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Child Maintenance for parents
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The Society is delighted to announce that Café Carberry has arrived at the Law Society House. Ursula and Raymond Carberry owners of the Café Carberry chain are already well known to many members offering catering at the High Court and across the road from Law Society House. Their arrival complements the new café refit and provides members with a new café experience.
What you need to know about Child Maintenance for parents

Every year in Northern Ireland there are more than 2000 divorces and many more separations. More and more families are facing the difficulties arising from relationship breakdown and it is a stark reality that, while over 90% of people agree that separated parents have an ongoing responsibility to maintain their children, only around 50% of children living with one parent benefit from effective child maintenance arrangements.

The Child Maintenance and Enforcement Division (CMED) at the Department for Social Development (previously the Child Support Agency) provides the Statutory Child Maintenance Scheme for Northern Ireland. However, since 2008, it has also been promoting the financial responsibility that parents have for their children and providing information and guidance on the child maintenance choices available to parents.

A new service called Child Maintenance Choices has recently been launched by CMED to talk parents through their options around child maintenance. Choices staff will also signpost parents to other organisations which might be able to help with things like mediation, debt, family support and the range of other issues faced by families. Anyone can call to get advice – parents, grandparents, solicitors and health professionals and earlier this year Tracey Teague and John Millar from CMED delivered a CPD event to Family Lawyers providing information about the new remit of the Division and the enforcement powers used to secure child maintenance.

Child Maintenance Choices

There are three child maintenance choices:

First - a private agreement. Parents can agree together the arrangement that works best for their family. Private agreements do not necessarily have to be financial. One parent could choose to pay the mortgage or family bills such as groceries or school uniforms and as long as both parents agree, and stick to the arrangement, there will be no need for anyone else to become involved.

Second - the statutory scheme. For some families, a private arrangement may not always be practical and in these circumstances, Choices staff will talk to parents about the Statutory Child Maintenance Scheme provided by CMED. The statutory scheme works out how much maintenance should be paid and can assist with the different ways to make and receive payments.

Thirdly – Consent Orders. Choices staff will talk to parents about the availability of Consent Orders. Choices staff won’t provide legal advice but will signpost clients to the legal profession.

The impact on benefits

Since April 2010 any child maintenance received does not affect income related benefits such as Income Support, Income Based Jobseekers Allowance, or Pension Credit (unless payments take savings over £6000). This is a significant change and one which is a real incentive for both parents. The parent in receipt of benefit will have additional income for their child and the parent who does not live with the child will know that all the money is being passed to the parent with care for the benefit of the child.

Enforcing Child Maintenance

Unfortunately, there are times when a non-resident parent does not fully meet their obligation to pay and the debt and legal enforcement teams in CMED have to pursue the arrears of maintenance that have built up.

The Division has a number of enforcement powers that it uses to collect arrears. However, the first option is always to negotiate an acceptable way for parents to pay maintenance for their children. If no agreement is reached, a Deduction from Earnings Order may be used.

- Deduction from Earnings Order

A Deduction from Earnings Order (DEO) can be used to deduct ongoing maintenance and/or any arrears from a parent’s wages if they are employed. It is the main enforcement tool when an employed parent refuses to co-operate. An order is sent to the parent’s employer telling them what deductions should be made and how often. Employers are required by law to deduct maintenance from wages when instructed to do so by the Division, so going to court is not necessary. Some parents choose to pay their maintenance in this way – this is called a voluntary Deduction from Earnings Order.

- Taking action through the Courts

Taking court action is not CMED’s preferred course of action, but this will happen if parents don’t pay for their children. Legal proceedings against non paying parents can be expensive and the parent can end up paying their own and the CMED’s legal costs as well as any maintenance owed. Court action could potentially result in parents going to prison.

Where a parent fails to make regular payments of child maintenance and it has not proven possible to reach an agreement that will see the arrears cleared in a reasonable time, the enforcement team can apply to the Magistrates Court for a liability order.

- Enforcement of Judgements Office

When a liability order is granted it is registered with the Enforcement of Judgements Office which will add additional fees to the monies owed. The Enforcement of Judgements Office will meet with the debtor and initially seek to secure an arrangement before consideration of other enforcement of judgements actions.
- Order Appointing Receiver

The Enforcements of Judgements Office can make an order appointing a receiver to tell an individual or organisation that holds money or assets that belong to the non paying parent to freeze them from a given date. Once the money is frozen, the non paying parent cannot use it without the permission of the court.

- Order Charging Land

CMED can apply to the Enforcement of Judgements Office to make an order charging land. If the non paying parent owns a house, land, shares or has an interest in a valuable asset with a realisable value, we can register the arrears against the property at the Land Registry. If the property is later sold, the maintenance owed can be recovered from the proceeds. CMED can also ask the courts to force the sale of a property with an Order for Sale. Indeed the Division had success with this action during 2009 and 2010 and secured arrears of around £50,000 each for two parents with care.

- Recovery from Deceased Estates

CMED will seek recovery of unpaid Child Maintenance from the estates of deceased parents who had previously defaulted on payments.

- The last resort

If a parent wilfully refuses to pay, and none of the enforcement measures mentioned above have recovered the maintenance owed, CMED can consider asking a court to send that person to prison. This really is a last resort, because the ultimate goal is to get money flowing to the parent with care for children.

The future

For the future, a new system of child maintenance is being developed. This will be simpler, quicker, accurate and easy to understand, using the latest tax year information provided by Her Majesty's Revenue and Customs (HMRC) as the basis for working out how much child maintenance should be paid. Existing clients of the Child Maintenance and Enforcement Division will be kept advised of what these changes mean for them.

Child Maintenance Choices can be contacted on 0800 028 7439.
Or visit the website www.nidirect.gov.uk/choices
Northern Ireland Courts and Tribunals Service introduces new measures to reduce fine default

As part of the Department of Justice’s ongoing work to address the issue of fine default, the Northern Ireland Courts and Tribunals Service has recently implemented an information initiative and a fine payment record.

The information initiative consists of a number of elements aimed at improving the current level of means information given to the courts, and reminding all concerned of existing options to manage fines:

• a revised means enquiry form has been launched;

• all defendants now receive a copy of the form with their summons documentation;

• notices have been placed in court houses reminding offenders that it is in their interests to complete the new form;

• similar notices have been provided for display in advice centres;

• information has been included on the Northern Ireland Courts and Tribunals Service and NI Direct internets; and

• the judiciary and staff in the Magistrates’ Courts have been engaged.

**New means enquiry form**

The revised means enquiry form should be used in all criminal cases in the Magistrates’ Courts. So as to ensure the maximum level of returns, it is now served on all defendants (including those subject to non-PPS prosecutions) along with the summons or charge papers. Further copies are available from all court offices or to download from www.courtsni.gov.uk

The purpose of the form is to assist courts in continuing to set fines at levels defendants can afford, and to help courts in determining applications for extra time to pay or to pay by instalments. A notice to this effect is included on the form, however, this initiative is not intended to cause delay in the criminal justice system. If a defendant does not complete a form, it will be a matter for the District Judge (Magistrates’ Courts) to consider how to proceed. If a defendant does not provide his or her financial details, or if a court is not satisfied that it has been given sufficient or reliable information, it is entitled to make such determination as it thinks fit regarding the financial circumstances of the defendant. Accordingly, defendants should be encouraged that completing and submitting the form to a court is in their best interests.

**Fine payment record**

The new means enquiry form also includes a notice advising defendants that courts may now access details of their fine payment history. A “fine payment record”, showing details of fines imposed over the previous three years and whether these have been paid, is provided to the District Judge (Magistrates’ Courts), if a fine is being contemplated, at the point of sentence. A copy of the record is also given to the defendant at this stage, although a defendant may also request a copy of the record at any time before attending court, from:

Northern Ireland Courts and Tribunals Service Customer Services Centre
The Courthouse
Bishop Street
Londonderry
BT48 6PO
Tel: 028 7126 1329
Email: customerservicecentre@courtsni.gov.uk

**Time to pay and instalments**

NICTS also wishes to remind people that extra time to pay, or payment in instalments, may be available either at the point of sentence or at a later date.

At the point of sentence, a defendant can apply to a court, under A. 91 Magistrates’ Courts (NI) Order 1981, for time to pay or for payment to be made by instalments. Defendants should be reminded that the information provided on the means enquiry form will help the court to determine any such applications.

After a fine has been imposed, it may still be possible to arrange for more time to pay, or to pay a fine by instalments. An offender experiencing difficulties meeting his or her payments should be advised to contact the court office at the court where the fine was imposed to discuss these options. A note to this effect is included on the Fine Notice provided to every person fined.

**Existing options to pay fines**

People are also being reminded about the options which are available to them for paying their fines.

As well as posting payment by cheque or postal order to the Customer Services Centre (at the address above), fines may be paid by telephone using a credit or debit card or by using the NICTS’s online facility, where fines can be paid seven days a week between the hours of 6am and midnight. This service is accessible through the NICTS’s website at www.courtsni.gov.uk.

Details of each of the payment methods are set out on the Fine Notice which is sent to anyone who has been fined in court.
Breakfast Seminar
Making Mediation part of your Practice

Holiday Inn ~ Ormeau Avenue, Belfast
8:00-9:30am ~ Thursday 2nd June 2011

Seminar will cover:

- How and when to use mediation and what to do about standard tribunal/court proceedings
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- The type of preparation lawyers typically do and can charge for before a mediation takes place
- Your role as a legal representative during the mediation
- Mediation outcomes and typical chargeable fees when using mediation

Speakers:

Brian Speers ~ CMG Solicitors ~ Alva Brangam Q.C.
Caroline Boston ~ John Boston Solicitors ~ Neil Gillam ~ Donnelly & Kinder Solicitors
and David Gaston.

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Speed Awareness Schemes in Northern Ireland

Road users detected breaking speed limits in Northern Ireland are now being offered a one-off opportunity to go back to the classroom and improve their driving skills — rather than picking up a fine and three penalty points on their licence.

Since June 2010, speed awareness courses are being offered to drivers who are detected breaking the speed limits by just a few miles an hour. Those attending the course will be as a result of speed offences detected by police officers and camera captured speed offences. Not all drivers who are detected speeding are eligible to take part in the schemes - they must have received a letter from DriveTech inviting them to take part as an alternative to penalty points and a fine. This will be the case if they have been detected speeding in a low-end range.

Speaking about the initiative, the PSNI said: “Excessive speed for the conditions is the single biggest killer of people on Northern Ireland roads. This is the final warning for those who continue to break the speed limits. Additional road policing patrols will be deployed across Northern Ireland to target people who take the completely selfish decision to speed and put other people at risk.

“These diversionary courses will re-educate speeding road users and graphically illustrate the very real dangers and consequences of breaking the speed limit. Driver and riders who participate will find the interactive sessions very challenging. They will gain an insight to tragic and horrific consequences that often result from reckless driving and be urged to take more responsibility for their actions on the roads. There is no doubt that the roads would be a much safer place if more people took heed of this advice.”

Those detected of speeding and who are aged 25 years and over, are able to attend a Speed Awareness Scheme. Those aged under 25 years and detected speeding are being offered the chance to complete a Young Drivers Scheme.

The four hour classroom based Speed Awareness Scheme follows a nationally approved syllabus, and is run by DriveTech (UK) Ltd (a subsidiary of the AA) and delivered by specially selected approved road safety specialists. Courses are held in Omagh, Coleraine, Belfast and Newry.

The Young Drivers Scheme was first launched in 2008 by Thames Valley Police – by the end of 2009 almost 9,000 young drivers had completed the scheme. Compared to young drivers who accepted a fixed penalty ticket and received three penalty points, the reoffending rate of YDS participants was reduced by 60%. It aims to target vulnerable motorists and reduce the risk of young drivers becoming involved in serious injury and fatal road traffic collisions. The scheme consists of an educational workshop and online e-learning modules.

Both courses aim to generate a better understanding of the consequences of speeding and raise awareness of the importance of sticking to speed limits. The courses also help drivers recognise speed limits and provide instruction on driving more carefully.

Drivers pay £85 inclusive of VAT to attend each course which covers the cost of administering and delivering the schemes. They are only available to drivers who meet certain eligibility criteria. The Young Drivers Scheme and Speed Awareness Scheme will not be offered to drivers who exceed the speed limit excessively, or those who have attended a national speed awareness course in the past three years.

In the future, it is intended that further courses will be offered tailored to motoring offences such as driving while using a hand-held mobile phone, driving while not wearing a seat-belt and red light jumping.
The Institute of Professional Legal Studies Criminal Practice Seminar will inform criminal lawyers on a wide range of recent developments in the law, practice and procedure. Speakers will review developments in all aspects of criminal practice from investigation to trial.

Keynote Speaker, Anthony Edwards, was Legal Aid Lawyer of the Year 2008. Senior partner in TV Edwards, he writes and lectures extensively on criminal law. He is a member of the Council of Justice and of the Editorial Boards of Criminal Law Review and Cordery on Solicitors. He is also a member of the Law Commission’s Advisory Panel on Criminal Law.

**Time**: 10.00 am. – 4.00 p.m.  
**Venue**: Institute of Professional Legal Studies  
10 Lennoxvale, Belfast, BT9 5BY  
**Cost**: £150  
**The full day seminar will attract 5 CPD Hours**

Booking form and cheques, **made payable to QUEEN’S UNIVERSITY BELFAST**, should be sent to: Mrs Joan Playfair, Institute of Professional Legal Studies, 10 Lennoxvale, Belfast, BT9 5BY.  
Tel: 028 90 976521  email j.playfair@qub.ac.uk

**Closing Date for applications**: Friday, 9 September 2011  
*Please note that it is not possible to provide refunds after the closing date.*
Role of judiciary in new devolved structures

The Lord Chief Justice, in a recent speech at the University of Ulster, said that judges have an important role to play in the new devolved structures in helping to improve the justice system and that it is important that they actively engage to achieve that purpose.

The Lord Chief Justice, Sir Declan Morgan, was speaking at the 5th Chancellor’s Lecture at the University’s Belfast Campus. He said he felt it was important to explain the role of the judiciary in the context of devolution of justice as part of this process of engagement:

“There is often a lack of understanding of why judges need to be independent, what it means to say that a judge or the judiciary are independent and why judges are not and should not be accountable outside the system of appeals for their decisions.”

The Lord Chief Justice firstly explained what is meant by the rule of law. He said the rule of law is one of the fundamentals upon which democracy is based. Sir Declan Morgan said that the judiciary’s contribution towards upholding the rule of law is the fair and impartial resolution of disputes between individuals and between individuals and the State in accordance with the law. Only the judiciary can carry out this function:

“The obligation which the law imposes on the courts is to strike a balance between the rights and freedoms of the individual and the protection of the rights and freedoms of the community. Where they arise these are often difficult balances to strike but the duty of the judiciary is to ensure that the balance is struck in accordance with law without fear or favour, affection or ill-will. Every party before the court is entitled to a fair and impartial resolution of the dispute.”

The Lord Chief Justice said that in order to carry out this function it is critical that each judge is independent of each other and of the State. He described the measures that must be put in place by the state to secure judicial independence. These include:

- A constitutional or statutory guarantee for judicial independence. This means that judges are able to act without pressure, threat or interference, direct or indirect, from any quarter but particularly from Parliament or Government. The Lord Chief Justice acknowledged the respect for this aspect of judicial independence which was shown by the Minister of Justice;

- Independent judicial appointments, security of tenure and judicial remuneration. These are all designed to ensure that an individual judge or the judiciary generally are not at risk of financial disadvantage should they reach a decision which is not agreeable to Parliament or Government;

- A disciplinary system which ensures that the high standards of probity and integrity expected of judges are maintained and that appropriate action is taken if such standards are breached;

- A budget for the judiciary which is established in collaboration with Government but administered by the judiciary itself or a body independent of Parliament and Government which acts in consultation with the judiciary. This is the model that has been implemented in Scotland and the Republic of Ireland. The Lord Chief Justice said he has already indicated to the Minister of Justice that a similar model would be appropriate for Northern Ireland: “Strategic control of the budget for the administration of judicial work is a fundamental aspect of judicial independence which I would expect to see delivered in the forthcoming Assembly”.

The Lord Chief Justice referred to the specific measures which ensure that judicial independence is respected and upheld. He added, however, that this responsibility lies not just upon the State:

“Internally the judiciary also have to promote and secure independence. Every judge is an independent judge. No judge can be told how to deal with a case or what conclusion he or she should come to. The independence of the judiciary includes
The Lord Chief Justice then touched on judicial accountability. He said he had considerable reservations about this notion. He accepted that the judiciary has an obligation to take all reasonable steps to secure public confidence in the administration of justice but felt that this does not make judges accountable to anyone. The Lord Chief Justice said he preferred to think of the judiciary as having responsibilities. In fulfilment of these responsibilities judges are expected to give decisions which explain the reasoning for their outcome. If any party is dissatisfied with the outcome they frequently have a right of appeal.

The Lord Chief Justice also noted the role of the media in this respect. He said the media are entitled to criticise any judicial decision with which they do not agree and where appropriate to campaign for changes in the law if deemed necessary. He added that the media have, of course, a responsibility to present an accurate and comprehensive account of the material facts but that the judiciary must never be accountable to the media.

The Lord Chief Justice said that judges have an important role to play in helping to improve the justice system. He mentioned initiatives aimed at achieving this including the engagement between the judiciary and different parts of the criminal justice system to address the issue of avoidable delay. He also cited the work the judiciary is doing to improve transparency and consistency in sentencing. The Lord Chief Justice said that such engagement does not offend the principle of judicial independence but represents an entirely appropriate collaboration between the judiciary and others who have an interest in the justice system generally. He emphasised that “judicial independence does not mean judicial isolation.”

The Lord Chief Justice concluded that there should be dialogue between each of those involved in the justice system. In doing so, each should respect the proper interests of the other and be aware of the need to ensure as far as possible that public confidence in all aspects of the administration of justice should be maintained. He hoped he had succeeded in conveying the message that the judiciary should engage with the community at large in carrying on its work and stressed that he is both willing and anxious to do so:

“The objective for all of us is to build a justice system of which the people in this community can be proud and which secures widespread support and the confidence of the public. I am absolutely committed to ensuring that the judiciary plays its part in achieving that end.”

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Alternatively ask your solicitor for our legacy leaflet.

Northern Ireland, Chest Heart & Stroke
21 Dublin Road, Belfast, BT2 7HB
Registered Charity No: XN 47228
Gone are the days of a lonely fire extinguisher, idly propping open an office door, offering sufficient compliance with fire safety procedures.

The Fire Safety Regulations (NI) 2010 SR2010 No.325 came into force on 15 November 2010 marking a shift in rationale in how we protect ourselves, our employees and our properties from the dangers of fire in the workplace; a change, that you have to agree, is for the better.

The change in legislation shines a spotlight on business owners, commercial tenants, employers and anyone with a degree of control over a non-domestic property (so deemed the responsible person) to adopt a proactive ethos to mitigating the risk of fire and the likelihood of that risk becoming a reality.

As such, those with responsibility for a non-domestic property are required to have a fire risk assessment conducted by a competent person. If you employ five or more employees, or require a licence or registration, you are required to record the significant findings of the assessment in a written document, along with the actions which have been taken to combat the risk.

With nearly 4,000 primary fire incidents reported in 2008, fire safety should not be cast to the ever growing ‘to do’ pile along with alphabetising your business cards or de-scaling the kettle. A solid client base, an experienced staff roster and an impressive IT system will do little in the way of fire prevention. Protective and preventative measures must actively be put into place in order to reduce your exposure to identifiable fire risks.

The intention of the Northern Ireland Fire and Rescue Service (NIFRS), in introducing the Fire Safety Regulations (NI) 2010, is not to benefit risk assessment service providers, but to simplify fire safety legislation so that business owners, tenants and employers can gain a greater understanding of their obligations in mitigating the risk of fire.

Individually, an operational fire alarm system, maintained fire extinguishers, emergency lighting and fire exit signs all play an important part in managing fire safety in the workplace.

A fire risk assessment should not supersede these items as matters of importance, but should instead pull them together, assessing them as an effective fire prevention strategy.

The very nature of a risk assessment is simplistic. A truly accurate assessment is one which looks through the eyes of the business owner, an employee, a visitor or anyone who may be put at risk. The document itself is user friendly and easily understood so that it can be used and referred to on a regular basis.

There is no set format which a risk assessment should follow. There are, however, a number of key considerations that need to be taken into account when carrying out the assessment in order for it to be deemed suitable and sufficient.

These can be broken down into five steps:

1. Identify the hazards
2. Identify the people at risk
3. Evaluate, remove, reduce and protect from risk
4. Record, plan, instruct, inform and train
5. Review – the NIFRS has advised on a yearly review

The NIFRS is not taking the change in legislation lightly, nor is it complacent in assessing the compliance of those affected premises. The NIFRS withholds the right to enter any premises to inspect whole or part of the premises, with no prior notice required to be given: the overarching aim being to assess compliance with its legal obligations.

The idea that, ‘if something isn’t broken, don’t fix it’, could not hold less truth when considering fire safety.

A proactive and a regularly reviewed approach to fire safety is a positive step towards reducing the risk of a fire incident occurring. The harsh reality of fire is that it only takes one incident to occur to result in significant damage caused to property or significant harm caused to an employee or a client.

Be safe, be fire risk assessed.

We are grateful to Eugene Murray, Fire Risk Assessor with Fire Risk NI for this article. He can be contacted at:

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Filor Building – Twin Spires Centre
155 Northumberland Street
Belfast BT13 2JF
Telephone: 028 9031 1002
Email: fireriskni@ortus.org

Eugene Murray
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‘Fitness to practise’ under the microscope

In the recent case of Thiruvengadam –v- General Medical Council [2010] NIQB 123, the court was asked to consider the procedural requirements of the Fitness to Practise Committee (“FPC”) of the General Medical Council.

Under the provisions of the Medical Act 1983 the FPC is an adjudicatory panel which deals with allegations of deficiency in professional performance. This Committee has an extremely important statutory jurisdiction. In addition to dealing with patient initiated complaints, it has a regulatory role which enables it to raise concerns about a practitioner’s competence, impose warnings, limit areas of practice, require substantial levels of retraining and remove a medical practitioner’s name from the register. The caseload for the FPC is considerable and the outcome of the assessment is effectively the evidence which must be heard and determined by the FPC.

There is some little legal and philosophical doubt as to the characterization of the proceedings before the FPC and there is an argument that they are disciplinary or regulatory rather than punitive. Be that as it may, this powerful tribunal is empowered to impose substantial penalties upon a doctor in respect of whom the panel concludes his or her professional performance to be inadequate. If it reaches such a conclusion then it may impose a variety of sanctions.

A disappointed practitioner has the automatic entitlement to a statutory appeal from the decision of the FPC. The appeal formerly went to the Privy Council but under the provisions of the Medical Act 1983 as amended the appeal now goes to “the relevant court” and jurisdiction is determined by the domicile or habitual residence of the affected practitioner.

There is a certain vagueness about the exact nature of this appeal process but it is certainly a re-hearing which is something similar to the process contemplated by Carswell J in Re Baird [1989] NI 56 which was later the approach adopted in the ten year cycle of litigation culminating in the decision of the House of Lords in Porter –v- Magill [2001] UKHL 67. The governing principles seem to be:-

(a) The court is at liberty to regulate its own procedure and the re-hearing does not necessarily involve a rehearing of evidence. Exceptionally new evidence may be admitted.

(b) The appeal is something more than a judicial review on Wednesbury grounds or other irrationality.

(c) The findings of the FPC committee stand as evidence but it is open to challenge by the appellant and the Court is entitled to take a different view to that of the FPC.

(d) The Appellant should usually open the case and show something like a prima facie case that something went amiss.

(e) If something is shown to be “amiss” with the decision, it is then for the Respondent to prove the material before the court that the decision can stand.

The statute provides that the court may dismiss the appeal, allow the appeal and quash the direction appealed against, remit the case to the FPC and make such Order as to costs as it thinks fit.

Part of the General Medical Council’s prosecutor’s evidence in the recent case consisted of the assessors’ scoring of Objective Structured Clinical Examinations (OSCEs). Whilst the number of assessors may vary, four assessors looked at this particular practitioner and this part of the assessment involved providing him with some instructions before requiring him to interview, take a history, examine “dummy” and actor patients and provide any differential diagnoses. The assessors then scored, or more accurately graded, his performance using an A for acceptable, a C for cause for concern or a U for unacceptable. An additional part of the assessment involved a review of the case notes of a number of “real life patients” who had been assessed and treated by the doctor at some time in the past.

In the case of this Appellant, funding support from his defence organisation was withdrawn approximately one month prior to the Fitness to Practise Panel. He had previously had the benefit of funding and legal representation for the preparation and presentation of his case to the FPC. He made two applications in writing to the FPC requesting a six month
adjournment in order that he could obtain the necessary papers and in particular he repeated a request made by his former solicitors that he have access to the paper materials comprised in the OSCEs. At the time of these applications he was the subject of an Interim Panel Order which prevented him from practising as a registered medical practitioner.

In addition to the two written requests for a postponement, he managed to speak with a member of the GMC legal team some four days prior to the planned hearing. In response to his request for the case notes and the OSCEs he was told that they were not available and that in any event it was not the policy of the GMC to make such material available for the doctor’s preparation of his case before the FPC.

In the absence of the doctor, the FPC convened and proceeded to take evidence over three days and ultimately decided that he should not be referred for retraining and that the appropriate sanction was to remove his name from the register. But for the availability of Legal Aid it is likely that this doctor’s appeal would not have proceeded.

In the hearing before Mr Justice Gillen it was argued that, at best, the FPC had applied a rigid application of process both in denying the two written applications for postponement and proceeding to hear and determine the evidence in the absence of the doctor. On behalf of the appellant it was submitted that this, without more was enough to amount to an obvious and gross breach of the doctor’s Article 6 right to a fair trial and that the decision should be quashed and the FPC be required to hear and determine the issue anew. It was also pointed out that denial of the production of case notes and OSCEs deprived the doctor of an essential opportunity to call into question some strikingly differential scoring of the assessors who were merely providing evidence upon which the FPC was required to make an adjudication.

The court gave consideration to what the civil lawyer would call the discovery entitlement of a party and whilst observing appropriate deference to issues of expert medical opinion, it found the GMC’s position in relation to the OSCEs at least unattractive. The non production of this material was resisted on three separate grounds. Firstly it was contended that the material was confidential and that it required a considerable amount of preparation to create a bank of such material which should be subject to very restrictive access. This essentially was a resources argument. Secondly, it was contended that it would be contrary to the public interest to allow this material to be put into the public domain since this would have the consequence of publishing the nature and content of the tests. The third objection was that the particular doctor’s performance had been so very poor that production of the OSCEs would have been of no benefit to him.

This latter argument perhaps portrays a certain fixed mindset on the part of the GMC as “prosecutor” in such cases. Similarly the acceptance of this position by the FPC points towards a misunderstanding of the role of an adjudicatory panel charged with determining issues of evidence between assessors and a doctor whose proficiency is under consideration. It would certainly be a cause for concern if the FPC viewed itself as charged with a duty to approve or rubber stamp the conclusions of a highly procedural assessment where many doctors – with or without professional representation – may find themselves ensnared in complex procedures which can make them the victim of at least avoidable error.

In this particular case the GMC gave nine months’ notice of the hearing before the FPC. Anyone faced with an invitation to appear before such a committee will need to consider resort to all of the excellent procedural remedies and protections which are certainly contemplated by the Rules.

It is not unlikely that the GMC will continue to resist requests for documentation. There is also a risk that the GMC can lose sight of the adjudicatory role of the committee and that their concept of a fair trial involves little more than coming to a conclusion and protecting all of the background data from production in order to have that conclusion approved by the FPC. In order to protect the interests of a doctor before this committee, the practitioner (whether medical or legal) will require a considerable amount of preparation in order to obtain a basic understanding of the complexities of the assessment process which is also the subject of the Rules.

This is a highly technical and complex system of assessment which uses multiple methods of individual and group scoring, the application of average datum levels, peer review, interview and structured clinical examination. In the case under appeal there were a number of areas of marking where two members of the panel scored the doctor’s particular activity as A – acceptable, whilst two chose the diametrically opposed U - unacceptable.

There is a string of authorities which make it clear that in an area of expert medical assessment the court should be reluctant to look over the shoulder of skilled medical practitioners and the licensing of medical practitioners is not an area which would benefit from any excess of procedural legalism. Having said this, the jurisdiction of the FPC controls the livelihood of many who have gained significant academic and professional qualifications and pursued a career within their medical vocation and their right to practise should not be determined by a committee which fails to examine the weight of evidence or afford the practitioner the appropriate protections provided by the Rules.

We are grateful for this article to Alva Brangam QC who was instructed by P K Nolan & Co. Solicitors, Belfast on behalf of the applicant in this case.
Changing horizons

I have a strange confession to begin this article with. I have a lot to thank Ronald Reagan for.

Let me explain. As someone born in the early seventies I was just starting to become aware of the world beyond my home when Reagan was coming to power. Even as a young child I was fascinated by the news reports of whatever he was doing. I became extremely interested in world affairs and America in particular as a result of ensuring I watched the 6 and 10 o’clock news each day and became an avid reader of newspapers and magazines. Something I continue to do to this day.

Recently the BBC aired a show giving a detailed history of Reagan and it sparked my admiration for the man, if not his politics, once again. The show referenced a speech he had given in 1964 which really kick-started his transition from actor to politician and I was struck by a comment he made which to me hopefully will help me inspire debate within the membership of our Society on an issue I feel very strongly about. What he said was this:

“We’re at war with the most dangerous enemy that has ever faced mankind in his long climb from the swamp to the stars, and it’s been said if we lose that war, and in so doing lose this way of freedom of ours, history will record with the greatest astonishment that those who had the most to lose did the least to prevent its happening.”

We are in Northern Ireland gripped by a severe recession that is causing a sharp decline in traditional areas of work. Legal Aid whatever we may think is going to disappear in its current form. Personal injury litigation is being consolidated within a number of key players and whilst we can be hopeful that eventually things will change for the better in the economy an even bigger threat is looming that most people either don’t even know about or don’t appreciate the danger and that is the introduction of Alternative Business Structures (ABSs) in England and Wales and a diluted version of them in Scotland.

When we hear the abbreviation ABS, we think it’s to do with the brakes on your car, but let me tell you these ABSs will be putting the brakes on your practice if you don’t wake up to the advantages of them and start to realise that if the rest of the UK have them, we’d better have them and pretty darn quick. (as Ronnie might have put it!)

Essentially, ABSs mean that a non-lawyer can own a legal practice either in full or in part. This means that in a regulatory environment where you can access outside investment, firms can get the funds and/or resources to develop new niche products and ways of delivering legal services thus growing and securing your future.

There is, however, a fear that non-lawyer ownership will lead to an erosion of the ethics of the profession where profit is put before people. Look around at the most successful non-legal businesses you know – are they all unethical? I doubt it, more likely they are successful precisely because they put their customers first. They provide an excellent range of services and get well paid in the process. Is that not what we all want for ourselves?

ABSs should start to exist in England & Wales before the end of the year and we are sleepwalking into irrelevance by ignoring them.

The first country in the world to allow outside ownership of law firms was Australia. And the first firm to take advantage of this was a company called Slater and Gordon. They raised around 15million Australian dollars by selling shares in the practice. They then used this money to instil very strong corporate structures within the practice and began aggressive marketing and growth by acquisitions of other firms. Some 5 years later 25 % of all personal injury claims in Australia are handled by this one legal practice. Think about that for a moment. Think about the implications for your practice if someone else in the market had 25% of the market share.

‘But ABS’s aren’t going to be allowed in Northern Ireland so we have nothing to worry about and stop scaremongering,’ the unenlightened will say. ABSs are not allowed in all of the states in Australia and
this will not stop firms in the rest of the UK if they decide to come here. And they are already coming. As legal practitioners rather than ‘business people’ we are woefully unprepared for the challenge ahead of us. We have, in the main, never been trained for the war we are currently fighting let alone the obliteration we are going to face when our competitors launch the ‘A-(BS) Bomb’.

There are examples of non-lawyer entities providing legal services in Northern Ireland, for example there are a myriad of Employment Law consultancies for example Peninsula.

Now I should say at this point that I think that all of these threats will be good for the profession in the long run and good for the consumers. Far from eroding choice, ABSs will be another choice and one that I know clients will go for in their droves.

Everyone wants convenience these days. We are all too busy, and when faced with the easy option we are going to take it. Do not be critical of your former client who avails of these options. They are taking it because they want to do what is in their interests and not yours - that is their right.

It is incumbent upon us in the profession to wake up to this reality and adapt, we have to stop grumbling about what others are doing and realise that we can change to meet the demands of the modern world.

How the consumer does, and indeed prefers, to access legal services has rapidly changed in the last ten years and will continue to do so. How you thought your practice and career would run is going to have to change also.

The traditional idea of the ‘local solicitor’, exampled by the twee practice of Stephen Fry’s character in the TV series ‘Kingdom’ has a place but only a very small one at the table going forward.

The Bain Review of Legal Services did not recommend that Northern Ireland follow the regulatory changes being envisaged for the rest of the UK, arguing that Northern Ireland is different and that we need our own special rules. I’m urging you to think about this and think if that is your experience. Are you insulated from competitive threats to your business? Are you going to be surviving in your business in 5 years time doing what you have always been doing? If you think you are, then good luck in your retirement. If you can see that things have to change, I would urge you to start doing your homework. Start talking to colleagues in other jurisdictions. Learn from them and start putting pressure on your local associations and the Law Society Council to reopen the debate on ABSs.

It could take 6 months to even get this issue on the radar from this standing start. By that time they will be operational in England and Wales and they have taken 5 years to implement them. A week is a long time in politics and 5 years is an entire lifetime for legal practices.

My fear is that by the time we all realise we should have done something we will have lost the war ie the people with the most to lose did the least to prevent it happening.

It’s up to us as individuals to safeguard the profession.

It’s up to us as individuals to safeguard the profession. This does not mean maintaining the status quo, it means ensuring that we evolve and progress. The time for action has, in my opinion, long passed but we can still do something, but it will mean letting go of our traditional views. It will mean inviting in business minded people to our practices. It will be an exciting time for the profession but only for those who can open up to the possibilities.

I will conclude with another quotation from Ronald Regan and hope that I have stirred your interest in this subject.

“Each generation goes further than the generation preceding it because it stands on the shoulders of that generation. You will have opportunities beyond anything we’ve ever known.”

I again reiterate my wish that you should be asking for the issue of ABSs to be looked at again by the Society. Do not allow yourself to be misguided into thinking that change is a bad thing. There are already inspirational new niche practices forming - yours could be one of them or you could leave the shackles of your current firm to create a new one. We need to be able to play the same game as those in the rest of the UK to get those opportunities we need to innovate and survive. They won’t have any sympathy for us. We should be the hunters and not the prey.

We are grateful to Jonathan McKeown of JMK Solicitors for this article.
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,
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 2011, and
4. Can provide a suitable training environment for an apprentice

please complete the form below and return it to the Admissions Officer 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 8 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 2011/2012**

I confirm that I am interested in acting as a Master as and from September 2011 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)
--------------------------------------------------------------------------------------------

Would you prefer to receive applications from prospective applicants:

CV by email

CV by post

Firm’s own recruitment procedure (please detail)................................................................
--------------------------------------------------------------------------------------------

Date …………………………………….

Please return the completed form to:
Admissions Officer, Law Society of Northern Ireland, Law Society House, 96 Victoria Street, Belfast BT1 3GN or DX422 NR BELFAST 1.

The results of the Admissions Test and first round letters of offer have been issued to applicants.

**Incentives for Masters**

The Society has agreed to the following incentives for Masters for one year.

- **Free CPD**
  New Masters who take on an apprentice in September 2011 will be entitled to claim up to 15 hours’ free CPD. This applies to Law Society events only. New Masters may attend the CPD events free of charge (up to 15 hours) in the 2012 CPD year. Masters who took on an apprentice in September 2010 can similarly claim up to 15 hours free CPD for this current CPD year - 2011 - by attending Law Society CPD events.

Please advise the CPD Coordinator at the time of booking if you are a Master.

Some Law Society events may be excluded. The offer may not apply to the September 2012 and future intake of apprentices.

- **Free Library Research**
  Up to £50 available subject to terms and conditions.

- **Registration Fee Reduced**
  The registration fee for apprentices for the September 2011 intake (ie those who register by 22 August 2011) has been reduced from £375 to £187.50.
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Business & Share Valuations, Sale & Purchase Agreement Reviews, Consequential Loss Claims.

**Matrimonial Disputes**
Business Valuations, Tax Efficient Structures, Advice on how to fund settlements, Specialist Pensions Advice.

**Insurance Claims**
Claims Assessment, Professional Negligence, Consequential Loss, Medical Negligence, Personal Injury & Fatal Accident.

**Fraud**
Fraud Investigations, Development of Fraud Prevention Measures, Anti-Fraud Training.

**Asset Investigation & Tracing**
Investigations to uncover Financial Crime, Trace Assets & Recover Criminal Profits.

For more information contact Johnny Webb on 028 9043 9009 or email johnny.webb@bdo.co.uk

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President delivers inaugural lecture

Society President, Brian Speers, who was recently appointed as Visiting Professor to the Graduate School of Professional Legal Education at the Magee Campus of the University of Ulster, delivered his first lecture in that capacity on 14 April 2011. Mr Speers spoke on the topic ‘Different Lights on the Horizon, Changing Times for the Legal Profession in Northern Ireland’ at the main teaching room of the Graduate School which has places for 28 solicitor trainees at Magee.

Mr Speers stressed the growing importance of alternative means of dispute resolution to the legal profession in Northern Ireland. He said that it was important that the next generation of lawyers appreciated the growing importance of Alternative Dispute Resolution, mediation and other options of resolving conflicts for their clients rather than relying exclusively on court-based options. He also spoke of the need for university-based lawyers to ensure that the training provided to future lawyers reflected this changing legal environment. The lecture was followed by a lively question and answer session among the solicitor trainees, law students and legal staff from across the University.

Mediation course goes from strength to strength

In April 2011, solicitors and barristers from across Northern Ireland successfully completed the ‘Mediation Training Course’ at the Institute of Professional Legal Studies in Belfast. The course, now in its tenth year, is run by SLS Legal Publications in conjunction with the Law Society and provides training in advanced negotiation, dispute resolution and mediation. As in previous years the course was delivered by experienced mediators and skills trainers led by Brian Speers (CMG Solicitors), David Gaston, and Alva Brangam QC.
Annual Conference 2011 in Amsterdam

Following upon last year’s successful Conference in Budapest, President Brian Speers led almost one hundred delegates and guests to the Law Society Annual Conference in Amsterdam on 7 April 2011.

Spring was in the air in the Netherlands and throughout the Conference the sun was shining, with colleagues rekindling old friendships amidst the hustle and bustle of one of the greatest small cities in the world. Coleraine, Derry, Downpatrick, Newry, Enniskillen and Limavady were all represented. Conference veterans such as Sinead Toal, Adam Curry, Lara McIntyre and Denise Gillen mingled with first timers such as Rory Campbell, Mathew Forde, Declan Rodgers and Peter McGertick.

Fortified by the sponsorship of First Trust Bank, Marsh Limited, Zurich and First Title/BlueChip, the brave delegates were able to briefly shelve professional and pre-election worries and with the conference theme being “new legal horizons”, the sun was not to set philosophically speaking during our Dutch sojourn.

Our numbers included the Presidents and Chief Executives of the Law Societies of Scotland and Ireland. The working session on Friday morning promised to focus on mediation including developments in our jurisdiction and from a European perspective, how mediation can be used in our jurisdiction and from a European perspective, how mediation can be used in professional negligence disputes and highlighted the differences between mediation, arbitration and statutory adjudication.

Acclaimed as the greatest planned city of northern Europe, both beauty and serenity co-exist happily with a slightly seamy underside. Both facets of this split personality continue to draw visitors from all over the world. The start of the new millennium has marked a period of urban growth with ambitious architectural projects and top-notch cultural facilities.

At the Welcome Reception in our stylish Renaissance Hotel, the right note of friendship and cordiality was struck. No-one seemed too concerned that we were standing on precarious low-lying ground at the confluence of the Amstel and IJ rivers which like much of the Netherlands, could flood frequently but for land reclamation and sea defences.

The only tsunami we encountered that day’s business session to an end. Brian Speers provided us with a worthy thanks to Noel Phoenix and Martin McLaughlin – even the President joined in midway through American Pie!

The Saturday morning business session was introduced by Simon Murray and there were significant contributions from Gary Thompson from Marsh, Reema Mannah of First Title, John Costello, President of the Law Society of Ireland, Jamie Millar, President of the Law Society of Scotland, the “double act” of Ciaran Fegan and Conor Houston from the Young Solicitors and the morning was completed...
by Paul O’Connor our Communications Officer - as always attempting to broaden our IT horizons.

That afternoon we enjoyed a canal bus with a multi-lingual commentator which proved to be a most relaxing way to meander past more tourist attractions and glamorous shopping districts. It is always a particular pleasure to float past an expensive shopping district with no danger of the purse being opened.

The Gala Dinner was the highlight of our final evening being held in the Conference room in the Renaissance Hotel known as the Koepelkerk which was built in 1668 and was once an inspiration for the Dutch painter Vincent Van Gogh. The image of our illuminated President speaking from a raised pulpit and suspended as if by magic in mid-air will stay with me forever. The late evening that followed provided the best musical entertainment in the 2B lounge with more good news filtering through that close family members at home had backed the Aintree Grand National winner – all was well in the world.

The signatories of the Treaty of Rome were determined “to lay the foundations of an ever closer union amongst the people of Europe”. Certainly our Conference succeeded in this regard. Friends were made with delegates from Scotland, and the Republic of Ireland and many Dutch Ulster friendships blossomed. The future is indeed a bright flowery Orange.

All of those who enjoyed the Conference are indebted to our Chief Executive, Alan Hunter, to our President, Brian Speers and his wife Jenny, to the Conference Organiser, Rory McShane and to Emma King and Jamie Stinson from the MCI UK Conference Team, who meticulously organised the visit.

Before departing on Sunday morning there was still time for a visit to a church or two and Caroline McGonagle and Olive Brennan squeezed in a last minute canal cruise.

This was a memorable Conference for all involved. As for next year -

after the continental successes of Prague, Barcelona, Paris, Berlin, Budapest and now Amsterdam - one is reminded of Shakespeare’s lines about the fickleness of love resembling:

“The uncertain Glory of an April day,
Which now shows all the Beauty of the Sun,
and by and by a Cloud takes all away!”

Will it be Fermanagh or Florida? Watch this space.
Annual Conference 2011 in Amsterdam

From left: Brian Speers, President of the Law Society; Jenny Speers, Dympna McGowan and Joseph McGowan from First Trust Bank.

From left: Glenn Watterson; Laura Baker and Lorraine Keown.

From left: Brigid Napier; John Greer; Ciaran Fegan; Conor Houston and John Andrews.

From left: Joan Rice; Sinead Toal; Adam Curry; Eugene McNally and Karen McNally.

From left: Declan Magee; Alan Hunter; Maxine Hunter; Barry Finlay; Eileen McGrattan and Hugh McGrattan.

Imelda McMillan, Senior Vice President and James Cooper

From left: Brian Speers, President of the Law Society of Northern Ireland; Jenny Speers, Alison Kelly and Peter Kelly from Marsh.
Title assured

According to official statistics released by the Insolvency Service, both individual bankruptcies reported at 2,323 and compulsory and voluntary liquidations reported at 382 were at their decade long peak in Northern Ireland in 2010. 2011 may unfortunately prove to be more promising given that the majority of these bankruptcies and insolvencies are linked to individuals and companies over-hedging on the stability of a property market, the collapse of which was both sudden and rapid. The end result is that property transactions involving repossession and receiver sales are now commonplace and the mainstream conveyancing profession needed to quickly adapt to this changing marketplace.

This new property marketplace facilitates a niche sellers advantage as good investment properties sold at the right price are circled by cash rich buyers. This often means that deals are agreed and contracts exchanged within a matter of weeks. It also means that creditors or the receivers selling on their behalf have had the opportunity to entrench the standard practice of providing no standard replies to enquiries and no title warranties on transactions.

Prospective purchasers are therefore compelled to carry all the title risks in transactions where they are under time pressures to either accept the position or simply decline the deal. Even more perturbed than the purchasers of these properties would be their solicitors who must solely rely on their own title due diligence and on any limited information provided by the seller to advise their client. Thoughts of the knock on effects on their professional indemnity cover would also undoubtedly enter their minds. The quandary which these solicitors face is finding the solution for transferring risk away from their client and from their practice so that latent title defects do not present themselves when there is no point of return.

First Title was approached in 2009 by the receivers appointed to act for creditors to the Dawnyay Day Group, to provide a solution to this quandary. The end result of our analysis and risk assessment was a title insurance policy which provided good and marketable title cover for a portfolio of 226 properties valued at in excess of £600m. The policy was designed to replicate the risks which the standard replies to enquiries would have addressed had these been provided by the Seller.

Title insurance was not only employed as a technical enabler to this deal but it also was integral in facilitating more efficient deal mechanics. The policy reduced time expended on the detailed title due diligence and was used as a substitute for local authority searches which meant further cost reductions. Where known title defects were discovered in the course of a limited due diligence exercise these were added to the policy coverage thereby saving further costs and time. This innovative application of a product which was traditionally used in the limited context of risk transfer for known title defects has since then been replicated and applied to a variety of distressed assets transaction structures.

The product application now ranges from the provision of a title safety wrapper around large portfolios of distressed property assets to (more commonly in Northern Ireland ) providing assurance to purchasers of individual properties and their funders that they are purchasing property which is title risk free. Specialist policies have been created to assist with the sale of residential properties at auction to offer comfort to purchasers that they do not require to take a view on at least the title aspect of the deal. Repossession sales present purchasers with unique issues the most frequently encountered being missing title documentation or lack of evidence that alterations carried out to properties were buildings regulations compliant. These can all be covered off as known title defects by endorsements on the policy. The product keeps evolving as the flow of distressed assets remains unabated.

Keeping the momentum for quick, cost effective and transparent sales of distressed assets is a critical counterpart to an economy in long term recovery mode. Creditor sellers, their agents, property purchasers, their solicitors and funders must focus on deal completion if the market is to remain sustainable. Sometimes this involves re-arranging the structure of the deal so that all parties benefit even if this means deviating from established perceptions of when and how title insurance can assist with property deals.

First Title plc is a wholly owned subsidiary of First American Financial Corporation (NYSE: FAF). First American Financial Corporation is a leading provider of title insurance to the real estate and mortgage industries that traces its heritage back to 1889. First American and its affiliated companies also provide title and other real property records and images; valuation products and services; home warranty products; property and casualty insurance; and banking, trust, and investment advisory services. With revenues of approximately US $3.9 billion in 2010, the company offers its products and services directly and through its agents and partners in all 50 US states and abroad.

Reema Mannah
Head of Business Development (Scotland & NI) and Solicitor

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Reema Mannah is the Head of Business Development (Scotland & NI) and a Solicitor. She is dual qualified to practise English and Scottish Law. She also holds an MSC in Investments Analysis from Stirling University, has 10 years’ experience of working in property law and five years’ industry experience which she gained at First Title’s London and Glasgow offices. Reema currently manages all title underwriting and business development functions for First Title’s Scottish, Northern Irish and Irish operations.
**Visit of Dutch Law Students**

In March 2011, over 30 Dutch Law students from Radboud University in the Netherlands were welcomed by the President, Brian Speers and Chief Executive, Alan Hunter, to Law Society House. The students and their professors were visiting Northern and Southern Ireland as part of a three day study trip to learn about the different legal systems and jurisdictions. As part of their visit to the Law Society the students were provided with presentations from the President, Brian Speers, Chief Executive, Alan Hunter and Anne Devlin, Secretary to the Education Department.


**Law Society lends support to Will to Give Appeal**

‘Will to Give’ is a new Northern Ireland charity which has been created through a partnership between NICVA and 19 local charities with the support of the Law Society. The new campaign mirrors the hugely successful ‘Remember a Charity’ appeal in England & Wales which has been running for a number of years. The new charity’s principal aim is to encourage the public to make wills using the services of their local solicitor and to consider leaving a legacy to charity when doing so.

Speaking at the launch in early April, Imelda McMillan, Vice President of the Law Society, said:

“The Law Society of Northern Ireland is delighted to be part of this initiative which highlights the importance of making a will and the value of speaking to a solicitor about ensuring that your wishes are carried out.”

Will to Give has, in consultation with the Society, produced a detailed leaflet on the benefits of making a will which has been designed to be displayed in solicitors’ offices. Copies are available to all firms in Northern Ireland, free of charge.

Further information can be found at www.willtogive.org
A Day in the Life of LawCare

LawCare’s helplines open at 9am. Trish McLellan (LawCare’s Co-ordinator for Scotland and Northern Ireland) is on duty today based at her home in Edinburgh. She starts by checking for any messages which might have been left overnight, then checks and responds to some email messages from the other staff, and one of her contacts at the Law Society of Scotland. She then looks at the previous day’s case notes as she was not on duty.

At 9.20am the phone rings. It’s a tearful, newly qualified solicitor who feels she is being victimised by her supervisor after being loudly berated for being five minutes late. Trish speaks to her for forty minutes, helping to calm her down, finding out more about the bullying behaviour, and encouraging her to take steps to deal with it. She offers the caller the support of a volunteer, but the caller declines, opting instead to read the pages on bullying on LawCare’s website. Trish then enters detailed notes about the call on LawCare’s closed and confidential computer system, enabling other members of the helpline staff to identify the caller should she call again. Another call at 11 am is from someone who has called several times before, and needs a few more words of encouragement and support. Trish suggests a counsellor; the caller agrees and Trish arranges to call him back later in the day with details of suitable counsellors in his area.

Meanwhile, Mary Jackson, LawCare’s Co-ordinator for Ireland, is in Cork touring an addiction treatment centre. Unlike UK units, Irish treatment centres have not historically accepted private referrals. Since most Irish lawyers do not want to be referred through their GP, this can pose a problem. As with other centres she has visited, Mary is able to speak at length to the Director, who agrees to accept Irish lawyers referred through LawCare.

Ann Charlton (Co-ordinator for England and Wales) is giving a lunchtime presentation to a firm of thirty solicitors in Nottingham. She arrives with her laptop and projector, sets up the screen and puts the materials for the delegates on the chairs. The presentation is about stress recognition and management, and Ann trains the attendees for an hour and a half, using humorous DVD snippets and including having the delegates do some exercises to assess their own stress levels. There are contributions from the floor and questions afterwards. The presentation is well received. Each of the delegates has gained 1½ CPD hours and the firm has paid a little over £3 per delegate in covering LawCare’s expenses.

Anna Buttimore, LawCare’s Administrator, is based at her home in Essex. She starts work at 9.30am by going through the post and email. She then designs a new advertisement to be used in a legal journal, sends out some leaflets to a firm which has asked to distribute them to its staff, and updates two case files with reports sent in by volunteers. A journalist phones asking about levels of stress in the bar, and Anna is able to give him some relevant statistics - in return for a promise to include LawCare’s helpline number and website in his article. As a charity, LawCare needs all the free publicity it can get.

Hilary Tilby, LawCare’s Chief Executive, spends the morning preparing an application for continuing funding to submit to the Law Society of England and Wales Charity which is LawCare’s largest funder. Their grant is not guaranteed and it is necessary to reapply each year. Once it is finished, Hilary leaves for London. She has a meeting with an executive from one of the professional groups LawCare represents, where she discusses ways to help make members more aware of the services available. Following this, she appears with a helpline caller at the SDT (Solicitors Disciplinary Tribunal). At the caller’s request, she is able to explain that the solicitor reported being under considerable personal pressure at the material time, and documents a number of calls to the helpline. The Tribunal takes this into consideration, and the solicitor is given a fine, a better outcome than the solicitor was expecting.

Meanwhile Trish takes another call from someone who first called several days ago, worried about the amount he was drinking. Ann, who was on helpline duty that day, had advised him to go to his GP and AA as well as sending him an alcohol information pack, but he was particularly keen to speak to a volunteer. Unfortunately, neither of the volunteers Ann had called has returned her messages. Trish assures him that she will keep trying and updates his case file with a record of his visit to the doctor.

Mary phones Anna to let her know the outcome of her visit to the treatment centre, and Anna adds a link to the unit to LawCare’s website. Hilary is manning a stand at a legal conference the following week, so Anna prints several copies of each of LawCare’s information packs and puts these into a box to send to the venue, so that Hilary can hand them out to delegates. By 5pm Trish has taken three further long calls and is getting behind on writing up the notes and following up volunteers and counsellors. She phones Ann, who is happy to take over the helplines until they close at 7.30pm.

Hilary’s presentation is about stress recognition and management, and Ann trains the attendees for an hour and a half, using humorous DVD snippets and including having the delegates do some exercises to assess their own stress levels. There are contributions from the floor and questions afterwards. The presentation is well received. Each of the delegates has gained 1½ CPD hours and the firm has paid a little over £3 per delegate in covering LawCare’s expenses.

It’s been a good day. Four new case files, and updates to several more. Thirty lawyers educated about stress and a new treatment centre available to Irish lawyers. A solicitor helped in a disciplinary matter and publicity arranged so that more lawyers will know about the help and support available from LawCare.

LawCare’s free and confidential helpline is open 365 days a year on 0800 279 6888 (9 am to 7.30pm on weekdays, 10am to 4pm at weekends and on Bank Holidays.) – see also www.lawcare.org.uk
Society CPD Courses

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<th>Cost</th>
<th>CPD hours</th>
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<td>£45</td>
<td>3</td>
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<tr>
<td>Client Care</td>
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<td>Law Society House, Belfast</td>
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</tr>
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</table>

For more information or to book any of the above courses please e-mail susan.duffy@lawsoc-ni.org or jennifer.ferguson@lawsoc-ni.org or telephone 028 9023 1614.

Magee trainees on winning form

Two trainee solicitors from the Graduate School of Professional Legal Studies at the University of Ulster, Magee Campus have won the regional heat of the Client Counselling Competition organised by the Law Society in March 2011. Kathryn Stelfox and Orlagh McMurray are currently in the last phase of their apprenticeship. The two trainee solicitors will now go forward to the international competition in Maastricht in the Netherlands in late Spring 2011.

In the photo from left are: Anne Devlin (Judge), Kathryn Stelfox (Participant), David Gaston, (Judge) Orlagh McMurray (Participant), Colin Mitchell (Judge), Anne Brown (Team Tutor).

AGM of Notaries

John W D Pinkerton (Secretary) (left) and Paul K Nolan (President) of the College of Notaries Northern Ireland (right) with E Rory O’Connor, author of the definitive work on Notaries’ practice in Ireland, who addressed the AGM of the College on 31 March 2011.
An absolute legal right
The substantive interview in asylum cases

Ashleigh Garcia, trainee solicitor at Law Centre (NI), discusses the importance of the substantive interview in an asylum claim.

In 2008, the Independent Asylum Commission (IAC) prepared a report ‘Saving Sanctuary’, following a review of the UK asylum system. In the foreword, Sir John Waite and Ifath Nawaz, Co-Chairs of the IAC stated:

‘... we have an asylum system that purports to provide sanctuary, and yet the public has little understanding of what ‘asylum’ means, associate it -indelibly- with a range of negative and unrelated issues, and have little confidence in the asylum system itself.’

The word ‘sanctuary’ connotes the image of a safe haven; where people who have suffered persecution, torture and separation from their loved ones can come to take refuge. One would expect that the vulnerabilities of such people would be recognised, and that their arrival in the UK should signal the end of adverse treatment and hardship. In reality, asylum claimants in the UK are faced with a system that has room for improvement; coupled with an often misled public perception of the nature of asylum.

The substantive interview

One of the most crucial stages of the process, where there should be no impediment posed or effort spared by the UK Borders’ Agency (UKBA) to obtain all relevant information, is the substantive interview. This is the applicant’s opportunity to explain to the UKBA why they fear return to their country of origin, and to elaborate on the background of their claim. It may be their only opportunity to do so. In essence, what the applicant discloses at this point becomes the basis of the asylum claim. During the interview, the UKBA interviewing officer will test or probe the information provided and, where necessary, ask the applicant to explain any apparent discrepancies in evidence previously given in support of the claim. The Court of Appeal in the case of Dirishe [2005] EWCA Civ 421 recognised the significance of this stage in the procedure when it held that, in the absence of a solicitor, all substantive interviews must be taped to safeguard against procedural unfairness.

Notwithstanding the importance of this interview, there is no absolute right for an asylum applicant to have a legal representative present. In its guidance ‘Conducting the Asylum Interview’, UKBA states that it ‘believes that legal representation at an interview is not necessary to enable an applicant to set out his grounds for his asylum and/or human rights application.’ Any objection, however, should not be without specific reason and must first be referred to a Chief Immigration Officer (CIO). In practice, it appears that UKBA tolerates the presence of legal representatives provided that they do not act beyond their limited scope for input.

According to UKBA, the role of legal representatives is to ‘observe the interview, and ensure that the interview process is understood by their client.’ Any comments they may have about the interview must be made at the conclusion. There are limited grounds for legal representatives to interrupt during the interview, with the possibility of their removal if they continue to do so. Any decision to remove a legal representative may be challengeable.

The PACE interview

The rights of an asylum applicant in these circumstances are in stark contrast to the rights of an accused in a criminal case.

Under Code C of the PACE Codes of Practice ‘a detainee who has been permitted to consult a solicitor shall be entitled on request to have the solicitor present when they are interviewed.’ Removal from the interview is not defaulted on mere interruptions, but may occur where the solicitor’s ‘conduct is such that the interviewer is unable properly to put questions to the suspect.’ During the interview, the solicitor may intervene to seek clarification; challenge an improper question or the manner in which it is put; advise the client not to reply to particular questions; or give the client further legal advice. If a solicitor’s ‘approach or conduct prevents or unreasonably obstructs proper questions being put to the suspect’ the interview may be stopped by an officer not below inspector rank. Unlike an immigration substantive interview, the police interview will not reconvene until the accused has had the opportunity to consult another solicitor so that s/he will not be interviewed without a legal representative present.

If an asylum seeker is being interviewed under caution for an immigration offence, PACE applies. S/he is therefore entitled to have a legal representative present at the interview.

The provisions in the PACE Codes of Practice are there to protect the welfare and rights of the accused and to ensure that, should they be charged, they are given a fair trial. The information disclosed in the police interview is adduced as evidence in court, and can ultimately affect the outcome of the case.

The benefits of legal representation

Parallels can be drawn between the journey of a criminally accused in the criminal system, and an asylum seeker in the immigration
In both sets of circumstances, the initial interview is the cornerstone that the entire case will be built upon. Whereas there is sufficient recognition and provision for this in the criminal arena, the rights of asylum applicants are not protected by the restrictive role of the legal representative. This would be unacceptable even if UKBA were providing an exemplary service at the substantive interview, and making correct first instance decisions. However, according to the ‘Saving Sanctuary’ report, this is not always the case:

‘... the appeal stage is becoming part of the first instance decision making process rather than a process of independent review, meaning that UK Border Agency decision-makers do not always conduct a proper analysis of the individual protection claim.’

The Commissioners found that the high rate of cases won on appeal indicated a high rate of poor initial decisions; but that ‘representation by an accredited and high quality legal representative is likely to play a significant part in the number of cases won on appeal’. They noted that this highlights the harmful repercussions for some asylum seekers who do not have the benefit of early legal support.

The benefits of excellent legal representation throughout the entire process, and particularly at this stage, cannot be overemphasised. The legal representative can protect the current position and wellbeing of a client at the interview. Primarily this will involve ensuring that s/he is comfortable; that s/he understands the interpreter; that s/he receives adequate breaks; that a verbatim note of the interview is being recorded; and that the interviewing officer acts appropriately throughout the interview. However, the role of the legal representative should not stop there, despite UKBA’s policy that it is simply to ‘observe’ the interview.

The Law Centre’s approach

At Law Centre (NI) we have found that by taking a proactive role and thinking laterally, more benefits can be conceded for clients before or during the interview and ultimately make the experience easier for them.

To highlight, one of our asylum clients was breast feeding and had no alternative child care for her baby. At her screening interview she had to resort to covering herself with a blanket in the waiting area as there were no appropriate facilities. The caseworker anticipated that the substantive interview would last more than four hours and wrote to UKBA requesting that a room be prepared to accommodate the client, and it was. This is an example of a good working relationship between Law Centre (NI) and the UKBA caseworker.

In the case of very vulnerable clients, the legal representative may wish to prepare a comprehensive witness statement to avoid the need for the interviewing officer to question the applicant at length regarding issues that may distress her/him. The legal representative may also submit further representations within five days after the interview to clarify or expand upon any points.

Recently, UKBA has been using interpreters from England via video link for substantive interviews. In some cases this is welcome as it provides for the quicker scheduling of interviews; but it is not always appropriate. In one particular interview, the service provided by the interpreter was not of an acceptable standard. She left mid interview to answer her mobile phone; mistranslated words on a number of occasions; and put questions to the client that the interviewing officer did not ask. The Law Centre’s legal representative wrote to UKBA highlighting the difficulties with the interpreter. This may provide a point of appeal should the applicant be refused asylum; but also, in the long term, it will hopefully ensure that a high standard of interpreting is maintained throughout the system.

Building the foundations of an appeal case

High quality legal representation at the substantive interview can help begin to build the foundations of a case, should the claim be refused at the first instance. This makes it imperative for solicitors to properly brief their clients before the interview and to attend it with them. Legal aid is available for solicitors to do this but Law Centre (NI) is aware that some solicitors do not attend the substantive interview. This has been confirmed by Justin Kougme, Chair of Northern Ireland Community of Refugees and Asylum Seekers (NICRAS).

Not a mere courtesy

Given the importance and vital role that legal representation can play in an asylum application, the presence of a legal representative should not merely be a courtesy afforded to applicants by UKBA or something which a solicitor can opt out of. It should be an absolute legal right.
Judicial independence – a conference

A conference on judicial independence will be held at the Inns of Court, Belfast, on the afternoon of 24 June. It is organised by the Attorney General’s Office and Law Centre (NI) with the support of the University Of Ulster School Of Law. Speakers will be:

- **Rt Hon Sir Declan Morgan,**
  Lord Chief Justice of Northern Ireland
  *Judicial Independence in the 21st Century*

- **Judge Ann Power,**
  Judge of the European Court of Human Rights
  *Judicial Independence and the European Convention on Human Rights*

- **Gregor Vollkommer,**
  Justice Representation of the Free State of Bavaria to the European Union
  *Doctrinal and practical background to judicial independence in Germany*

- **Prof. Anne-Lise Sibony,**
  University of Liège
  *Assessing Quality and Preserving Independence - Opposing Objectives?*

- **John F Larkin QC,**
  Attorney General for Northern Ireland
  *Judicial Independence - How far does it go?*

For more information, contact Ann Cartwright
ann.cartwright@lawcentreni.org

Training at Law Centre (NI)

**BELFAST TRAINING**
9 June -
10 June -
European Law and Social Security Update
17 June -
Immigration and Criminal Justice
22 June -
Pregnancy and Benefits

**WESTERN AREA TRAINING**
1 June -
Advising Migrant Workers
15 June -
Pregnancy and Benefits

All Law Centre courses count towards CPD requirements for solicitors and barristers.
Contact Law Centre (NI) training unit on 924 4401, or visit our website for more details: www.lawcentreni.org
Guide to High Court Costs

The BSA High Court Guide has been around for many years. It has been constantly updated to ensure that it corresponds closely to the costs allowed by the Taxing Master and that it represents a fair and reasonable remuneration, proportionate to the value of the case.

However, Practitioners should be aware that the High Court Guide is currently under review to reflect the increased level of work between the stages of issuing proceedings and setting down and also the increase to the hourly rate set by the Taxing Master.

From 1 April 2011 the hourly rate has been increased to £100 for work done by solicitors. This applies to all work done on and after the 1 April 2011. In the previous two years the rate had been £97.

Guide revised by an increase of 14.11% to take account of increases in the hourly rate and changes in procedure

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<thead>
<tr>
<th>Range</th>
<th>Before issue of proceedings</th>
<th>After issue of proceedings</th>
<th>After setting down</th>
<th>Within 21 days of trial</th>
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There is clear evidence that the BSA Guide is a more accurate indicator of taxation awards than other scales, in particular those promoted by the local insurance industry. We would urge all practitioners to continue to insist upon fees based on the BSA Guide where possible.

We would emphasise that those practitioners who keep proper time recordings are better placed to achieve the BSA Guide, or in excess of same, on taxation.

Mr Paul Kerr, costs drawer, has stated: “In the words of Lord Justice Girvan, ‘the taxation process is cumbersome, time consuming and expensive’. It is therefore very much in the interest of all solicitors engaged in personal injury litigation to agree costs without recourse to taxation. The Belfast Solicitors’ Association’s Guide to High Court for a long time has been and remains an indispensible tool with which to achieve agreement.”

The Guide was last revised in January 2006 to take account of an increase by the former Taxing Master, the late Master Napier, of the hourly rate payable on a standard basis taxation\(^1\) from £78.00 per hour to £85.00 per hour for work after 1 April 2005. Since then the present Master, Master Bailie, has further increased the hourly rate from £85.00 per hour to £94.00 per hour.

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\(^1\) The amount of costs payable to a successful litigant is the amount assessed on a standard basis taxation: RSC Order 62 Rule 3(d)

The Master has again increased the hourly rate to £100.00 with effect from 1 April 2011.

As awards and settlements in excess of £100,000 are now more common, the Committee has also decided to increase the guidance given by the Guide to settlements and awards of up to £250,000.

The Guide has also been restructured to more accurately reflect the divisions of work for work done after 1 April 2008 and to £97.00 for work after 6 April 2009. This is an increase of £12.00 or 14.11% over the hourly rate of £85.00 payable when the Guide was last revised. In order to maintain parity with what will now be allowed on taxation therefore the Committee has decided to increase the various amounts recommended by the Guide by 14.11%. The table set out left incorporates that increase. The Master has again increased the hourly rate to £100.00 with effect from 1 April 2011.

The Guide has also been restructured to more accurately reflect the divisions of work.
required from a solicitor by changes in High Court procedure such as the Pre-Action Protocol.

This guide is intended to apply to personal injury actions settled after 1 May 2009 and it is not recommended that the Guide should apply to the following categories of cases:

- Professional Negligence.
- Assault Actions against the Crown.
- Medical Negligence.
- Industrial Disease Actions.
- Commercial Litigation and Chancery.
- Defamation.

The BSA recommends to all practitioners that the above guide is fair and reasonable in the majority of personal injury actions.

Solicitors are advised that, even in the majority of ordinary cases, the appropriate point recommended by the Guide should be increased in the following situations:

1. In cases of industrial disease, particularly “chest” cases, the appropriate figure on the Guide should be increased by 10%.

2. An extra £220.00 (to reflect an additional 1½ hours’ work, which is the average time spent) should be added for each of the following:

   (a) Interlocutory applications.
   
   If applications become complicated and lead to matters such as a remittal appeals in the High Court, the BSA recommends that time is recorded and that extra costs are added to the guide to reflect time spent.

   (b) Review hearings before a Judge or Master.

   (c) Completion of Certificate of Readiness and County Court Appeal Questionnaires.

3. Multiple Defendants

   If there is more than one Defendant at Defence stage and each Defendant is being separately represented, we recommend that for the first additional Defendant an extra 20% be added to the appropriate point on the Guide and for every additional Defendant thereafter a further 10%. This is to reflect the payment for additional time.

4. If the case runs to trial, we are informed that the Taxing Master will normally allow an average of £825.00 for each additional day of Trial and £660.00 for each half day for an ordinary case. Again this figure should be added to the appropriate point on the Guide.

5. The attention of members is drawn to the guidelines given by Lord Justice Carswell, as he then was, in Antoinette Carr –v- Margaret Poots [1995] NI 428 as to the proper approach to be taken in a case which is compromised for significantly less than its potential. His Lordship held that in such circumstances the “worth” of a case was neither the knockdown value of the settlement nor its full potential. His judgment supports an approach that an amount halfway between the settlement and the potential of the case should be taken as the point on the Guide for the appropriate costs.

6. The Guide is intended for use in settlements or awards up to £250,000.00 and members are advised to try and negotiate an individual amount for costs in high value settlements. Should members wish to use the Guide as the basis of calculating costs in such cases the Committee suggests that the amounts in the final band of the Table be increased for each additional £25,000.00 as follows:

   • Before issue of £2,250 for each additional £25,000.00 up to £1 million and proceedings: £1,125 for each £25,000.00 thereafter.
   
   • After issue of proceedings: £2,250 for each additional £25,000.00 up to £1 million and £1,125 for each £25,000.00 thereafter.
   
   • After setting down: £2,250 for each additional £25,000.00 up to £1 million and £1,125 for each £25,000.00 thereafter.
   
   • Within 21 days of trial: £2,250 for each additional £25,000.00 up to £1 million and £1,125 for each £25,000.00 thereafter.
   
   • Opening day of trial: £2,250 for each additional £25,000.00 up to £1 million and £1,125 for each £25,000.00 thereafter.

7. In cases where liability is admitted at or before the service of the Defence, a 10% reduction should be allowed.

8. If a case is settled on the opening day of trial before 1.00 pm, the amounts in the final column should be abated by £200.

Whilst the Guide has been arrived at after much consideration of various arguments and with the assistance of a very experienced costs drawer, we believe that all practitioners need to educate themselves in relation to costs. The fact of the matter is that those Solicitors whose time is recorded are in a position to achieve higher costs.
Every year the Belfast Solicitors’ Association enters a number of teams in the Belfast Marathon. The Association has a long tradition of working with local charities to enhance the reputation of the profession in Belfast and to raise much needed funds for local worthwhile causes.

Currently the BSA is working in a charitable partnership with the NI Hospice and Children’s Hospice, helping to raise both funds and awareness for this extremely worthwhile cause.

This year teams from John McKee & Son, Sheridan and Leonard, Higgins Hollywood Deazley and MSM Solicitors took part to raise money and were duly kitted out in the distinctive purple t-shirts emblazoned with the Hospice logo. On a blazing hot day, the Marathon had a record number of entries and the crowds on the street were very supportive of all runners.

Philip McBride from John McKee & Son said: “Marathon day in Belfast is a great event and it is always good to be able to support a local charity. The relay event is good fun and not too taxing on the body. Hopefully, next year more solicitors’ teams will take part through the BSA and support the Hospice.”

The BSA would like to thank the staff at the Hospice and the runners who took part. Donations are still coming in and we are happy to accept donations from any firms or individuals.

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**CPD Seminar Series 2011**

1. **Thursday 9 June 2011** – the role of the Attorney General for Northern Ireland – Mr John Larkin QC.

2. **Thursday 23 June 2011** – 10 leading cases in Judicial Review law – Dr Gordon Anthony of Queen’s University, Belfast.

3. **Thursday 15 September 2011** – long term Care Planning – Bob Frazer of Towry Law.

4. **Friday 30 September 2011** – half day Client Care and Practice Management Seminar – the implications of the new Pension Scheme particularly for solicitors – Bob Fraser of Towry Law.

   Lifetime Financial Planning for clients – Bob Fraser of Towry Law.

   Client complaints – John Guerin of Campbell Fitzpatrick Solicitors.

5. **Thursday 20 October 2011** – Environmental Law by Dr Sharon Turner of Queen’s University, Belfast.

6. **Thursday 10 November 2011** – Co-ownership Law and Procedure – Dr Heather Conway of Queen’s University, Belfast.

7. **Thursday 24 November 2011** – Incorporate Insolvency – Brigid Napier of Napier & Sons.

8. **Thursday 8 December 2011** – PPI Insurance – Colin Mitchell of McCartan Turkington and Breen
BSA Annual Gala Dinner Dance

11 June 2011
Belfast City Hall

7.30pm for drinks’ reception to be seated for dinner at 8pm.
Dinner and entertainment (with a few surprises thrown in!)

Tickets are £48 per person or £450 per table of 10. (Ticket price include a sumptuous five course menu to be served with wine per table).

Demand is already high for tickets. We would recommend early booking to avoid disappointment!

Guests are also able to take advantage of a room package deal at the nearby five star Fitzwilliam Hotel which has kindly offered our attendees a special room rate for that night at £115 per single and £125 per double bed and breakfast. Please ring early to book your room and quote ‘Belfast Solicitors’ as your reference.

Proceeds from ticket sales will go to the Solicitors’ Benevolent Fund.

Please contact the BSA administrator to reserve your ticket:
briege@belfast-solicitors-association.org

Cheques should be made payable to ‘BSA’, c/o The Administrator, Suite 7, Merrion Business Centre, 58 Howard Street, Belfast BT1 6PJ.
Inaugural Ulster Interfirms’ GAA All Star Night

On 25 February 2011, The Errigle Inn played host to the inaugural Ulster Interfirms’ GAA All Star Awards Night. The event was the brainchild of our very own Gary Rocks, who is the Ulster Interfirms’ Secretary.

The event was attended by all of the participating Interfirms teams which included the PSNI, NIFRS, Law Society, Citibank, Allstate, Belfast City Council, Belfast Surveyors and NI Water, all of whom were extremely keen to find out who was to get an All Star Award. Sean O’Neill, former Solicitor and Down GAA legend, was the guest of honour along with our very own CEO, Alan Hunter and Gerry McClory of Ulster GAA.

Gary Rocks, MC for the evening, kicked off proceedings by thanking all for their attendance and then formally presenting the winners of the League and Shield Cup with their trophies and medals. As those formalities were nearing an end you could almost cut the tension in the room as the announcement of the All Stars was looming. As the selection process for the All Stars had been shrouded in such secrecy, the intended recipients had no idea they had won an award.

In total 24 Interfirms Players received their inaugural All Star Awards, three of whom were from the Law Society team. The Law Society All Stars were Colm McElroy, Aidan Donnelly and Andrew Morrow and Alan Hunter presented them with their awards.

A great night was had by all and hopefully next year the Law Society team can pick up a few more All Star Awards.
The 10th Annual International Law School Mediation Tournament was held from 24-27 March at the BPP Law School in London. The Institute of Professional Legal Studies at Queen’s University (IPLS) entered this prestigious event for the first time. Having finished in second place overall in the UK competition, trainee solicitors Simon Kelly, Nick Nolan and Suzanne Keenan were keen to develop their skills at international level, and, despite being relative novices, Laura Clarke, Severina Kelley and Julie Ellison were delighted to be chosen from the Bar class at the IPLS to form another team.

In the weeks leading up to the event, the Director of the IPLS Anne Fenton, and solicitor David Gaston provided some invaluable coaching. It became clear very quickly that the skills we had developed at the IPLS in other areas were readily transferable to mediation. Indeed, the format of the competition meant that not only were our skills as mediators on display but also how we performed as advocates and in the role of client. Accordingly, we knew even before the competition began that we would be putting to good use our training in case analysis, client care, advocacy and negotiation.

On the first day of the event we were introduced to Case Ellis, President of the International Academy of Dispute Resolution, the organisation running the competition. During the coming days, he and other leading proponents of mediation, including founders of the organisation Richard Calkins and Fred Lane, shared their experiences of mediating with us. Having each had long and successful careers as litigators in the US, they are now passionate about mediation as a process that values conciliation over confrontation, and that empowers the parties to reach an agreed resolution rather than having an outcome imposed upon them in Court. We also spent time meeting the other teams who were from as far afield as the US, Canada, Australia, India and Germany.

Having listened to and learnt from the professionals, on the third day the competition began. There were three rounds in the tournament so in each round one team member acted as mediator while the other two acted as advocate and client. Each team member had to perform each role once. The mediator role was perhaps the most challenging as the mediator was required to give an opening address intended to explain the process of mediation and settle the parties before taking control of the mediation. This entailed deciding when to enter conference or caucus and directing the process towards a resolution. Meanwhile the advocate/client team were taking part in another mediation working closely together to reach a resolution that the client was happy with.

The standard of the competitors was very high and we were given no indication of how we were performing until the awards were presented. Many teams, particularly those from the US, regularly participate in mediation tournaments. Therefore we were delighted to learn that Simon, Nick and Suzanne were placed 2nd in the advocate/client team division and 10th in the mediator team division, while Laura, Severina and Julie were 7th in the mediator team division and 9th in the advocate/client team division. There were also prizes for outstanding individuals in each category. In the individual advocate/client division Laura and Julie were placed 6th and Nick and Suzanne were 8th.

Overall it was a very successful outing for the IPLS and the Director’s suitcase was significantly heavier on the way home carrying all our trophies. Even more importantly, we’d like to think our success has helped put Northern Ireland on the International Mediation map!
Make a difference - as a Family Mediator

Family Mediation NI (FMNI) is delighted to announce the next Family Mediation Foundation Training course in Northern Ireland. This course is provided by FMNI’s own team of experienced trainers.

The programme is approved by the College of Mediators (one of the lead bodies of the Family Mediation Council, UK). We are currently seeking approval by the Mediators Institute Ireland to ensure reciprocity across Ireland. It also complies with the European Union directives on mediation.

The course will be delivered in Belfast and will consist of 11 days of intensive training and approximately 20 hours of reading and preparation. (Venue to be confirmed)

DATES:

<table>
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<tr>
<th>Module 1:</th>
<th>29 Sept to 1 Oct</th>
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<td>Module 2:</td>
<td>13 to 15 Oct.</td>
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<td>Module 3:</td>
<td>27 to 29 Oct.</td>
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<td>Module 4:</td>
<td>17 to 19 Nov.</td>
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COST: £1750 per person, which includes all catering, training materials and family mediation certification.

AIMED AT: those involved in family law, social science, couple counselling, family work, mediation or conflict transformation,

- who wish to become professional and accredited Family Mediators for whom this is the necessary first stage in a continuous process of professional development or
- those professionals who wish to add to their skills base in the area of family mediation.

To receive an application pack or get additional information please contact
Family Mediation NI
7 University Street
Belfast BT7 1FY
Tel. 028 9024 3265 email: enquiry@familymediationni.org.uk

Closing date for receipt of applications: 12th August 2011
Spring awakened in Belfast as NIYSA played host to an international conference, as the European Young Bar Association (EYBA) delegates descended upon our city for their annual Spring Conference.

It was a huge honour for the NIYSA to play host to this prestigious event and was an opportunity to promote our profession and indeed our city.

The EYBA is an organisation which represents over 200,000 young lawyers across geographical Europe and its members are drawn from Bar and Solicitor Associations across the continent. It holds three conferences throughout the year and provides a platform to share ideas and to build a strong network of young lawyers across legal borders.

The conference drew together representatives of young lawyer organisations from Denmark, Spain, Portugal, England & Wales, Scotland, Norway, The Netherlands, Italy, Latvia and the Republic of Ireland. The NIYSA was also delighted to welcome representatives from the American Bar Association and from Canadian Bar Associations with whom our Association has strong links.

The NIYSA has been an active member of the EYBA, demonstrating that our small jurisdiction can play a crucial, relevant and influential role on the international stage.

Our international guests began to arrive on Thursday evening and we treated them to some local Belfast culture in the Crown Bar, where we were able to meet other delegates and re-acquaint with some old friends.

At the opening of our new Law Society House in 2010, His Honour Judge Burgess in his address stated that: “We stand in a building of space and light – a light that catches the mood of a new dawn for Northern Ireland. A reflection of a profession that is confident and forward looking.” These words encapsulate the progressive Spring Conference held in Law Society House – a most fitting venue for this international event.

The NIYSA is delighted to have a committed, eager and inspiring Honorary President in Judge Burgess. The Recorder of Belfast opened the conference, welcoming our delegates and reflecting on the importance of young lawyers playing a proactive role within their profession.

The President of the Law Society, Brian Speers, also welcomed the delegates to the Society and he reflected on his time as Chair of the NIYSA and the fact that he is the first Chair of the NIYSA to have become President of the Law Society.

The NIYSA Chair, Ciaran Fegan and EYBA President, Heidi Sandy, set the scene for the rest of the conference and reflected on the close working relationship between our Associations.

From left: Attorney General for Northern Ireland John Larkin QC; David Ford MLA, Minister for Justice for Northern Ireland; Pat Convery, Lord Mayor of Belfast; Heidi Sandy, President of the EYBA; Sir Declan Morgan, Lord Chief Justice of Northern Ireland; Ciaran Fegan, Chair, NIYSA; Johnny Webb, Partner BDO Accountants and His Honour Judge Burgess, Recorder of Belfast.

The first business session of the day was entitled ‘Justice & Conflict Transformation’ and we were honoured to have a very distinguished expert panel – the Attorney General for Northern Ireland, John Larkin QC, Professor John Morison from the School of Law at Queen’s University, Belfast and Colonel James Durant III, former Chair of the ABA and current head of US Military Forces within the UK.

The discussion was extremely informative and provided an insight into the role of the Attorney General, the issues facing our transitional justice society, the current constitutional, legal and political arrangements and the role of lawyers and law in moving towards a post-conflict society. Colonel Durant provided a comparative in the role of role of lawyers in the civil rights struggle within the US.

Our delegates were then taken to the magnificent surroundings of Belfast City Hall, where the Lord Mayor of Belfast, Pat Convery, hosted a Civic Reception to welcome our international guests to Belfast. The NIYSA was privileged to have as its honoured guests at the Civic Reception, The Lord Chief Justice for Northern Ireland Sir Declan Morgan and the Minister for Justice, David Ford MLA, both of whom welcomed and addressed the delegates.

The afternoon session began with Brian Speers presenting the development and benefits
of mediation as an alternative in dispute resolution, demonstrating that our profession is looking to new opportunities within the legal market. Johnny Webb, Partner from BDO Accountants, then provided an overview of the current financial market in Northern Ireland and the role of an accountant in assisting in early dispute resolution.

Our final session of the conference was a panel discussion on ‘Life as Lawyer in Northern Ireland’. Our panel was comprised of Presiding District Judge for Northern Ireland, Fiona Bagnall, solicitor Brigid Napier from Napier & Sons, Barra McGrory QC, Paddy Savage, Barrister-at-Law and chaired by Conor Houston, solicitor with JJ Rice & Co. Our European counterparts were given an insight into the varied and vital roles that each branch of our profession plays and the interaction between us as lawyers.

That evening we enjoyed a supper and music in the Ivory Restaurant at the House of Fraser, allowing delegates to reflect and debate the many interesting topics from the conference. It was also a chance for young solicitors from Northern Ireland to build relationships with lawyers across Europe and beyond.

Early Saturday morning we took our European and American colleagues on a tour of Belfast – taking in the city centre, Stormont, Belfast Castle, Titanic Quarter and of course the Falls and Shankill Roads. Delegates remarked on the architectural beauty and rich history and culture our city possesses.

That evening a “Shamrock Ball” took place in the stunning and opulent Merchant Hotel – a beautiful meal and dancing to ‘The Untouchables’ was a great way to conclude our weekend programme!

The conference was a tremendous success and of course would not have been possible without the generous support of our main sponsors BDO Accountants in Belfast, particularly to Johnny Webb and James Woods. We are also truly grateful to all the speakers who gave their time and provided their experience so willingly and graciously.

The NIYSA is indebted to the Law Society and its staff for all the assistance and support with the event, illustrating the strong working relationship between the organisations.

After the success of the conference, we can be proud of our city, our people and of course, our profession – we can play a leading role on the international stage. The conference allowed us to share perspective, ideas and solutions which are essential in creating new opportunities within our profession and for our society.

The NIYSA Mid-Summer Ball will take place on Saturday 25 June 2011 in the Great Hall, Queen’s University, Belfast. Tickets £35 Full event details to follow on www.niysa.com.

www.niysa.com
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Obituaries

Charles Kenneth Holden 1921-2009

Kenneth Holden died on 15 December 2009 aged 88 years. Kenneth was born in Hollywood, County Down, on 24 January 1921 but the family moved to Ballymena where Kenneth spent the majority of his childhood with his one brother, David. Kenneth, whose father was a well known dental surgeon in the town, was educated at Ballymena Academy.

4 ptHaving completed his education at the Academy, Kenneth went to study Arts at Trinity College Dublin in 1939, leaving the university in 1940 as the war had started and he wanted to join the armed forces. Kenneth went into army officer training in England in 1940 and this took him away from Northern Ireland until the end of the war. Kenneth served with the Royal Army Service Corps in West Africa and Burma attaining the honorary rank of Captain before he left the army in December 1947 to return home to Northern Ireland.

Kenneth's life-long love of motor racing led him at this stage to consider pursuing a career in the design of racing cars but, following a trip to Lotus in England, he decided against this. However, he never lost his passion for the sport or for his love of cars in general.

Kenneth decided on a career in law and he took up an apprenticeship with Boal Anderson and Co in Ballymena where he remained until March 1952 when he moved to Martin King French and Ingram in Limavady as a qualified assistant. In December 1948 he married Ray and in the mid 1950s they moved to Antrim for Kenneth to take up post as Clerk of Antrim Borough Council where he oversaw the development and expansion of the town. Kenneth and Ray had three daughters – Elinor, Caroline and Amanda – and they continued to live in Antrim until Kenneth was offered a job with the Craigavon Development Commission. In 1966 the family moved to Portadown to be closer to Kenneth's work but only stayed there a short time before moving back to Antrim where they remained.

In the early 1970s Kenneth took up post with the Law Society of Northern Ireland as Assistant Secretary. Kenneth enjoyed his years with the Law Society and he and his wife, Ray, had very fond memories of the many annual conferences they attended. He remained with the Law Society until his retirement in 1986.

Kenneth enjoyed a long and happy retirement, enjoying good health which allowed him to pursue his many interests. Kenneth and Ray enjoyed spending time with their three daughters and five grandchildren and they celebrated 60 happy years of marriage in December 2008. Sadly, Ray died in June 2009 just six months before Kenneth in December 2009.

Andrew Reid 1962-2011

A well-known and highly regarded member of the legal profession in Fermanagh, Andrew Reid, a partner at Fergusons Solicitors in Enniskillen, passed away peacefully at his Tempo Road home on March 1, 2011.

The much-loved husband, father, son and brother - whose death has been received with a deep sense of loss and regret in the community and beyond - would have been 49 on March 18.

Andrew was originally from Bloomhill Farm, Newmills, County Tyrone, where he enjoyed the countryside, the open air, and the animals. He was educated at Benburb Primary, Donaghey Primary, the Royal School, Dungannon and then at Queen’s University, Belfast where he obtained a 2:1 honours degree in Law.

He came to Enniskillen as an apprentice for a six-month trial period at Fergusons Solicitors and remained for 26 years, the past 16 years as a partner. Held in high esteem as a colleague and friend at Fergusons, he was an extremely able and skilful lawyer.

During his 26 years as a lawyer in Enniskillen, Andrew has known Deidre for 24 years, the past 18 years as husband and wife. The couple, who enjoyed a happy, fun-filled and devoted relationship, had two sons, Adam and Stephen. The boys were much-loved by their father, who was deeply proud of his sons.

Much success came in Andrew's professional life - promotion to partnership; obtaining qualification as a solicitor advocate; and the respect and recognition of his peers when he was elected as President of the Fermanagh Bar.

Andrew was always up for a challenge and had a great determination in anything he undertook - it always had to be completed.

Among his interests, which made for a fulfilling life, were gardening, an interest in cars, and in recent years he took up the saxophone and played in the praise band at Enniskillen Presbyterian Church.

A long time Arsenal supporter, in the weeks prior to his death Andrew received a message personally signed by Arsene Wenger and the whole Arsenal team in recognition of his life-long support of the Gunners.

Andrew's popularity and the high esteem in which he was held were very evident at his widely attended funeral service at Scots Presbyterian Church in Enniskillen - one of the biggest funerals at the Church in many years.

Andrew is survived by his wife, Deidre, his sons Adam and Stephen; his mother, Mrs Hester Reid; his brothers and their wives, the wider family circle and his many friends and colleagues.
New Senior Partner for Tughans

One of Belfast's top law firms is to have a new Senior Partner.

Phyllis Agnew is to take over as Senior Partner at Tughans, replacing Grahame Loughlin, who has been first Managing Partner and then Senior Partner for 20 years. He will continue to work as a partner in the firm.

The new Senior Partner joined Tughans in 1981 and became a Partner in 1988, one of the first female lawyers in Northern Ireland to be admitted to partnership in one of the leading commercial practices. She is one of Northern Ireland's leading experts in the field of commercial property law and heads up the Real Estate team at Tughans.

"Phyllis is a highly respected lawyer in Northern Ireland and well beyond," says Tughans’ Managing Partner, Ian Coulter. “She is a close adviser as well as a close confidante for a number of our leading property developers and investors in the region.

"At the same time, she has set the benchmark when it comes to commitment to Tughans, and she has been an inspiration to many young and ambitious solicitors who have joined the practice, including myself."

Phyllis Agnew has pledged to continue to drive forward the growth and expansion of the firm which was a key feature of Grahame Loughlin’s tenure.

"Tughans has a very strong and well established ethos and set of values," she says. “Those will continue to underpin further growth in partnership with our exceptional client base.

“I’m very much looking forward to building on Grahame Loughlin’s undoubted achievements as Senior Partner. Grahame was instrumental in building Tughans from a firm of solicitors with four partners into the 23 partner firm of today.”

Employment Lawyers’ Group Seminar

You are cordially invited to attend the following lunchtime seminar:

**Speakers:**
Mr Will Christopher, Partner, McGrigors LLP, London
Mr Adam Brett, Partner, McGrigors Solicitors

**Title:** Employee Fraud

**Date:** Thursday 16 June 2011

**Time:** 1.00pm to 2.00pm. A light lunch will be served at 12.30pm

**Venue:** The Inns of Court, Royal Courts of Justice, Chichester Street, Belfast.

**Cost:** £10 admission fee for members.
£15 admission fee for non-members.
Pay at the door, or in advance to our Treasurer, Orlagh O’Neill, c/o Carson McDowell Solicitors, Murray House, Murray Street, Belfast BT1 6DN.
Cheques should be made payable to ELG (NI).

**CPD:** The seminar will attract one CPD hour.

To reserve a place at this seminar please contact Carol McClean, Secretary of ELG (NI) at Carol.McClean@hscni.net
Thank God for the bad weather!

When I was young my grandfather used to say to me: ‘Thank god for the bad weather son! If it never changed then most of this country would be stuck for something to talk about.’

I never fully appreciated what he meant until 30 years later when I was at a wedding reception and got lumbered at a table beside a couple from Birmingham, Alan and Cathy (pronounced Cafée).

After ten minutes of pleasantries about the wedding and how the chicken tasted like chicken, I quickly realised that I had run out of things to talk to them about. In a moment of awkward silence and smiles, I heard myself saying to them ‘Terrible weather we’re having for this time of year.’

If you have ever found yourself in a similar situation, then you’ll understand how important good interpersonal and communication skills have become in our lives.

Increasingly, our social and working lives demand that we become effective and efficient communicators who understand and can utilise all of the verbal and non-verbal communication tools available to us. The reality is, that even with the new and innovative means to communicate, the problem of successful and effective communications still eludes many of us.

There are many reasons for this but essentially the problem is a failure on our part to recognise that communication is about sending and receiving messages. It is about a two way process that requires good presentation and listening skills.

Unfortunately, for many, the two-way communication process which they employ generally leads to people being good talkers but poor listeners. We frequently express ideas, instructions and feelings less clearly than we think, and rarely check that our meaning has been understood.

The consequence of this is that the message we send out can be received as incomplete, inaccurate, inconsistent or even totally misunderstood by the recipient. To complicate the problem even further, did you know that as human beings:

• we hear half of what is said;
• we listen to half of that;
• we understand half of that;
• we believe half of that and
• we remember half of that

This means that people may only remember less than 4% of what is actually said to them.

So how can you improve your verbal and non-verbal communications skills?

Here are some simple suggestions:

• Understand that the purpose of good communication is to ensure that you provide clear, concise and timely information to your audience so that they can appreciate your view, make the right decision or complete a task.

• Don’t communicate to impress people but rather try writing your communications or speaking in a style which presents the information you are expressing simply, clearly and concisely.

• Use an appropriate communication tool e.g. (email), which everyone can access at the same time.

• If giving a presentation or writing – always avoid using jargon, doublespeak, or waffle in your communications. Get to the point as quickly as possible.

• Think about who you are communicating with and how best to do so. Never assume that you know best but take the time to canvass and ask for their opinions.

If you make the change in your communication appearance, then the measure of the effectiveness of your success will be that your messages will be understood, acted upon and that your colleagues will welcome your style as the best format.

It may also mean that you avoid talking about the weather!

Paul O’Connor
Communications Officer Law Society
Selected High Court and Court of Appeal Decisions March 2011 – April 2011

ADMINISTRATION OF JUSTICE

MARGARET KEELEY V CHIEF CONSTABLE OF THE PSNI
Appeal against Order of Master dismissing the plaintiff’s application to join two additional defendants pursuant to O.15 r.6 RCIJ. - application of defendant seeking the court’s determination of the date on which the plaintiff’s cause of action accrued, the date of knowledge of the plaintiff and, subject to the foregoing, the exercise of the court’s discretion under a.50 Limitation (NI) Order 1989. - application by defendant for an order dismissing the plaintiff’s action for want of prosecution. - plaintiff alleges she was unlawfully arrested and falsely imprisoned by the defendant’s servants and agents, trespass and assault. - delay. - time limit in actions for personal injuries. - HELD that appeal allowed against the order of the Master and that plaintiff’s application to add further defendants succeeds. - defendant’s application for an order dismissing the plaintiff’s action for want of prosecution refused
HIGH COURT
8 APRIL 2011
MCCLOSKEY J

CONFLICT OF LAWS

WILLIAM JOHN MORROW V CHIEF CONSTABLE OF STRATHCLYDE POLICE
Plaintiff initiated civil proceedings against the defendant in which he pursues an award of £40 million in personal damages together with the sum of £1 billion in damages of behalf of members of the PSNI whom he asserts have suffered insults from the Strathclyde Police. - torts of malicious prosecution and false imprisonment. - previous order granted striking out the plaintiff’s action on the ground that it disclosed no reasonable cause of action. - matter remitted on the grounds inter alia that there was a risk that some of the evidence presented on appeal had not been presented at the original hearing. - test for striking out. - whether the endorsement on the writ disclosed a reasonable cause of action. - whether the court has the jurisdiction to hear or determine the claim. - whether the writ was properly served. - HELD that the defendant has discharged the burden of establishing that there is a more appropriate forum for the trial of the action. - HELD that the courts in Northern Ireland have no jurisdiction to hear the plaintiff’s claim and plaintiff’s writ is set aside
HIGH COURT
16 MARCH 2011
BELL, M

CHARITIES LAW

TRUSTEES OF THE PRESBYTERIAN CHURCH IN IRELAND V HER MAJESTY’S ATTORNEY GENERAL FOR NORTHERN IRELAND
Plaintiff brought summons to seek authority from the court to make an ex gratia contribution from its unrestricted charitable funds to an access fund which is being proposed as part of the Government’s rescue package in respect of the Presbyterian Mutual Society. - charity law. - whether there could be an exception to the general principle that a charity is not allowed to make disbursements for non-charitable purposes. - moral obligation of the Presbyterian Church. - HELD that a moral obligation does exist and that authority granted to the Trustees of the Presbyterian Church in Ireland to make payment as requested
HIGH COURT
23 MARCH 2011
DEENY J

CONTRACT

GOVERNOR AND COMPANY OF THE BANK OF IRELAND V STATE BANK OF INDIA
Application by defendant to stay proceedings on the basis that the appropriate forum for determination of the issues between the parties is India, where proceedings are already under way between the parties in respect of the same subject matter. - claims for loss and damage sustained by the plaintiff by reason of the breach of contract of the defendant in the refusal to reimburse the plaintiff pursuant to a letter of credit issued by the defendant. - appropriate forum for determination of the issues with regard to delay, convenience of witnesses and place of performance of contract. - performance obligations and characteristics. - HELD that the defendant has discharged the burden of establishing that there is a more appropriate forum for the trial of the action. - ORDER made to stay the Northern Ireland proceedings while the proceedings continue in India
HIGH COURT
9 FEBRUARY 2011
WEATHERUP J

STOTHERS (M&E) LIMITED V LEEWAY STOTHERS LIMITED
Preliminary ruling on the meaning of the expression “qualified electrician” in contractual documents. - nature of the contractual arrangements for work undertaken by an apprentice electrician. - plaintiff is an mechanical and electrical contractor and the defendant is a building contractor who had entered into a teaming agreement. - damages for breach of contract. - whether 2 of the plaintiff’s employees were approved electricians or electrical improvers. - HELD that the courts in Northern Ireland have no jurisdiction to hear the plaintiff’s claim and plaintiff’s writ is set aside
HIGH COURT
3 MARCH 2011
WEATHERUP J
TRAFFIC SIGNS AND EQUIPMENT LIMITED V DEPARTMENT FOR REGIONAL DEVELOPMENT AND DEPARTMENT OF FINANCE AND PERSONNEL
Award of public contracts. - plaintiff company failed to be awarded a series of contracts for the supply and delivery of permanent and temporary road traffic signs and sign posts. - whether the DRD discriminated against the plaintiff including engaging in actual or apparent bias against the plaintiff by having on the evaluation panel two individuals who should have not sat on the panel on the grounds of apparent bias since they had been involved in a previous tendering process in which the plaintiff company was unsuccessful. - whether the tendering process was insufficiently objective or capable of verification since it involved evaluation of the tenders on a 60% price 40% quality split. - whether the DRD engaged in manifest error in the procurement process. - HELD that the defendants are in breach of the duty owed under the Regulations to the extent that they have not complied with the legal obligations of objectivity and transparency in measuring quality at 40% and that in consequence the plaintiff has suffered or risks suffering loss or damage in respect of contracts they would otherwise have won. - decision of the defendants set aside in relation to these contracts.

HIGH COURT
4 FEBRUARY 2011
WEATHERUP J

COSTS

BROOKVIEW DEVELOPMENTS LIMITED V DAVID FERGUSON TRADING AS DAVID FERGUSON ASSOCIATES AND BRIAN SPEERS, JONATHAN HEWITT PRACTISING AS CARNSON MORROW GRAHAM SOLICITORS
Application by defendants for security for costs under o.23 r.1(e) RSC which provides that where the plaintiff is a company or other body and there is reason to believe that it will be unable to pay the defendant’s costs if ordered to do so, then if, having regard to all the circumstances of the case, and the Court thinks it just to do so, it may order the plaintiff to give such security for the defendant’s costs of the action or other proceedings as it thinks just. - defendant denies liability and relies on a novation agreement whereby the plaintiff was not entitled to receive any sum other than a specified amount for the lands. - plaintiff indicated that there was no prospect of the plaintiff company providing the security sought and claimed delay in bringing the application, that the financial difficulties of the plaintiff have been caused by the conduct of the defendants, and that there were queries over the level of costs. - HELD that the plaintiff should be ordered to provide security for costs.

HIGH COURT
30 MARCH 2011
WEATHERUP J

OUTLET RECORDING COMPANY V BARRY F THOMPSON AND OTHERS P/A ELLIOTT DUFFY GARRETT (A FIRM) V HENRY TONER AND RACHEL HUTTON
Abuse of process and security for costs. - defendants have applied to strike out the plaintiff’s pleadings as an abuse of process and the inherent jurisdiction of the Court. - if plaintiff’s proceedings are not struck out, that the plaintiff provide security for costs of the defendants. - plaintiff claims damages for loss and damage occasioned by the negligence and breach of contract of the defendants in the provision of legal services as solicitors and counsel representing the plaintiff in the defence of 2 sets of proceedings against the plaintiff. - actions concerned copyright in relation to sound recordings which were settled on the advice of the defendants. - HELD that the defendants have not established any grounds that could constitute abuse of process and defendants granted security for costs.

HIGH COURT
26 JANUARY 2011
WEATHERUP J

CRIMINAL DAMAGE

FULFORD HYMAN LIMITED (IN LIQUIDATION) FORMERLY SERE GROUP LIMITED AND SERE PROPERTIES LIMITED V IVAN BEATTIE AND DES RANKIN TRADING AS S RANKIN AND COMPANY
Application for an order that the plaintiffs, having established liability under the provisions of the Criminal Damage Compensation (NI) Order 1977 and received compensation in respect of loss and damage, are barred from proceeding against the defendants for damages for loss and damage relating to the same incident by virtue of the doctrine of res judicata, issue estoppel and abuse of process. - plaintiffs are motor traders and the defendants are insurance brokers. - plaintiff’s premises were extensively damaged and claim that by reason of the breach of contract and misrepresentation of the defendants the appropriate insurance cover was not in place. - claim for material damage and loss of profit. - recovery of consequential loss. - principle of unjust enrichment or double compensation. - HELD that there was no abuse of process and the proceedings do not amount to unjust harassment of the defendants. - application to strike out the plaintiff’s proceedings rejected.
### Selected High Court and Court of Appeal Decisions March 2011 – April 2011

#### HIGH COURT

**15 MARCH 2011**

**WEATHERUP J**

#### CRIMINAL LAW

**R V RICHARD JAMES CLOSE**

Defendant convicted of murder. - minimum term to be served before case is eligible to go before the Life Sentence Parole Commissioners. - aggravating and mitigating factors. - whether the defendant had diminished responsibility. - defendant’s previous convictions. - HELD that the tariff be set for 23 years

**HIGH COURT**

**1 MARCH 2011**

**MORGAN LCJ, MCCOLLUM**

**R V KEVIN CRILLY**

Accused charged with kidnap, false imprisonment, unlawful and injurious imprisonment and murder of Robert Nairac. - whether forensic evidence can link the defendant with the crime. - admissions made by the accused to a television programme. - whether the prosecution could prove beyond all reasonable doubt the accused participated in the abduction knowingly or willingly. - whether accused had sufficient mens rea as principal or secondary party. - HELD that the prosecution could not prove beyond all reasonable doubt that the accused was guilty of the offences and accused found not guilty

**CROWN COURT**

**3 MARCH 2011**

**MILLER, HHJ**

**R V DARREN KERNOHAN**

Murder. - application that the jury be discharged. - defendant’s solicitor made it clear to the police in interview that he was advising his client to refuse to answer questions because a response given by the police to the request by Kernohan’s solicitor for an assurance that privileged legal consultations between himself and his client were not subject to surveillance was regarded as inadequate or equivocal. - HELD that application to discharge jury declined

**HIGH COURT**

**1 APRIL 2011**

**MCLAUGHLIN**

**R V RYAN LESLIE**

Sentencing. - murder. - minimum term to be served before eligible to be considered by the Parole Commissioners. - defendant found guilty of murdering his son. - aggravating and mitigating circumstances. - delay in seeking medical assistance. - previous domestic violence incidents. - personal circumstances of the defendant. - risk of harm and likelihood of reoffending. - HELD that the defendant serve a minimum period of 17 years

**CROWN COURT**

**30 MARCH 2011**

**STEPHENS J**

**R V TROY MCAULEY**

Sentencing. - defendant pleaded guilty to murder. - minimum term to be served under the Life Sentences (NI) Order 2001. - aggravating and mitigating factors. - HELD that the defendant should serve a minimum term of 10 years before consideration for release

**CROWN COURT**

**4 MARCH 2011**

**MCLAUGHLIN J**

**R V TERENCE GERARD MCGEOUGH**

Sentencing. - defendant convicted of attempted murder, possession of firearm and membership of IRA. - deterrent element of terrorist offences. - correct approach to sentencing for attempted murder whereby a terrorist attempts to murder a member of the security forces for political motives. - whether a 50% discount should automatically apply as between a minimum term for murder and the determinate sentence for attempted murder. - totality of sentencing. - personal circumstances of defendant and commitment to the peace process. - risk of harm to the public and likelihood of reoffending. - continual lack of remorse. - HELD that defendant be sentenced to 10 years imprisonment

**CROWN COURT**

**6 APRIL 2011**

**STEPHENS J**

**R V GARY WITTY MCMASTER**

Defendant convicted of murder and possession of firearm to endanger life. - defendant involved in paramilitary murder. - minimum term to be served before eligibility to apply to Parole Commissioners. - aggravating and mitigating factors. - HELD
that the defendant should serve 18 years before eligible for parole

**HIGH COURT**

1 MARCH 2011

MORGAN LCJ, HIGGINS LJ

**R v MARTIN RAYMOND JUDE MURRAY, LIAM PATRICK KEVIN MURRAY, KEVIN MICHAEL CHARLES TOYE, WILLIAM MCDONAGH AND KEVIN MURRAY**

Murder and attempted murder and affray.
- joint enterprise and secondary parties.
- evidence.
- subjective and objective tests of self-defence

**CROWN COURT**

13 APRIL 2011

TREACY J

**R v HAZEL STEWART**

Sentencing.
- defendant convicted of murder of her husband and the wife of her then lover.
- minimum term to be served before the defendant can be considered for release by the Parole Commissioners.
- aggravating and mitigating factors.
- actions of the defendant on the night of the murders and her knowledge of impending murders.
- not guilty plea.
- whether defendant has shown any remorse.
- HELD that the defendant should serve 18 years before eligible for parole

**CROWN COURT**

16 MARCH 2011

HART J

**EVIDENCE**

**ALISTER NIGEL HAYES V MARLYN JEAN ELIZABETH MCGUIGAN, THOMAS JOHN BERTRAM MCGUIGAN, GABRIEL NOEL LOCKHART MCGUIGAN, WENDY MIRANDA MARINA CLARKE, NOELEEN JEANETTE LYNDA MCGINLEY AND THOMAS JAMES MCGUIGAN**

Boundary dispute.
- plaintiff seeking declaration that the boundary between the plaintiff's property and the defendant's property is as shown on map annexed to the Writ of Summons and an order that the Land Registry entries be amended accordingly.
- whether the independence of the expert instructed by the plaintiffs is compromised because he acted for the plaintiff in other matters relating to planning development.
- nature of the relationship between the plaintiff and the expert he instructed.
- HELD that the defendant has not proved there to be an impediment to the expert giving evidence and relief sought refused

**HIGH COURT**

11 MARCH 2011

DEENY J

**FAMILY LAW**

**A V B**

Non molestation proceedings by A (aged 14) against former boyfriend - whether proceedings should have been commenced in the High Court by A or Domestic Proceedings Court by Z, A's mother.
- whether Z can establish she is associated to A's boyfriend within the meaning of the Family Homes and Domestic Violence (NI) Order 1998.
- definition of associated person.
- HELD that proceedings have been correctly commenced in the High Court

**HIGH COURT**

4 APRIL 2011

STEPHENS J

**HUMAN RIGHTS**

**AN APPLICATION FOR JUDICIAL REVIEW BY THE KIRK SESSION OF SANDBOY FREE PRESBYTERIAN CHURCH**

Application by the Kirk Session of Sandown Free Presbyterian Church for judicial review of an adjudication made by the Council of the Advertising Standards Agency that some of the text used in a full page advertisement placed by the applicant in a newspaper was homophobic and would be likely to cause, and had caused, serious offence, and their conclusion that the advertisement should not appear again in its current form.
- whether the Authority's decision was procedurally unfair in that the applicants were not provided with a copy of the recommendation to the ASA Council.
- whether violation of ECHR a. 9 and 10 freedom of expression.
- whether the Authority breached the applicant's legitimate expectation.
- ASA Independent Review procedure.
- HELD that the respondent has failed to establish the necessity for its restrictions which disproportionally interferes with the applicant's freedom of expression, and adjudication quashed

**HIGH COURT**

23 MARCH 2011

TREACY J

**INSOLVENCY**

**FINANCIAL SERVICES AUTHORITY V ETIC SOLUTIONS LIMITED**

Application by plaintiffs to wind up a company listed for hearing.
- application under a.115 Insolvency (NI) Order 1989 which empowers the court at any time after the presentation of a winding-up petition to appoint provisional liquidators.
- directors of defendant company appear to be acting in breach of previous court order with regard to their activities in the unlawful taking of deposits for the purposes of fraud, public interest.
- HELD that it is proper to make
an order as per the application to take immediate effect.

HIGH COURT
11 MARCH 2011
DEENY J

JUDICIAL REVIEW

IN THE MATTER OF AN APPLICATION
BY THE BOARD OF GOVERNORS OF
LORETO GRAMMAR SCHOOL (OMAGH)
FOR JUDICIAL REVIEW

Application for judicial review . - order of
certiorari sought to quash decision of
Minister for Education and her Departmental
Officials that the applicant’s school and
proposed building project was non
compliant with the Sustainable Schools
Policy. - whether the Minister made the
finding conditional that the provision of
funding for the construction of the new
Grammar School is conditional on the
agreement that the school will migrate
from its present site to the former Lisanelly
army base. - whether decision unlawful
and irrational. - whether there was a
commitment from the former Minister for
Education that the Department would
commit capital funding for the construction
of the new school on its existing site. -
whether the impugned determinations
have frustrated the applicant’s substantive
legitimate expectation. - HELD that the
challenges held no arguable case, were lacking in
particularity and were out of time and
application dismissed.

HIGH COURT
3 MARCH 2011
MCLOSKEY J

IN THE MATTER OF AN APPLICATION
BY ARTHUR QUIGLEY, JOHN JOSEPH
MCCUSKER AND SEAMUS QUIGLEY
FOR LEAVE TO APPLY FOR JUDICIAL
REVIEW

Application for leave to apply for judicial
review of a decision of a District Judge
whereby the summary trial of the applicants
was adjourned. - applicant seeks Order
of Certiorari quashing the adjournment
decision. - applicants charged with
assorted public order offences. - whether
the court can grant any practical or
effective remedy. - how the District Judge
could proceed if the Court was to quash
the impugned decision. applicants also
sought a declaration that the accused
should be acquitted of all criminal charges
before the Magistrates Court. - whether
this relief is available. - correct approach to
adjournment of summary trials. - whether
the case was a criminal cause or matter.
- HELD that the District Judge committed
any error of law in making the impugned
decision and trial ordered to proceed
without further interruption.

HIGH COURT
6 DECEMBER 2010
MCLOSKEY J

LEGAL AID

R V AARON WALLACE
Application for Legal Aid under section
19 Criminal Appeal (Northern Ireland) Act
- applicant changed firm of solicitors prior
to the appeal and new firm who were not
the solicitors assigned under the legal aid
certificate. - legal aid funding where the
legally aided party changes representation.
- whether legal aid should be granted and
on what terms. - new solicitors require
transcripts of trial which would prove costly.
- interests of justice test. - HELD that it
was the duty of the applicant to explain the
reason for the change of solicitor and prove
that in the interests of justice he should be
given public funding to cover work already
undertaken.

COURT OF APPEAL
16 MARCH 2011
HIGGINS LJ, GIRVAN LJ, COGHLIN LJ

PRISONERS

IN THE MATTER OF AN APPLICATION
FOR JUDICIAL REVIEW BY JAMES
CLYDE REILLY AND IN THE MATTER OF
A DECISION BY THE PAROLE BOARD
ON 28 JULY 2009

Appeal by the Parole Board and the
Secretary of State for Justice from a
decision of Treacy J that the decision of the
Parole Board not to grant the respondent
an oral hearing should be quashed on the
grounds that it violated a. 5(4) ECHR and
common law. - appeal to quash a decision
relating to consequential remedies to be
afforded to the respondent. - respondent
was remanded in custody on charges of
robbery and possession of imitation firearm.
- whether the respondent was entitled
to an oral hearing as an absolute right.
- procedural fairness. - whether an oral
hearing was required in the circumstances
of this particular case. - HELD that the
decision of the Parole Board was not unfair
in all the circumstances and appeal allowed.

COURT OF APPEAL
6 APRIL 2011
HIGGINS LJ, COGHLIN LJ, SIR ANTHONY
CAMPBELL
IN THE MATTER OF AN APPLICATION BY JUSICK’S (TRADEUSZ) FOR LEAVE TO APPLY FOR JUDICIAL REVIEW AND IN THE MATTER OF A DECISION OF THE DEPARTMENT FOR SOCIAL DEVELOPMENT

Application for leave to apply for judicial review of a decision by the Department of Social Development (DSD) not to make interim payments to him pending the determination of his appeals against refusal of Jobseekers Allowance. - application for relief compelling the DSD to make such interim payments and interim relief requiring it to do so pending the determination of the Judicial Review. - power of DSD to make the interim payments sought. - HELD that the interim relief sought should not be granted.

HIGH COURT
27 JANUARY 2011

TREACY J

TRADE UNIONS

DAVID BELL V COMMUNICATION WORKERS UNION

Appeal against decision of Certification Officer whereby he refused to uphold three complaints made by the appellant in which he alleged that the Communication Workers Union (CWU) breached its own rules. - role of the Certification Officer. - HELD that the General Secretary failed to deal with the appellant’s complaint that the CWU NI Regional Secretary breached rules when he wrote to the General Secretary withdrawing the appellant’s nomination for election to the ICTU Executive Council without seeking endorsement of that decision, and the Union be ordered to take all necessary steps to refer the contents to the National Executive Council.

COURT OF APPEAL
4 APRIL 2011

GIRVAN LJ, COGHLIN LJ, SHEIL, SIR JOHN

IN THE MATTER OF AN APPLICATION BY FORBES HER SON AND NEXT FRIEND OF DAVID GEORGE QUINN DECEASED V SOUTHERN HEALTH AND SOCIAL CARE TRUST – INTERVENER

Intervener seeks a declaration from the Court that the defendant is liable to pay for that portion of past and future care of the plaintiff which arises from the negligence of the defendant in this action. - plaintiff sustained serious injuries when a passenger in a car driven by the defendant and is in a private nursing home paid for by the Court. - Trust submits that it’s claim for the recovery of costs to be made by the Court. - assessment of resources. - HELD that the Court will not over-ride the legislation and that the Trust as a public body must bear the cost of care. - also held that the defendant liable for costs.

HIGH COURT
11 FEBRUARY 2011
GILLEN J

SPECIAL SERVICES

JUDICIAL REVIEW

BY KATHLEEN MCCLEAN FOR IN THE MATTER OF AN APPLICATION

Adequacy of the social care provision made for the applicant by the respondent, the Western Health and Social Care Trust. - application suffers from impaired physical mobility and is a wheelchair user and lives alone in a modified bungalow. - care assistants visited for 17 1/2 hours weekly. - judicial review of decision to withdraw domiciliary cleaning services. - whether the Trust should provide a service to assist her in transferring from bed to toilet during the night and provide her with an overnight carer’s attendance service. - whether these decisions unlawful under the provisions of the Health and Personal Social Services Order (NI) 1972 and the Chronically Sick and Disabled Persons (NI) Act 1978. - whether the Trust acted in contravention of a Departmental circular. - Trust’s assessment criteria, records and reports. - HELD that application for judicial review successful. - declaration made that in withdrawing the applicant’s domiciliary cleaning service and failing to reinstate same the Trust acted unlawfully, and a reassessment of needs will now take place.

HIGH COURT
7 MARCH 2011
MCCLOSKEY J

IN THE MATTER OF AN APPLICATION BY PF BY HIS BROTHER AND NEXT FRIEND JF FOR JUDICIAL REVIEW

Judicial review application brought by PF, a person under disability, by his brother the next friend JF to seek to challenge decisions made by the South Eastern Health and Social Care Trust in relation to the level of direct payments for care being provided to him. - whether the level and amount of direct payment for care being provided to the applicant JF was unlawful and in breach of the applicant’s rights under a 8 United Nations Convention on the Rights of Persons under Disabilities. - application for order of certiorari quashing decisions of the Trust not to provide the level and amount of direct payment for care being provided to him. - application for order of certiorari quashing decisions of the Trust not to provide the level and amount of direct payment for care being provided to the applicant JF was unlawful and in breach of the applicant’s rights under a 8 United Nations Convention on the Rights of Persons under Disabilities. - application for order of certiorari quashing decisions of the Trust not to provide the level and amount of direct payment for care being provided to him. - whether the level and amount of direct payment for care being provided to the applicant JF was unlawful and in breach of the applicant’s rights under a 8 United Nations Convention on the Rights of Persons under Disabilities.

HIGH COURT
7 MARCH 2011
GIRVAN LJ

IN THE MATTER OF AN APPLICATION BY JUSICK’S (TRADEUSZ) FOR LEAVE TO APPLY FOR JUDICIAL REVIEW AND IN THE MATTER OF A DECISION OF THE DEPARTMENT FOR SOCIAL DEVELOPMENT

Application for leave to apply for judicial review of a decision by the Department of Social Development (DSD) not to make interim payments to him pending the determination of his appeals against refusal of Jobseekers Allowance. - application for relief compelling the DSD to make such interim payments and interim relief requiring it to do so pending the determination of the Judicial Review. - power of DSD to make the interim payments sought. - HELD that the interim relief sought should not be granted.

HIGH COURT
27 JANUARY 2011

TREACY J

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COURT OF APPEAL
4 APRIL 2011

GIRVAN LJ, COGHLIN LJ, SHEIL, SIR JOHN
McClean and Evelyn decisions – Developments in conacre

**Articles**

Notes the First-tier Tribunal decision in Evelyn v Revenue and Customs Commissioners, on a taxpayer’s challenge to a discovery assessment, because the taxpayer asserted that in Northern Ireland a prevailing practice existed that Revenue and Customs treated conacre income as trading income. Discusses whether the practice concerned was only the approach of one previous tax inspector who was under a mistake about the law, not a prevailing practice within the meaning of the Taxes Management Act 1970 s.29.

**Tax J. 2011, 1070, 5.**

Notes, from an Irish perspective, the Northern Irish Court of Appeal decision in McCall v Revenue and Customs Commissioners on whether agricultural land owned by the deceased, which she had let out for grazing under an annually renewed arrangement, was eligible for business property relief or had been held as an asset of a business of making and holding investments.

**Carr: Ir. T.R. 2009, 22(5), 22-23.**

Comments on the Northern Ireland Court of Appeal ruling in McCall v Revenue and Customs Commissioners on whether agricultural land owned by the deceased, which was rented out for grazing under an agistment agreement, was used in the business of farming rather than the business of making investments and therefore qualified for business property relief from inheritance tax.

**Whitehouse: P.C.B. 2009, 6, 381-388**

**Caselaw**

**Evelyn v Revenue and Customs Commissioners**

Appeal against discovery assessment concerning application of business taper relief to a capital gain arising from the disposal of land. – appellant mistakenly claimed business taper relief resulting in insufficient tax assessment. – whether applicant entitled to the relief because she was not carrying out farming – business taper relief for letting in conacre. – whether prevailing practice at the time was that lettings in conacre constituted a trade. – evidence relating to previous practice. – HELD that the applicant has failed to demonstrate on the balance of probabilities that the insufficiency of the tax assessed was attributable to an error or mistake on the basis of prevailing practice and appeal dismissed.

**[2011] UKFTT 121 (TC)**

**Philip Norman McCall and Bernard Joseph Anthony Keenan as personal representatives of Eileen McClean, deceased and Her Majesty’s Commissioners of Revenue and Customs**

Appeal from a decision of the Special Commissioner whereby he dismissed the appellants’ appeal against a determination made by the respondents in relation to 33 acres of agricultural land of fields of grass let under conacre. - appellants are personal representatives of the deceased. - Revenue determined that for the purposes of inheritance tax payable on the death of the deceased no part of the value transferred on death was attributable to the value of any relevant business property for the purposes of Chapter 1 Part V of the Inheritance Tax Act 1984. - whether the property is entitled to the full business relief or whether it fails to qualify as relevant business property because it consists wholly or mainly of the business of making or holding investments. - whether the deceased had conducted a business for the requisite statutory period. - Commissioner decided that a business was being carried on which consisted wholly or mainly of the holding of investments and that, accordingly, the estate was not entitled to business relief. - whether the seasonal letting arrangement to graziers was analogous to a lease of premises. - whether the Commissioner was erroneous in point of law in his decision. - HELD that the Special Commissioner’s decision affirmed and the appeal dismissed.

**[2009] NICA 12 25 February 2009**

Available on Libero via the Law Society website

**Precedents**

Letting in conacre agreement – From Forms of Leases - Edge

Available electronically from Law Society Library

**Textbooks**

Tolley’s Inheritance Tax 2010-11 – LexisNexis

Simon’s Taxes - LexisNexis
New Books in the Library

- Ashton, D. Ashton & Reid on Clubs and Associations. 2nd ed. Jordans. 2011
- Stewart, H. Client Service for Law Firms. Law Society. 2011
- 2010-2011 At a Glance Essential Court Tables for Ancillary Relief. Family Law Bar Association. 2010

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We are running lunchtime CPD Lectures at Law Society House on the following dates:
1) 16 September 2011 (1.00pm to 2.00pm)
2) 18 November 2011 (1.00pm to 2.00pm)

Topics of these Lectures will be confirmed in the Summer issue of The Writ.

We are taking Membership Applications as of September 2011.
Closing date will be Friday, 30 September 2011.
Membership, if paid before 1 September 2011, will be £30.00.

Judith Browne
Chairperson

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Judith Browne
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Judith Browne
Chairperson
Missing Wills

Re: Mervyn Alexander Flynn (deceased)
Late of: 2 Ballydown Meadows, Banbridge BT32 4XQ
Date of Death: 7 February 2011
Would any person having knowledge of the whereabouts of any Will made by the above named deceased please contact:
Thompson Crooks Solicitors
325 Shankhill Road
Belfast BT13 1FX
Tel: 028 9059 5551
Fax: 028 9059 5553

Re: Jill Trevarton
Late of: 30 Lisnastraine Road, Coalisland, County Tyrone BT71 5DE
Date of Birth: 10 August 1944
Place of Birth: Lincolnshire
Date of Death: 2 June 2010
Would any person having knowledge of the whereabouts of any Will made by the above named deceased please contact:
P A Duffy & Co Solicitors
21 The Square
Coalisland
County Tyrone BT71 4LN
Tel: 028 8774 7159
Fax: 028 8774 0997

Re: William George Nixon
Of: Apartment 10, 53 Church Road, Belfast and 710 Montevideo, San Agustin, Gran Canaria
Could anyone holding a Will executed by the above named person, please contact:
Naomi Gowan Hewitt & Gilpin Solicitors
73 Holywood Road
Belfast BT4 3BA

Re: James Crymble
Late of: 15 Clementine Drive, Belfast BT12 5HQ
Would any person having knowledge of the whereabouts of any Will made by the above named deceased please contact:
Hunt & Company Solicitors
77 High Street

Re: Bernard Francis McDonnell (deceased)
Late of: 26 Lisnavarragh Road, Scarva, Craigavon, County Armagh BT63 6NX
Date of Death: 11 March 2011
Would any person having any knowledge of the whereabouts of a Will made by the above named deceased please contact the undersigned as soon as possible:
Mr Emmet Kelly Emmet J Kelly & Co Solicitors
Cameo House
41 Bridge Street
Banbridge
County Down BT32 3JL
Tel/fax: 028 4062 9397
Email: kellyemmet@hotmail.com

Re: Michael Hanratty
Late of: 52 Blayney Road, Crossmaglen, Newry, County Down & 5 Ardross, Crossmaglen, Newry, County Down BT35 9AH
Date of Death: 2 October 2009
Would any person having knowledge of the whereabouts of a Will for the above named deceased please contact:
S C Connolly & Co Solicitors
Bank Building
39 Hill Street
Newry
County Down BT34 1AF
Tel: 028 3026 5311
Fax: 028 3026 2096
Email: sconnolly@btinternet.com

Re: Damien Finnegan (deceased)
Late of: 16 Murlough View, Dundrum, County Down BT33 0WE
Date of Death: 5 December 2010 at Downe Hospital, Downpatrick, County Down
Any person having knowledge of the whereabouts of the late Damien Finnegan’s last will please contact:
Marion Murphy Madden & Finucane Solicitors
88 Castle Street
BELFAST BT1 1HE
Tel: 028 9023 8007
Email: marionm@madden-finucane.com

Re: John Breen
Late of: Killaclulla, Tempo, County Fermanagh BT94 3JU
Date of Death: 10 January 2011
Would any person having any knowledge of the whereabouts of a Will made by the above named deceased, please contact:
John Quinn & Co Solicitors
14 Belmore Street
Enniskillen
County Fermanagh BT74 6AA
Tel: 028 6632 8008
Fax: 028 6632 2592
Email: johnquin@btinternet.com
Fax: 028 9059 5553

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County: Down
Registered Owner: Florence McKee (deceased)
Property at: 89 Knockchree Avenue, Kilkeel
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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.
M Diane M Coulter
Solicitors
127a Harbour Road
Kilkeel
County Down BT34 4AU
Tel: 028 4176 9772
Fax: 028 4176 9773
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Matrimonial locum solicitor required

Millar McCall Wylie LLP Solicitors
Reference: NA
Closing date: Friday 24 June 2011
Description and duties

Matrimonial locum solicitor required to cover maternity leave commencing Summer 2011 at Millar McCall Wylie LLP Solicitors of Eastleigh House, 396 Upper Newtownards Road, Belfast. Experience in Matrimonial and Children’s Law essential.

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