorising him to deduct monies from the client’s account, including a vulnerable person whose affairs were under the control of the Office of Care and Protection. - charges of theft amounted to £481,465 carried out over 5 1/2 years. - defendant was in a position of trust and was permitted by law to handle clients’ money. - defendant had been subject of previous Law Society disciplinary proceedings which barred him from practising solely on his own account. - defendant continued to commit dishonesty even though he knew his affairs were under investigation. - defendant has repaid all of the stolen money and admitted throughout that he had taken money from his clients. - HELD that defendant sentenced to 3 years’ imprisonment

CROWN COURT
22 JANUARY 2010
HART J

R V DARYL JOHN PROCTOR
Application for leave to appeal against a sentence of 13 years imprisonment on charge of attempted murder. - whether the applicant was entitled to have disputed forensic evidence expertly explored and tested and to receive the professional advice of Counsel. - whether the Crown could not establish beyond reasonable doubt that the applicant had personally subjected the injured parties to violence and that his involvement was limited to being a participant in a joint exercise. - whether the Court should have particular regard to the youth of the applicant at the time of the offences. - HELD that the original sentence was neither manifestly excessive or wrong in principle and application for leave dismissed

COURT OF APPEAL
28 OCTOBER 2009
COGHLIN LJ, DEENY J

R V MARTIN SMYTH
Application for leave to appeal against sentence brought by the applicant who had pleaded guilty to burglary. - whether the total sentence incorporating the sentence for burglary, the activation of the suspended sentence and the period of custody in respect of breach of the custody probation order was disproportionate and infringed the principle of totality. - whether the applicant had not had an opportunity to engage meaningfully with the Probation Service. - HELD that the judge’s sentencing was appropriate and application for leave to appeal against sentence dismissed

COURT OF APPEAL
13 NOVEMBER 2009
GIRVAN LJ, COGHLIN LJ

R V ANTHONY WEST
Rape. - appeal against conviction and sentence. - whether counsel’s closing speech was so unfair and prejudicial to the appellant that it undermined the safety of the conviction
and rendered the verdict unsafe. - whether the police failed in their duty to forensically examine a set of house keys. - duties of prosecuting counsel. - prior sexual behaviour and the admission of evidence. - HELD that Counsel's direction may have reinforced inaccurate statements of fact and verdict quashed.

**COURT OF APPEAL**
**13 NOVEMBER 2009**
**GIRVAN LJ, COGHLIN LJ, WEIR J**

**DAMAGES**
**BC v SEAN DEGAN**
Plaintiff claims damages for personal injuries and loss and damage sustained by him as a result of a road accident alleged to have been caused by the negligence of the defendants. - defendants did not deny liability and the case proceeded on the issue of quantum. - plaintiff alleges soft tissue and muscular injuries to his neck, lumbar spine and hands. - injuries to the lumbar spine were accelerated by pre-existing degenerative changes. - plaintiff suffered from mild PTSD as a result of the accident. - HELD that appropriate figure for general damages is £30,000.

**HIGH COURT**
**28 OCTOBER 2009**
**COGHLIN LJ**

**ALBERT PARKINSON v NORTHERN IRELAND FIRE AND RESCUE SERVICE**
Plaintiff is a paramedic seeking damages arising out of his attendance at a fire. - plaintiff suffered a sprained ankle in a fall at the premises and attributes his fall and resulting injuries to certain acts and omissions of the defendant's employees who were dealing with the fire at the material time. - duty of care between plaintiff and defendant's employees who were acting in the course of their employment. - vicarious and tortuous liability of defendant. - whether the plaintiff could establish negligence in failing to take reasonable should be measured at 25% from the total damages of £11,399.

**HIGH COURT**
**10 NOVEMBER 2009**
**MCLOSKEY J**

**GERARD TURLEY v JOHN BLACK AND POLICE SERVICE OF NORTHERN IRELAND**
Credit hire case. - plaintiff's claim against the defendant for damages for loss and damage sustained in a road traffic accident. - plaintiff is a taxi driver by occupation and one element of his claim relates to the hire of a substitute properly adapted taxi. - dispute over documents sought via a witness summons which suggested there existed a relevant commercial arrangement between the supplier of the vehicle and the finance company with whom the plaintiff contracted concerning the supply of the substitute vehicle. - appeal against order of District Judge who ordered the service of a modified witness summons on the grounds of an impecunious plaintiff. - HELD that the documents requested via the witness summons will not subject the recipient to inappropriate oppression and were necessary for the just disposal of the litigation.

**HIGH COURT**
**7 JANUARY 2010**
**MCLOSKEY J**

**ENVIRONMENTAL LAW**
**PATRICK LAVERY T/A RGC INTERNATIONAL v DEPARTMENT OF THE ENVIRONMENT FOR NORTHERN IRELAND THE ENVIRONMENT AND HERITAGE SERVICE DEPARTMENT**
Waste management. - plaintiff owned a haulage company whose lorries were stopped by the police officers and members of the Environmental Heritage Service (EHS). - power of EHS to stop and seize lorries and waste under the Waste and Contaminated Land (NI) Order 1997. - whether the EHS could demand purity in the contents of the loads. - whether the EHS was permitted to retain trailers in order to return them. - statement of claim alleging loss and damage occasioned by negligence, nuisance, conversion, breach of statutory duty and unlawful interference with goods. - HELD that the plaintiff's vehicles were unlawfully removed and detained and he is entitled to judgment of £65,000.

**HIGH COURT**
**1 JUNE 2009**
**HIGGINS LJ**

**EXTRADITION**
**IN THE MATTER OF ARTURO VILLANEUVA ARTEAGA**
European Arrest Warrant issued in the Spanish High Court for the arrest and extradition of the requested person for illegal association membership. - requested person was arrested and opposed extradition. - whether extradition would be incompatible of a. 7 ECHR prohibiting retrospective criminalisation of acts and omissions. - whether the warrant contained requisite information required by the Act. - clarification sought from the Spanish Court. - HELD that the particulars given in the warrant are general and lack any specificity as to the actions of the requested person and is invalid.

**COUNTY COURT**
**18 NOVEMBER 2009**
**BURGESS HHJ**

**IN THE MATTER OF AN APPLICATION BY LIAM CAMPBELL FOR A WRIT OF HABEAS CORPUS AD SUBJICIENDUM AND IN THE MATTER OF AN APPLICATION BY LIAM CAMPBELL FOR LEAVE TO APPLY FOR JUDICIAL REVIEW**
Application for a Writ of habeas corpus ad subjiciendum and application for leave to apply for judicial review. - applicant is one of several persons whom the Republic of Lithuania have requested to be extradited to that country, and European arrest warrants have been issued. - applicant was arrested in the Republic of Ireland and proceedings were commenced in that jurisdiction to extradite him to Lithuania. - extradition of individuals from one Member State to another. - whether the court should...
The full text of these decisions are available on the Libero Database in the member's section of the Law Society Website at www.lawsoc-ni.org

order the release of the applicant on the ground that continuation of the proceedings against him in the Recorder’s Court constitutes an abuse of process. - whether the decision to detain him was arbitrary. - whether the applicant’s challenge should be by way of judicial review rather than an application for habeas corpus. - HELD that in the circumstances of this case the applications for a Writ of habeas corpus ad subjiciendum and judicial review be dismissed

HIGH COURT
27 OCTOBER 2009
HIGGINS LJ, MCCLOSKEY J

FAMILY LAW

ALWYN
Jurisdictional and procedural points in relation to an application under the Family Homes and Domestic Violence (NI) Order 1998 for a non-molestation order and an occupation order. - application brought by a child by his father and next friend against his mother. - whether non molestation proceedings could have been commenced in the Family Proceedings Court. - whether conditions can be attached to a residence order preventing molestation. - whether there was sufficient evidence as to the child’s understanding. - leave sought to withdraw the proceedings to the High Court on the basis that the father could commence further proceedings. - HELD that the child cannot apply for an occupation order since he is not in the category of an entitled applicant, and that leave be given for the child to withdraw the application for a non-molestation order to enable his father to commence further proceedings in the same Family Proceedings Court as was seized of the application for a residence order

HIGH COURT
12 NOVEMBER 2009
STEPHENS J

D V D (POST AGREEMENT WINDFALL)
Application to court by a wife for share of windfall received by her husband after they had separated and signed an agreement regulating their financial affairs. - whether she was entitled to a share thereof. - whether courts should uphold agreements freely entered into at arms length by parties who were properly advised. - whether there was an important change of circumstance which could lead the court to set aside the agreement. - HELD that the change of circumstance was not one that had been overlooked or unforeseen at the time of the agreement, and that it may not be reopened and application dismissed

HIGH COURT
27 OCTOBER 2009
BELL M

RE JAKUB AND DAWID (BRUSSELS II REVISED: RECOGNITION AND ENFORCEMENT OF FOREIGN ORDERS)
Appeal by the mother against the registration of an order of a Polish court awarding residence to her husband and their children. - father wishes to enforce the order so the children live with him in Poland. - legal principles in relation to recognition and enforcement of a registered foreign order. - whether there was ambiguity in the Polish court order. - welfare grounds in relation to recognition. - HELD that the appeal against registration be dismissed and arrangements finalised to bring about the order of the Polish court

HIGH COURT
1 DECEMBER 2009
STEPHENS J

RE L (REMoval FROM THE JURISDICTION: HOLIDAY)
Application to remove his 3 children from the jurisdiction for the purposes of a holiday. - children are already the subject of a residence order settling the children to live with their Mother. - written consent required from the Mother or leave of court granted before children can be removed. - Mother refuses to give consent given her belief that the children will be taken to a non-Hague Convention country. - a. 8 ECHR right to family life and welfare of the children. - HELD that the Father has a high degree of motivation to take his children to the non-Hague Convention country and the risk of non-return is high. - application for leave to take all of the children to the other European country is refused, but that one child can be taken on holiday with appropriate safeguards in place

HIGH COURT
16 OCTOBER 2009
STEPHENS J

EILEEN LOGAN V FRANCIS GERARD LOGAN
Enforcement of orders. - garnishee proceedings. - respondent had been required to pay the petitioner maintenance which to date had not been made. - application that respondent be summoned to appear personally before the Court and the specified judgment debt be amended. - relief in the form of attachment of debts (or garnishee) in respect of further arrears of maintenance which have accrued during recent months. - HELD that garnishee order made

HIGH COURT
16 JUNE 2009
MCCLOSKEY J

MC MCG V B MCG
Petitioner issued a summons seeking directions pursuant to a 25(6) Matrimonial Causes (NI) Order 1978 requiring the petitioner to pay an outstanding sum pursuant to an agreement and Order of Court on ancillary relief. - additional summons claiming relief in the form of application to set aside the court order or grant leave to appeal out of time the agreement and consent order. - whether the dramatic reduction in property prices and the inability of the respondent to generate the cash to pay the lump sum have invalidated the basis of the order. - HELD that there is no basis to set aside the court order but leave to appeal consent order is granted

HIGH COURT
6 MARCH 2009
MORGAN J
Selected High Court and Court of Appeal Decisions

LIBEL

GERARD MCDONNELL TRADING AS MICROCLEAN ENVIRONMENTAL V DAWSON ADAIR

Libel action. - Appeal against order of Master acceding to the defendant's application that the plaintiff's claim be struck out pursuant to a.18 r. 19 RCIJ or in the exercise of the inherent jurisdiction of the court. - whether the plaintiff's case is an abuse of process of the court and should be dismissed. - letter sent by the defendant to the plaintiff which he regarded as libellous. - publication and publication audience and whether the plaintiff is the victim of a real and substantial tort. - HELD that decision of the Master stands and appeal dismissed

HIGH COURT
30 NOVEMBER 2009
MCCLOSKEY J

NEGLIGENCE

SEAN FRYERS V BELFAST HEALTH AND SOCIAL CARE TRUST

Appeal by way of case stated. - plaintiff, respondent and cross-appellant claimed damages for personal injuries loss and damage arising out of an accident at work. - plaintiff sustained a needle stick injury from a used injection needle which was protruding from a bag of clinical waste which was being handled by the plaintiff. - whether the judge was correct in law in dismissing the plaintiff's claim in tort and whether the court was correct in upholding a claim for breach of contract. - whether the needlestick injury was a trivial injury. - HELD that the court erred in law in dismissing the plaintiff's claim in negligence and appeal allowed and plaintiff entitled to £3,000 agreed sum

COURT OF APPEAL
7 DECEMBER 2009
MORGAN LCJ, GIRVAN LJ, COGHLIN LJ

PERSONAL INJURIES

PAUL MCCAUSSLAND V MICHAEL ARUNDELL AND AXA INSURANCE

Compensation for personal injuries sustained in a motor cycle accident. - admission of evidence under the Civil Evidence (NI) Order 1997. - whether the defendant was behind the plaintiff at the time of the accident. - HELD that the plaintiff has failed to adduce sufficient evidence to satisfy the court on the balance of probabilities that the first defendant was directly behind the plaintiff at the time of the accident and the required standard is not met. - claim by the plaintiff cannot succeed and is dismissed

HIGH COURT
21 FEBRUARY 2008
HIGGINS LJ

PLANNING

AN APPLICATION FOR JUDICIAL REVIEW BY ANDERSON HAULAGE LIMITED

Application for judicial review of a decision of the Planning Appeals Commission rejecting the applicant's appeal against the refusal of a Pollution Prevention and Control Permit. - Environmental and Heritage Service had issued notification that planning permission had not commenced on the site and had subsequently expired. - extent of the site in which planning permission was granted in 1983. - available evidence that the applicant commenced the works under the 1983 planning permission within the required period of five years. - HELD that the matter be referred back to the Commissioner for the applicant to amend the permit application according to the newly defined site and the Commissioner to then decide whether to allow the amendment

HIGH COURT
17 NOVEMBER 2009
WEATHERUP J

AN APPLICATION FOR JUDICIAL REVIEW BY JOHN BOSWELL

Application for judicial review of a decision of the Planning Appeals Commission to dismiss the applicant's appeal against the refusal of planning permission for the retention of a serviced site for a single Traveller family. - planning dismissed on the grounds that the site was within the Green Belt and there were no exceptional circumstances that warranted approval. - planning strategy for rural Northern Ireland and Travellers accommodation. - whether the Planning Appeals Commission misdirected itself as to the application of the relevant planning policy and failed to take proper account of the evidence that there was no alternative available to the family in the light of their medical and personal circumstances. - a. 8 ECHR right to respect for private and family life and home. HELD that the Commissioner failed to take into account a material consideration and the matter be remitted back to the PAC so that this aspect of the appeal may be reconsidered

HIGH COURT
1 DECEMBER 2009
WEATHERUP J
HERON PROPERTY LTD’S APPLICATION FOR JUDICIAL REVIEW
Application for judicial review of a decision of the Planning Appeals Commission to refuse the applicant planning permission for a storage/distribution centre. - whether the Commissioner erred in his approach to the weighting of the Antrim Area Plan and the Planning Strategy for Rural Northern Ireland in deciding that the specific locational policy outweighed the Green Belt policy. - HELD that the Commissioner was correct in deciding against the first of 2 options proposed by the applicant, but that the applicant's challenge with regard to the Draft PPS 21 Sustainable Development in the Countryside is made out, and Commissioner's decision quashed and remitted to the Commission for determination according to law
HIGH COURT
28 SEPTEMBER 2009
MORGAN LCJ

PROCEDURE

BANK OF IRELAND V MERVYN COULSON
Appeal from an order of the Master dismissing the application of the defendant to set aside a judgment entered on behalf of the plaintiff on the grounds that no defence had been served by the plaintiff to a writ and statement of claim served by the plaintiff. - Master refused to set aside the judgment because of the delay on the part of the defendant and because there was no evidence that there was any meritorious defence. - HELD that the Master was correct to refuse to set aside this judgment and order affirmed
HIGH COURT
29 OCTOBER 2009
GILLEN J

New Books in the Library

Ramasamy, S. The future of legal services: an expert analysis. ARK publishing. 2009.
Smith, M. Precedent library for the general practitioner. 2nd ed. The Law Society. 2009
Singleton, S. Beswick and Wine: Buying and selling private companies and businesses. 7th ed. Tottel. 2008
Chamberlain, E. Pre-owned assets and estate planning. 3rd ed. Sweet & Maxwell. 2009.
Pre-Nuptial Agreements

Pre-nuptial agreements remain unenforceable in England and Wales as they “undermine the concept of marriage as a lifelong union”. However the Courts have been willing to take such agreements into account under s.25 of the Matrimonial Causes Act 1975. Most other countries have statutory provision for the recognition of pre-nuptial agreements upon divorce. (Wood, H. Cohabitation, law practice and precedents. 4th ed. Jordans. 2009 chp. 8)

Legislation

Matrimonial Causes Act 1975 s.25
A copy of this legislation is available from the library.

Caselaw

M v M (Prenuptial Agreement)
H and W, both Canadians had been married before. – both entered into a prenuptial agreement. – after five years the marriage broke down. - W's net worth was GBP 300,000 and that of H GBP 7,500,000. – HELD, allowing the application in part. - W should receive the lump sum as offered by H, a house in trust with reversion to H and periodical payments of GBP 16,000 per annum plus school fees for their child. - the prenuptial agreement was not determinative of the issues but was a matter that had to be taken into account by the court
19 July 2001

MacLeod v MacLeod
Appellant husband (H) appealed against a ruling awarding the respondent wife (W) a lump sum to enable her to buy a home. – ruling rejected his proposal that the home that she bought should be held on trust until the youngest of their five sons completed full-time education. - parties had entered into an ante-nuptial agreement on their wedding day in 1994 and a post nuptial agreement 2002 which confirmed the 1994 agreement but made substantial variations to it. – Appeal allowed
17 December 2008
K v K (Ancillary Relief: Prenuptial Agreement)
Pre nuptial agreement. - if the parties divorced within 5 years the wife (W) would receive a lump sum of approximately GBP 100,000 and a house in which to live with the child, and the husband (H) would pay maintenance for the child. – couple separated after 1 year of marriage. – W wanted GBP 1.6 million and periodical payments of GBP 57,000 per annum. – HELD, allowing the application in part. - W should receive the lump sum as offered by H, a house in trust with reversion to H and periodical payments of GBP 15,000. - W had signed the pre nuptial agreement in the full knowledge of what it meant and without pressure from H.
5 July 2002

Radmacher v Granatino Sub nom.: G v R (Pre-Nuptial Contract)
Appellant wife (W) appealed against a decision in ancillary relief proceedings brought by the respondent husband (H). - H was a French national and W was German, but were married in England and spent most of their married life there. – W came from a wealthy family and a prenuptial agreement was signed before the wedding which waived all rights to maintenance following divorce. – Appeal allowed. - prenuptial agreements were not enforceable in England and Wales as they were contrary to public policy but Judge would take into account that the parties’ agreement was valid and enforceable in France and Germany. – H had also agreed to sign the agreement before the wedding.
2 July 2009

Crossley v Crossley
Wife (W) appealed against an order made in ancillary relief proceedings following the breakdown of her marriage to her husband (H). – both had substantial independent fortunes and had been married before and had children. - pre-nuptial agreement was signed. – clause in agreement meant that both parties should walk away from the marriage with whatever they brought into it – Appeal dismissed. – case demonstrates the discretionary power of a judge to require a party to show the court why a contractual agreement should not rule the outcome of an ancillary relief claim.
19 December 2007
[2007] EWCA Civ 1491; [2008] 1 F.L.R. 1467

Ella v Ella
Wife (W) appealed against a decision granting a stay of matrimonial proceedings at the request of the respondent husband (H). H and W, had dual Israeli and British nationality, had married in Israel and had entered into a pre nuptial agreement that the provisions of Israeli law should apply in relation to any property. – W petitioned for the dissolution of marriage in London. – Appeal dismissed. – Judge decided that the pre nuptial agreement in the jurisdiction of Israel had considerable effect and therefore. - if H's application had been refused W would have been opening the gate to uncontrolled competitive jurisdictions
17 January 2007

All of the cases are available from the Library. Please contact a member of library staff who will arrange delivery.

Articles

Tightening the knot or loosening the noose: prenuptial agreements and measuring matrimonial happiness in pounds and pence
Recounts the path trodden by our Courts in relation to prenuptial agreements and concludes with a reflection on the English Court of Appeal's decision in Crossley.
McAuley: 2008 Writ Sept 4-6

MacLeod v MacLeod
Comments on the Privy Council decision in MacLeod v MacLeod on the relevancy of pre-nuptial agreements in divorce settlements and
whether post-nuptial agreements are binding.
2009 C. & F.L.U., 23(Apr), 9-11

Execute. Marry. Execute
Distinguishes between pre-nuptial and post-nuptial agreements in terms of legal status
Irving: 2009 NLJ 159(7355), 181*

The scramble to secure jurisdiction on divorce - could a pre-nuptial agreement assist?
Reviews UK case law on premarital agreements. Considers the implications of choosing another jurisdiction rather than the UK in terms of potential financial liability for wealthy clients.
Laura Brown and Nicola Fisher Brown: 2009 P.C.B. 3, 221-227

A new twist to the wheel
Discusses G v R (Pre-Nuptial Contract) on the weight to be given in English courts to pre-nuptial contracts where the parties are European.
Frimston: 2009 Fam. L.J. 90(Oct), 6-9

Precedents
Pre-marital agreement
Encyclopaedia of Forms and Precedents - Vol 16(2) 2005 – Form 4

Pre-nuptial agreement.

Pre-marital/pre-civil partnership agreement

Textbooks

Extended Library Opening Hours
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Classifieds

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c/o dcp Ltd
Bamford House
91-93 Saintfield Road
BELFAST  BT8 7HN

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Glengormley
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Bamford House
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BELFAST  BT8 7HN
Re: Miss Olive McGookin
Last residing at: 7 Crawfordsburn Road, Bangor, County Down BT20 3QT
Would anybody holding this Will please contact:
Tanya Brown
Official Solicitor’s Office
Royal Courts of Justice
Chichester Street
BELFAST BT1 3JF
Tel: 028 9072 4735
Email: tanyabrown@courtsni.gov.uk

Re: Miss Christina (otherwise Ena) McDowell
Date of Death: 1 January 2010
Late of: 21 Saintfield Road, Ballygowan, Newtownards, County Down BT23 6HB
Formerly of: 49 Antrim Road, Ballynahinch, County Down
Would anybody having knowledge of the whereabouts of a Will made by the above named deceased please contact:
Brian Millar
Hamilton & Millar
Solicitors
5-9 Church Street
Ballynahinch
County Down BT24 8AF

Re: Mrs Mathilda Graham (deceased)
Late of: 73 Ballyree Drive, Bangor, County Down
Date of Death: 30 October 2009
We have been instructed by the next of kin to act in the administration of the above Estate. Please advise us if you hold a Will and/or documents of title for the above-named. Please reply to:
Mr W J McCoubrey
McCoubrey-Hinds
Solicitors
61 Main Street
Bangor
County Down BT20 5AF
Tel: 028 9127 1916
Fax: 028 9127 1315
Email: wmccoubrey@mccoubreyhinds.co.uk

Re: Margaret Millsopp (deceased)
Late of: 159d Westland Road, Portadown, County Armagh BT62 4DN
Date of Death: 20 December 2009
Would anybody having knowledge of the whereabouts of a Will made by the above named deceased please contact:
Conor Downey & Co
Solicitors
Unit 8
First Floor
Legahory Centre
Craigavon
County Armagh BT65 5B
Tel: 028 3834 9911
Fax: 028 3834 9920

Re: Charles Pollock (deceased)
Late of: 29 Deerpark Road, Bellaghy BT45 6LB
Date of Death: 12 January 2010
Would anybody having any knowledge of the whereabouts of a Will made by the above named deceased please contact:
Nigel Greaves
Solicitor
Sinclair House
89 Royal Avenue
BELFAST BT1 1FE
DX 3705 NR Belfast 8
Tel: 028 9024 2371
Fax: 028 9032 5938
Re: William Davis (deceased)
Late of: 19 Dundela View, Strandtown, Belfast BT4 3DB
Would anyone having any knowledge of the whereabouts of a Will made by the above named deceased please contact the undersigned as soon as possible:
D & E Fisher
Solicitors
8 Trevor Hill
Newry
County Down BT34 1DN
Tel: 028 3026 1616
Fax: 028 3026 7712

Re: Susanna McAteer (deceased)
Late of: 117 Brompton Park, Belfast
Would any persons having knowledge of the whereabouts of any Will of the above named deceased please contact the under mentioned Solicitors:
Paul M Graham
Solicitors
70 Andersonstown Road
BELFAST BT11 9AN
Tel: 028 9060 3223
Fax: 028 9060 2678

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Registered Owners: William Jackson and Laureen Jackson
Premises: 4 Ravelstone Avenue, Bangor, County Down
Would any person having custody of or information as to the whereabouts of the title deeds relating to the above mentioned premises contact the undermentioned solicitor as soon as possible:
Denis D Humphrey
Solicitor
10 Donaghadee Road
Bangor
County Down BT20 5RU
Tel: 028 9127 3131
Fax: 028 9147 2486

Registered Owner: Martin James Gibney (deceased)
Property at: 114 St Bridget’s Terrace, Banbrook Hill, Armagh, County Armagh BT61 7LP
Would any person having knowledge of the whereabouts of the deeds and documents of title relating to the above mentioned premises produce said deeds or communicate such information to:
Sharon Keeley
Solicitor
5 College Street
Armagh
County Armagh BT61 9BT
Tel: 028 3751 1622
Fax: 028 3751 1722
Email: marie-claire@sharonkeeley.co.uk

Land Certificate may be applied for.
Sheridan & Leonard
Solicitors
19-21 High Street
BELFAST BT1 2AA
Tel: 028 9043 8833
Fax: 028 9023 5809
Ref: M23098/1JT/AMCK

Folio: 35758
County: Down
Registered owner: John Gibson
Lands of: Ballynahinch Road, Hillsborough, County Down
Take notice that any person having custody of or any 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 under mentioned solicitors and take further notice that unless the said Land Certificate is so produced or adequate information as to its whereabouts is 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
Tel: 028 9269 3475
Fax: 028 9269 9560
DX: 6060 NR DROMORE

Folio: 107SD
County: Down
Registered owner: Joseph Rushe, 26 Newry Street, Rathfriland, County Down
Take notice that any person having custody of or any 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 under mentioned solicitors and take further notice that unless the said Land Certificate is so produced or adequate information as to its whereabouts is communicated within three weeks of publication of this notice, a duplicate Land Certificate may be applied for.
Gordon Bell & Son
Solicitors
9-11 Newry Street
Rathfriland
County Down BT34 5PY
Tel: 028 4063 0248
Fax: 028 4063 1016

Folio: 22231
County: Antrim
Registered owners: William Kenneth McCrea and Robert McCrea
Lands of: 14 Ballyrobert Road, Newtownabbey, County Antrim
Take notice that any person having custody of or any 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 under mentioned solicitors and take further notice that unless the said Land Certificate is so produced or adequate information as to its whereabouts is communicated within three weeks of publication of this notice, a duplicate Land Certificate may be applied for.
Gordon Bell & Son
Solicitors
9-11 Newry Street
Rathfriland
County Down BT34 5PY
Tel: 028 4063 0248
Fax: 028 4063 1016
38

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Folio: AN32268L
County: Antrim
Registered owners: Eileen Megahey, Lorraine Megahey and Raymond Megahey Jnr
Lands of: 2 Moore Park Drive, Belfast
Take notice that any person having custody of or any 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 under mentioned solicitors and take further notice that unless the said Land Certificate is so produced or adequate information as to its whereabouts is communicated within three weeks of publication of this notice, a duplicate Land Certificate may be applied for.
Mills Selig
Solicitors
21 Arthur Street
BELFAST BT1 4GA
Tel: 028 9024 3878
Fax: 028 9023 1956

Folio: DN19668
County: Down
Registered owner: Patricia Ann Warke
Lands of: 63 Manse Road, Newtownards, County Down
Take notice that any person having custody of or any 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 under mentioned solicitors and take further notice that unless the said Land Certificate is so produced or adequate information as to its whereabouts is communicated within three weeks of publication of this notice, a duplicate Land Certificate may be applied for.
Mills Selig
Solicitors
21 Arthur Street
BELFAST BT1 4GA
Tel: 028 9024 3878
Fax: 028 9023 1956

Folio: 7483L
County: Down
Registered owner: Michael Steele
Lands of: 119 Killough Road, Downpatrick, County Down
Take notice that any person having custody of or any 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 under mentioned solicitors and take further notice that unless the said Land Certificate is so produced or adequate information as to its whereabouts is communicated within three weeks of publication of this notice, a duplicate Land Certificate may be applied for.
Mills Selig
Solicitors
21 Arthur Street
BELFAST BT1 4GA
Tel: 028 9024 3878
Fax: 028 9023 1956

Folio: AN27804
County: Antrim
Registered owner: Patrick Felix McLernon
Lands of: 6 Portlee Road, Randalstown, Country Antrim BT41 3LX
Take notice that any person having custody of or any 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 under mentioned solicitors and take further notice that unless the said Land Certificate is so produced or adequate information as to its whereabouts is communicated within three weeks of publication of this notice, a duplicate Land Certificate may be applied for.
Mills Selig
Solicitors
21 Arthur Street
BELFAST BT1 4GA
Tel: 028 9024 3878
Fax: 028 9023 1956

Folio: FE8021
County: Fermanagh
Registered owners: Yvonne Patricia Maguire and Enda Paul Corrigan
Lands of: Lands situated in the Townland of Drumbroughas
Take notice that any person having custody of or any 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 under mentioned solicitors and take further notice that unless the said Land Certificate is so produced or adequate information as to its whereabouts is communicated within three weeks of publication of this notice, a duplicate Land Certificate may be applied for.
Mills Selig
Solicitors
21 Arthur Street
BELFAST BT1 4GA
Tel: 028 9024 3878
Fax: 028 9023 1956

Folio: LY4819
County: Londonderry
Registered owners: Liam Sean McGuckin and Patricia McGuckin
Lands of: 127a Ballinderry Bridge Road, Cookstown, County Tyrone BT80 0AY
Take notice that any person having custody of or any 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 under mentioned solicitors and take further notice that unless the said Land Certificate is so produced or adequate information as to its whereabouts is communicated within three weeks of publication of this notice, a duplicate Land Certificate may be applied for.
Mills Selig
Solicitors
21 Arthur Street
BELFAST BT1 4GA
Tel: 028 9024 3878
Fax: 028 9023 1956

Folio: AN6784
County: Antrim
Registered owner: Eugene Oliver McCann and Theresa Mary McCann
Lands of: 171 Moneyrick Road, Toomebridge, County Antrim BT41 3QZ
Take notice that any person having custody of or any 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 under mentioned solicitors and take further notice that unless the said Land Certificate is so produced or adequate information as to its whereabouts is communicated within three weeks of publication of this notice, a duplicate Land Certificate may be applied for.

Mills Selig
Solictors
21 Arthur Street
BELFAST BT1 4GA
Tel: 028 9024 3878
Fax: 028 9023 1956

Folio: 1276SDL
County: Antrim
Registered owner: Michael Joseph Thompson
Lands of: 4 King’s Road, Belfast
Take notice that any person having custody of or any 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 under mentioned solicitors and take further notice that unless the said Land Certificate is so produced or adequate information as to its whereabouts is communicated within three weeks of publication of this notice, a duplicate Land Certificate may be applied for.

Mills Selig
Solictors
21 Arthur Street
BELFAST BT1 4GA
Tel: 028 9024 3878
Fax: 028 9023 1956

Folio: AN19323
County: Antrim
Registered owners: Daniel Mooney and Marjorie Veronica Mooney
Lands of: 381 Townhill Road, Rasharkin, County Antrim BT44 8ST
Take notice that any person having custody of or any 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 under mentioned solicitors and take further notice that unless the said Land Certificate is so produced or adequate information as to its whereabouts is communicated within three weeks of publication of this notice, a duplicate Land Certificate may be applied for.

Mills Selig
Solictors
21 Arthur Street
BELFAST BT1 4GA
Tel: 028 9024 3878
Fax: 028 9023 1956

Folio: AN97529L
County: Antrim
Registered owner: Shires Limited
Lands of: 1 Falcon Way, Adelaide Industrial Estate, Belfast
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 under mentioned 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.

Niall Hargan
Carson McDowell
Solictors
Murray House
4/5 Murray Street
BELFAST BT1 6DN
Tel: 028 9024 4951
Fax: 028 9024 5768
Email: niall.hargan@carson-mcdowell.com

Folio: DN94519
County: Down
Registered owners: Peter Joseph Kealey & Caroline Jane Kealey
Lands of: 21 (formerly site 20) Langtry Lodge, Moira BT67 0GT
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 under mentioned 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.

21 Arthur Street
BELFAST BT1 4GA
Tel: 028 9024 3878
Fax: 028 9023 1956

Re: James Melville Henderson-Farquhar (deceased)
Late of: 44 Kernan Grove, Portadown, County Armagh BT63 5RX
Would any person having knowledge of the whereabouts of the Title Deeds of the above premises please contact:
John McGrane & Co
Solictors
46A Meadow Lane
Portadown
County Armagh BT62 3NJ
Tel: 028 3839 1787
Fax: 028 3839 1813
Classifieds

mentioned folio should forthwith produce said Certificate or communicate such information to the under mentioned 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.

Campbell Fitzpatrick
Solicitors
51 Adelaide Street
BELFAST BT2 8FE
Tel: 028 9032 7388
Fax: 028 9032 7732

Folio: AN45892
County: Antrim
Registered owner: Belfast Gas Transmission Limited (formerly Phoenix Natural Gas Limited)

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

McKinty and Wright
Solicitors
Zurich House
5-7 Upper Queen Street
BELFAST BT1 6FS

Folio: AN15666
County: Antrim
Registered owner: Stephen McCurdy
Lands of: 20 Arran Avenue, Ballymena, County Antrim

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

Jack McCann & Son
Solicitors
20 Ballymoney Road
Ballymena
County Antrim BT43 5BY
Tel: 028 2564 2388
Fax: 028 2565 1292

Registered owners: Patrick Hughes & Mary Hughes
Of: 5 West End Park, Londonderry BT48 9FJ
Title Deeds to Property at: 5 West End Park, Londonderry BT48 9FJ
Would any person having knowledge of the whereabouts of the deeds and documents of title relating to the above property please communicate such information to: Napier & Sons
Solicitors
1/9 Castle Arcade
BELFAST BT1 5DF
Tel: 028 9024 4602
Fax: 028 9033 0330

Folio: LY25676
County: Londonderry
Registered owners: Mr Thomas Farrell and Marian Farrell
Lands of: Altnagarran Road, Claudy, County Londonderry
Take notice that any persons 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 under mentioned 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.

Mr Ciaran Hampson
Campbell Fitzpatrick
Solicitors
6 Castle Street
Derry BT48 6HQ
DX 3153 NR DERRY 3
Tel: 028 7137 2660
Fax: 028 7126 7766
Email: ciaran@cfs-law.com

Folio: DN20483
County: Down
Registered owner: Damien Roland Gilmore
Property: Lands adjacent to 10c Ballygalget Road, Portaferry, County Down
Take notice that any persons 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 under mentioned 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.

Ferguson & Co
Solicitors
Scottish Amicable House
11 Donegall Square South
BELFAST BT1 5JE
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Fax: 028 9032 6241
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