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LAW SOCIETY NOTICE

Notice of Discontinuance

Following the recommendations of the Education Review carried out by the Society, the alternative route to train and qualify as a solicitor under Regulation 8(3) of the Solicitors Admission and Training Regulations 1988 will be discontinued in April 2015. Applications will not be accepted after 30 April 2015. The alternative route to training under Regulation 8(5) is not affected by this.
Don’t leave me this way - diverging employment laws

Northern Ireland’s employment laws have barely changed in the last two years and developments in both GB and the Republic of Ireland threatened to create a massive chasm. However, the biggest employment review in NI since the formation of the Executive gave us the opportunity to transform our employment laws and employment relations, argues Scott Alexander of Legal-Island.

Introduction

Other than essential changes to bring Northern Ireland in line with EU Directive requirements, there have been few employment law changes in this jurisdiction for two years. Why should that be a problem for practitioners and others in NI? It ought to provide stability and certainty for employers. However, it doesn’t because the employment laws of the Republic to the south and GB to the east have been changing, so the relative employment and economic position of Northern Ireland changes, whether or not we ourselves do anything.

A consultation exercise by the Department of Employment and Learning (DEL) which ended on 5 November 2013 regarding several key employment law issues gave practitioners in NI the best opportunity to influence employment laws here for years to come. A summary of responses to the consultation was put to the Assembly on 4 June 2014.

Republic of Ireland v Northern Ireland

Of interest from a general employment point of view, particularly for solicitors operating on both sides of the border, is a raft of new legislation planned in RoI, from workplace vetting and whistle blowing to mandatory reporting of wrong-doing, as well as the usual EU developments. Many of these already exist in some form in NI, however, so they are moving towards us.

The most radical is a chapter and verse review of employment relations and the equivalents of our industrial tribunal system expected in 2014 under the Workplace Relations Bill. The frankly opaque and complex RoI structures are to be replaced with a simple adjudicator model for all employment claims and one route for appeals to the Labour Court. Before reaching an adjudicator the claims will be sifted and offered a variety of ADR options, some of which appear to have been copied from the LRA in Northern Ireland or ACAS in GB. Should we, in turn, copy the best practice from RoI and GB?

The consultation results should give us an indication.

The Irish government also announced on 13 May 2014 reforms to its collective bargaining machinery and trade union laws under changes to its Industrial Relations (Amendment) Act 2001.

Great Britain v Northern Ireland

England & Wales and Scotland form one jurisdiction in employment law terms. For years everything was easy for practitioners and employers in NI. Apart from fair employment and some minor differences here and there, our employment laws largely followed GB employment laws, subject to a delay of 1-2 years. We just had to change some names to protect the innocent and hey presto! we had customised NI laws.
That simplicity has gone, as the attached table highlighting recent variations shows. The changes started in earnest a few years back, when GB adopted a unified Equality Act in 2010 (review announced 1 May) and rectified a number of equality anomalies, including the Malcolm decision of the then House of Lords relating to disability-related discrimination. NI has not corrected this denial of rights.

The following year, NI retained the statutory dismissal procedures and adopted a new LRA Code of Practice on Disciplinary and Grievance Procedures. Breaches of the procedures or Code could lead to an uplift of tribunal awards of 50% and a finding of automatic unfairness. GB abolished the statutory procedures and their ACAS Code has a maximum uplift of 25%.

Take a look at the table. GB has introduced a two year qualifying period for unfair dismissal rights. NI remains at one. GB has reduced collective consultation requirements to 45 days. We remain at 90 days. GB introduced a maximum compensatory award of one year’s salary (if less than £76,574) for unfair dismissal. NI maximum award is now at £76,600, regardless of the employee’s salary. The list goes on. GB introduced tribunal fees and has seen an 80% drop in tribunal claims. NI will not be introducing fees.

Where do WE go from here?

The stasis we have seen in NI employment legislation is not healthy; it can certainly be argued that NI is becoming a less attractive place to suit a much larger and private sector dependent economy? We don’t know the outcomes to be adopted as a result of the consultation but we do know that the delay in not informing employers about what is to change and what is not is, of itself, not good for business.

The Executive approved a Review of Employment Law in Northern Ireland covering seven issues in the attached table:

- Qualification period for claiming unfair dismissal increasing to 2 years’ continuous service, from current 1 year period
- Reform of the Public Interest Disclosure (NI) Order 1998 (mainly in relation to closing loophole concerning breaches of individual contracts)
- Reform of the law on settlement (aka compromise) agreements
- Introduction of protected conversations
- Reform of the law on consultation in collective redundancy context (GB has agreed 45 day period for larger scale redundancies, down from 90 days, as applies in NI)
- Early Neutral Evaluation (a form of Alternative Dispute Resolution, not being pursued in GB)
- Early Conciliation – Referral to LRA (ACAS in GB) for conciliation before claim can be made to tribunal

The consultation process, which ran until 5 November, was just that – interested parties were encouraged to consider whether it is in our interests in Northern Ireland to:

a) Maintain the status quo
b) Follow changes in GB
c) Create new path(s) tailored to the needs of Northern Ireland

At present, lawyers have to be increasingly careful when giving advice. GB-based references and case law are often no longer applicable in this jurisdiction.

Legal-Island has come across quite a few GB-based solicitors who have given wrong advice on dismissals because they are not aware that NI retained the statutory procedures. And what happens if, as with the statutory procedures, we decide to go our own way; adopt our own laws? Time to look at those insurance certificates!

Legal-Island supports customising employment laws under devolution that help improve NI workplaces, although we accept it complicates things for those looking in and out. Whether you agree or disagree, you really should take part in a debate that impacts on almost all of us.

This article was written by Scott Alexander, Head of Learning and Development, Legal-Island. Legal-Island provides email and conference updates, mainly on employment law developments and operates on an island of Ireland basis. See www. legal-island.com for details. The attached table is regularly updated and circulated to email update subscribers.
### Comparative Employment Law NI & GB: Table of Changes

#### Employment Law Change

<table>
<thead>
<tr>
<th>Dismissal &amp; Other Individual Rights</th>
<th>GB</th>
<th>NI</th>
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<tbody>
<tr>
<td><strong>Qualification period for claiming unfair dismissal increased to 2 years’ service and max compensatory award limited to lower of one year’s salary or (now) £76,574.</strong></td>
<td>Implemented on 6 April 2012.</td>
<td>A departmental Review of Employment Law in Northern Ireland covering seven issues in this table was agreed. The UD qualifying period is part of the DEL consultation that ended on 5 November 2013: <a href="http://bit.ly/1br0wkm">http://bit.ly/1br0wkm</a></td>
</tr>
<tr>
<td>UD compensation limits amended from 1.2.13</td>
<td><a href="http://bit.ly/12be0tz">http://bit.ly/12be0tz</a></td>
<td>DEL reported on summary of responses to Assembly Employment and Learning Committee 4.6.14. The Minister will now review policy options. We can’t be definite about timings for any Bill but all of the preparatory processes would mean that nothing could happen legislatively until after the summer 2014.</td>
</tr>
<tr>
<td><strong>Reform of parental rights (shared leave, flexible working, etc)</strong></td>
<td>Children and Families Bill launched on 5.2.13. Key areas are Parts 6, 7 and 8.</td>
<td>Public consultation on whether the GB proposals are suited to NI was issued on 6.6.13 and closed on 23.8.13: <a href="http://bit.ly/11tjpx">http://bit.ly/11tjpx</a></td>
</tr>
<tr>
<td>Shared leave due to come into effect April (2015):</td>
<td><a href="http://bit.ly/VI6kI5">http://bit.ly/VI6kI5</a></td>
<td>Decision to establish shared parental leave, time off for antenatal and adoption appointments and flexible working requests for all employees to be implemented via the</td>
</tr>
<tr>
<td>BIS consultation ended 20 May:</td>
<td><a href="http://bit.ly/YxStHh">http://bit.ly/YxStHh</a></td>
<td></td>
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<tr>
<td>Employment Law Change</td>
<td>GB</td>
<td>NI</td>
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<tr>
<td>Reform of The Public Interest Disclosure Act (1998) 4 significant reforms – definitions, protection, liability, jobseekers etc</td>
<td>ACAS consultation on draft Code on flexible work ended 20 May: <a href="http://bit.ly/15M9rpG">http://bit.ly/15M9rpG</a></td>
<td>Work and Families Bill, which was introduced to the Assembly on 28 April 2014. The second stage debate took place on 12 May 2014. The difference between the NI proposals and GB is that NI stakeholders indicated a strong preference for retention of the statutory procedures for dealing with flexible working requests rather than their replacement by a Code of Practice.</td>
</tr>
<tr>
<td>Amendments to ACAS Code on Discipline and Grievance</td>
<td>Government outlined its plans for content reform on 14.9.12. Toa v GB Oils case may mean changes to code</td>
<td>DEL has not made any comment on this issue. The LRA have consulted on minor reform to Code and an announcement is imminent regarding the right of accompaniment.</td>
</tr>
<tr>
<td>Reform of Working Time Regulations</td>
<td>Due to be amended at some time in 2014 to take account of recent superior court decisions</td>
<td>DEL has produced a draft consolidated version of the Working Time Regulations and associated guidance. Taking a power in the Work and Families Bill to allow consolidation to take place.</td>
</tr>
<tr>
<td>Financial penalties against employers in flagrant breach of employee rights</td>
<td>Contained in clause 16 of ERR Act which received Royal Assent on 24.4.13</td>
<td>Minister announced on 5.11.12 that this change will not be implemented in NI</td>
</tr>
<tr>
<td>Employment Law Change</td>
<td>GB</td>
<td>NI</td>
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<tr>
<td>Collective and Industrial Issues</td>
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<tr>
<td>Reform of facility time and time off for trade union officials in the civil service</td>
<td>Changes announced on 9 October 2012 on 4 key issues eg no more 100% union duties</td>
<td>There has not been an announcement regarding this issue in NI.</td>
</tr>
</tbody>
</table>

**Tribunal & Other Legal & Dispute Resolution Processes**

<p>| Rapid Resolution Scheme for ‘desk-topping decisions’ on simple jurisdictions by legal officers | Contained in Clause 11 of the ERR Act received Royal Assent 24.4.13 and reforms now on hold Began in Manchester and Cambridge only in summer 2012 for one year. Ran until December 2013 | DEL had asked for feedback on the issue in May 2012. Will be considered as part of the review of tribunal rules. This subject was not part of the DEL discussion paper in May 2012. DEL has commissioned research to identify potential |
| Mediation (Regional pilot) for SMEs                                                  |                                                                    |                                                                   |</p>
<table>
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<tr>
<th>Employment Law Change</th>
<th>GB</th>
<th>NI</th>
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<tr>
<td>Implementation of new Arbitration Scheme (NI only)</td>
<td>Old ACAS regime still applies (unfair dismissal, flexible working)</td>
<td>Implemented 27.9.12 to cover virtually every IT jurisdiction. 13 cases to date.</td>
</tr>
<tr>
<td>Early Neutral Evaluation /Neutral Assessment (a form of Alternative Dispute Resolution)</td>
<td>Nothing being developed in GB</td>
<td>The Minister has commissioned the Rules Committee and the LRA to examine ENE in both tribunal and ADR contexts. Part of the DEL consultation that ended on 5 November 2013: <a href="http://bit.ly/1br0lxm">http://bit.ly/1br0lxm</a> The Minister will be reviewing policy options. A discussion of the issue in relation to tribunals is likely to be included in consultation on tribunal issues later in 2014.</td>
</tr>
<tr>
<td>Early Conciliation – Referral to Acas for conciliation before claim can be made to tribunal</td>
<td>Consultation in GB began on 17.1.13 and ran until 15.2.13 – secondary legislation enacted and in operation on a voluntary basis from 6 April 2014 and compulsory from 6 May 2014. ACAS response to voluntary pilot: <a href="http://bit.ly/1mmskbg">http://bit.ly/1mmskbg</a></td>
<td>The LRA has sent model proposals to DEL on the re-routing of claims. The proposals are being examined and DEL will then consult on the draft proposals. Part of the DEL consultation that ended on 5th November 2013: Following a presentation to the Assembly's Employment and Learning Committee on 4.6.14, the Minister will be reviewing policy options. <a href="http://bit.ly/1br0lxm">http://bit.ly/1br0lxm</a></td>
</tr>
<tr>
<td>Tribunal reform (single judge, increased costs cap and deposits, new rules on witness expenses). The Underhill Review also contains procedural reforms and separately there is the issue of fees for taking tribunal case</td>
<td>Implemented on 6 April 2012. Second tranche procedural reforms, including fees for taking a tribunal or EAT case from 29.7.12. Figures indicate circa 80% drop in tribunal claims a year after fees introduced. <a href="http://bit.ly/13CMx1t">http://bit.ly/13CMx1t</a></td>
<td>Minister announced on 5.11.12 that these first changes will not be implemented in NI. The NI Rules Committee for IT/FET will take into account the Underhill Review outcome. Tribunal fees will not be taken forward in Northern Ireland at this time but increased use of deposit orders appears to have reduced number of weak claims moving to full hearing.</td>
</tr>
</tbody>
</table>

This table was compiled by Mark McAllister, Senior Employment Relations Manager, Labour Relations Agency and reviewed by Tom Evans, Assistant Director, Employment Relations, Dr Alan Scott, Head of Employment Relations, Policy and Legislation Branch, Department for Employment and Learning, and Scott Alexander, Head of Learning & Development Legal-Island. This table was first developed for use at Legal-Island’s Annual Review of Employment Law 2012 and has been updated ever since. Correct at 06.6.14. Disclaimer: This table is for guidance only. We regret we are not able to respond to requests for specific legal or HR queries and recommend that professional advice is obtained before relying on information supplied anywhere within this table.
News in Brief

Re-appointment of Attorney General

The Office of the First Minister and the Deputy First Minister has announced the re-appointment of Mr John F Larkin QC to the position of Attorney General commencing on 24 May 2014 until 30 June 2016.

Following the transfer of policing and criminal justice powers, Mr Larkin was initially appointed Attorney General on 24 May 2010.

Telephoning the Royal Courts of Justice

The telephone system at the Royal Courts of Justice has changed to NI Direct. The new telephone number is 030 0200 7812.

• Normal business hours (9.00am – 5.00pm)

From 30 June 2014 the telephone number 028 9023 5111 is longer available. If it is dialled, the caller will hear a message saying the number no longer exists and to please dial 0300 200 7812. The signpost message will remain for a further three months.

• Out of hours

As the new NI Direct number will not be answered outside normal business hours, if any practitioner finds that they need an out of hours Court for High Court Business, they should telephone 028 9072 4618. This will give them access to the security staff on duty who will make contact with the Duty Registrar to make the necessary arrangements.

Residential property - planning applications

Statistics released by the Department of the Environment for the period October - December 2013 show a modest increase of 5% in the number of residential development planning applications received, with 1,568 submitted in the third quarter of 2013/14 compared to 1,499 for the same period last year.

This represents the first quarterly increase in this type of application since early 2009/10. Interestingly, the increase in residential development was concentrated in rural rather than urban areas which continued to experience a decline.

Taken together with signs that the continued fall in the total number of planning applications received may now be beginning to level out, with virtually the same number received this quarter (2,893) as same time last year (2,892), this may be further reflective of an improving economic climate.

Residential property - house price rise

The Residential Property Price Index Report for Quarter 1 of 2014 has recently been published. The Index measures change in the price of residential property sold in Northern Ireland, using Stamp Duty information on residential property sales recorded by HMRC.

Provisional results for the most recent quarter (January - March 2014), show that:

• between Q4 (October - December) 2013 and Q1 (January – March) 2014 residential property prices increased by 3%;
• residential property prices increased by 7% over the year from Q1 2013 to Q1 2014; and
• residential property prices are now 6% lower than Q1 2005

There were almost 4,200 verified residential property sales recorded in Q1 2014. This is 21% higher than the Q1 2013 figure and the highest Q1 figure since 2007.

LRA amends guidance on disciplinary procedures

In light of the EAT decision in the case of Wincanton Group plc v Stone & Anor (UKEAT/0011/12), the Labour Relations Agency has amended its advice regarding disciplinary warnings. In the judgement the EAT provided useful guidance on the factors to be taken into account by tribunals when considering the impact of previous warnings on the fairness of dismissals for misconduct.

The Agency has reflected this guidance in the following revised Agency publications which are downloadable from the Agency’s website at www.lra.org.uk

• Self Help Guide – Preparing a disciplinary procedure
• Advisory Guide – Advice on handling Discipline and Grievances at Work

Trusts & Estates Practitioners Newsletter

The latest HMRC Newsletter for Trusts & Estates Practitioners is downloadable from http://www.hmrc.gov.uk/cto/newsletter-090414.pdf. It includes information on:

• IHT payments and the issue of receipts
• New IHT forms - IHT 205, IHT 217 and IHT 206
• Deduction of liabilities in exempt excepted estates
• Changes to the 2013-14 Trust & Estate Tax Return

Annual Crime Statistics 2013/14

The PSNI has published its annual crime statistics for the year 2013/14. There has been a slight increase in overall crime. However 2013/14 is the second lowest annual level ever recorded in Northern Ireland since new Home Office counting rules were introduced in 1998/99.

Crime across Northern Ireland has risen by 2.3%, from 100,389 crimes in 2012/13 to 102,746 in 2013/14. The Service saw decreases in robbery and criminal damage - however violence against the person, theft offences, and public order offences have increased.

Street level drug dealing continued to be a priority across Northern Ireland, with a specific focus in the later half of 2013 through Operation Torus. Drug seizures increased by 7.8% (4,474 incidents), with cannabis continuing to be the main substance recovered, with 83 more people arrested for drug offences.

New Empty Homes website

A new website has been launched to help tackle the problem of empty homes in Northern Ireland. It is part of the Department for Social Development’s Empty Homes strategy which is being delivered in partnership with the Housing Executive.

It is estimated that there are in excess of 30,000 vacant residential properties throughout Northern Ireland. The new website gives homeowners advice on a range of options to help bring empty homes back into housing use. It provides useful contacts for renting, various ways of selling, or renovating. It also allows members of the public to report an empty home. The new website can be accessed at www.emptyhomesni.com
At Hays Legal we understand the local legal market. We have strong relationships with an unrivalled range of clients, including leading law firms, multinational corporations, banks, charities and public sector bodies. Whether you are involved in commercial or general practice, in-house or industry, we have a first class range of opportunities throughout Northern Ireland, the UK and the Republic of Ireland. Below are some examples.

**COMMERCIAL PROJECTS SOLICITOR**
Belfast, £negotiable
This is an exciting opportunity for a commercial solicitor to join the projects team of a highly successful international law firm based in Belfast. The role is a mixture of transactional PPP/PFI projects, commercial and construction contracts. You will join one of the largest and most experienced project teams in Europe having closed over 300 PPP/PFI projects in the past decade. This is a first class opening with an attractive salary plus benefits.
Ref: 2133482

**CONSTRUCTION SOLICITOR**
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Highly ranked commercial law firm in Belfast has an opening for a motivated solicitor with a minimum of one year’s non-contentious construction experience. This dynamic and very rewarding role will require you to develop business and cover a range of areas including contracts, procurement, mediation and arbitration. A competitive salary, excellent benefits and career progression is on offer.
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Ref: 2151211

**IP/IT LAWYER**
Belfast, £25,000-£40,000
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Ref: 2085049

For a confidential chat about all legal opportunities speak to Patrick McDonald at Hays Legal on 02890 446 911, email: patrick.mcdonald@hays.com and/or connect with me on LinkedIn.

hays.co.uk/legal
Belfast Mediation Conference

The Belfast Mediation Conference was held on 8 – 9 May 2014 at the Conor Lecture Hall, University of Ulster, York Street, Belfast Campus. Organised by Brian Speers, visiting professor of Dispute Resolution at the Graduate School of Legal Education at the Magee Campus at the University of Ulster, on behalf of the Commonwealth Lawyers Association in conjunction with the Dispute Resolution Service administered by the Law Society of Northern Ireland and the University of Ulster School of Law, this conference packed in an extraordinary variety of speakers and topics.

The Conference was opened by the President of the Commonwealth Lawyers Association, Mark Stephens CBE, a well-known international lawyer with a high media profile. Joining in the opening welcomes were the Vice-Chancellor of the University, Professor Richard Barnett, and the President of the Law Society of Northern Ireland, Richard Palmer. It is fair to say that the Conference started on a high note, maintained those heights and then rose higher with a closing address from Lord Kerr of the Supreme Court of the United Kingdom and the delivery on behalf of the Master of the Rolls, Lord Dyson, by the Conference chair, Brian Speers, of a hugely important talk entitled ‘Halsey: Ten Years On’.

Immediately prior to the opening of the Conference, Professor Laurence Boulle, one of the leading academics, practitioners and authors on mediation in the world delivered a mediation masterclass to a number of members of the Dispute Resolution Service. They were joined by Laurie Pawitzka of Torkin Manes Solicitors and Barristers, Toronto, Canada and by three delegates to the conference from Delhi in India, namely Sadhana Ramachandran, Jitender Pal Singh and Santhaan Krishnan. The presence of distinguished lawyers from these jurisdictions certainly enhanced the master class which provided a unique and brilliant insight into the causes for conflict, the techniques to deal with conflict, the reasons why people become stuck in disputes and brought the attendees into contact with current thinking on human behaviour from both psychological and neuroscience sources.

Professor Boulle was invited to give the keynote opening address. He touched on many of the themes which the conference would consider. He advised how relaxed Australian lawyers and policy makers were having made mediation a mandatory requirement more than ten years ago. He noted in contrast the position within the UK that the Courts favoured robust encouragement over mandating.

The Conference then considered questions of confidentiality, such a vital aspect of mediation. In a careful analysis, Mr Justice McCloskey, now president of the...
Upper Tribunal for Immigration and Asylum in the United Kingdom, considered how the statutory imperatives placed upon the court in some cases, particularly the welfare of the child in matrimonial matters, required a relaxation of a strict application of confidentiality to ensure that the court was apprised of all relevant information.

This debate was taken forward in a panel discussion by Alva Brangam QC, who reminded the Conference that a balance was required between the public interest in protecting for example the welfare interests of children and the private interests of preserving confidentiality. It was important to recognise that in most mediations confidentiality will be preserved and that it is a vital ingredient enabling participants in a mediation to speak freely and openly about their case.

Sadhana Ramachandran, an advocate of the Supreme Court in Delhi, in her first contribution to the Conference, agreed that confidentiality in mediation was important and reported that there were statutory principles within the Indian Constitution that ensured confidentiality could be maintained. Laurie Pawlitza explained that in Toronto many clients wished to have a confidential environment in which to resolve their differences, partly as a result of the obligation in the Canadian courts to publish all information including names. Business owners preferred a forum where such publication was not required.

There was consensus from this panel that in certain cases absolute confidentiality would have to be breached and in this regard notice was taken of the European Mediation Directive and the proposed legislation in the Republic of Ireland.

Thursday afternoon was completed by a trio of contributions, each uniquely memorable. Jitender Pal (JP) Singh, an advocate of the Supreme Court in Delhi, informed delegates about the evolution of a court annexed mediation scheme in Delhi. The scheme arose through difficulties encountered in lower courts where mediation had been mandated but where the legal practitioners were not in favour. They had fears about a reduction in work and an alteration to their role. JP explained that as a result of a collaborative exercise involving the Bar Council, the Government and the Courts, a scheme was devised run by lawyers and involving lawyers which handled a colossal amount of mediations taking cases out of the court system and generally improving efficiencies in terms of delay and cost. The scheme in Delhi specifically encouraged and required the involvement of lawyers and J.P.’s contribution presented an interesting challenge for those in Northern Ireland interested in advancing the cause of mediation within the system of justice here.

Jeremy Ferguson Solicitor, explained how conducting time limited mediations in the Devon and Cornwall Circuit brought about excellent results with a high success rate. He generously made available to Conference delegates his short book on time limited mediation. He indicated that the Devon and Cornwall system had been brought about by the local legal community working in conjunction with the local judges and devising a scheme which worked for their needs in their community. Again, a significant lesson for this jurisdiction.

Finally, Helen Kilroy, partner in McCann Fitzgerald, Dublin, explained how civil and commercial mediation had evolved in the pre and post Celtic tiger era in the Republic of Ireland and how the work of her litigation department had seen a significant increase in the number of cases going to mediation but while still noting that this represented only a small proportion of the total number of cases. She noted the Mediation Bill going through the Republic’s legislature at present and provided a concise assessment of civil and commercial mediation in the Republic of Ireland.

The debate and discussions from day one continued over a drinks reception generously sponsored by Marsh UK.

Day two of the conference took place amidst concerns about travel arrangements caused by Giro d’Italia related road closures. The Lord Chief Justice Sir Declan Morgan, invited to say words of welcome, took the opportunity of giving a more detailed overview of the Court’s approach to and support for mediation. He acknowledged
generously the work undertaken by the Dispute Resolution Service of the Law Society of Northern Ireland to make the availability of mediators more widely known. Among many other observations he noted that the European Directive found expression in Order 1 Rule 20 of the Rules of the Court of Judicature and noted also that the Jackson ADR Handbook was made available to all judges within Northern Ireland. These steps together with the existing Protocols and Practice Directions created a new climate for the awareness of both Judiciary and practitioners of mediation within Northern Ireland.

Following the Lord Chief Justice, the Minister of Justice, David Ford, in addition to saying words of welcome took the opportunity to set out and explain his Department’s approach to mediation. He referred to the Access to Justice Review and a subsequent survey which his Department had carried out mapping available mediation services. He recalled how he had been present at the launch of the Dispute Resolution Service website which addressed a key finding of his Access to Justice Review, namely that more needed to be done to make the public aware of the value of mediation in appropriate cases and where to find mediators. Conference chair Brian Speers took the opportunity of thanking both the Chief Justice and the Minister for their contributions and advised that he would be meeting with officials from the Department of Justice to consider whether a pilot mediation scheme in the Small Claims Court could in fact be introduced in Northern Ireland.

There then followed a consideration of policy matters with papers presented by Dr Susan Prince of Exeter University, who shared her findings of the efficacy and outcomes of Small Claims Court mediation arrangements in England and Wales pointing out that face to face mediations had the best prospect of success and were regarded as more satisfying and more successful. Dr Prince was followed by Ciaran White of the University of Ulster who in referring to the proposals in the Access to Justice Review observed that law teaching at Universities required to be addressing mediation and dispute resolution. In addition, it was necessary for any proposals for the implementation of the Access to Justice Review to not lose sight of the need to do justice within the rule of law and not simply be motivated by a desire to save money.

After the policy session came an informative address from Paul Randall BL who endeavoured to explain why, even though the mediation product is excellent, is appreciated by all who use it and leaves a positive impression, many lawyers still prefer the litigation path which by contrast is not appreciated, is more costly and rarely results in the participants wishing to experience it again.

The next session dealt with two contrasting experiences of matrimonial mediation. Lawrie Pawlitza, having presented a paper entitled Mediation in Ontario, described her experiences of mediation in high value matrimonial cases where mediation or a combination of mediation and arbitration were very much the preferred path. Preparation was key and parties were persuaded by being informed that they could choose the mediator, know who would act as mediator and retain privacy over all of their affairs.

After the view from Canada, David Gaston, senior solicitor and well known trainer in mediation, spoke of his more recent involvement in matrimonial mediation pointing out the differences between matrimonial procedure where children were involved and some civil and commercial mediation procedures. He argued strongly for the merits of child inclusive mediation where that was possible, taking into account the age and maturity of the child and this provided plenty of food for thought.

The final session before lunch involved the return to the podium of Sadhana Ramachandran, who provided three impactful examples of mediations in which she had been involved which had each resulted in some transformative behaviour by those who had previously been in dispute. Particularly in family disputes the role of mediation and a communitarian perspective were clearly demonstrated as being useful and of enormous assistance to parties. Sadhana spoke of the gatekeeper concept whereby a party in whom the disputants place their trust can serve as an invaluable resource in bringing about a resolution.

After the Indian experience, Paul Tweed shared his thoughts on mediations, good and bad, and the importance of awareness of reputational issues when dealing with professional negligence claims. Paul informed the conference of his experiences in California where parties were required to mediate before they litigated and hoped that a cultural change might occur in Northern Ireland as mediation could bring about better outcomes more effectively than most litigation. In the final session before lunch one of the conference sponsors, Gary Thompson of Marsh UK, shared his experience of a significant increase in mediation for professional indemnity claims.

Throughout the morning Lord Kerr of the United Kingdom’s Supreme Court had been present listening carefully to the contributions from other speakers. In the afternoon both he and the Master of the Rolls, Lord Dyson, were due to appear. However, Lord Kerr explained that Lord Dyson had fallen unwell, had hoped until the last minute that he might have improved sufficiently to enable him to travel, but expressed his regret at being unable to attend. He had provided a copy of his address and Brian Speers, the chair of the Conference, indicated that he would read this to the Conference after hearing from Lord Kerr.
In a careful and thoughtful address Lord Kerr, while recognising the benefits of mediation for some cases, also recognised the benefits of litigation. In the common law world legal evolution was built upon decided case law. Decided cases allowed legislation to be interpreted and applied. Litigation conducted in the public eye reinforced the rule of law and the transparency of decision making. He had some concerns about cases being decided in private but obviously also recognised the importance of mediation as a track to a just outcome.

After Lord Kerr, and to close the Conference, Brian Speers presented the paper which Lord Dyson would have given had he been able to attend. The paper, as expected, was important and when it receives wider publicity will be much commented upon. It was entitled “Halsey 10 years on. The decision revisited”. Lord Dyson expressed the view that he considered Halsey to be correctly decided and still good law. He professed himself not to be an evangelical enthusiast for mediation but also rejected criticism that he was a mediation sceptic. Indeed, far from scepticism, he appreciated that mediation had a part - a valuable part - to play in the management and the resolution of disputes.

He concentrated in particular on the issue of whether or not making mediation mandatory might be regarded as in breach of Article 6 of the European Convention on Human Rights. His conclusion was that in some cases it might be in contravention. He referred to the Italian case of Rosalba Alassini in which the European Court of Justice found that Article 6 rights were not infringed by the Italian system of mandatory mediation. He observed that this was because the mediation did not unduly delay the court proceedings and the mediation was available without charge. Lord Dyson seemed to conclude that there were impediments of a party’s right to a hearing before a Court Article 6 may be infringed. However, he also conceded that parties being required to mediate where there was no undue delay or undue cost may not infringe Article 6 and clearly remained of the view that a stance of robustly encouraging mediation was his preferred approach. He clearly was not in the camp of mandating mediation.

Looking to the future he referred to both the Briggs Review of the Chancery Court practice in England and Wales and the rise of litigants in person, both of which developments he believed could lead to an increase in demand for mediation.

Immediately following the delivery of Lord Dyson’s address, Brian Speers asked Professor Boule to comment and to sum up generally. Professor Boule noted that while there were equivalent constitutional provisions entitling parties to a hearing before a Court in both Australia and South Africa it was considered that the constitution also had to recognise a procedural aspect or proceeding to court and that mediation was part of an accepted procedure along the way to accessing the court. Professor Boule also mentioned the need for ongoing education and training at the law schools.

Other contributions from the floor during the conference included reflections on mediation training of solicitors from both the director of the Graduate School of Professional Legal Studies, Diane Nixon, and senior lecturer at the Institute of Professional Legal Studies, Barbara Jemphrey. Conference delegates were also pleased to hear from Sarah Lloyd, the director of Family Mediation UK.

The Conference was highly praised by the delegates who attended. They commented favourably upon the breadth and range of contributions, the quality of the speakers and the importance of some of the papers delivered. To range over a day and a half from Delhi to Toronto into Devon and Cornwall via Melbourne and up to the Supreme Court reflected the interest of mediation across the Commonwealth and stimulated a demand for further conferences on this subject.

Mark Stephens, the President of the Commonwealth Lawyers Association, reminded all delegates of the Commonwealth Lawyers Conference to be held in Glasgow in April 2015 and encouraged delegates to attend and support that event.

The Dispute Resolution Service administered by the Law Society of Northern Ireland having now increased the awareness of important mediation issues and the knowledge base of mediators in Northern Ireland, will now have to take steps to build upon the success of the Conference and further enhance the role of mediation within Northern Ireland.
Barra McGrory QC, Director of Public Prosecutions, reflects on the launch of the Victim and Witness Care Unit on 8 May 2014.

The adversarial justice system within which we operate can often appear alien and hostile to victims and witnesses of crime.

It is well recognised that two of the main concerns for victims and witnesses as the case progresses are delay and lack of communication.

The measures required to address these concerns are not mutually exclusive as it is my belief that the provision of information and support can help reduce avoidable delay.

The establishment of the Victim & Witness Care Unit, for which my organisation is the lead delivery partner, will go some way towards addressing the issue of timely and relevant information provision.

The creation of the Unit is the result of collaboration across a number of agencies and delivery partners.

I would like to acknowledge the input of our delivery partners from PSNI and Victim Support who have been central to the establishment and development of the Unit. I also commend the input from the Justice Committee, Department of Justice and the Criminal Justice Inspectorate who greatly assisted in informing the approach and remit of the Unit.

The primary function of the Unit is to act as a single point of contact within the criminal justice system providing a central focus for and on victims and witnesses from the point of receipt of a file from PSNI.

There are a number of elements of the Unit’s service delivery which I believe will be a major step forward in improving the experiences of victims and witness of crime.

The provision of a named case officer from the Unit for victims and witnesses will provide individuals with the opportunity to find out progress on the case throughout.

The foundation of the services of the Unit is an individual needs assessment which is conducted at key stages in the process for victims and witnesses.

This assessment helps ensure that vulnerable or intimidated witnesses are identified. The assessments are conducted through one-to-one contact between the individual and the case officer. The assessment is also used to identify and help address practical issues such as mobility, disability or being required to take time off work to attend court.

The case officer will, in conjunction with the police and the prosecutor, identify the potential for additional support through Special Measures.

The case officers in the Unit also act as a conduit to more specialist services - the co-location of VSNI within the Unit provides the ability to make immediate referrals for additional support.

I have been heartened to hear some of the feedback from case officers and management within the Unit as to how the services provided to date have made a real difference in improving the experiences of victims and witnesses.

We will look to continually examine and refine procedures in light of operational experience and feedback from stakeholders.

The creation of the Unit is a demonstration of the collective commitment required across the criminal justice system to maintain a clear focus on the needs of victims and witnesses, to ensure that they are treated with the respect and dignity they deserve and receive a first class service.

I have been heartened to hear some of the feedback from case officers and management within the Unit as to how the services provided to date have made a real difference in improving the experiences of victims and witnesses.
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It is now 14 years since the first Child Contact Centres, based in Mid Ulster and Knock, opened their doors to help children and young people maintain a relationship with an absent parent and/or family member in an environment that is safe for all, particularly children.

In the intervening period a network of Supported Child Contact Centres has developed across Northern Ireland with financial support from funding provided under the Families Matter initiative.

The 15 centres (and seven satellite centres) in Northern Ireland are committed to a high quality of service provision and centres have achieved accreditation from the National Association of Child Contact Centres (NACCC). All Network centres are child-focussed and their primary principle is to promote the best interests of the child, rather than of the parents.

It is important to recognise that this much needed facility for children and their families is dependent on the goodwill and commitment of a huge band of volunteers who happily give their time, skills and experience to providing a welcoming and impartial service. The NI centres are in the fortunate position of being able to employ paid coordinators to manage the service but without the volunteer input, centres could not exist.

When a family is referred to a Supported Contact Centre the coordinator usually requires at least one week’s notice in order to meet the clients and children (two separate meetings are necessary) to help reduce the anxiety the adults and children may feel about attending a centre. The pre-visit is also essential in identifying any issues that may result in a negative contact experience and also for clients to read, discuss and sign an agreement that clearly explains what is and is not acceptable during the contact session.

For the pre-visit to be useful and informative the coordinator requires the referral form, which is completed by both the legal representatives, to have detailed information to enable the coordinator to contact the clients and establish if the referral is suitable for a supported centre. Additional information on issues such as non-molestation orders, clarification of “undertakings”, any criminal convictions or social work involvement are essential to ensure that the health, safety and protection of all clients is maintained during contact. If referrers can attach a copy of any court orders then this helps the coordinator establish the exact terms of the contact as often the Resident Parent and Contact Parent can have different interpretations of what was agreed.

During a period of attendance at a supported centre, clients may attend a number of Family Proceedings hearings and arrangements may change or progress. It is important that coordinators are kept informed of changes in court orders or contact arrangements as lack of information does have an impact on how the service meets the needs of the children and adults involved.

All supported centres in Northern Ireland have seen an increased demand for their services and the majority now operate waiting lists. If coordinators are not informed that a family has moved on, or has made alternative arrangements, then this can cause an unnecessary delay for a child on the waiting list who wants to see their Contact Parent. Coordinators often spend a great deal of time trying to establish if cases are still open.

The NI Network of Child Contact Centres fully appreciates that referrers are busy people with heavy case loads. If referrers and centres can work in partnership and develop sound communication systems this can only benefit children and their families and ensure that contact is a positive and constructive experience for all involved.

Information on the location of centres, satellite centres and opening times is detailed as follows.
Ballymena
BT43 7QA
028 2563 1681
07849 498494

Antrim & Larne
bill.sheridan@baccs.org.uk
Ballymena
aine@baccs.org.uk
Coordinator – Bill Sheridan

Ballynahinch CCC
c/o Ballynahinch Baptist Church, 24 Lisburn Road, Ballynahinch, BT24 8BL
Saturday - 10am-12 noon and Wednesdays - 3pm-5pm
07769 293446
hinchcontactcentre@gmail.com
Coordinator: Naomi Stewart

Carrickfergus Child Contact Centre
30-34 Irish Quarter West, Carrickfergus, BT38 8AT
Thursday 3pm to 6.30pm
Saturday from 10am-12 noon
028 9335 0940
07853 938881
shelly.mccord@carrickccc.co.uk
www.carrickccc.co.uk
Coordinator: Shelly McCord

Central Belfast Child Contact Centre
Small Wonders 2
17 Morpeth Street
Belfast
BT13 3HZ

Saturdays 10am-2pm
07864 709598
Melaniephillips17@hotmail.co.uk
Coordinator: Melanie Phillips

Cloona Child Contact Services
Sparkles Day Care Centre
134 Stewarstown Road
Belfast
BT11 9JQ

Saturday 10am-12 noon
Anna House, Office 9
Dunmurry Office Park,
Upper Dunmurry Lane,
Belfast
BT17 0AJ
028 9062 2653
admin@cloonachildcontactservices.com
Coordinator: Anne O’Kelly

Coleraine Child Contact Centre
The House,
Abbey Street,
Coleraine,
BT52 1NE
Saturday 10am-12 noon & Tuesday 3.30pm-5.30pm
Minor Hall Presbyterian Church,
Castle Street,
Ballycastle
BT54 6AS
Saturday 10am-12 noon
07899 79 2948
smcpccccc@aol.com
Coordinator: Shirley McPhillimy

Craigavon Child Contact Centre
Moyllinn House,
21 Legahory Centre,
Craigavon,
BT65 5BE

Wednesday - 7pm-8.30pm
Saturday - 10am-12 noon
028 3832 7337
info@zero8teen.co.uk
Coordinator: Linda Lyness

Fermanagh Child Contact Centre, (ACCESS)
Arc Healthy Living Centre,
116-122 Sally’s Wood, Irvinestown,
Co. Fermanagh
BT94 1HQ
Wed 5.30pm-7.30 pm
Saturday, 10am-1pm
028 6862 8741
07849 366092
kate.heaver@archlc.com
Coordinator Kate Heaver

Foyle Child Contact Centre
33 John Street,
L’Derry,
BT48 6JY
Thursday 3pm-6pm & Saturday 10am-12 noon + 12.15pm-2.15pm
Dry Arch Children’s Centre,
47b Catherine Street,
Limavady,
BT49 9DA
Wednesday – 4pm-6pm
Barnados Family Centre,
Melmount Road,
Strabane,
BT82 9BT
Monday – 2pm-4pm
028 7136 8336
07841 072907
fccc@hotmail.co.uk
Coordinator: Liz McCorkell

Knock Child Contact Centre
Knock Presbyterian Church,
53 Kings Road,
Belfast
BT5 6JH
Saturday 10am-12 noon
Wednesday 3pm-7pm
07847 733699
knock.contact@gmail.com
Coordinator: Gemma Robinson
<table>
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<tr>
<th><strong>Mid Ulster Child Contact Centre</strong></th>
<th><strong>Newry Child Contact Centre</strong></th>
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<th><strong>Omagh Child Contact Centre</strong></th>
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<td>Cookstown &amp; Magherafelt,</td>
<td>Newry Family Resource Centre,</td>
<td>St. Marks Parish Centre,</td>
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<td>Gortalowry House, 94 Church Street,</td>
<td>Correspondence: Lisdrum House,</td>
<td>Church Street, Newtownards</td>
<td>Old General Hospital,</td>
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<td>Cookstown, BT80 8HX</td>
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<td>Saturdays 11am-1pm Wednesday 6pm-7.30pm</td>
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<td>1st Bangor Presbyterian Church, Main Street,</td>
<td>Omagh, BT79 7BP</td>
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<td>Bangor BT20 4AG</td>
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<td><a href="mailto:muccc@btconnect.com">muccc@btconnect.com</a></td>
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<td>028 8225 1135</td>
<td>07936 530849</td>
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<tr>
<td>Coordinator: Frances McKenna</td>
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<td>028 8225 1135</td>
<td><a href="mailto:omaghchildcontactcentre@yahoo.com">omaghchildcontactcentre@yahoo.com</a></td>
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<td>07936 530849</td>
<td>Coordinator: Roisin McElholm</td>
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**Chequer Hill, Newry, BT35 6DY**

- Wednesdays 5.30pm - 7.30pm
- Saturdays 10am – 12 noon
- 028 3026 0668
- jeannette.keenan@barnados.org.uk
- Coordinator: Jeanette Keenan

**Thursday 4pm-6pm**
07540 143700
Mdoherty.nccc@gmail.com
Coordinator: Mary-Anne Doherty

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Administering an Estate in the Republic of Ireland

In this article, practising barrister, Karl Dowling, highlights the procedures for extracting an Irish grant of representation in circumstances where the deceased died possessed of property within the Republic of Ireland.

Foreign domicile

When a person dies domiciled outside of the Republic of Ireland but leaving property here, the grant will be given according to the law of the country of the deceased's domicile at death where the property is movable, but according to Irish law (lex situs) where the property is immovable.

Section 102(1) of the Succession Act 1965 provides that a testamentary disposition shall be valid as regards form, if it complies with the internal law:

(a) of the place where the testator made it, or

(b) of a nationality possessed by the testator, either at the time when he made the disposition, or at the time of his death, or

(c) of a place in which the testator had his domicile either at the time when he made the disposition, or at the time of his death, or

(d) of the place in which the testator had his habitual residence either at the time when he made the disposition, or at the time of his death, or

(e) so far as immovables are concerned, of the place where they are situated.

Estate including movable estate

Where there is both movable and immovable estate, or movable estate only, in the Irish jurisdiction, the applicant for a grant of representation must show entitlement under Irish law by showing title in the oath, and must show entitlement under the law of domicile by lodging:

(i) a sealed and certified copy of the grant (and will, if applicable) from the appropriate court in the country of domicile; or

(ii) where no such grant has issued, an affidavit of law from a lawyer practising, or who has practised, in that jurisdiction.

If the applicant also has entitlement under Irish law, such title should be shown in the oath and a full grant in respect of both movable and immovable estate can issue.

If, however, the applicant does not have entitlement under Irish law, a grant limited to the movable estate only can issue pursuant to Order 79, rule 5(8)(a) of the Rules of the Superior Courts.

Immovable estate only

Where the only estate in the Irish jurisdiction is immovable estate, the applicant must show entitlement under Irish law by showing title in the oath.

If the applicant can also show entitlement under the law of domicile, ie a sealed and certified copy grant (and will, if applicable) or an affidavit of law, a full grant in respect of immovable estate can issue.

If, however, the applicant does not show entitlement under the law of domicile a grant limited to the immovable estate can issue pursuant to Order 79, rule 5(8)(b) of the Rules of the Superior Courts.

Foreign domicile and executor is applying

Where the deceased died domiciled outside of the Republic of Ireland, and a grant has been extracted by the executor in the jurisdiction of domicile, and the executor intends applying for a grant in the Irish jurisdiction, the normal set of executor papers should be lodged (see later in this article). The only difference is that a sealed and certified copy of the will and grant (from the court of foreign domicile) is exhibited in the oath (ie in place of the original will). A full grant can issue in these cases.

Requirements for an affidavit of law (if necessary)

The affidavit should be sworn by an independent lawyer practising, or who has
practised, in the relevant jurisdiction. His/ her qualification to make the affidavit should be stated. The following matters should be dealt with:

1. The facts of the particular case should be set out and all relevant documents exhibited.

2. The legislation of the relevant jurisdiction governing entitlement to administer the deceased’s estate should be referred to and quoted.

3. It should be stated whether a grant has issued in the country of domicile.

4. When the affidavit is required to deal with the validity of a foreign will, the legislation of the relevant jurisdiction governing the requirements for the valid execution of a will should be referred to and quoted.

5. When the affidavit is required to show entitlement to extract a grant, it should state who is or are the person or persons entitled to administer the deceased’s estate under the law of the country of domicile.

6. If more than one person is entitled to administer the estate, it should be stated whether they are entitled to administer independently of each other, or if all must administer together.

Types of grant of representation

A grant of representation is a document granted under seal by the High Court which gives authority to a named person (or persons) to deal with a deceased person’s estate.

The three most common types of grants of representation are:

Grant of probate

When a person dies leaving a valid will and appointing an executor, a grant of probate issues to the executor. The person’s assets are dealt with by the executor, according to the terms of the will. The deceased is said to have died testate. If any of the following applicable documentation is missing from the application, the Probate Office may refuse to issue the grant:

- original will and codicil (if applicable) and engrossment
- death certificate
- oath of executor (and copy)
- renunciation of executor (if applicable)
- Inland Revenue affidavit
- schedule of lands
- affidavit of attesting witness (in the absence of an attestation clause)
- affidavit of plight and condition (if the will is torn or mutilated)
- affidavit of testamentary capacity (if required)
- charitable bequest form (if required)

Grant of letters of administration intestate

When a person dies without having made a valid will, a grant of letters of administration issues to the person or persons who were the nearest next of kin at the date of death. Next of kin is determined by the Succession Act 1965. The following proofs are required:

- death certificate
- oath of administrator (and copy)
- Inland Revenue affidavit
- schedule of lands
- evidence of current market value
- bond
- justification of surety

Grant of letters of administration with will annexed

When a person dies leaving a valid will and a person other than the executor applies, a grant of letters of administration with will annexed issues to the person entitled by law. When the grant issues to the applicant, he or she is called the legal personal representative. The application must include:

- original will and codicil (if applicable) and engrossment
- death certificate
- oath of administrator (and copy)
- renunciation of executor (if applicable)
- Inland Revenue affidavit
- schedule of lands
- affidavit of attesting witness (in the absence of an attestation clause)
- affidavit of plight and condition (if the will is torn or mutilated)
- affidavit of testamentary capacity (if required)
- charitable bequest form (if required)
- power of attorney (if applicable)
- evidence of current market value of property
- bond

For every type of grant, it is important to note that a Personal Public Service (PPS) number is required for a deceased person or for a beneficiary resident overseas. Lack of a PPS number will result in the affidavit being returned to the executor/solicitor, thereby causing a delay in the processing of the application for the grant of representation. The Department of Social Protection (Client Identity Services), who have the responsibility of issuing PPS numbers, will need to be contacted prior to any application being made for a grant of administration.

Karl Dowling is a practising barrister specialising in wills, succession law and probate litigation. He is a committee member of the Society of Trust and Estate Practitioners (STEP), Ireland, the co-author of the Irish Probate Practitioners’ Handbook, and the editor of the Irish Probate Journal, published by Thomson Reuters.
Chief Executive welcomes All Party SME Group to Law Society House

As part of the Society’s on-going engagement strategy with key stakeholders and policy makers, the Society hosted a breakfast briefing with the All Party Group on Small and Medium Sized Enterprises, chaired by Judith Cochrane MLA. The group is comprised of business people from a wide range of sectors.

Society Chief Executive, Alan Hunter, delivered an in-depth presentation to the group’s members which focused on the solicitor branch of the legal profession and its contribution to the local economy both economic and in the work solicitors do. Rosemary Lundy, solicitor from Arthur Cox then delivered a presentation on employment law.

Minister Stephen Farry MLA outlined DEL proposals for future consideration and Alastair Ross MLA chaired a follow-up question and answer session which elucidated useful dialogue for future consideration by the group.

Following the event, attendees spoke of the benefits of the presentation, emphasising how useful it was to hear about the contribution of solicitors to the economy.

Margaret Ritchie MP addresses Council

The Council of the Society recently welcomed Margaret Ritchie, Member of Parliament, to Law Society House. Ms Ritchie had been invited to address the Council of the Society on a number of key justice issues and on her representational work at Westminster as an MP.

Following her address, the President of the Society, Richard Palmer invited Council members to raise with Ms Ritchie a number of issues of interest affecting members. She acknowledged the contribution made by the solicitor branch of the legal profession and was receptive to the comments and questions posed by Council members.

Ms Ritchie’s address to the Council of the Society continues the programme of engagement launched by the Society’s Chief Executive, Alan Hunter, to strengthen working relationships with key informed parties within the justice system including members of the Judiciary, the Ministers of the Executive, Members of Parliament and the Assembly.
Hilton Hotel, Lanyon Place, Belfast
Friday 5th December 2014

Equality Law NI Update 2014
A Focus for Practitioners on Age and Disability Discrimination

Do you work in the field of equality law?
Do you represent claimants or respondents at tribunal?
If so, this is a must-attend event.

Programme

9:30am  Introduction
Beverley Jones
Senior Partner, Jones Cassidy Brett

9:45am  Age Discrimination: Evidential and Tactical Steps for Success
Emily Neill BL

11:00am  Networking and Break

11:30am  Disability Discrimination – Reasonable Adjustments: Evidential and Tactical Steps for Success
Brian McCluggage BL

12:45pm  Networking and Lunch

1:30pm  Age and Disability Discrimination Case Study: Applying the Lessons
Fiona Cassidy and Adam Brett
Senior Partners, Jones Cassidy Brett

3:00pm  Networking and Break

3:15pm  Discrimination Compendium
Barry Fitzpatrick
Equality Consultant

4:15pm  Finish

Speakers

Beverley Jones
Senior Partner, Jones Cassidy Brett Solicitors
Beverley has been involved in significant discrimination litigation most notably the CJEU case of Johnston v The Chief Constable of the RUC. Beverley advises employers and employees on all aspects of discrimination and equal pay law both in the public and private sectors.

Emily Neill BL
Blackstone Chambers, London
Amongst Emily’s cases is Seldon v Clarkson Wright and Jakes (2012) UKSC 16, in which Emily was Junior Counsel for the successful Respondent in the Supreme Court in an age discrimination claim arising out of a mandatory retirement age in a partnership agreement.

Brian McCluggage BL
9 St John Street Chambers, Manchester
Brian’s recent cases include Baker v Totesport where he defeated a £700,000 disability claim from a senior manager arising from the privatisation of the Tote and where a £100,000 costs order was obtained against the claimant, upheld by the Employment Appeal Tribunal.

Fiona Cassidy
Senior Partner, Jones Cassidy Brett Solicitors
Fiona specialises in employment, discrimination and administrative law. She acts for both claimants and respondents in litigation. Her experience includes acting for the Claimants at the European Court of Human Rights in Tinnelly & Sons v UK.

Adam Brett
Senior Partner, Jones Cassidy Brett Solicitors
Adam advises on a wide range of employment and discrimination matters, especially to employers. He has advised on many disability claims both in Tribunals and the County Court.

Barry Fitzpatrick
Equality Consultant
Barry was a part-time Chairman of Industrial Tribunals from 1998-02 and has been Deputy Chairman of the Industrial Court from 2001, where he is now Acting Chairman.

Book via www.legal-island.com/events or telephone 028 9446 3888

Special Offer for Lawyers  Only £225 +VAT – please quote promotional code WRT225
New advertising campaign launched

Following the success of the 2013 advertising campaign the Society, with the help of its advertising agency, Navigator Blue launched a new advertising campaign in March 2014 to showcase the services and work provided by solicitors. The new advertising campaign has incorporated the findings of research conducted by the Society into the effectiveness of its previous campaign and message.

A new 30 second TV advert kicked off the start of the new advertising campaign and this was followed by a series of billboard, bus adverts and radio adverts throughout Northern Ireland. Phase two of the campaign will begin in September 2014.

To date the advertising campaign has proven successful with positive feedback from members, the public and interested parties. 

Members can view the new TV advert by going to https://www.youtube.com/watch?v=vWiE5nbsUs&feature=youtu.be

Society supports Smart Business Show

The Law Society was the official event partner of the Smart Business Show which was held recently in the Odyssey Arena, Belfast.

More than 70 members attended a unique CPD event and were provided with presentations from Per Thorsheim on i-cloud technologies and Terry Prone on communication in sensitive situations.

The event was chaired by Alan Hunter, Chief Executive of the Society.

Commenting Mr Hunter said:

“The Smart Business Show is an excellent platform which brings together some of the most prestigious entrepreneurs and business professionals in the Northern Ireland corporate market. This is an exciting opportunity to look afresh at the business of running a law practice.”

From left: Per Thorsheim; Terry Prone; Alan Hunter, Society Chief Executive and Gillian Corry.
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 7 years, and
2. been a principal for at least 3 years, and
3. are willing to act as a master for the 2 year term commencing September 2014 and
4. can provide a suitable training environment for an apprentice
please complete the attached form 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).
(d) Alternatively Masters have the option of totalling each year’s salary and averaging it and paying the same amount each week or each month (Year 1 total divided by 52 or 12, as appropriate).

Masters are reminded of their obligations under the apprenticeship contract and also under the national minimum wage legislation regarding payment of apprentices.

MASTERS 2014/2015

I confirm that I am interested in acting as a Master as and from September 2014 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 person to whom application should be made (if different from Master) ………………………………………………………………………………………………………………………………………………………………………

Is there a closing date for your recruitment process? (If so, please specify) ………………………………………………………………………………………………………………………………………………………………………

Would you prefer to receive applications from applicants by:

☐ CV by Email ☐ CV by Post ☐ Law Society Application Form ☐ 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.
Or scan and email to: admissions@lawsoc-ni.org
Alliance MLA visits Law Society House

The Society’s Chief Executive, Alan Hunter, has continued to meet with MLAs on a variety of legal issues of importance to the profession, their clients and to the wider community. He recently met with Judith Cochrane Alliance MLA for East Belfast.

The Chief Executive has met with and continues to meet with individual MLAs to explain the Society’s concerns about the recent proposals for further cuts to the legal aid budget.

Alan Hunter, Society Chief Executive with Judith Cochrane MLA.

Legacy giving is an effective and unique way for your clients to continue to support those charities closest to their hearts, even after they have gone.

Gifts to Queen’s can be shaped to reflect personal preferences and can be named after the donor or their loved ones.

They support the pursuit of world-class education and life changing research.

If you would like further information on legacy gifts to Queen’s, please contact:

Susan Wilson,
Legacy Officer,
Development and Alumni Relations Office,
Queen’s University Belfast,
Belfast BT7 1NN
T: +44 (0) 28 9097 3162
E: susan.wilson@qub.ac.uk

Registered Charity Number: XR22432
2014 is a significant year of transition in the Law Society with the announcement of the retirement of two senior members of staff, the appointment of two new senior members of staff and the creation of three positions carrying additional responsibilities.

In Spring 2014 the Society said fond farewells to Sue Bryson, the Deputy Chief Executive and to Assistant Secretary, Kevin Delaney.

After a period in private practice, Sue joined the Society in August 1980 and served in various functions in the organisation for more than 30 years.

Throughout that time, Sue was a valued and committed member of our team undertaking many roles within the Society.

Her dedication and commitment to regulation of the profession in the public interest was unwavering.

Sue always demonstrated a firmly held strong belief in collegiality, a strong work ethos and a dedication to her role.

To mark her retirement, the Society hosted a retirement function on 11 April 2014 attended by the President and past Presidents, Chief Executives, work colleagues, members of the judiciary and friends, who took the opportunity to say thank you and wish her well.

On behalf of the Society, we thank Sue for her commitment and dedication and we wish her health and happiness in her retirement and for the next stage of what she shall choose to do.

Kevin Delaney has been Assistant Secretary to the Society since 2003 and he retired in May 2014.

Throughout his 11 years with the Society, Kevin has been very much at the centre of many key pieces of work in relation to conveyancing, data protection and human rights issues, to name but a few.

More recently, Kevin had been involved in discussions and meetings with lending institutions.

He was dedicated to the understanding, interpretation and application of the law and had a willingness to embrace change, together with a commitment to his colleagues and a desire to do the best for them.

On the 29 May 2014, the Society, Presidential Team, Chairs of Committees and work colleagues, paid tribute to Kevin at a retirement function to mark his time at the Society.

On behalf of the Society we thank Kevin for his years of service and dedication and commitment to his work and colleagues and we wish him health and happiness in his retirement.

Preparing for the transition
As we say a fond farewell to our colleagues, the Society moves forward. We are very grateful to Sue and Kevin for giving us notice of their retirements which allows us to plan for the future.

In doing so our approach has been to see the transition period as an opportunity to take stock of what is required to meet the demands of an ever changing and demanding regulatory and public environment.

Our focus has been defined by the Society’s overall strategic planning for the future and to ensure that we build upon the existing knowledge base within the organisation by recruiting staff who bring fresh and relevant experiences and understanding to key positions.

I am therefore pleased to announce that we have appointed Catherine McKay as Head of Professional Conduct and Andrew Kirkpatrick as Assistant Secretary with a focus on the conveyancing and non-contentious portfolio within the Society.

Catherine brings to the position a wealth of knowledge and experience gained through private practice, through service as a Law Society Council member and as a past member of many of the Society’s Regulatory Committees.

Her period in private practice, coupled with her understanding of the ever changing regulatory environment, are invaluable as the Society moves forward.

Andrew Kirkpatrick is an experienced conveyancer and property lawyer and a
CATHERINE McKay

With over 28 years’ general professional experience as a solicitor in private practice in Northern Ireland, Catherine McKay was appointed Head of Professional Conduct with the Society in December 2013, and Deputy Secretary/Registrar in June 2014.

A founding partner of Moore McKay English Solicitors, Newtownards, she is an accredited Advanced Advocate, having attained a Certificate in Advanced Advocacy through the Society in association with the National Institute of Trial Advocacy. The Contentious Business Partner/Lead Partner in Enforcement in private practice, Catherine provided expert advice to public and private sector clients, her particular specialisms civil and commercial litigation, local government law and business, insolvency, asset recovery and regulation. She is pleased to have contributed directly to the development of jurisprudence in emerging areas of law.

Catherine is an experienced speaker, presenting not only to members of the Society, current and future, at Continuous Professional Development events and at the Institute of Professional Legal Studies, Belfast, but also by invitation at external events, locally and nationally, for both statutory agencies and local government.

Before her appointment to the Society, Catherine was a serving member of Council (1997 - 2000, 2009 - 2013). Previously Chair of the Financial Services, Parliamentary and Law Reform Committees, and Library Sub Committee, and founding Chair of the Family Law Committee, her Committee membership included the Professional Ethics and Guidance, General Purposes and Finance, Policy, Contentious Business and Remuneration Committees. She was a member of the then Legal Aid Committee, and the Solicitor Advocacy Working Party of the Society.

She is a current member of the Insolvency Rules Statutory Committee, and past member of the Family Law Liaison and Children Order Advisory Committees. She remains a member of the Fraud Advisory Panel.

Andrew obtained his law degree at Queen’s University Belfast, graduating in 2000 and completed his studies at the Institute of Professional Legal Studies in Belfast in 2002.

He trained at Carson McDowell Solicitors and remained as a solicitor there until June 2003 before joining Mills Selig’s property and private client department.

During his time at Mills Selig he advised on all types of property transactions including commercial conveyancing, domestic conveyancing, landlord and tenant work, mortgages and remortgages, residential development work including site assembly and insolvency and distressed property sales.

He is also a member of the Society of Trust and Estate Practitioners and developed a large private client practice within Mills Selig, including working with wills, trusts and administration of estates.

In his spare time Andrew plays cricket for Woodvale CC and MCC and is involved in coaching rugby at Academy RFC.

In March 2014, Andrew was appointed to the Society as Assistant Secretary with a focus on the conveyancing and non contentious portfolio within the Society.

ANDREW KIRKPATRICK

The Society welcomes both Catherine and Andrew to what will undoubtedly continue to be busy and challenging posts.

Towards the future

The strategic work of the Society remains ongoing with our focus very much centred on enhancing the relationship with our members and affirming the Society’s position as a key authoritative voice on legal issues in Northern Ireland.

Conscious of challenges ahead and the opportunities which we seek to develop and in keeping with our strategic approach, the Society has assigned additional responsibilities as follows:

• Deputy Chief Executive (Practice matters and internal management matters) - Peter O’Brien

• Director of Client Complaints (Preparation for implementation of new Bain legislation) – Moira Neeson

• Deputy Secretary/Registrar (Regulation matters) – Catherine McKay

These three new internal positions will significantly contribute to the Society’s strategic focus for the next period and will help in the delivery of its ongoing work.

ALAN HUNTER
CHIEF EXECUTIVE
Marathon teams raise nearly £3000 for NI Hospice

Dear Colleague

I am pleased to report that the two teams of runners from the Law Society of Northern Ireland, including myself, successfully completed this year’s Belfast City Marathon without any fatalities!

Whilst it wasn’t a race the two times recorded were 4hrs 28mins and 4hrs 45mins. I am not going to reveal which team was which!

We have already hit our target of £2500 in support of the Society’s chosen charity of the year, the Northern Ireland Hospice and it would be even better if we could exceed this and push towards £3000. Remember this is a wonderful cause.

There is still a little time left to donate and I would encourage colleagues and solicitor firms across Northern Ireland to help us meet and exceed our target.

To make a donation all you have to do is visit: http://www.justgiving.com/Law-Society-NI

Cheque (payable to NI Hospice) or cash donations may also be made at the Society’s reception.

RICHARD PALMER
President

Pro Bono Choir raises £3500 for NI Hospice

In May the Pro Bono Choir raised more than £3500 at its Campbell College concert in aid of the Northern Ireland Hospice appeal. This is the second year in a row that the Choir has committed itself to raising money for the President’s charity of the year. Well done to the Pro Bono Choir!

From left: Siofra Healy; Máirtín Ó Muilleoir, Lord Mayor of Belfast; Richard Palmer, Society President and Joe Rice, Musical Director of the Pro Bono Choir.
Using Email Effectively to Reduce Stress

Email has many advantages in the office environment. Less intrusive than a phone call, it gives the writer a chance to properly compose what they need to say. It can get to international destinations just as quickly as it can to the office next door and documents can easily be attached and sent. It is also far cheaper than writing a letter or making a phone call and is easily recorded and retrieved.

Like other aspects of the workplace, however, email needs to be used properly if it is not to become a source of problems. Every email sent out from a firm carries with it a reputational risk and it is very easy for staff, usually inadvertently, to send confidential information to a third party. It can be viewed by some, including clients, as being too informal and impersonal and there is the ever-present risk that an email account can be hacked or deluged with spam.

Some of the most common email mistakes include failing to attach an attachment; hitting “Reply All” instead of “Reply”; or “Reply” instead of “Forward”. These errors can have disastrous and far-reaching consequences.

- When his Afro-Caribbean secretary resigned, lawyer Adam Dowdney emailed a colleague, “Can we get a really fit busty blonde this time?” The former secretary saw the email and received £10,000 in an out of court settlement.

- Jo Moore emailed her boss, Stephen Byers, on 11 September, 2001, saying “It’s now a very good day to get out anything we want to bury.”

Excessive amounts of email can cause severe stress. A survey by Glasgow and Paisley Universities, 2007 found that:

- 62% of workers are stressed or feel under pressure due to the number of emails they receive
- Workers spend an average of 25% of their time on email
- But that 50% of that time is wasted

Emails which cause stress are often those where there is no clarity regarding the action required from the recipient, or which include too many subjects, or are very long, are unnecessary, or which are flagged as urgent when they are not. Using email carefully and effectively can help prevent stress for yourself and your colleagues.

When sending an email, think about whether email is really the best way to deal with the matter or whether a phone call would be better. Ask yourself whether you could get the information elsewhere, or do the job more quickly yourself, rather than asking someone else via email. Consider whether the person you are emailing actually has time to deal with it, or even if they are the right person to do so. Don’t copy others in unless they need to know about it.

In the professional environment, it is particularly important to think carefully about any email you send and what it says about you and your firm. In particular, bear in mind the following points:

- When copying email to a third party, or a group of people, consider using the BCC (blind carbon copy) field. Failing to do so means that every person receiving the email has access to every other person’s email address and you probably don’t have permission to disseminate that information.

- Pay attention to your grammar, spelling and punctuation. The person you are writing to may not know you personally, and may subconsciously judge your intelligence and level of education on the composition of your email. Poor command of the language gives a bad impression.

- When forwarding or sending anything, check to see what appears underneath your signature. If you have played “email ping-pong” with a colleague there could be a considerable correspondence included, which may include confidential or defamatory information.

- Keep emails brief and to the point, ensuring that the person receiving it knows exactly what is expected of them.

- Think about what the email you are sending says about you. It is extremely easy for your colleague to forward the dirty joke you sent him to your boss.

The oft-quoted “golden rule” of email is never to say anything in an email you wouldn’t shout across a crowded room. Stopping and thinking before you send any email can save a lot of problems later.

A further very important rule is to be very wary of spam, especially any attachments you are not expecting or do not recognise. Spam gets cleverer all the time, so keep grounded – you don’t have an account with
the bank which needs you to input your security information, no dying millionaire philanthropist really needs your help and nothing bad will happen to you if you don’t forward an email to ten friends.

It is as important to protect yourself from email stress as it is to consider your colleagues. Try to resist the urge to check every email the minute it comes in and instead schedule regular times during the day to deal with email. Use the delete button and the word “no” with impunity and formulate a way to prioritise and store your email. For example, keep in your inbox only email which needs to be dealt with in some way and have a number of folders into which you move emails once the work has been completed.

Remember that your email address is not like your home address, in that you can have as many as you can control. You should keep work and personal email separate, with separate addresses but you might also consider having an “S address”. This is an email account which you use for “Shopping, Subscriptions and Spam.” Anyone who isn’t a work colleague (who would get your work address) or a friend or family member (who would get your personal address) gets the S address when you sign up for their newsletter, online shopping service or daily horoscope or weather forecast. Because of the nature of these services, this is the address most likely to be targeted for spam, so if you need to close down the account you won’t lose your personal email address, or lose touch with anyone you actually enjoy hearing from.

E-mail should be a useful servant but all too often, the way we use it turns it into a hard taskmaster. If you are suffering as a result of its use by yourself or others, LawCare is there to help. We offer support and advice to members of the legal profession suffering from problems relating to stress, depression, addiction to alcohol or drugs and other impairments. As part of this we offer free (except for expenses) presentation and seminars on stress management, including one on using email effectively to reduce stress which goes into more detail than this article.

For further information call 01268 771333.

LawCare’s free and confidential helpline is available 365 days a year Monday to Friday 9 am to 7.30 pm and at weekends and Bank Holidays 10am to 4pm The number to call is 0800 279 6869

There is also a comprehensive website at www.lawcare.org.uk

Stress getting to you?

Stress can cause illnesses such as heart disease, addiction and depression.

Get help before it all gets too much.

For free confidential advice and support on any health issue call us.

0800 279 6869

www.lawcare.org.uk
This is the 150th report of the Solicitors’ Benevolent Association, which was established in 1863. It is a voluntary charitable body, consisting of all members of the profession in Ireland. It assists members or former members of the solicitors’ profession in Ireland and their wives, husbands, widows, widowers, family and immediate dependants who are in need. It is active in giving assistance on a confidential basis throughout the 32 counties.

The amount paid out during the year in grants was €479,420, which was collected from members’ subscriptions, donations, legacies and investment income. Currently there are 65 beneficiaries in receipt of regular grants and approximately half of these are themselves supporting spouses and children.

There are 17 directors, three of whom reside in Northern Ireland and they meet monthly in the Law Society’s offices at Blackhall Place. They meet at the Law Society in Belfast every other year. The work of the directors, who provide their services entirely on a voluntary basis, consists in the main of reviewing applications for grants and approving of new applications. The directors also make themselves available to those who may need personal or professional advice. The directors have available the part-time services of a professional social worker who, in appropriate cases, can advise on State entitlements, including sickness benefits.

The directors are grateful to both law societies for their support and, in particular, wish to express thanks to James B McCourt (past-president of the Law Society of Ireland), Michael Robinson (past-President of the Law Society of Northern Ireland), Ken Murphy (Director General), Alan Hunter (Chief Executive) and the personnel of both Societies.

I wish to express particular appreciation to all those who contributed to the association when applying for their Practising Certificates, to those who made individual contributions and to the following: the Law Society, Law Directors and Information

**Directors**
- Thomas A Menton (chairman)
- Brendan Walsh (deputy chairman)
- Caroline Boston (Belfast)
- Thomas W Enright (Birr)
- Felicity M Foley (Cork)
- William B Glynn (Galway)
- John Gordon (Belfast)
- Colin Haddick (Newtownards)
- Dermot Lavery (Dundalk)
- Anne Murran (Waterford)
- John M O’Connor (Dublin)
- John TD O’Dwyer (Ballyhaunis)
- Colm Price (Dublin)
- James Sexton (Limerick)
- Andrew F Smyth (Dublin)
- Brendan J Twomey (Donegal)

**Trustees (ex officio directors)**
- John Gordon
- John M O’Connor
- Brendan Walsh
- Andrew F Smyth

**Secretary**
- Geraldine Pearse

**Auditors**
- Deloitte & Touche, Chartered Accountants and Statutory Audit Firm, Deloitte & Touche House, Earlsfort Terrace, Dublin 2

**Financial consultants**
- Tilmann Brewin Dolphin Limited, 3 Richview Office Park, Clonskeagh, Dublin 14

**Bankers**
- Allied Irish Banks plc, 37 Upper O’Connell Street, Dublin 1
- First Trust Bank, 31/35 High Street, Belfast BT1 2AL

**Offices of the Association**
- Law Society of Ireland, Blackhall Place, Dublin 7
- Law Society of Northern Ireland, Law Society House, 96 Victoria Street, Belfast BT1 3GN

**Charity number:** CHY892

Only 78% of solicitors, when applying for their Practising Certificates in 2013, paid their membership to the Solicitors’ Benevolent Association. I would appeal to the remaining 22% of solicitors to support the Association, which is our only professional charity, so that the directors can assist the increasing number of beneficiaries applying for assistance.

The demands on our Association are rising due to the present economic difficulties and, to cover the greater demands on the association, additional fund-raising events are necessary. Additional subscriptions are more than welcome, as of course are legacies and the proceeds of any fundraising events. Subscriptions and donations will be received by any of the directors or by the Secretary, from whom all information may be obtained, at 73 Park Avenue, Dublin 4. Information can also be obtained from the Association’s website at www.solicitorsbenevolentassociation.com. I would urge all members of the Association, when making their own wills, to leave a legacy to the Association. You will find the appropriate wording of a bequest at page 33 of the Law Directory 2013 of the Law Society of Ireland.

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

Thomas A Menton, chairman

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### RECEIPTS AND PAYMENTS ACCOUNT, YEAR ENDED 30 NOVEMBER 2013

<table>
<thead>
<tr>
<th>RECEIPTS</th>
<th>2013</th>
<th>2012</th>
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</thead>
<tbody>
<tr>
<td>Subscriptions</td>
<td>385,755</td>
<td>385,553</td>
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<td>Donations</td>
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<td>Investment income</td>
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<td>Bank interest</td>
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<td>Repayment of grants</td>
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<td></td>
<td><strong>687,992</strong></td>
<td><strong>608,526</strong></td>
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<table>
<thead>
<tr>
<th>PAYMENTS</th>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Grants</td>
<td>479,420</td>
<td>480,276</td>
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<tr>
<td>Bank interest and charges</td>
<td>918</td>
<td>908</td>
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<tr>
<td>Administration expenses</td>
<td>43,390</td>
<td>36,075</td>
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<tr>
<td></td>
<td><strong>523,728</strong></td>
<td><strong>517,259</strong></td>
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</tbody>
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### OPERATING SURPLUS FOR THE YEAR

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<table>
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</thead>
<tbody>
<tr>
<td>Profit on disposal of investments</td>
<td>84,484</td>
<td>41,465</td>
</tr>
<tr>
<td>Provision for write down of quoted investments in prior periods no longer required</td>
<td>12,871</td>
<td>23,000</td>
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<tr>
<td>SURPLUS FOR THE YEAR</td>
<td><strong>261,619</strong></td>
<td><strong>155,732</strong></td>
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</table>
Quite often the focus in legal education when addressing practical skills is predominantly on litigation and court practice. However, effective lawyering begins in the law office long before you reach the courtroom. Good lawyering can often prevent the need to enter the fray in the courtroom. A key skill in good lawyering is effective client counselling. When describing client counselling skills, it is far too simplistic to characterise them as interviewing and advising skills. The process involves not only interviewing and advising but also listening and understanding your client’s needs and identifying all issues that may be of concern to them. Every solicitor must strive to understand their client’s needs and to identify potential solutions, including non-legal ones, to their problems. Sometimes it also involves recognising that your client may need assistance from other third party providers.

The Brown Mosten International Client Consultation Competition (“ICCC”) seeks to encourage the use and practice, and indeed acknowledge the value, of such skills by holding an annual international client consultation competition. During the competition, the competitors participate in simulated client meetings and conduct mock client interviews. During the interview, the competitors are presented with a mock factual scenario centred around various legal issues. This year the general topic was commercial contracts.

The ICCC 2014 involved more than 20 teams from around the world, from both common law and civil law jurisdictions. The teams who qualified for the international competition were winners of their regional competitions. Ruairi Muldoon, my teammate, and I were given the honour of representing Northern Ireland and the Graduate School of Professional Legal Education in Puerto Rico after we prevailed in the regional competition. The experiences in preparation for and in participation in the competition further enhanced my understanding of the importance of client counselling skills.

Before reaching the competition in Puerto Rico, we had the opportunity to conduct mock interviews and practise the skill of mirroring in our client interviews. Both Emile Daly, a lecturer at the Graduate School, and Ivan Waide, a partner at my firm, A & L Goodbody, Belfast, assisted us in practising our mirroring techniques.

During the regional competition, the judges who evaluated our mock consultation commented positively on our mirroring skills. While in Puerto Rico, we continued to receive support and guidance from the Director of the Graduate School, Diane Nixon, and from my firm, A & L Goodbody.

Again, our team received praise for the use of the mirroring technique and for our ability to identify the issues and provide a business-centred approach to our client’s concerns.

As a team, Ruairi and I received not only practical but financial support to participate in the competition from the Law Society of Northern Ireland, A & L Goodbody and the University of Ulster. We received a warm welcome from the hosts of the 2014 competition, the Interamerican University of Puerto Rico, School of Law, San Juan, Puerto Rico, who provided exposure to the welcoming and warm culture that is distinctly Puerto Rican, and we savoured the opportunity to exchange stories with lawyers, young and old, from other jurisdictions.

Patricia Sweeney-MacBride, trainee solicitor
Conference gives insight into anatomy of clinical negligence claims

More than 100 medical and legal professionals attended a conference at Law Society House entitled ‘The anatomy of clinical negligence claims - issues for the maternity team’.

Organised by Baby Lifeline Training, the aim of the conference was to provide delegates with a greater understanding of clinical negligence claims in the maternity setting and an awareness of experiences from both patients and professionals.

Guest speakers included the Honourable Mr Justice Gillen, Dr Samina Dornan from the Royal Victoria Hospital, Jacqueline McAleese from Carson McDowell and Brian Stewart from O’Reilly Stewart Solicitors, which also sponsored the event.

The verdict ….. mock trial a great success

Belfast firm, McKinty and Wright, took learning to a whole new level, engaging with Arts & Business NI and working with a creative team of actors to produce a ‘mock trial’ scenario for their young solicitors, in conjunction with the young insurers of the Belfast Insurance Institute.

All parties participated in an interactive claims workshop which took place recently at the Institute of Professional Legal Studies. A realistic civil claim scenario was devised which included in-depth character profiles, witness statements and photographic evidence.

Following a re-enactment by actors, delegates then were given the opportunity to investigate and interview the witnesses giving participants the chance to make up their own minds as to the validity of the fictitious claim.

The afternoon consisted of a mock trial with recently retired District Judge, Hilary Keegan, presiding and barristers Christopher Ringland and John Rafferty representing the Plaintiff and Defendant respectively.

The actors were thoroughly questioned and cross-examined in character with no holds barred before the Judge delivered his final verdict.

Catriona McCorry, Solicitor, McKinty and Wright, said: “It was wonderful to have the opportunity to be involved in this workshop. It was exciting for us to be able to offer an interactive learning environment for the representatives from the local Insurance industry. The hard work and dedicated preparation of the actors and Arts & Business NI’s Heather Carr and Tania Carlisle made a significant contribution to the success of the event.”

Catriona McCorry, Solicitor, McKinty and Wright, solicitors; Heather Carr, Business Development Manager, Arts & Business NI; John Rafferty, barrister with recently retired District Judge, Hilary Keegan, presiding over mock trials with local actors adding a creative flavour to the proceedings.
STEP: NI Charity Quiz Night

The committee members of STEP: NI recently organised a charity quiz night in aid of the Alzheimer’s Society and were delighted to be able to hand over a cheque for £1100 to the Society to support its invaluable work in Northern Ireland.

This was the committee’s first foray into running a social event for its members and they were delighted at the enthusiastic response from members as over 80 people came along to enjoy a light hearted evening of networking and fun.

The committee hopes to run more events of this type to complement its existing ambitious programme of CPD events for its members and other trust and estate practitioners in Northern Ireland.

Michael Graham, Chair of STEP: NI handing over the cheque to Claire Smyth of the Northern Ireland Alzheimer’s Society.

Application Requirements

Candidates will have in-depth experience in one of the following practice areas:

- Commercial/Corporate
- Property
- Employment
- Litigation
- Private Client
- Banking

- The successful candidate will be currently working in a senior capacity in practice, in either a commercial firm or a high quality general practice and will have developed a reputation for excellence.

- Proven commercial acumen and business development experience, with a well developed network.

- Experience of managing own caseload and supervising and mentoring department staff

Contact us

We welcome confidential enquiries - please contact Ronan Savage directly for more information. All details will be kept in total confidence. Details are not divulged to our client without your permission.

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Ronan Savage, Legal Recruitment Specialist, Company Director - Hunter Savage
Telephone 028 9008 0031 Mobile 07756 805605 ronan@huntersavage.com www.huntersavage.com

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A new era for mental capacity and mental health legislation

Les Allamby, Director, Law Centre (NI), gives an overview of the Mental Capacity Bill which is out for consultation from May to 2 September 2014.

The long awaited Mental Capacity Bill and consultation document were published at the end of May 2014.

The Bill provides a single statutory framework covering decision-making on care, treatment (for both physical and mental illness) and personal welfare of anyone aged 16 or over who lacks the capacity to make a particular decision at a particular time. In addition, the Department of Justice is consulting further on proposals governing criminal justice and capacity policy issues. Finally, the document also clarifies modifications on how the new framework will apply to 16 and 17 years old and deals with issues relating to children and mental capacity. The proposed legislation marks a progressive and modern approach to mental capacity issues.

The genesis of the Bill is from the wide-ranging Bamford review. From 2002 the Bamford review included examining how best to provide services to people with specific mental health needs or learning disability, to promote mental health awareness, develop more effective social inclusion of people with learning disabilities and mental health difficulties and make recommendations for improving the law. The report on legislative reform recommended a single piece of legislation to cover both mental health and capacity issues. This contrasted with the approach taken in the Mental Capacity Act (2005) in England and Wales and the Adults with Incapacity (Scotland) Act 2000. Legislation elsewhere has kept separate the questions of dealing with mental health legal issues and managing capacity.

The Bill follows extensive work with the voluntary sector and other stakeholders. The Law Centre chairs the DHSSPS reference group and convenes the Mental Health and Learning Disability Alliance. The Alliance - a wide ranging coalition with members including user led groups with experience of mental health issues through to professional clinical bodies - has been particularly active in driving for reform.

Originally, the Department sought to follow the approach taken elsewhere and proposed two separate Bills. Following intense lobbying, including a number of seminars with key architects and researchers involved in legislation in Britain, the Department agreed to a single Bill. This is a pioneering approach and the proposed legislation radically recasts mental health law, and in particular the current Mental Health (NI) Order 1986.

THE KEY PROPOSALS

Civil justice issues

The draft legislation is underpinned by a series of principles. The principles seek to enable people to exercise capacity to the greatest extent possible and, where capacity to take decisions is not possible, to provide for alternative decision-making mechanisms with appropriate safeguards. The principles place common law concepts of presumption of capacity and acting on behalf of others’ best interests on a statutory footing.

The Bill also provides a checklist that must be followed when making a determination about another person’s best interests.

The Bill provides for future decision-making arrangements replacing the current ‘Enduring Powers of Attorney’ with a new system of ‘Lasting Powers of Attorney’ (LPA) and a process for Advanced Decisions. The LPA provides authority for decisions to be made on financial matters alongside mental and physical health and other welfare issues. A new Office of Public Guardian will be created to manage the new arrangements, deal with complaints and take over the current functions of the Office of Care and Protection.

A major change is that a doctor will no longer have the authority to override an effective advance decision about mental health treatment as at present. Where interventions become necessary due to an absence of capacity or advance decisions in any area of care, treatment or welfare, then new safeguards are to be put in place. The approach is to move away from granting specific individuals legislative powers to intervene, towards creating a statutory framework for the common law doctrine of necessity and the concept of acting in another person’s best interests. The safeguards start from foundations that must be adhered to in all interventions, namely, taking reasonable steps to establish a lack of capacity and ensure that a reasonable belief is held that a decision is in the person’s best interests. Additional safeguards are then applied to more serious interventions including restraint, major surgery or other actions which have serious consequences or impact on a person’s life. If such safeguards are not complied with, then protection from civil and criminal liability (save for negligent acts) will not apply.

In addition, statutory criteria will have to be met for authorising the detention of a person in a hospital or a care home, or the transfer or agreed absence from such facilities. This authorisation must come from a Health and Social Care panel. In limited, specific circumstances, an alternative course can be followed for short term detention.

As an additional support and safeguard to cover acts requiring authorisation or non-authorised serious compulsory intervention which is objected to by an individual or his or her nominated person, an independent advocate must be in place to represent the person’s best interests. The independent advocate will be a lay person with knowledge of the legislation and the procedures relating to the intervention.

All of the safeguards, however, are subject to being bypassed in cases of emergency.
The mental health review tribunal will be re-cast as the review tribunal in recognition of the wider remit it will have. There will be no Court of Protection (as in England and Wales). Instead the Bill provides declaratory and decision-making powers for the High Court when determining care, treatment or welfare of a person who lacks capacity. These are similar to the powers exercised by the Court of Protection.

Finally, certain decisions fall outside the scope of the substitute decision-making arrangements of the Bill, for example consenting to marriage or divorce, consenting to sexual relationships or adoption and voting. The consultation seeks views on whether this should be extended to decisions on judicial separation. The Bill also makes it clear that the current position on assisted suicide is not affected by its provisions.

**Children and young people**

The Bill does not apply to people under the age of 16. Instead a separate project is to be undertaken to consider the legislative framework at some point after 2016. The existing Mental Health Order will be retained as an interim measure for people under 16 years of age who require detention in hospital for assessment or treatment of a mental disorder. A number of additional safeguards are being considered. These include adding a child focussed equivalent of the best interests principle - in line with the UN Convention on the Rights of the Child - to ensure the child’s views are taken into account. The insertion of a duty to consult with an age appropriate independent advocate and a duty to ensure a young person is placed in age appropriate accommodation are also being proposed. The consultation seeks proposals for additional safeguards for this group.

**Criminal justice policy**

The consultation document also sets out the policy development issues for criminal justice and issues of capacity. The question is whether the Bill is used as a place to amend other criminal legislation or whether it serves to deliver substantive criminal justice capacity and mental health issues in its own right.

The proposal is to adopt a capacity based approach - in line with the Bill - to care, treatment and personal welfare for individuals in the criminal justice system. Decisions around detention in custody will continue to be imposed, with powers to remove people to a place of safety being retained on the new basis of a lack of capacity. This includes removal to a police station or a hospital, although the former should only be used where no other suitable place is available.

Policy development around remand, sentencing options, dealing with unfitness to plead and transfer of prisoners for in-patient treatment are all discussed. Powers to independently assess and review people who have entered the health care system from the criminal justice arena will also be retained. These matters will be subject to consideration by the new ‘review tribunal’.

**A PROGRESSIVE STEP**

The Law Centre welcomes the publication of the Bill and the consultation document. The approach to capacity is a progressive step forward, potentially allowing Northern Ireland to leap from a backwater to a pioneer in mental health and capacity legislation. It is also recognition of a great deal of hard work undertaken by the Law Centre, the Mental Health Learning Disability Alliance and many other important organisations and individuals who have championed an area of law which until relatively recently rarely achieved the prominence it deserved.

Responses to the Bill are sought by Tuesday 2 September 2014 and can be sent to mentalcapacity@dhsspsni.gov.uk. Copies of the Bill and the consultation document are available from www.dhsspsni.gov/legislative-framework-for-mental-capacity.pdf

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The Law Centre’s Legal Support Project picked up the award for best new placement employer at the University of Ulster’s Employer Placement Awards 2014.

Collecting the award from Robin Swann, MLA, Chair of the Employment & Learning Committee is Sinead Mulhern, Project Head (left) with Lynda Bryans.
Sun shines on solicitors

With a record attendance playing in high temperatures and for our best ever prizes (£3,000) the BSA Golf Tournament 2014 was a roaring success.

Just as the temperatures were high so was the competition. Close to 100 entrants took to the course at Malone. Both John Rodgers and Ken Rutherford finished the day on 37 points each. They were so close it took a count back through the back nine and indeed to the sixth hole on the front nine to separate the two. John Rodgers prevailed as the winner and lifted the BSA Cup, along with a spa weekend for two at the five star Lough Erne Resort, with a round of golf on the Faldo Course thrown in for good measure.

Ken, who was last year’s winner, had to settle for the runner-up spot and was presented with a limited edition print of the courts signed by the artist Mary Hamill Boothe and the Lord Chief Justice Sir Declan Morgan.

Not content with the BSA Cup, John Rodgers and his team of Peter Conlon, David Miskelly and Timmy Scholes, went on to lift the team prize - a corporate day at Down Royal Races for the Magner’s Derby.

Peter Conlon of the same team also stepped up to claim his prize for winning the front nine, receiving a golf voucher to the tune of £300.00.

‘Enough’, I hear you cry, ‘of team Rodgers’!

Other winners were:

Glen Telford - back nine
Barry Donnelly - nearest the pin
Tracey Haldane – ladies’ prize
Paul McGuickin – visitor’s prize

A huge word of thanks must go to our event sponsors, Lease Options. Apart from its support, as a surprise, it put on a free draw and the winner drove off in a new Jag for a week. The lucky recipient was Trevor Gilliland.

A cheque was presented to Suzie McIlveen of Marie Curie for just over £1,000 by the BSA Chair, Colin Mitchell.

We also owe a huge debt of gratitude to our prize sponsors, namely Lough Erne, Hanna Fine Art, Lough Eske, DX, Quigg Golden, Hamilton and Kirk and Law Suit, whose support we warmly welcome.

A final thanks to the staff at Malone who had the course in tip top condition and who served an excellent meal to round off what was a fantastic day.

Photographs courtesy of Ulster Tatler
The Belfast Marathon took place on the first Monday in May and as has been the tradition for many years now, the Belfast Solicitors’ Association entered a relay team to help raise funds for charity.

This year the Association’s team consisted of solicitors from Breen Rankin Lenzi headed by former BSA Chairman, Reg Rankin and colleagues Tracy Lenzi, Ashleigh McLarnon and Sinead O’Neill, along with a volunteer from outside the legal profession, Anna Seaward. The Association’s nominated charity this year is Marie Curie Cancer Care.

Notwithstanding the very inclement weather and cool conditions, the collegiality created by the large number of participants both in the Marathon, relay and walking events proved quite contagious.

The BSA team completed the 26.2 miles in a very respectable time of 5 hours and 4 minutes. More importantly, however, through the use of a specially set up Just Giving Page, it raised more than £1400 to benefit Marie Curie Cancer Care and the important work that it undertakes to provide a better quality of life for people suffering from this serious illness and to support their families in a tangible manner.
Obituary - R B Gordon Bell

Following a short illness, Rathfriland solicitor Gordon Bell died on 8 May 2013 at the age of 85.

He was born in the townland of Kiltarrif in 1928 and received his early education at Rathfriland National School, Newry Street and Newry Grammar School. He subsequently studied law at Queen’s University Belfast, graduating in 1949 following which he served his apprenticeship with the firm of Fryar & Gordon Banbridge and was admitted to the Roll of Solicitors in Northern Ireland in 1953.

In order to broaden his experience he worked for Thomas Elliott and Sons Solicitors in Strabane for a time before returning home to open his own practice in Rathfriland in 1955. His premises were initially in Downpatrick Street before moving to their current location in Newry Street and he attended the office daily until his illness began in late April 2013.

Mr Bell was a former member of the Council of the Law Society of Northern Ireland and the esteem in which he was held within the legal profession was demonstrated by the huge turnout of solicitors at a memorial ceremony held at Newry Courthouse following his death. The presiding District Judge, Mr Paul Copeland, reflected on his life’s work and his contribution to the administration of justice for over 60 years while tributes from the solicitors’ profession were led by Past President and Treasurer of the Society, Mr Rory McShane.

In a moving address, Mr McShane commented on Mr Bell’s integrity, his desire to ‘seek solutions, not problems’ and on his near-legendary courtroom wit. He noted that many defendants appearing before the Courts had cause to thank Gordon Bell for deploying his trademark humour as part of his arguments in their defence.

Mr Sean Patterson BL spoke on behalf of the Bar of Northern Ireland and recalled Mr Bell’s unfailing helpfulness to younger members of the profession. Mrs Grainne Campbell of the Northern Ireland Courts & Tribunals Service, added her condolences and remarked how it had been a pleasure for both herself and her staff to have worked with Mr Bell over many years.

Gordon Bell had an abiding passion for all things related to the wellbeing of his beloved Rathfriland. In his younger years he had been an active member of the local Young Farmers Club, having served as secretary and devoted his energies to many community based organisations including the Traders’ and Residents’ Association, the Civic Week Committee and the Historical Society as well as contributing numerous articles to the ‘Outlook’ on matters of local interest and acting as Honorary Secretary of Second Rathfriland Presbyterian Church for many years.

His love for local football in general and Rathfriland Football Club, in particular was all-consuming, having been a founder member and first President from 1962 to 2005. He was instrumental in securing the land for the construction of Iveagh Park, which was to become known, probably at his suggestion, as the ‘Wembley of the Mournes’.

The Club had some difficult days and at one stage Mr Bell ran the team almost single-handedly, acting as manager and on occasions transporting half of the team to away matches in his own car and arranging for a taxi to follow with the other half! Nothing gave him greater pleasure than to see how the Club subsequently flourished and to know that the current committee and members have created such a vibrant, successful and welcoming structure.

Gordon Bell served tirelessly as a local football administrator; he was Chairman of the Newcastle & District League, secretary of the Mid Ulster League and a member of the IFA Council. Possibly uniquely, he had the distinction of attending every Northern Ireland International match at Windsor Park from the end of the Second World War until very recently, including one sell out fixture against England in the early 1970s when, accompanied by his sons, he arrived at the turnstile to discover that the tickets had been left on the mantelpiece in Rathfriland. Not many supporters could have gained access without them but Gordon’s charm and wit soon ensured that the trio were quickly escorted to the best seats in the stadium.

He is survived by his wife of 54 years Margaret, children David, Alison and Glenn, daughter-in-law Jenny and grandchildren James and Clare. His contribution to his family, to the community and to the law is perhaps best summed up by borrowing the words of Mr McShane during the Courtroom tribute: “We shall not see his like again”.

Obituary - R B Gordon Bell
NI Caselaw

Seamus Stennett v Dunnes Stores (Rangon) Ltd
Plaintiff injured when he slipped and fell on spilt sugar in Dunnes Stores in Enniskillen. – liability. – whether the defendant had shown a reasonable system of inspection and cleaning had been in operation at the time of the accident in order to avoid accidents of this kind. – HELD that the defendant has not demonstrated that there existed on the day of the plaintiff’s accident an effective and reasonably system of inspection and liability found in favour of the plaintiff that there was negligence on the part of the defendant [2013] NIQB 114

Donald McElhatton v Ian McFarland and Lorraine McFarland
Plaintiff seeks damages against the defendants arising out of an accident he sustained whilst carrying out work to the roof and guttering of the home of the defendants. – plaintiff had volunteered at the request of the defendants to carry out this work during which he was working from an unfooted and unsecured ladder which slipped as he was reaching a part of a gutter causing him to jump clear. – no contractual situation and no breach of statutory duty. – common law duty of care allegedly owed by the defendants to the plaintiff. – hearsay evidence in civil proceedings. – degree of control exercised by the user or borrower of the volunteer services and the consequential degree of reliance of the worker on the work being conducted safely. – foreseeability. – HELD that the plaintiff’s case is dismissed since the plaintiff himself was experienced in this kind of work, and that it was foreseeable for these defendants that any risks would accrue to this man [2013] NIQB 18

Margaret McErlean v Right Reverend Monsignor Ambrose MacAuley as nominee on behalf of the Trustees and the Board of Governors of St Bride’s Primary School
Negligence and breach of statutory duty. - plaintiff, a teacher, slipped and fell on an icy path while escorting pupils for choir practice. - whether the defendant, as her employer, is liable to compensate her for those personal injuries. - whether the defendant was in breach of his duty to the plaintiff by requiring her and the other teachers and children in their care to make their way along the public footpath to the venue. - Headmaster had completed a risk assessment prior to the exclusion taking place. - what is reasonable in all the circumstances. - HELD that the plaintiff has failed to prove that the defendant was guilty of negligence and/or breach of statutory duty to the requisite standard [2014] NIQB 1

Richard Proctor v City Facilities Management Limited
Health and safety. - damages. - plaintiff is a retail maintenance technician employed by the defendant who fell while painting from an unsecured ladder positioned in the stairwell of a warehouse suffered fracture to the collarbone and soft tissue injuries. - claim against the defendant seeking compensation for injuries and financial loss on the basis that they were caused by the breach of statutory duty and negligence of his employer, the defendant. - whether the accident was caused by the breach of statutory duty and negligence of the defendant. - whether defendant failed to carry out a risk assessment as it is obliged to under Health and Safety at Work Regulations. - whether the duty to carry out the risk assessment was placed on the plaintiff himself. - whether the plaintiff should have been able to use different equipment which did not require a ladder. - whether contributory negligence. - employers’ liability. - HELD that two thirds responsibility falls to the defendant and one third to the plaintiff. - plaintiff awarded £35,000 general damages and £1269.89 special damages caused by the breach of statutory negligence of the defendant [2012] NIQB 99

Lisa McQuillan v Department for Regional Development
Damages for personal injuries alleged to have been sustained by her arising out of an accident which occurred when she lost her balance and fell when walking in a public area. - whether the fall and resulting injuries were caused by a depression in the tarmac surface. - whether the plaintiff’s fall had been caused by slipping on ice and was unrelated to the alleged depression in the surface in question. - whether the defendant was in breach of its statutory duty and was liable to compensate the plaintiff as it had discharged its legal duty under s. 8(1) Roads (NI) Order 1993 to maintain all roads for the purpose it thinks fit. - whether the defendant and adequately inspected the area in question. - HELD that the surface on which the defendant fell was dangerous to pedestrians and that the defendant was in breach of its statutory duty and that the plaintiff is entitled to £85,000 damages [2009] NIQB 36

Library Update

Tripping and Slipping

Seamus Stennett v Dunnes Stores (Rangon) Ltd
Plaintiff injured when he slipped and fell on spilt sugar in Dunnes Stores in Enniskillen. – liability. – whether the defendant had shown a reasonable system of inspection and cleaning had been in operation at the time of the accident in order to avoid accidents of this kind. – HELD that the defendant has not demonstrated that there existed on the day of the plaintiff’s accident an effective and reasonably system of inspection and liability found in favour of the plaintiff that there was negligence on the part of the defendant [2013] NIQB 114

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Sandra Watson v Hunter and others practising as Bryson Street Surgery

Damages for personal injuries. - plaintiff slipped and fell while attending her doctors surgery for alcohol dependency. - whether the plaintiff was entitled to succeed if she demonstrated that she slipped on an area that was hazardous to pedestrians. - whether, on the balance of probabilities, the plaintiff fell in the circumstances alleged by her. - degree of intoxication of plaintiff at the time of the fall. - HELD that the plaintiff failed in all the circumstances to take reasonable care to see that the plaintiff would be reasonably safe when using the shopping centre. - whether the defendant was aware from the plaintiff's duty of care towards defendant. - Occupier's Liability Act 1957 and the plaintiff's right to recover damages. - HELD that the plaintiff failed in the circumstances alleged by her. - All of the above cases are available from the Libero database on the Law Society website free of charge.

Jeanette McConomy v DOE

Reasonably safe when using the shopping centre. HELD that the plaintiff failed in the circumstances alleged by her. - degree of intoxication of plaintiff at the time of the fall. - HELD that the plaintiff failed in all the circumstances to take reasonable care to see that the plaintiff would be reasonably safe when using the shopping centre and plaintiff's case dismissed.

Jacqueline Bovaird v Westfield Shoppingtowns

Plaintiff sustained injuries when she tripped over an upturned mat in the CastleCourt Shopping Centre owned by the defendant. - Occupier's Liability Act 1957 and the plaintiff's duty of care towards defendant. - whether the defendant was aware from 3 similar previous incidents that in certain circumstances the mats might present a tripping hazard. HELD that the plaintiff failed in all the circumstances to take reasonable care to see that the plaintiff would be reasonably safe when using the shopping centre and plaintiff's case dismissed.

Jeanette McConomy v DOE

Damages as a result of injuries received subsequent to a fall from steps. - plaintiff suffered bruising injuries to her forehead and nose and swelling to her eyes, lacerations to her arms. - interference with sensation and the ability to eat for approximately one month. - metal steps did not have the required level of friction to prevent slipping, although the relevant British Standard post dated the construction of the steps. - whether the accident happened in the manner described by the plaintiff. - whether the steps in the condition described a hazard for pedestrians. - whether accident happened as a result of a slip. - HELD that the defendant did slip on steps which were hazardous. - no contributory negligence arises and damages of £6,250 awarded

[2006] NIQB 85 4 October 2006

All of the above cases are available from the Libero database on the Law Society website free of charge

English Caselaw

Johnson v Warburtons Ltd

Plaintiff injured. Claimant had slipped down steps while leaving cargo area of lorry. - no purpose built handrail attached to the steps. - company had not carried out a risk assessment. - claimant had appealed against the dismissal of his claim. - appeal dismissed. - respondent had been operating for over 20 years and no accident had happened before. - guide had been produced to alert workers to the availability of a handrail and to ensure that it was fixed to the wall.

[2014] EWCA Civ 258

Tacagni v Cornwall CC

T had fallen 2 metres from a raised pathway onto a road while walking home in the dark. - claimant had been drinking and had no torch. - whether local authority was one third liable for claimant's personal injuries. - whether the local authority had breached its common law duty of care. - appeal allowed

[2013] EWCA Civ 702

Dawson v Page

D had slipped on wooden planks being used as a walkway while delivering a package to the house. - D claimed against a decision of the Lord Ordinary assailing a homeowner (P) in D's action of damages against her. - Reclaiming motion refused


Sharp v Top Flight Scaffolding Ltd

S, who had worked for T for a number of years as a scaffolder, suffered severe injuries when he fell from scaffolding that he was in the course of erecting. - there was little or no evidence that he had had any formal training. - T was aware that shortly before the accident, S had failed a basic health and safety test.

Whether judge erred in concluding that the trolley's design was safe, and the basis on which he rejected P's case that the trolley was unsafe was insufficient. - P was 20 per cent contributorily negligent.

[2012] EWCA Civ 1917

Dawkins v Carnival plc (t/a P & O Cruises)

Negligence. - duty to take care. - evidential presumptions. - claimant slipping on water on deck of ship operated by defendant company - . defendant adducing evidence of system of inspection - . judge finding existence of system meaning water hazard had existed for short time only - . Judge finding defendant discharging duty of care and dismissing claim - . claimant appealing - Whether judge erred

[2011] EWCA Civ 1237

Tesco Stores Ltd v Ward

Plaintiff had slipped on yoghurt in appellant's store. - claimed damages for personal injury and was awarded £178.50 reduced to £137.10

1976 IRLR 92
Articles

Thrills and spills (reviews the implications of Dawkins upon liability in negligence & evidentiary burdens. Also discusses the Tesco v Ward case)
Patten: 2011 161 NLJ 1693

The absence of a risk assessment (reports on the decision in Johnson v Warburtons Ltd 2014: H.S. at W. 20(2), 8

Insurance: claims and common sense (reports on the Dawson and Tacagni cases which demonstrate common sense approach to personal injury compensation claims)

Palfrey v WM Morrisons Supermarkets Plc: personal injury - liability.
McQuater: 2013 J.P.I.Law 2 C71-C75

Contributory negligence: the contrast between employee and a lawful visitor (considers the Sharp and Palfrey cases and contributory negligence)
Allen: 2013 LSG 110 (15), 25

All of the above cases and articles are available from the Law Society Library

Legislation

Occupiers Liability Act 1957
http://www.legislation.gov.uk/ukpga/Eliz2/5-6/31/contents

Occupiers Liability (NI) Act 1957
An Act to amend the law as to the liability of occupiers and others for injury or damage resulting to persons or goods lawfully on any land or other property from dangers due to the state of the property or to things done or omitted to be done there, and for purposes connected therewith.

Occupiers Liability (NI) Order 1987

Protocols

Pre action protocol for personal injury litigation in the High Court
Coghlin J, McCorry, M 1 April 2008

Pre action protocol for personal injury litigation and damage-only road traffic accident claims in the County Court
Pre action protocol. - personal injury litigation. - road traffic. - objectives of the protocol. - procedure to be adhered to. - letter of claim in appendix. - shall come into operation on 25 February 2013
McFarland, DK J 18 January 2013

Both Protocols are available on Libero via the Law Society website free of charge

Books in the library


The library also has a wide selection of up to date personal injury books and access to online resources in this area.

New Books in the Library

• Ryley, M. Upex and Ryley on TUPE law and practice. 2nd ed. Jordan. 2014.
• Thompson, R. Sinclair on warranties and indemnities on share and asset sales. 9th ed. Sweet & Maxwell. 2014.
• Loose, P. Loose & Griffiths on liquidators. 8th ed. Jordans. 2014.
• Kramer, A. The law of contract damages. Hart publishing. 2014.
• Treitel, G H. Frustration and force majeure. 3rd ed. Sweet & Maxwell. 2014.
Missing Wills

Re: Robert Stanfield (deceased)
Late of: 50 Gilford Road, Portadown, County Armagh
Date of death: 7 January 2014
Would any person having any knowledge of the whereabouts of a Will for the above named deceased, please contact:
Patrick McMahon LLB
Solicitors
74 Edward Street
Lurgan
County Armagh BT66 6DB
Tel: 028 2823 1330
Fax: 028 3834 1165

Re: Leonard Gorman
Late of: Belmont Care Home, 81 Tillysburn Park, Holywood Road, Belfast BT4 2PD
Formerly of: Flat 2A Woodstock House, Mount Merrion Avenue, Belfast BT6 0FT
Would any solicitor having any knowledge of the whereabouts of the original Will or any paperwork belonging to the above named deceased, please contact:
Mrs Christine Reid
Reid & Co
Solicitors
48 Bachelor’s Walk
Lisburn
County Antrim BT28 1XN
Tel: 028 9266 3310
Fax: 028 9266 3340

Re: Robert George Corry (deceased)
Late of: 172 Newtownhamilton Road, Latmacollum, Lisnadill, Armagh
County Armagh BT60 2QT
Date of death: 26 April 2014
Would any person having knowledge of the whereabouts of a Will made by the above named deceased, please contact the undersigned as soon as possible:
John J Taylor
Solicitors
1 Mallview Terrace
Armagh
County Armagh BT61 9AN
Tel: 028 3752 5400
Fax: 028 3752 8408
Email: info@jjtaylorsolicitors.com

Re: George Alexander Turner
Late of: Abbeylands PNH, 441 Shore Road, Whiteabbey, County Antrim BT37 9SE
Formerly of: 54 Carnvue Road, Glengormley, County Antrim BT36 6RG
Date of death: 3 February 2003
Would any person having knowledge of the whereabouts of a Will made by the above named deceased, please contact the undersigned as soon as possible:
Patrick White
Crawford & Lockhart
Solicitors
7/11 Lennernall Street
Belfast BT2 8AH
Tel: 028 9032 2204
Fax: 028 9032 4177
Email: Patrick@crawfordlockhart.co.uk

Re: Anne Elizabeth Turner (nee Morrow)
Late of: Abbeylands PNH, 441 Shore Road, Whiteabbey, County Antrim BT37 9SE
Formerly of: 54 Carnvue Road, Glengormley, County Antrim BT36 6RG
Date of death: 3 March 2003
Would any person having knowledge of the whereabouts of a Will made by the above named deceased, please contact the undersigned as soon as possible:
Patrick White
Crawford & Lockhart
Solicitors
7/11 Lennernall Street
Belfast BT2 8AH
Tel: 028 9032 2204
Fax: 028 9032 4177
Email: Patrick@crawfordlockhart.co.uk

Re: Gertrude Dolores Devlin (deceased)
Late of: Colinvale Private Nursing Home, Belfast
Formerly of: 7 Coolnascilla Drive, Belfast
Would any person having knowledge of the whereabouts of a Will in respect of the above named deceased, please contact:
Haugheys Solicitors
138 Upper Lisburn Road
Belfast BT10 0BE
Tel: 028 9043 1222
Fax: 028 9061 2511
Email: info@haugheys.com

Re: Gerard Martin Beaman
Late of: Apartment 6, Bayside Apartments, 24 Ballyholme Road, Bangor
County Down BT20 5JS
Date of death: 19 April 2014
Would any person having knowledge of the whereabouts of a Will for the above named deceased, please contact:
Murray Kelly Moore
Solicitors
1 Dufferin Avenue
Bangor
County Down BT20 3AL
Tel: 028 9127 0000
Fax: 028 9127 1332
Email: paula.skehin@mkmsolicitors.com

Re: James Nelson Waide
Late of: 9 Belvedere Road, Newtownards, County Down BT23 7AX
Date of death: 25 April 2014
Would any solicitor who is aware of a Will made by the above named deceased, please contact:
Joseph Lockhart & Son
Solicitors
24 Bachelor’s Walk
Lisburn BT28 1XJ
Tel: 028 9266 3225
Re: Robert Bruce McLeish (deceased)
Late of: 5 Tullymore Gardens, Belfast
BT11 8ND
Formerly of: 18 Victoria Parade, Belfast
BT15 2EN
Date of death: 5 March 2014
Would any person having any knowledge of the whereabouts of a Will for the above named deceased please contact:
P J McGrory & Co
Solicitors
52 Andersonstown Road
Belfast BT11 9AN
Tel: 028 9060 2986
Fax: 028 9062 1201
Email: mail@pjmcgrory.com

Re: John Sexton (deceased)
Late of: Gleneely, County Donegal
Date of birth: 17 April 1933
Date of death: 10 August 1989
Would any person having knowledge of a Will made by the above named deceased please contact:
Nicholas O’Dowd
MacDermott, McGurk & Partners
Solicitors
12 Clarendon Street
Derry BT48 7ET
Tel: 028 7126 4415

Re: Reuben Lilburn (deceased)
Late of: 24 Ashleigh Crescent, Lurgan
BT66 7BY
Date of death: 29 May 2014
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:
W G Maginess & Son
Solicitors
68 Bow Street
Lisburn
County Antrim BT8 1AL
Tel: 028 9267 2161
Fax: 028 9267 0997
Email: law@wmgaginess.com

Missing Title Deeds
Re: William Harold Hutchinson (deceased)
Late of: 5 Station Road, Castledawson, Magherafelt BT45 8AZ
Date of death: 8 October 2013
Would any person having knowledge of the whereabouts of Documents of Title in respect of lands at 5 Station Road, Castledawson held in the name of the above named deceased, please contact:
Quinn & Heron
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15 Broad Street
Magherafelt BT45 6EB

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