THIS ISSUE

Women in the Law and Business Conference
Reducing Real Estate Risk

➤ Renewable Energy (including Wind farms)
  • Tailored solutions with specific but negotiable policy wordings.
  • Special policy for single or portfolio investment sales.

➤ Distressed Assets (including Insolvency and Receiverships)
  • Cover available to replace Representations and Warranties to enable safer and faster completions.
  • Special policy wordings approved by NAMA for relevant use.

➤ General Residential and Commercial Use
  • Bespoke policy wordings available for commercial and residential Known Risks.
  • Comprehensive ‘Good Title’ policy available to include known and unknown risks.

➤ Special policy solutions for portfolio sales (including buy to lets and repossessions).
➤ Dedicated underwriters, with knowledge of Northern Ireland land law – a simple telephone call away.

➤ Find out more
For further information about First Title Insurance plc and details of title-related products available please contact the appointed Northern Ireland representatives: BlueChip Title Solutions Ltd.

Gary Mills
tel +44 (0) 7793814300
gm@bluechiptitle.eu
www.bluechiptitle.eu

Derek Young
tel +44 (0) 7763924935
dy@bluechiptitle.eu
www.bluechiptitle.eu

Telephone or Email Underwriting Enquiries
To discuss matters directly with our expert underwriting team please contact our Glasgow office:

First Title Insurance plc, Suite 5.1, Turnberry House, 175 West George Street, Glasgow, G2 2LB
0141 248 9090
scotinfo@firsttitle.eu
www.firsttitleinsurance.eu

BlueChip Title Solutions Ltd is an introducer appointed representative of First Title Insurance plc, which is authorised and regulated by the Financial Services Authority (FSA number: 202103).

This material is intended to provide general information only. For specific coverage and exclusions, refer to the policy.

First Title Insurance plc is authorised and regulated by the Financial Services Authority. Registration number 202103. Companies House Information: First Title Insurance plc. Registered in England under Company No. 01134003 and Address: International Press Centre, 13th Floor, 76 Shoe Lane, London, EC4A 3JB.
Renewable energy ad- BlueChip option 6:Layout 1  15/07/2011  17:47  Page 1

First Title Insurance plc is authorised and regulated by the Financial Services Authority. Registration number 202103. Companies House Information: First Title Insurance plc. Registered in England under Company No. 01112603

include known and unknown risks.

• Bespoke policy wordings available for commercial

Warranties to enable safer and faster completions.

• Cover available to replace Representations and

sales.

• Special policy for single or portfolio investment

policy wordings.

• Tailored solutions with specific but negotiable

Reducing Real Estate Risk

Experts for experts.

Farms (including Wind

farms)

Insolvency and Receiverships)

For further information about First Title Insurance

a

Northern Ireland land law – a simple telephone call

please contact the appointed Northern Ireland

representatives: B


D

S

e
lu
tio
us
Lt
g
D

03
ISSUE 214   SEPT-NOV 2012

E-mail: 
pa

Tel:

028 9023 1614

Fax:

028 9023 2606

Writ readers can access back issues of the magazine

as far back as October / December 2000 at

www.lawsoc-ni.org

- follow Publications link

Libero database

Latest CPD courses

Employment opportunities

Forthcoming events

LAW SOCIETY NOTICE

Notice of Discontinuance

Applications to register as a student of the Law Society of
Northern Ireland under Regulation 8(3) of the Solicitors’ Admission
and Training Regulations 1988 (“Experienced law clerks”)

Please note the alternative route to train and qualify as a solicitor under
Regulation 8(3) is being discontinued.

Please note that applications under Regulation 8(3) will not be accepted
after Thursday 30 April 2015 at 5.00pm. Anyone who is considering
applying under this route must do so by that date.
Women in the Law and Business Conference

The ‘Women in the Law and Business’ conference took place on Friday 14 September 2012 in the new Titanic building in Belfast and was attended by over 230 solicitors, barristers and business people.

This was the first time that a conference on this issue has been organised in Northern Ireland to explore the issues women face in the legal profession and the business community.

The importance of the conference was highlighted in a speech given by the Lord Chief Justice for Northern Ireland, Sir Declan Morgan at the opening of the new legal year.

Commenting the Lord Chief Justice said that he was delighted that the Society had organised this conference which aimed to explore key issues women face in making career and life balance decisions.

He said "This conference represents a chance to think about what we might do to effect real change. It could be a long time before we get a similar opportunity. Let’s not waste it!"

Those attending the conference had an opportunity to hear from a number of high profile speakers including Dame Elish Angiolini, former Lord Advocate for Scotland, Blair Berk renowned Criminal Defence lawyer from Los Angeles, Her Honour Judge Smyth, Her Honour Judge Case from England and Wales, Presiding District Judge, Fiona Bagnall, Maria McCloskey, solicitor, Orlagh McGahan, Barrister and Senator Ivana Bacik a member of the Irish Senate and who has written extensively on women in the legal profession.

Each of the speakers reflected on their experiences as women within the legal profession and their views on some of the pressing issues facing women including work life balance and career progression.

Presiding Judge, Fiona Bagnall provided an interested synopsis of her career and provided insight into her thinking on the role of women in the legal profession.

Equally impressive was the presentation given by Her Honour Judge Smyth on her career and reflections as a woman in the judiciary in Northern Ireland.

In her presentation, Dame Elish Angiolini encouraged those attending to engage in the job that they wanted to do rather than feeling compelled to undertake any job which came along.

Blair Berk urged women in the legal profession to aspire to be partners in law firms and members of the judiciary and to realise their full potential.

In addition to the guest speakers, delegates were presented with a video message delivered at the ‘Women in the Law and Business conference’ from the United States Ambassador At Large for Global Women’s Issues, Melanie Verveer who paid tribute to the contribution of female solicitors, barristers and business women in Northern Ireland.

As well as providing those attending with an opportunity to hear from key note speakers the conference provided the perfect platform for a general discussion on women’s issues and in particular how to empower women to become members of the senior judiciary, partners in their firms and successful businesswomen.

The feedback from the general discussions will documented in a report to be passed to Queen’s University who are currently undertaking research on some of the issues discussed at the conference.

Speaking after the conference, the President of the Law Society of Northern Ireland, Imelda McMillan, said:

“The Women in the Law and Business Conference has provided a stimulus for a much wider debate to be had about the challenges and opportunities which exist for women today.

We need to develop the confidence, abilities and talents which have been so evident amongst delegates attending the conference.

Additionally we need to develop the support mechanisms to support women so that they feel empowered to reach their full potential.

This remains our goal and it is one that the Law Society remains committed to supporting.”
In part two of his article Mr Justice McCloskey considers recent developments to reform the ECHR.

**The Brighton Conference**

The final chapter (for the moment) in this unfortunate saga consists of a series of Government broadcasts to the effect that they have, at a recent high level ministerial conference, secured radical reforms of the ECHR. This bold claim invites some reflection and analysis. Interested members of the public are not privy to the detail of these supposedly profound reforms – not least because press reporting and government broadcasts, for the most part, have not descended into any level of particularity.

Those with sufficient time and energy at their disposal can access some interesting materials on line. One of these is the statement made on the opening of the Brighton Conference1 by the President of the European Parliamentary Assembly.2 As this statement makes clear, the Brighton Conference was a follow up to earlier landmark conferences held at Interlaken and Izmir and its subject matter was, broadly, the current situation and future of the Strasbourg Court. The statistics highlighted by M Mignon in his address are revealing:

(i) Around half of the cases pending before the Strasbourg Court concern only four Council of Europe States Parties.

(ii) Just one of these States accounts for 27% of all such applications.

(iii) About 80% of applications concern only ten States Parties.3

This prompted M Mignon to pose the question of whether the Strasbourg Court is, in truth, a victim of deficiencies at the national level, particularly in a very small minority of States Parties. The President made an interesting number of suggestions and observations. He wondered, for example, whether the Strasbourg Court would benefit from the mechanism of advocates general. On the topic of the appointment of judges to the Strasbourg Court, he observed:

"The election of the Court’s judges by the Assembly is of vital importance, as the Court’s authority naturally depends on the stature of its members and the quality of their decisions. It is important above all this year, when a very large number of the judges will be replaced. The initiatives taken by the Parliamentary Assembly, including the interviews with all candidates now conducted by its Sub Committee on the Election of Judges, and by the Committee of Ministers, with the recent adoption of guidelines on the qualifications required of candidates, have already improved the process and will allow further improvements in future …”.

Interestingly, given my comments above, the President of the Parliamentary Assembly further observed:

"Execution of judgments is still a major weak point."

Finally, the President cautioned:

"The Convention system as a whole is in difficulty. The States must ensure that the Court continues to fulfill its primary task as the guarantor of human rights standards in Europe. They must first and foremost guarantee the effective protection of human rights at national level."

The contribution to the Brighton Conference made by the Parliamentary Assembly President may fairly be described as balanced and proportionate. Its deflection of the spotlight from the Strasbourg Court to subscribing States is especially noteworthy.

The President’s wise and measured words, together with those of Sir Nicolas Bratza, contrast sharply with certain other recent utterances. In his address, Sir Nicolas was quick to welcome the reaffirmation at the commencement of the Brighton Declaration of the firm commitment of the Contracting Parties to the ECHR and the protection of fundamental rights. Speaking of the ECHR, Sir Nicolas observed, tellingly:

"It is no ordinary treaty. It is not an aspirational instrument. It sets out rights and freedoms that are binding on the contracting parties."

Unsurprisingly, Sir Nicolas also spoke of the rule of law:

"In setting up a court to guarantee their compliance with the engagements enshrined in the Convention, the member states of the Council of Europe agreed to the operation of a fully judicial mechanism functioning within the rule of law. The principal characteristic of a court in a system governed by the rule of law is its independence".4

Developing this theme, Sir Nicolas emphasised that the Strasbourg Court is uncomfortable with the notion that governments can in some way dictate to it how its case law should evolve or how it should perform the judicial functions conferred on it. He cautioned that any reform of the ECHR must be consistent with the object and purpose of the treaty and must satisfy rule of law principles, notably that of judicial independence. Addressing the phenomenon of the vast quantity of cases swamping the Strasbourg system, Sir Nicolas cautioned that a primary source of this accumulation is a failure to implement the ECHR properly at national level. He observed further that over 30,000 of the pending cases concern repeat violations of the ECHR by certain Contracting States.

Continuing, Sir Nicolas emphasised the need for greater resources, judicial and otherwise, to effectively tackle the backlog of cases. While the mechanisms of efficient filtering and more effective prioritisation of cases will have beneficial results, this will not address directly the phenomenon of sheer volume. Finally, in his address Sir Nicolas adverted to two important principles, Firstly, the principle of subsidiarity which, while establishing a mutually respectful relationship between Strasbourg and

---

1 Held on 19 April 2012.
2 M. Jean-Claude Mignon.
3 There are presently 47 Council of Europe States Parties.
4 My emphasis.
national courts and paying due deference to national democratic processes, is contingent on proper implementation of the ECHR at domestic level and, accordingly, “… can never totally exclude review by the Court”. Secondly, Sir Nicolas also highlighted the familiar doctrine of the margin of appreciation. He described this as:

“… a valuable tool devised by the Court itself to assist it in defining the scope of its review … a variable notion which is not susceptible of precise definition”.

He cautioned strongly against any attempt to legislate for this doctrine in the ECHR itself. Notably, Sir Nicolas laid emphasis on the right of individual petition which, in his words:

“… changed the face of international law in a way that most people would hope and believe was lasting.”

He described the ECHR and its enforcement mechanisms as:

“… a unique and precious model of international justice, whose value in the Europe of the twenty-first century as a guarantee of democracy and the rule of law throughout the wider Europe is difficult to overstate.”

A perusal of the profound pronouncements in the speeches of M Mignon and Sir Nicolas serve to consign to their proper context the printed press and other public statements to which I have referred above. Perhaps unsurprisingly, what Sir Nicholas and M Mignon said did not receive much air time: long live the Internet!

**The Brighton Declaration**

In the midst of the raging newspaper headlines and generalised frenzy, a notable event materialised. The United Kingdom Government subscribed to the Brighton Declaration, without reservation. In doing so (and, notably, without saying so to the public), it unequivocally acknowledged its international law obligations in respect of the ECHR regime. By the terms of this international declaration, the United Kingdom Government, in tandem with the other subscribing States Parties:

(i) Reaffirmed its “attachment” to the right of individual application to the Strasbourg Court as “a cornerstone of the system for protecting the rights and freedoms set forth in the Convention”.

(ii) Acknowledged that the Strasbourg Court “has made an extraordinary contribution to the protection of human rights in Europe for over fifty years”.

(iii) Acknowledged that the results achieved within the framework of Protocol No 14, designed to increase efficiency and address the number of clearly inadmissible applications pending before the Strasbourg Court, are “encouraging”.

(iv) Accepted the duty imposed on States Parties at national level to take “effective measures to prevent violations”, in order to fully implement the ECHR.

(v) Affirmed “the strong commitment of the States Parties to fulfill their primary responsibility to implement the Convention at national level”.

(vi) Agreed to give consideration to establishing “an independent national human rights institution”.

(vii) Undertook to promulgate the ECHR in the education and instruction of relevant public officials and, in particular, those working in the justice system.

(viii) Committed itself to train judges, lawyers and prosecutors in ECHR matters.

(ix) Invited the Committee of Ministers to provide the best technical assistance to those States Parties most in need thereof.

(x) Reiterated the importance of co-operation between the Council of Europe and the European Union.

Pursuant to the Brighton Declaration, the actual, concrete reforms to be made of the ECHR system are not exactly revolutionary. They consist of the following, in particular:

(a) The introduction of a shorter time limit, under Article 35(1) ECHR, of four months governing individual petitions to the Strasbourg Court.

(b) The amendment of Article 35(3)(b) ECHR by deletion of the words “and provided that no case may be rejected on this ground which has not been duly considered by a domestic tribunal”. The effect of this will be to extend the powers of the Strasbourg Court to declare an individual application inadmissible.

(c) The extension of the manifestly ill founded regime of Article 35(3)(a) ECHR to encompass applications raising a complaint which has been duly considered by a domestic court applying the rights guaranteed by ECHR in light of well established case law of the Strasbourg Court including the margin of appreciation as appropriate.

(d) An invitation to the Strasbourg Court to develop its exhaustion of domestic remedies case law.

(e) The acknowledgement of the Strasbourg Court’s request for the further secondment of “national judges and high level independent lawyers” to its Registry to improve the strike rates for dismissing “outstanding clearly inadmissible applications” by 2015.

(f) An acknowledgement of the possible need to appoint additional judges to the Strasbourg Court.

(g) An acceptance of the steps being taken by the Strasbourg Court to “maintain and enhance the high quality of its judgments.”

(h) An amendment of Article 30 ECHR to delete the words “unless one of the parties to the case objects”. This will have effect
that a chamber of the Strasbourg Court will be empowered to refer a case to the Grand Chamber irrespective of the wishes of the parties.

(i) An encouragement to States Parties to rapidly execute the judgments of the Strasbourg Court, to include implementation of the Committee of Ministers’ Recommendation 2008 (2). This proposes various measures designed to expedite the execution of judgment of the Strasbourg Court in the Contracting State concerned – including the designation of a suitable agency, improved communications with the COM and the adoption of execution action plans.

(ii) An endorsement of the process designed to result in accession of the EU to the ECHR.

The exercise of juxtaposing the Brighton Declaration with the public broadcasts and media headlines which surrounded and dominated this event is both enlightening and revealing. It produces an unmistakable degree of dislocation. Readers would be readily forgiven for any feeling of confusion.

Conclusion

For so long as the Grand Chamber remained seised of Mr Qatada’s appeal, the United Kingdom Government, by reason of its international obligations, was truly impotent. There appeared to be a concerted campaign to create a different impression. Any such impression was false and misleading. The legal truism that the decisions of international organs – in this instance, a universally respected and independent judicial one – are binding on all subscribing States in accordance with the terms of the relevant governing instrument of international law became enshrouded in mist. Permanent international organisations, each having its particular judicial, executive and administrative organs, are an entrenched feature of contemporary international law.

Sir Nicolas Bratza will soon retire, having completed over thirty years distinguished service to the cause of human rights. It is indeed fitting to give him the final word:

“At a time when human rights and the Convention are increasingly held responsible in certain quarters for much that is wrong in society, it is worth recalling the collective resolve of member states of the Council of Europe to maintain and reinforce the system which they have set up. We should not lose sight of what that system is intended to do, that is to monitor compliance with the minimum standards necessary for a democratic society operating within the rule of law; nor should we forget the Convention’s special character as a treaty for the collective enforcement of human rights and fundamental freedoms.”

Amen to that, I say! Let it not be forgotten that although the United Kingdom was one of the first countries to ratify the ECHR, in 1951, half a century was to pass before its own domestic charter of fundamental rights was created. Just twelve years later, a disturbing assault on this citadel has occurred at the highest level of Government. The fury which was unleashed was a challenge to the independence of the United Kingdom judiciary as much as that of the Strasbourg court. It is to be viewed in this light and exposed and condemned accordingly.

Unfortunately, as I finalise this text, another significant imbalance in the separation of powers looms. The Home Secretary, in the context of promulgating impending changes to the Immigration Rules designed to give effect to the Government’s pre-election pledge that net migration will be reduced from 250,000 to 100,000 per annum, has exhibited a worrying failure to recognise the independence of the judiciary.

It is reported that the House of Commons will be invited by the Government to pass a motion which, it would seem, is designed to dictate to the judiciary that, in immigration cases, the limitations to Article 8 ECHR, which include the economic wellbeing of the country, should be given greater emphasis and precedence. According to a newspaper report, the gist of...
the envisaged motion will be a parliamentary diktat to the judiciary that the public interest limitation should take precedence over the rights protected by Article 8. The Home Secretary is reported as having said:

“Article 8 of the European Convention is a qualified right, not an absolute right. The Convention itself makes that very clear. But Parliament has never set out to British courts how we think Article 8 should be qualified.”

Neither the text nor the thrust of this disturbing statement should be underestimated. I shall leave it to historians to identify the last occasion when Parliament, by a motion, communicated to the judiciary its view of how a particular law should be interpreted and applied. No instance of anything readily comparable in recent years springs to mind. What next, one wonders, lies in store for human rights and judicial independence during the life of the present Government?

His Honour Judge Kinney sworn in

Alan Hunter, Chief Executive of the Society and President, Imelda McMillan, are pictured at the swearing in of HHJ Kinney.
Have a tax neutral year

Anthony Ward, Chartered Financial Planner at Barclays Wealth, reviews the income tax planning opportunities available with pensions.

As announced in the last Budget the 50% tax rate will be abolished and the 45% rate will be introduced in April 2013. The current upper cap on total contributions that can be made to your pensions in one year, ‘The Annual Allowance’, is currently £50,000. So, under the current regime, a £50,000 contribution will only cost a 50% taxpayer £25,000. However, when the 50% tax rate is abolished and the 45% rate is introduced in April 2013, a £50,000 contribution using 45% tax relief would cost £27,500, an increase of £2,500.

Therefore high earners should take advantage of the 50% tax relief while it is still available.

Carry forward

It is also possible to make larger contributions to a pension and claim tax relief up to the amount of income tax you have paid in that tax year. Therefore it is possible to have a tax neutral year.

Under the pension carry forward rules you can carry forward any unused annual allowance from the previous three years which will give people scope to make larger contributions.

First, you must have been a member of a UK registered pension scheme at some point in each of the tax years from which you wish to carry forward although no contributions need to have been paid in these years.

Secondly, to work out the full amount you are entitled to carry forward you start by utilising the current year’s allowance, and then jump back to the earliest year and work progressively forwards. The three year rule works on a rolling basis eg the unused annual allowance that was available in 2008/09 could affect the unused annual allowance that is available to carry forward from a subsequent year and therefore the annual allowance available for 2012/13.

Example

Jean is a self-employed legal professional with earnings of £160,000 in 2012/13 and she has paid made no contributions to herself invested personal pension (SIPP) in the 2012/13 tax year. Her contributions in the three previous pension input periods were:

- 2011/12 - £10,000
- 2010/11 - £20,000
- 2009/10 - £10,000

<table>
<thead>
<tr>
<th>Tax year</th>
<th>2009/10</th>
<th>2010/11</th>
<th>2011/12</th>
<th>2012/2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>Notional annual allowance</td>
<td>£50,000</td>
<td>£50,000</td>
<td>£50,000</td>
<td>£50,000</td>
</tr>
<tr>
<td>Less pension contributions</td>
<td>£10,000</td>
<td>£20,000</td>
<td>£10,000</td>
<td>£0</td>
</tr>
<tr>
<td>Unused annual allowance</td>
<td>£40,000</td>
<td>£30,000</td>
<td>£40,000</td>
<td>£50,000</td>
</tr>
</tbody>
</table>

So, Jean could carry forward unused annual allowance of £110,000 (£40,000 + £30,000 + £40,000) to the 2012/13 pension input period and together with her annual allowance for that year, she could pay a total contribution of £160,000 (£110,000 + £50,000) into her pension.

Tax relief is still available on individual contributions of up to 100% of earnings in any tax year. Therefore as Jean has earnings of £160,000 she will get tax relief on her total earnings and have a tax neutral year.

Within a SIPP you can invest into a wide range of assets to match your individual attitude to risk and it is the underlying assets that will drive the investment performance. There is no point getting the taxation angle correct without getting the investments within the pension wrapper performing correctly.

I suggest you take this window of opportunity to check current retirement plans. With a bit of prudent planning, higher earners approaching retirement can take advantage of the current legislation.

Best advice is to ‘use it before you lose it’: in short, take advantage of the 50% tax relief while it is still available, plus check back and use up any allowances left from the past three tax years.

It might be possible to make a larger contribution based on your pension input period and the rules are different for defined benefit schemes. This is based on our current understanding of legislation and HMRC guidance which could be subject to amendment. If you are in any doubt whether a particular course of action is suitable for you, you should seek financial advice.

The tax benefits of a pension depend on your own particular circumstances and on the existence of the tax reliefs currently available. You should be aware that your personal circumstances and the available tax reliefs could be subject to change.

You have sole responsibility for the management of your tax and legal affairs including making any applicable filings and payments and complying with any applicable laws and regulations. The tax treatment of your investment may be affected by future changes in tax law and in your individual circumstances.
First Choice for Medico-Legal MRI

Northern MRI has a long established history of providing expert medico-legal reports to the legal profession. We provide a fast, friendly service, combining state of the art technology with our experienced staff.

- Appointments available within 24-48 hours
- Fast turnaround of reports
- Expert consultant radiologists in all medical specialities

Call us now on 028 9066 0050

Northern MRI
93 Malone Road, Belfast, BT9 6SP
T: 028 9066 0050
F: 028 9038 6733
E: info@northernmri.com
www.northernmri.com
Book Launch at Law Society House

The Law Society was the venue for the recent launch of the 3rd Edition of Drafting Trusts and Will Trusts by James Kessler QC and Sheena Grattan. The launch, which was hosted by the Society of Trusts and Estates Practitioners (Northern Ireland Branch), took the form of an afternoon seminar at which both authors addressed various aspects of trusts and estates, including the new 10 per cent IHT rate for charities, disabled person’s trusts, mutual wills and rights of residence. The following article is based on some of the issues arising out of executorship, a topic which was also discussed at the seminar.

Drafting Trusts and Will Trusts in Northern Ireland was available to purchase at the launch at a reduced price of £140.00 (usually £195.00). The publishers, Bloomsbury Professional, have generously extended this discount until the end of 2012. COLLECT YOUR COPY FROM THE LAW SOCIETY LIBRARY
Contact Heather Semple to reserve a copy on 028 90231614 or heather.semple@lawsoc-ni.org

Executorship - a general recap

Other than the dispositive provisions, the most important function of a will is the appointment of executors.

If the testator omits to appoint an executor or the appointment otherwise cannot take effect or fails, and there is no substitutionary executor appointed, a grant of letters of administration with will annexed will be required with the priority to extract same being governed by the Non-Contentious Probate Rules. It is generally preferable for a testator to be able to choose the individuals who will be responsible for implementing the terms of his will and carry his wishes into effect, rather than having to rely on this “default” code. There are many situations in which the executors will be called upon to make a decision, from the “formal” exercise of fiduciary discretions such as the power of sale or appropriation to the disposal of the testator’s mortal remains. Someone expressly chosen by the testator who knew him well can reasonably be expected to take an informed decision in line with what the testator would have wanted.

The drafting of the appointment clause should be clear and precise so as not to provoke any dispute arising out of ambiguity. Ideally, the executor should be named in the will (with his address provided for identification purposes) and not referred to using either the description of his relationship to the testator or his office.

An “alternative” appointment – “A or B” - is void for uncertainty, as is an appointment of “one of my sisters” or “any two of the partners” of a particular firm of solicitors.

In Northern Ireland there is no limit on the number of persons who can act as an executor at the same time. However, too many executors are unwieldy and it is rare that the testator should be appointing more than three as original appointees. The minimum is one and a sole executor may be sufficient in a modest, straightforward estate, especially when the executor is the sole or the main beneficiary. Most typically this scenario arises in the will of the first spouse to die, when the surviving spouse is intended to take on the mantle of executorship.
alone. However, a substitutionary appointment is imperative in case the sole executor predeceases the testator or otherwise is unable or unwilling to act. Generally, however, it is preferable to appoint at least two executors.

If the will creates ongoing substantive trusts then express trustees should be appointed in addition to executors. It is commonplace to appoint the same individuals as both executors and trustees but this does not have to be the case. It is not good practice for a professional draftsman not to make it clear that the appointment is as a trustee as well as an executor. The functions of executor and trustee are quite distinct and all too often in modern administration of estate practice they are blurred. The reality is that serious difficulties rarely arise when the appointment is as “executors” only. As a matter of construction, aided if necessary by extrinsic evidence of the testator’s intention, it is usually established, at least on the balance of probabilities, that the executors were being appointed as trustees as well. However, any uncertainty arising from a professionally drafted instrument is undesirable and can be avoided if a modicum of care is taken at the drafting stage.

If the will creates a settlement within the terms of the Settled Land Acts, the will should also expressly appoint trustees of the settlement for the terms of this legislation. If no such appointment is made the provisions of section 40(5) of the Administration of Estates Act (NI) 1955 apply and the executors are deemed to be trustees of the settlement. The position when there is only one executor (or indeed one proving executor) is unclear so the only sensible practice is to appoint trustees of the settlement expressly (there must be at least two of them unless it is expressly provided in the will that a sole trustee may exercise the powers alone).

A testator may choose as his executor(s) a trust corporation (as defined by article 9 of the Administration of Estates (NI) Order 1979), a solicitor or other professional, or non-professionals such as family and friends – or any combination of these. What is best in any situation will depend on all of the circumstances of the case and the testator is entitled to be advised of the various “pros and cons” so as to make an informed choice, particularly where a professional executor is being instructed.

In March 2011 the Law Society of England and Wales issued a new Practice Note on what its members should tell testators before they are appointed as executors in wills. No equivalent edict has issued from the Law Society of Northern Ireland but the English guidance (and even in England it is non-binding guidance) is, as always, instructive as to prudent professional practice. It is submitted that it contains nothing which a good, respectable solicitor will not have been doing already. The key theme running through the Practice Note is the duty of the solicitor to act in the best interests of the client and to ensure that the client is fully informed of all of the facts before making any decision. The key points are as follows:

- The solicitor should inform the client that such appointment is not compulsory and that an executor can be (a) a professional – such as the solicitor or his firm – or (b) a lay person such as a family member;

- The solicitor may promote his services as an executor, but only after taking account of the size and complexity of the estate;

- The solicitor should provide an indication of the likely costs, making a distinction between (a) carrying out the administration of the estate (b) acting as an executor and (c) acting as a trustee arising from any continuing trusteeship;

- The solicitor should explain to the client how these costs will be calculated (ie whether by an hourly rate, a percentage of the value of the estate or perhaps a combination of the two); and

- Information about fees and services should be clear and “up front” including being clear on the fact that such fees may change in the future – the objective is transparency rather than a precise final figure.

As any experienced probate practitioner will confirm, appointment of executors is a decision which a testator should make with extreme care. There have been several recent reported decisions on the removal of executors (both by fellow executors and by beneficiaries), most of which emphasise that the courts will not lightly replace an individual who was the express choice of the testator.

It is to be expected that persons will be appointed as executors for qualities such as trustworthiness, business acumen and familiarity with the testator’s family situation. If one assumes that the appointee will be honest, experience suggests that common sense is the singularly most important quality in a lay executor. The appointment may not take effect for years or even decades, by which time an intended executor may be too elderly or physically frail to act, even if he still retains mental capacity. Thus it usually makes sense to choose individuals who are younger than the testator. Collectively, the executors should be persons who might be expected to communicate with each other and work together. Occasionally a parent suggests appointing his three sons, whom he already knows are barely on speaking terms, in order to force co-operation and maturity. Unfortunately experience shows that these aspirations will rarely be fulfilled.

Charging clauses for professional executors are discussed below. It is not unusual for a testator to give his lay executors a legacy, effectively “for their trouble” in acting. The presumption is that a legacy to executors is given to them in that capacity (even if they are named without reference to their office) and that they are not entitled to the legacy unless they prove the will or otherwise act. In contrast, the presumption appears not to extend to gifts of residue. Rather than rely on the presumption or its rebuttal, a professional draftsman should always clarify the testator’s intentions in respect of any benefit to lay executors and expressly reflect this intention in the will. It should also be remembered that a legacy to an executor abates pro rata like any other pecuniary legacy and if the testator wishes
this legacy to have priority this must be expressly provided for in the will.

Some further thoughts on solicitor-executors

(a) The “new” law on charging clauses

The “new” law in question (which was introduced by the Trustee Act (NI) 2001) has actually been in force for just over a decade (applying to deaths occurring on or after 29 July 2002). However, it is sometimes evident that not all solicitors are aware of the changes. The most important point to remember is that the changes do not obviate the need for an express charging clause in a will. Only a Trust Corporation benefits from an automatic charging clause while the Act ameliorates the lot of other professional fiduciaries by effectively implying a charging clause in limited circumstances (i.e. if the professional in question is not a sole trustee, it is not a charitable trust and the other trustees have authorised the remuneration in writing).

Therefore all professionally drafted trusts and wills should contain a charging clause enabling a professional fiduciary to charge for his time. In a will which includes (or has the potential to include) on-going trusts, a charging clause should still be included even where professional trustees are not to be appointed initially. The replacement of trustees – by consent – is straightforward (compared to the replacement of personal representatives which requires a court application under article 35 of the Wills and Administration Proceedings (NI) Order 1994), but if for whatever reason a professional trustee is to be appointed as the new trustee, the absence of a charging clause may still necessitate an application to the court for authorisation of remuneration under section 41 of the Trustee Act (NI) 1958.

The Standard Administration Provisions (Northern Ireland Version, 1st Edition) of the Society of Trust and Estate Practitioners (STEP) include an express charging clause as do all standard sets of administrative provisions found in precedent manuals.

However, the Trustee Act (NI) 2001 (“the 2001 Act”) did make two changes to the law regarding express charging clauses, both of which are of benefit to the will-drafter.

The first relates to the proper construction of such clauses. The traditional view, which emanated from several authorities of some antiquity, was that a charging clause did not confer power to charge for work which a non-professional could have done, unless this was expressly provided for in the instrument. In more recent times this view had been disputed by some commentators who argued that there was nothing within modern jurisprudence which could justify charging clauses not being given their ordinary, natural meaning in the same manner as any other phrase in a will or trust instrument. Unsurprisingly professional draftsmen were not prepared to take any chance with their earning capacities and invariably used a form of wording that left it in no doubt that work which a layperson could do was within its scope. Section 28(2) of the 2001 Act, which extends only to charging clauses in favour of trust corporations and trustees who are acting in a professional capacity, expressly provides that a charging clause is taken to include charges for layman’s work unless there is a contrary intention. A much more succinct form of drafting will now suffice.

The second change which the 2001 Act makes to express charging clauses in wills is that any payment made under such a clause will be considered as remuneration for services and not as a gift under a will. This has implications both for the application of the witness-beneficiary rule and for the principles of abatement. Prior to the 2001 Act, if the
executor (or his spouse, or his partner) witnessed the will he was deprived of the benefit of the charging clause by virtue of article 8 of the Wills and Administration Proceedings (NI) Order 1994. The payment will no longer fail if a solicitor or his partner witnesses the will. This has been a welcome development where a will is to be executed “off-premises” in that previously a solicitor may have to have taken two members of staff to act as attesting witnesses, whereas now one additional individual will suffice (in light of the recent testamentary negligence cases the solicitor should ensure that he has taken responsibility to secure the necessary number of witnesses Esterhuizen v Allied Dunbar [1998]).

Previously, if there were insufficient assets in the estate to meet all the liabilities, the remuneration paid under the charging clause abated with the other pecuniary legacies, so it was important for the draftsman to provide expressly that the payment under the charging clause took priority over any other pecuniary legacies. Now any remuneration payment will be regarded as an administrative expense for the purposes of section 30(3) of the Administration of Estates Act (NI) 1955 and as such is automatically payable in priority to pecuniary legacies.

(b) Solicitor executors who benefit from exemption clauses

There are still a number of very wide exemption clauses being used in Northern Ireland (emanating from all different sorts of practices, including those who would no doubt hold themselves out as specialising in wills and trusts).

It is submitted that a professional executor who is charging for his services should not expect to benefit from a generous exemption clause which seeks to limit liability for negligence and none of the reputable precedent manuals seek to exclude liability for negligence.

The Law Commission for England and Wales reviewed exemption clauses but to date none of its recommendations have been implemented. The strict legal position therefore remains that it has been settled at all levels below the Supreme Court that one can exclude liability except for fraud, but only so long as the full scope of the clause has been drawn to the attention of the testator (Bogg v Raper (1998/1999 ITELR 267).

In Armitage v Nurse ([1998] Ch 241) Millett L J, as he then was, observed that a “full and fair explanation” would be one which made it clear that the clause “exempts the trustees from liability for loss or damage to the trust property no matter how indolent, imprudent, lacking in diligence, negligent or wilful he or she may have been, so long as he or she has not acted dishonestly” (at page 251).

It should be remembered that members of STEP who draft a will or trust are subject to a specific duty to disclose trustee exemption clauses. The STEP Guidance states that it is in principle sufficient to write to the settlor/testator saying:

I should also draw your attention to Clause [x]. This Clause provides that no executor of your will/trustee will be personally liable for any act by them in that capacity unless they are guilty of fraud. If you have any queries in relation to this, then please let me know.

(c) Be alert to and deal with potential conflicts of interest

It is trite law that an individual who takes a benefit under the will is not prohibited from being an executor. Indeed, unless the executor is a professional person or a trust corporation it is generally desirable that he has some type of interest in the estate. Administering an estate is a thankless task for a lay person who does not have even an indirect interest in the estate.

More generally, however, all professional will-drafters should be alert to potential conflicts of interest, particularly where the executor will be expected to exercise some type of discretion or power.

The extensive scope of the self-dealing rule is often over-looked at the will drafting stage. Is it likely that the executor would wish to purchase estate property? Or appropriate estate assets in satisfaction of his share? If so, either express authority should be given by the will or another executor chosen as either course of action obviates any future disputes as to whether the appointment by the testator of an individual who is also a potential beneficiary constitutes implied authority. Similarly where a will creates a settlement for the purposes of the Settled Land Acts it is preferable that the trustees of the settlement (who will be the executors unless an express appointment is made), are neither the tenant for life or entitled in remainder.

Often potential conflicts will not arise during the administration of the estate, but thereafter the will creates an on-going discretionary trust. If the trustee is one of the individuals within the class of beneficiaries the terms of the will trust should expressly provide a mechanism for managing the conflict of interest. A common device is to require one “independent” trustee (with a definition of what qualifies one as being independent). This is the approach adopted by the STEP Standard Provisions and many other standard form precedents. However, it not infrequently happens that only “interested” family beneficiaries are appointed, notwithstanding that the STEP Standard Provisions have been incorporated so there is no “independent” trustee among the original trustees. Such a defect in the constitution of the trustee body is readily remedied by the appointment of an additional “independent trustee” (appointing a “new” personal representative is much more difficult) – but this can cause delay and generates some expense as well as some embarrassment for the draftsman. It is much more desirable that the problem does not arise in the first instance – so the precise provisions of all a firm’s standard form precedents (be they STEP or otherwise) should be familiar to all of its will-drafters so that necessary amendments can be made at the will-drafting stage.
Wesleyan Assurance Society has launched a dedicated service for lawyers and law firms across Northern Ireland, providing expert advice on a range of financial planning matters.

The move is part of the latest expansion by Wesleyan for Lawyers, the financial mutual’s specialist arm for the legal profession.

Craig Errington, Wesleyan’s Chief Executive, said: “We believe the legal community in Northern Ireland will truly benefit from having access to bespoke financial services, provided by a well-established and successful company, which remains one of the financially strongest life assurance companies in the UK today.”

Wesleyan for Lawyers’ Financial Consultants in Northern Ireland will concentrate exclusively on the legal sector and are experts in the profession and lawyers’ career stages. They will be able to provide advice on a wide variety of financial matters covering both lawyers’ professional and personal lives, including protection, retirement planning, savings and investments and mortgages.

Ross Hume, Senior Business Development Manager at Wesleyan for Lawyers, added: “There are more than 2,400 practising lawyers in Northern Ireland. The legal system has some differences to that found in England and Wales, but when it comes to looking after their finances we know lawyers, no matter where they are, appreciate a tailored, individual approach.”

To help provide insight into its customers, Wesleyan for Lawyers has an influential advisory board made up of eminent legal professionals.

Wesleyan also provides tailored financial products and services to the medical and teaching professions through Wesleyan Medical Sickness and Wesleyan for Teachers.

---

“I need totally confidential help with a personal problem”

We all face challenges at times, especially when working in the stressful legal world. When we need to seek help, we don’t always want those around us to know about our problems.

LawCare is a registered charity which helps lawyers, their families and staff, with issues such as stress, depression, alcohol and substance abuse. Calls to our helpline are free and completely confidential. You don’t even need to give your name. And since we’re based outside Northern Ireland, you can be doubly sure that your business remains exactly that.

0800 279 6869

www.lawcare.org.uk

LawCare Ltd.
Registered as a charity in England and Wales no. 1061685 and in Scotland no. 39335.
Company registration no. 3313975.
Wesleyan for Lawyers specialise in providing tailored financial advice for lawyers and law firms. With the backing of our parent company, Wesleyan Assurance Society, one of the UK’s longest established and financially strong mutuals, we are now extending our services to Northern Ireland.

Our expert Financial Consultants have in-depth knowledge of the legal profession and can offer tailored solutions wherever you are in your career.

So why not book a no-obligation appointment and see how we can help. To thank you for your time, you will receive a **free £30 Debenhams voucher†**.

---

**Arrange a free no-obligation financial review & receive £30 Debenhams vouchers†:**

Ʌ lawyers@wesleyan.co.uk ɏ Complete and return the coupon below

Ʌ www.wesleyan.co.uk/vouchers ɏ 0800 975 2177

Please quote reference **49861** when responding.

---

**Please complete, detach and return to:** Wesleyan for Lawyers, Marketing Department, FREEPOST BM2869, Birmingham B4 6AR

<table>
<thead>
<tr>
<th>Title:</th>
<th>Name:</th>
<th>D.O.B:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Firm name:</td>
<td>Where are you in your career?</td>
<td></td>
</tr>
<tr>
<td>Home address:</td>
<td>Postcode:</td>
<td></td>
</tr>
<tr>
<td>Telephone:</td>
<td>Mobile:</td>
<td></td>
</tr>
<tr>
<td>Email:</td>
<td>☐ Please tick the box if you wish to be contacted by e-mail about products, special offers or discounts.</td>
<td></td>
</tr>
<tr>
<td>Which areas are you interested in exploring further?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

† This offer is exclusively for any legal professional or legal support staff booking a no-obligation review and holding the review by **31 December 2012**. No purchase is necessary. No alternative is available. Only one set of vouchers per individual is permitted. The vouchers will be sent by recorded delivery within 14 days of the appointment.

Wesleyan for Lawyers is a trading name of Wesleyan Financial Services Ltd, which is authorised and regulated by the Financial Services Authority. Wesleyan Financial Services Ltd is wholly owned by Wesleyan Assurance Society. Registered No. 1651212. Head Office: Colmore Circus, Birmingham, B4 6AR. Fax: 0121 200 2971. Website: www.wesleyanforlawyers.co.uk. Telephone calls may be recorded for monitoring and training purposes. The Financial Services Authority does not regulate Loans, Commercial Mortgages or Inheritance Tax planning. Home, motor, travel & office insurance is arranged by Wesleyan for Professionals. Partnership & personal loans are provided by Wesleyan Bank.

---

**Providers of specialist financial advice:**

- Investing for the Future
  - Savings & investments
  - Retirement planning
  - School and University fees planning
  - Inheritance Tax planning

- Financial Protection
  - Income & mortgage protection
  - Life insurance
  - Critical illness cover
  - Home, motor, travel & office insurance

- Cash Flow
  - Mortgages
  - Partnership & personal loans

---

**Free £30 vouchers†**
Commonwealth Lawyers’ Association
Belfast Property Law Conference

The Law Society of Northern Ireland, in conjunction with the School of Law at Queen’s University, Belfast and the Commonwealth Lawyers’ Association, hosted an important Property Law Conference in Riddel Hall, Belfast on 27 and 28 September 2012.

The conference considered important contemporary issues and legal developments in the law relating to property ownership and responsibilities. Delegates and speakers in attendance came from India, Canada, Malaysia, New Zealand, Australia and Nigeria, as well as the home jurisdictions. The diverse, yet likeminded lawyers found much in common, which resulted in an enjoyable, information packed and thought provoking conference.

Mr Justice Bernard McCloskey is the Chair of the Northern Ireland Law Commission. He reported on important work being carried out to consider possible law reform relating to apartment developments. Of particular interest was a recognition that Company Law applicable to owners’ management companies introduced complexity, which was perhaps beyond what was needed in the administration of private homes. Under the chairmanship of Law Society Senior Vice President, Brian Speers, a panel discussion, comprising lawyers from Australia and Scotland, contributed to a careful consideration of what improvements could be made to the legal framework involved in establishing and administering apartment or multi-unit schemes.

England and Wales Law Commissioner, Professor Elizabeth Cooke, introduced property law reforms under consideration in that jurisdiction. She identified the complex implications of property law reform and this complemented Sarah Witchell, solicitor, who contributed reflections on the Northern Ireland Land Law Reform project. A challenge was issued to those involved in law reform locally to engage with our legislative Assembly and perhaps participate as practitioner experts to support the work of the Assembly.

Local delegates needed no reminding that floods have become a regular occurrence in Northern Ireland. Property law issues arising from what might be described as local, natural disasters, involve the responsibilities of statutory agencies – planners, Northern Ireland Water and Rivers Agency. Such disasters also bring a spotlight upon insurers and their role in supporting and compensating those who have suffered as a result of flooding.

To put an international perspective on our locally experienced difficulties, John Corcoran of the Law Council of Australia and Jonathan Temm, President of the New Zealand Law Society, gave fascinating presentations on natural disasters experienced in their countries. Mr Temm described the implications of the February 2011 earthquake in Christchurch and the response of lawyers and politicians to that natural disaster. Mr Corcoran provided an interesting perspective of the flooding in Northern Ireland when he explained how the Queensland floods in 2010 resulted in 78% of the State being declared a disaster zone. An area bigger than France and Germany combined was underwater! As a result of that experience, building regulations standards were considered by a State Commission to ensure minimum building standards for homes and non-residential buildings used by vulnerable groups. He also contributed thoughts on how property law and building regulations had been influenced by the bushfires in Queensland in 2011.

It was interesting that some areas have now been deemed so prone to the occurrence of natural disaster that building permits are no longer issued in designated areas with the State developing a retreat and resettlement strategy. This certainly would give food for thought to planning policy in Northern Ireland, particularly in areas shown to be prone to flooding.

A panel of local practitioners contributed to a thought provoking analysis of “the credit crunch and property law”. Issues tackled included the sale by and acquisition from insolvency practitioners acting as liquidators or receivers in relation to bank repossessed property. Developments in the law relating to jointly occupied property were also considered. The panel, comprising Ian Huddleston, solicitor of Pinsent Mason Solicitors, Belfast, Dr Heather Conway from the School of Law at Queen’s University and Denise McBride QC, was well received by the delegates and their contribution complimented a fascinating presentation on Title Insurance presented by Reema Mannah, solicitor and Chief Underwriter of conference sponsor, First Title. For many practitioners, valuable information was provided as to how title indemnity insurance can assist in overcoming property title related problems, thereby assisting in the transfer of ownership.

Professor John Wylie of Cardiff University delivered a presentation on ‘Tenure & Estates - Throwing off the Shackles of the Common Law Feudal System’. The conference also included fascinating insights into Land Law Reform in Nigeria, the rights of the Oran Asli people in Malaysia and in particular efforts to preserve their property rights and indigenous way of life, and the treaty negotiations being conducted in Canada to provide land rights for the first nation peoples of Canada.

The conference concluded with the presentation from Lord Kerr, Justice of the Supreme Court of the United Kingdom, who spoke on property and human rights. This completed what all in attendance considered to have been a friendly, informative and wide-ranging conference.

Organiser, Brian Speers, commented: “This event provided local practitioners with the opportunity to share their ambitions and challenges for reform of property law and practice and to learn from other jurisdictions from across the Commonwealth countries, which share Property Law concepts but which have evolved over the years in different ways. It is hoped that the event can be repeated bringing more visitors to Northern Ireland as part of an increasing trend towards legal tourism in Belfast.”
From left: Jonathan Temm, President of Law Society of New Zealand, Boma Ozobia President of the Commonwealth Lawyers’ Association, Brian Speers, Senior Vice President of the Society, the Lord Chief Justice, Sir Declan Morgan; Heather Conway and Oluyele Delano.

Stewart Bryner, University of Dundee.

Boma Ozobia, President of the Commonwealth Lawyers’ Association.

From left: John Corcoran, Former President of the Australian Law Council and Patricia Montgomery, Chief Executive of Land Registry.

Mr Justice McCloskey.

From left: Professor John Wylie; Brian Speers, Senior Vice President of the Society and the Lord Chief Justice, Sir Declan Morgan.

From left: Gary Mills and Derek Young of First Title, conference sponsors.
Commonwealth Lawyers’ Association Property Law Conference – a participant’s view

If I’m honest I signed up for the Commonwealth Lawyers’ Association Property Law Conference mostly to get the CPD points. But, who knew, that a weary old public sector lawyer like me could be rejuvenated and enthused about property law?

I had never heard of the Commonwealth Lawyers’ Association and I must give credit to Brian Speers for the work he must have put in to host such a conference in Belfast. The Association’s home site describes the organisation’s aims as the promotion and maintenance of the rule of law throughout the Commonwealth by ensuring that an independent and efficient legal profession with the highest standards of ethics and integrity serves the people of the Commonwealth.

These aims may look like they are a straight lift from some management consultant’s precedent book but on meeting the international lawyers attending these values were a common thread running through the conversations. The attendees included lawyers from New Zealand, Australia, Canada, Nigeria, India and Malaysia as well as respected lawyers from the UK and the legendary Professor John Wylie.

It was truly refreshing to listen to the property law problems that occur in other jurisdictions. I became a grateful citizen of this country when I heard of the trials and tribulations of land registration in Nigeria. They have two competing systems – the customary (tribal) system and a land registration system along the lines of the UK. This is made more complicated by non registration as a method of tax avoidance.

Interestingly, just when I was sitting back feeling smug about our land registration system, Dr Heather Conway (Queen’s Law School) took the stage and told us all about the salutary tale of how the courts here can now input varying shares on joint tenancies. Our Nigerian speaker turned to me and rolled his eyes and I became not such a grateful citizen again!

This conference was also a fantastic opportunity for our law reformers to get together to compare notes and it occurs to me that each jurisdiction has their unsung heroes who endeavour, despite all the obstacles put in their way, to bring conveyancing into the 21st century. I would give them ten out of ten for effort except that they have failed to extinguish the rule against perpetuities. I don’t know about the rest of you but I could probably do with a refresher on that one.

As if I hadn’t been feeling inadequate enough I came upon Yogi who at first blush seemed a quiet bookish kinda guy. How wrong can you be – he acts on behalf of a group of indigenous people in Malaysia known as the Orang-Asli. They do not have right to land ownership and although Malaysia has signed up to UNDRRIP the lack of state will to identify indigenous lands has led to them being moved off their lands so they can be cultivated for palm oil, timber etc.

I found chatting to Yogi and the other lawyers a real inspiration and as all the Commonwealth countries, with the possible exception of Scotland, have the same common law it is an education to see how things could be done differently.

I for one am going to sign up to the Commonwealth Lawyers’ Association and would recommend this to all the lawyers of this jurisdiction. This could, of course, be because the next conference is in Cape Town (although I doubt this will be on company expenses) but truthfully it is because this Association rekindled my enthusiasm for the job I do.

Alison Stewart – PSNI Estate Services Business Unit

From left: Professor Sally Wheeler; Professor Elizabeth Cooke and Boma Ozobia, President of the Commonwealth Lawyers’ Association.
The Institute of Professional Legal Studies is offering a 5 week course in Commercial Conveyancing.

**Main Facilitator:** Mr Ian Huddleston – Pinsent Masons (supported by members of the Institute staff).

Issues covered in the course include Site Assembly, Building Contracts, Analysis of a Commercial Lease and Finance.

**When:**
- Monday 14 January 2013
- Monday 21 January 2013
- Monday 28 January 2013
- Monday 4 February 2013
- Monday 11 February 2013

**Time:** 9.30am – 1.00pm

**Venue:** Institute of Professional Legal Studies, 10 Lennoxvale, Belfast

**Cost:** £650

Successful completion of the course will lead to a Certificate in Commercial Conveyancing from IPLS

15 CPD hours (including 3 Client Care/Practice Management) are awarded for attendance at this course.

Booking form and cheques, made payable to **QUEEN’S UNIVERSITY BELFAST**, should be sent to **Mrs Joan Playfair, Institute of Professional Legal Studies, 10 Lennoxvale, Belfast, BT9 5BY.**

Tel No. 028 9097 6521 or j.playfair@qub.ac.uk

**Closing Date for applications:** Friday 11 January 2013

Applications will be taken on a first-come first-served basis

(Places are limited to 30 people)

This course is designed primarily for those who have relatively little practice experience in Commercial Conveyancing.

---

**Commercial Conveyancing Course 2013 -**

**Name:**

**Firm:**

**Address:**

**Email Address:**

**Tel. No:** 

I enclose remittance of £ _______
Queens University’s Institute of Professional Legal Studies is offering a 6 week course in Private Tenancy Law & Practice.

Facilitators:
- Mr Charles O'Neill
  (Legal Adviser - NI Co-ownership Housing Association Ltd, author of the Law of Mortgages in Northern Ireland and Board Member of the Chartered Institute of Housing (NI))
- Ruth Craig
  (Institute of Professional Legal Studies)

This course is aimed at landlords, tenants, their legal advisers, letting agents, statutory bodies – in short all who are in any way involved in the private rented sector in Northern Ireland

<table>
<thead>
<tr>
<th>Date</th>
<th>Module</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monday 25 March 2013</td>
<td>Module 1</td>
<td>The Private Tenancies Order and the Rent Order Part 1</td>
</tr>
<tr>
<td>Monday 8 April 2013</td>
<td>Module 2</td>
<td>The Private Tenancies Order and the Rent Order Part 2</td>
</tr>
<tr>
<td>Monday 22 April 2013</td>
<td>Module 3</td>
<td>Preparing to let a property</td>
</tr>
<tr>
<td>Monday 29 April 2013</td>
<td>Module 4</td>
<td>Negotiating and drafting a tenancy agreement</td>
</tr>
<tr>
<td>Monday 13 May 2013</td>
<td>Module 5</td>
<td>Standards in rented property – unfitness / disrepair / HMO</td>
</tr>
<tr>
<td>Monday 20 May 2013</td>
<td>Module 6</td>
<td>Matters arising during a tenancy; ending a tenancy</td>
</tr>
</tbody>
</table>

Time: 6.00pm – 8.00pm
Venue: Institute of Professional Legal Studies, 10 Lennoxvale, Belfast
Cost: £480 for the complete course (6 evenings) or £80 each evening (please tick which you wish to attend)

Successful completion of the entire course will lead to a Certificate in Private Tenancy Law & Practice from the Institute

12 CPD hours are awarded for attendance at the entirety of this course, including 2 hours Client Care/Practice Management

Booking form and cheques, made payable to QUEEN’S UNIVERSITY BELFAST, should be sent to Mrs Joan Playfair, Institute of Professional Legal Studies, 10 Lennoxvale, Belfast, BT9 5BY.

Closing Date for applications: 11 March 2013
(Applications on a first-come first-served basis and are limited to 45 people)
Council Dinner 2012

The Law Society Council Dinner took place in Belfast City Hall on 28 September 2012.

From left: Sarah Witchell; John Leckey, Senior Coroner; Imelda McMillan, Society President; Alan Hunter, Society Chief Executive; Anne Fenton and District Judge Conner.

From left: His Honour Judge Burgess; Imelda McMillan, President of the Society; Baron Kerr of Tonaghmore and Alan Hunter, Chief Executive of the Society.

From left: Kevin Delaney; Comghall McNally and Michael Robinson, Junior Vice President of the Society.

Lord Kerr of Tonaghmore, Supreme Court of the United Kingdom.
From left: His Honour Judge Burgess; Margaret Elliot and District Judge Nixon.

From left: Siobhan Broderick; Marion Killen and Geraldine Fee.

From left: District Judge McNally; District Judge Conner; the Lord Chief Justice, Sir Declan Morgan and the Recorder of Belfast, His Honour Judge McFarland.

From left: Jonathan Temm; Boma Ozobia; David Ford, Justice Minister; John Corcoran and Brian Speers, Senior Vice President of the Society.

From left: Simon Murray; Michael Robinson, Junior Vice President of the Society; Barry Finlay and Alan Reid.

From left: John Caldwell; Mr Justice Gillen and James Doran.

From left: His Honour Judge Burgess; Margaret Elliot and District Judge Nixon.
At Hays Legal, our unique insight of the Northern Irish market and expertise across the legal and company secretarial sectors means we can find you the best role, or unique talent, at the right time.

With our network of offices throughout the UK, Ireland and locations such as Australia and Canada, we are uniquely positioned to assist you whether you need expert legal career advice, in-depth market insight or a new opportunity to broaden your horizons.

We offer confidential, expert advice on opportunities, compensation and business plans and exit strategies pertinent to professionals considering a move or looking to recruit.

We have the ear of key decision makers across all our clients enabling us to offer a wide range of law jobs across all levels of seniority, from paralegal to newly qualified solicitor jobs to associate, partner and in-house legal and director roles.

If an organisation has strategic growth plans or needs incisive market analysis, we are often consulted as a first point of contact. From blue chip corporates, national and international firms, through to niche practices, we cover the vast majority of the legal and company secretariat market. You can see our range of services on the right.

For all Legal enquiries or to have a confidential chat please call Paddy McDonald in the Belfast office on 028 90 44 69 11, email Patrick.McDonald@hays.com or connect with me via LinkedIn

hays.co.uk/legal
NEW E-BRIEFING SERVICE

The Library has developed a new current awareness service. On an occasional basis an e-briefing will be produced on a topic of current interest to the profession.

The first topic is credit hire claims. Northern Ireland caselaw has been collated on a branded pen drive together with an editorial piece which outlines the current overall position.

You can order your first e-briefing on credit hire caselaw (at a cost of £10 inc VAT) by emailing heather.semple@lawsoc-ni.org

CREDIT HIRE CASELAW

Current life insurance premiums for women are usually less than they are for men. However all that is about to change due to the European Union Gender Directive. Life insurance premiums for women are anticipated to increase by 15%*.

In addition, insurers will also have to boost the amount of capital they hold, potentially pushing up life insurance premiums.

What could this mean for you?

**Scenario**

<table>
<thead>
<tr>
<th>Description</th>
<th>Premium Pre Changes</th>
<th>Premium After Changes</th>
</tr>
</thead>
<tbody>
<tr>
<td>£500k of life insurance over 30 years</td>
<td>£30 a month over 30 years</td>
<td>£34.50 a month over 30 years</td>
</tr>
<tr>
<td></td>
<td>£10,800</td>
<td>£12,420</td>
</tr>
</tbody>
</table>

The above premiums are only examples and actual amounts will depend on age, term of policy and underwriting by the relevant Insurance Company.

That's a £1,620 increase over the term

Lock in your lower premiums now

Please contact either - Neil Linton or Sean McIlwaine on 028 9023 0696

Or email neillinton@ifa4me.com or sean@ifa4me.com

* Source HM Treasury 2011

Authorised and Regulated by the Financial Services Authority
International Bar Association joins Law Society guests on River Liffey

The President of the International Bar Association (IBA), Akira Kawamura, took time out of his busy schedule at the IBA Conference in Dublin to join more than 150 guests at the Law Society function on board the MV Cill Airne boat, which was moored on the River Liffey.

Mr Kawamura was greeted by the President of the Society, Imelda McMillan and took time to speak to guests attending from many legal jurisdictions.

Opening of the English Legal Year

The President and Chief Executive of the Society attended the opening of the new Legal Year in London. It commenced with the traditional Judges’ Service at Westminster Abbey followed by “the Lord Chancellor’s breakfast” in Westminster Hall.

The new Secretary of State for Justice and Lord Chancellor (Mr Chris Grayling MP) was sworn in and took the oath laid down in the Constitutional Reform Act 2005 section 17- (CRA).

Earlier, the new President of the Supreme Court - Lord Neuberger of Abbotsbury - was sworn in as a Justice of the Supreme Court at a short ceremony held in Court 1 of the Supreme Court building. Lord Hope, the court’s Deputy President, presided at the ceremony.

Lord Neuberger took both the Oath of Allegiance and the Judicial Oath. Lord Neuberger’s successor as Master of the Rolls is Lord Dyson.

Society President, Imelda McMillan, at the opening of the English Legal Year.
At Diamond we don’t believe in being the biggest, but we do believe in being the best. That’s why we’ve been at the forefront of recruitment for over twenty years. So we like to think that we know a thing or two about what we do. Each of our recruitment consultants are specialists in their field and we have our very own dedicated legal department. So we’re here to help you get to where you’re going in your career. Join us now, it’s easy to register, and discover how we can help.

For further information contact Donna Parker
parkerd@diamondrg.com
028 9055 8000

George J. Irwin (Assessors) Ltd
Automotive Assessors & Consulting Engineers
Celebrating 55 years in business

SPECIALISED IN ASSESSMENT OF:-

Diminution in Value “DIV” (due to accident damage & repairs)
Vehicle Damage, Valuation & condition.

EMAIL: mail@motorassessors.com  Tel 028 9081 4455 / Fax 9081 5556

WWW.MOTORASSESSORS.COM
Members of the Institute of the Motor Industry & Institute of Automotive Engineer Assessors
Notaries Seminar at Law Society House

The College of Notaries Northern Ireland recently held a seminar in Law Society House on the subject of electronic notarisation. The speaker was Michael Lightowler, Notary Public, President of the Notaries Society, the professional body for Notaries in England and Wales.

eNotarisation is already in operation in a small number of other jurisdictions throughout the world but not yet in Northern Ireland. Even in England its use is still quite limited as there are issues similar to those encountered by the Land Registry of Northern Ireland regarding electronic signatures in eConveyancing.

The aim of the lecture was to help Northern Ireland’s Notaries prepare for eNotarisation, the advent of which is inevitable.
Financial management strategies enhance a law firm’s success

We are grateful to RG & Co Chartered Accountants & Business Advisors for the following article on financial management strategies.

Managing partners, financial partners, members of executive committees and administrators must devote more of their time today to planning and managing their firms’ finances and those functions that improve the cash flow and profitability.

Solicitors realise that they must submit to systems and controls to manage the financial aspects of their practices in order to survive in the ever increasing competitive environment which has engulfed them.

Without appropriate planning, controlling cash flow and improving financial management are impossible.

**Business plan**

Your firm should have a business plan spelling out those strategies and initiatives that the firm, its practice groups and individual solicitors intend to implement to reach the immediate and longer term goals and objectives agreed to by the partners. Even if the goals are purely financial, they will require a business plan and the necessary follow up by solicitor management to be achieved.

**Financial plan**

The financial plan follows the business plan in that it spells out the investments, commitments, financial resources and bottom line results that can be expected from the implementation of the business plan.

The business plan may identify the fields of toxic waste disposal, health law and bank holding companies as areas of opportunity. The financial plan should tell you the estimated cost and income opportunities if you decide to embark in that direction.

Budgeting is a significant element of the financial plan. The budget should include the projected revenues and expenses. The assumptions underlying the budgets in each of these areas should be carefully developed and understood.

Revenues can be budgeted by analysing your firm’s largest clients, reviewing their relative standing as revenue producers over the last several years, looking at the type business they produced and talking to the solicitors responsible for each of those clients. Pretty soon, you will be able to detect trends and client needs that can be translated into assumptions and revenue estimates. You might consider establishing financial incentives for those solicitors who reach or exceed their own clients’ revenue estimates.

Budgeting expenses is easier because the commitments are either already made or result from decisions that at least appear more in your control than revenues.

Entertainment and client development expenses are areas in which lawyer management should pay close attention. Allocate to each solicitor an annual budget based upon his or her anticipated volume of business or past records or any other standard you choose to select. Review his or her expenditures and hold him or her accountable.

A simple start is to keep a separate ledger on each lawyer and require that each request for reimbursement contain a written justification for the proposed expenditures.

**Cashflow**

It is vital for solicitor management to understand that cash flow, although principally the result of your firm’s net income flow with depreciation added back, is also affected by changes in their firm’s balance sheet that do not “pass through” the income statement.

Good cash flow requires prompt billing and the chances of collecting a bill in full and promptly are greatly increased by prompt billing.

Under systems that I recommend, each billing solicitor is required to give a monthly report when the matters for which he or she is responsible are expected to be billed and when collection will occur. There should be a tally sheet for each partner showing the unbilled time inventory, total accounts receivable and unbilled time and accounts receivable over 90 days.

Obviously, a partner’s compensation system which contains an element recognising cash collection encourages prompt billing and follow-up on accounts receivable.

**Partners’ capital and borrowings**

For years, most firms have followed an arbitrary rule of thumb that calls for partners’ capital to equal about 60% of the firm’s investments in fixed assets such as office equipment and leasehold improvements. Partners add to capital each year and receive interest on this capital account.

In addition I frequently recommend the firm withhold 5% of the annual net income and distribute same at the beginning of the second quarter of their next fiscal year.

Cash flow from operations, partners’ capital and the 5% hold back enables many firms to limit their bank borrowings to cover short term needs.

**Service is the key**

I want to emphasise that systems and controls do not give you results in and of themselves. It is the quality of legal services, marketed in a common sense way, rendered to clients that produce the psychic and monetary reward solicitors seek.

Financial planning can only help improve the monetary aspect of this equation.

If you are a large or small legal practice, for further information on how to implement these strategies, call Richard using the details below.

**RG & Co Chartered Accountants & Business Advisors.**
**Trusted Finance Professionals. Collaborative Cloud Accountants**
**Northern Ireland Science Park**
**The Innovation Centre**
**Titanic Quarter**
**Belfast BT3 9DT**

**Website:** www.rgandco.co.uk  
**Email:** info@rgandco.co.uk  
**Office:** 028 9065 4353  
**Mobile:** 07868 663538  
**Skype:** rgandco1  
**http://uk.linkedin.com/in/richardgraham1**
In September 2012, the Pro Bono Choir recognised the outstanding academic success of one of its contributors by presenting him with a bursary of £500 towards his academic studies. Sean Fitzpatrick joined the Choir as an assistant to the Choir’s Musical Director, Michael Clendinning in September 2011. With a background in music and as a former Organ Scholar and member of the Choir in St George’s Church in Belfast, he was the perfect complement to the choir’s ranks.

In June 2012, Sean attained a first class Honours Degree in Music from Queen’s University in Belfast and will now take up the post of Choral Scholar in Worcester Cathedral under the direction of Dr Peter Nardone, as well as completing a PGCE Course at the University of Worcester. In recognition of his commitment to the choir and academic success, Sean was presented with the first bursary by members of the Pro Bono Choir.

£1092 raised by members of the Pro Bono Choir from its summer concert held in St George’s Church in Belfast City Centre in June 2012 was presented by Imelda McMillan to a representative of the Friends of the Cancer Centre.

From left: Joe Rice, Denise Strahan, Michael Robinson, Society's Junior Vice President, Sean Fitzpatrick, Michael Clendinning and the Society's President, Imelda McMillan.

From left: Joe Rice, Denise Strahan, Michael Robinson, Society's Junior Vice President, Colleen Shaw, Friends of the Cancer Centre and Imelda McMillan, President of the Society.
A special awards ceremony at Belfast Metropolitan College saw journalism student, Tanya Coulter, being presented with the McCann and McCann Solicitors Media Law Prize.

The prize was presented by Paul Moylan, partner at the Belfast law firm, which has been sole sponsor of the prestigious award for a number of years.

Mr Moylan commented: “McCann and McCann is delighted to continue sponsorship of this important award and hope it serves as an incentive to students to strive for the highest academic standards that will stand them in good stead in their future careers.

“In the current economic climate it is particularly important that we offer every support for the media professionals of tomorrow. I am delighted to congratulate Tanya on her magnificent achievement and applaud all the students for their hard work throughout the year.”

Maurice Neill, co-ordinator of the Journalism Course, said: “We are extremely grateful to McCann and McCann for their ongoing support. The prize is a much sought after accolade amongst the students and provides an important goal for them to aim for each year.”

Networking at A&L Goodbody

More than 50 professionals gathered at corporate law firm A&L Goodbody’s Young Professional Networking Evening and heard from business mastermind, Jim Eastwood. The evening was attended by representatives from businesses such as Northern Bank, WhiteRock Capital Partners and PricewaterhouseCoopers.

Pictured at the event, are hosts Andrew Spratt, Assistant within the Employment Law Practice at A&L Goodbody and Gareth Walls, Partner in the Employment Law practice, with Jim Eastwood, Groupon Regional Director NI & Ireland.

A&L Goodbody provides commercial law services for the domestic and international corporate sector.
Legal Moves

Mark Stockdale has been appointed Solicitor, Corporate and Commercial at A&L Goodbody. In his new role Mark will advise public and private sector clients on all aspects of corporate and commercial law.

Mark specialises in providing corporate transactional and commercial advice and has advised on a wide range of transactions both at a national and multi-jurisdictional level, including public and private acquisitions, venture capital, group re-organisations, joint ventures and public offers.

Mark has also advised on the financial promotion aspects of regulated and unregulated collective investment schemes, as well as on fundraisings under the Enterprise Investment Scheme.

Mark trained with and spent five years in the UK at a national law firm and is a qualified solicitor in England and Wales.

Rebecca O’Flaherty has been appointed Solicitor in the Banking and Financial Services practice at A&L Goodbody. In her new role she will assist A&L Goodbody’s three partner-led Banking & Financial Services practice, working closely alongside all the local banks and on the firm’s international and magic circle instructions.

Prior to joining A&L Goodbody in August 2012, Rebecca gained more than four years’ experience training and working for a Belfast based banking practice. She also spent nine months working in First Trust Bank’s legal department.

With over 30 years' Online Marketing experience within its team, Chooboo offers an experienced and trusted service to the Legal Services sector. 

For more details visit: http://chooboo.com/solicitor-web-design/
Or call 028 9042 1000
Or email info@chooboo.com
Reforming employment relations – should Northern Ireland dare to be different?

Caroline Maguire, senior solicitor and employment legal adviser at Law Centre (NI)’s western area office, explains why mirroring proposed changes planned for England and Wales would not be good for Northern Ireland.

Hardly a day goes by without a report on some new radical proposal to amend employment law in England and Wales. Particular media excitement surrounded the publication of the Beecroft Report7 and subsequent Government proposals.

Will Northern Ireland follow whatever reforms are implemented by the Coalition Government?

The message from the Coalition Government is that employment law and regulation is impeding efficiency and competitiveness and is a particular problem for small and medium sized businesses.8 However, scant evidence has been produced to substantiate these assertions. Indeed Vince Cable stated that the UK has ‘one of the most effective and lightly regulated labour markets among developed economies’.9 We do not believe that the proposed reforms will help competitiveness. Rather, they are principally aimed at reducing the number of claims to employment tribunals.

There is no evidence to show that the introduction of a two year qualification period for unfair dismissal claims in England and Wales will increase recruitment by employers.10 There is no evidence that the reduction of the qualifying period in 1999 stopped employers from hiring. The impact of this change will be to undermine employees’ sense of job security and potentially increase alternative claims such as discrimination.

The proposal which is most far reaching and likely to have a serious impact on workers is the introduction of fees in England and Wales for employment tribunal cases.6 The justification for this is stated to be ‘to relieve pressure on the taxpayer and to encourage parties to think through whether disputes might be settled earlier and faster by other means’. The fee is to be levied on claimants only.

The Law Centre strongly opposes the introduction of any fee system as it will bar a significant number of workers from accessing the tribunal at all. A worker earning, say, £300 a week and wishing to challenge why he has not been paid for a particular day will simply be priced out of going to the Tribunal. We do not believe that any remission system will address the issue of access to justice for low paid workers. We also believe that the administration of any remission system will be complex and thus be an added cost to the taxpayer.

We also have grave concerns that a proposal to introduce fees in Northern Ireland would be contrary to EU equality law. The EU Equality Directives1 require that access to a remedy must be available to complainants. Fees could make access to a remedy unavailable in practice. We also believe that the introduction of fees could be indirect discrimination on grounds of race, sex, age, part-time worker status and disability, given that more claimants in these protected groups would be disadvantaged. Fees could have a differential impact in equal pay or sex discrimination cases as they would impact more on women than men.

We are not alone in our concern: the Law Society of England and Wales has stated that it considers the proposed fee system to be a barrier to justice.9

An alternative route for Northern Ireland

Business is not going to be helped by reducing workers’ rights or their access to enforcement of rights.

In relation to employment regulation, the key problem lies with our dispute resolution system. The Law Centre believes that relying principally on recourse to a legally complex tribunal is not an effective system for employment dispute resolution. Running a tribunal case is time consuming and expensive for parties with legal representation. For parties without representation it can be very expensive for parties with legal representation. For parties without representation it can simply be impossible.10 In September 2009, the Law Centre produced a paper in response to DEL’s consultation on Resolving Workplace Disputes10 in which we set out our suggestion for how the current system could be changed to improve access to justice for users. Many of those suggestions for change remain applicable and, with the recession, the case for change is more pressing.

Three key areas for change are:
• increased provision of advice;
• simplification of the tribunal system; and
• increased availability of alternative dispute resolution.

Advice

The Law Centre believes that the lack of tailored advice for both workers and small employers is a key cause of difficulty in resolving disputes. The main concern for the Law Centre is that claimants without advice...
may never bring a claim at all. However, where a person does bring a claim without advice, such claim may be badly drafted and this leads to longer and more complicated hearings. Alternatively, a small employer acting without advice may put forward an untenable defence, which can lead to a hearing proceeding in circumstances where the case should never have been defended.

Good advice at an early stage for all parties will increase resolution through alternative dispute resolution, lead to shorter hearings (as pleadings will be framed correctly) and a more just outcome (as there will be more ‘equality of arms’).  

### Simplification of the tribunal process

The change that is needed goes far beyond simply fast-tracking some claims as is being proposed by the Coalition Government.

We suggest that all claims should be assessed at the submission stage by a Chairman and assigned the appropriate route for resolution. Straightforward cases (eg redundancy pay) could be assigned to an Employment Adjudicator and all other cases referred to Early Neutral Evaluation. A hearing before an adjudicator would be informal and inquisitorial (based broadly on the Irish Rights Commissioner model). A right of appeal would be granted but we envisage that few appeals would result from such a hearing.  

Cases referred to Early Neutral Evaluation would be considered by a tribunal Chairman in a short inquisitorial hearing (similar to the current case management hearings). The Chairman would give a provisional view on the merits of the case including an indication of possible compensation. This would then enable the parties to reconsider engaging in conciliation or mediation.

### Alternative dispute resolution

We welcome the extension of the Labour Relations Agency’s arbitration scheme to most tribunal jurisdictions as we feel that arbitration could provide an accessible form of resolution for unrepresented parties. However, the most effective means of increasing the uptake of arbitration would be to integrate it into the dispute resolution system (rather than have it as a voluntary option standing outside the tribunal system).

We support increased use of conciliation throughout the life of a dispute, including pre-claim conciliation and increased provision of mediation. However, we believe that conciliation needs to be accompanied by early tailored advice. We do not support compulsory conciliation but, if our other recommendations were put in place we believe that this would result in an increase in the voluntary use of conciliation.

### Divergence from England and Wales

Some of our business community may fear that, if Northern Ireland does not follow the reforms being made in other parts of the UK, its economy may suffer. Some say retaining a one year qualifying period for unfair dismissal may push outside investors to choose England or Wales over Northern Ireland. The spectre of Northern Ireland being seen as a highly regulated and unattractive place for investment is a scary prospect. But in fact, this is an opportunity for Northern Ireland to show itself as a better place to do business.

We believe that the reforms being introduced by the Coalition Government will harm employment relations and thus damage competitiveness. The arena of employment relations does not have to divide into the camps of worker against employer. Improving employment relations is in everyone’s interests. If our devolved government takes this opportunity to create its own improved model for employment dispute resolution, Northern Ireland can become a region that is known for its good employment relations and as a model for good dispute resolution. This will make Northern Ireland stand out as a good place to work and a good place to do business.

---

1 Report on Employment Law, Adrian Beecroft, 24 October 2011 (commissioned by the Department for Business, Innovation and Skills).
3 In November 2011 Vince Cable gave a speech to the Engineering Employers’ Federation in London on reforming employment relations (www.bis.gov.uk/news/speeches) in which he set out many of the British Government’s proposals on employment law reform. Further insight is provided by the Beecroft Report.
4 Ibid. Mr Cable went on to say that a recent survey by his own department had found that only 6% of SMEs regarded regulation including employment regulation as the main obstacle to business success. The Beecroft Report has been described as “somewhat sketchy when it comes to evidence.”: Editorial comment, IDS Brief, 951, June 2012
5 The Beecroft Report simply refers to the fact that it “often does not become clear during the first year of employment” that an employee is underperforming.
6 The fee range being considered is between £200 and £1,750.
8 See IDS Brief, 947, April 2012
9 See “Redressing Users’ Disadvantage: Proposals for Tribunal Reform in Northern Ireland”, Grainne McKeever and Brian Thompson, 2010 (available at www.lawcentreni.org/publications)
10 “Disputes in the workplace: a systems review”, Law Centre (NI), September 2009
11 Statistics from the Republic of Ireland show that only 9% of Rights Commissioner decisions are appealed and only 2% of appeals upheld (see “Disputes in the workplace: a systems review”, Law Centre (NI), September 2009, page 17).
CRIMINAL INJURIES COMPENSATION
APPEALS PANEL FOR NORTHERN IRELAND

WE HAVE MOVED

Practitioners should note that with effect from Monday 29 October 2012 all hearings before the Panel have been taking place at The Tribunals Hearing Centre, 3rd Floor Bedford House, Bedford Street, Belfast, BT2 7FD. The Panel’s administration and clerical support staff have also transferred from that date to the Bedford Street premises. Contact details are as follows:

Telephone: 028 9041 2204 or 9041 2261
Fax No: 028 9041 2357
Email: CICAPNICustomer@courtsni.gsi.gov.uk

Practitioners and Appellants who have already been invited to attend hearings after 26 October at our existing premises on the 2nd Floor, The Corn Exchange Building, 31 Gordon Street, Belfast, BT1 2LG should instead attend at the Bedford Street premises. Fresh Notices of Hearing have been issued in respect of all affected appeals.

JOHN DUFFY
Chairman

Train with Law Centre (NI)

**Challenging Tax Credit Decisions: Overpayments**
28 November - Belfast

**Advocacy Skills**
5-6 December - Belfast

**WRAP Refresher - Means Tested Benefits**
7 December - Belfast- half day

**WRAP Refresher - Means Tested Benefits**
11 December - Derry- half day

**The Rights of Agency Workers**
13 December - Belfast

All our courses carry CPD hours for solicitors, barristers and CAB advisers.

For more details, visit the training section of our website:
http://www.lawcentreni.org/training/training.html
or contact noreen.hyndman@lawcentreniwest.org, 028 7126 2433.
From the Courts – abstracts of some recent case law August - September 12

**ADMINISTRATION OF JUSTICE**

**PATRICIA YOUNG V PUBLIC PROSECUTION SERVICE**

Appeal by way of case stated against the refusal of a District Judge to stay proceedings against the appellant who was a care worker looking after a 70 year old woman in her house charged with 2 offences of ill-treatment contrary to the Mental Health (NI) Order 1986. - consent of DPP had not been obtained prior to the institution of the proceedings. - fresh proceedings relating to the same alleged offences were instituted. - whether the DPP could not lawfully consent to the institution of proceedings. - whether the purported consent of the DPP was in accordance with the requirement of consent to the institution of proceedings. - whether the District Judge was correct in law to refuse an application to stay proceedings against the appellant on the basis that the DPP was entitled lawfully to consent to the institution of proceedings before the invalidity of proceedings concerning the same allegations in which the appellant had entered pleas of guilty had been established by the Court. - whether the District Judge was correct in law to refuse an application to stay proceedings against the appellant on the basis that the DPP was entitled lawfully to consent to the institution of proceedings against the appellant before the invalidity of proceedings concerning the same allegations in which the appellant had entered pleas of guilty had been established by the Court. - whether the District Judge was correct in law to refuse an application to stay proceedings against the appellant on the basis that the DPP was entitled lawfully to consent to the institution of proceedings against the appellant before the invalidity of proceedings concerning the same allegations in which the appellant had entered pleas of guilty had been established by the Court.

**BANKING LAW**

**AIB GROUP (UK) PLC V PERSONAL REPRESENTATIVE OF JAMES AIKEN (DECEASED) ANDREW JONATHAN AIKEN AND MARY AIKEN**

Appeal against order of Master whereby he dismissed in the course of an oral judgment the plaintiff’s application for summary judgment pursuant to o. 14 RCJ. - plaintiff sought final judgment in the action against the defendants for the sum of £397,842.85. - first and third defendants owned and operated a guesthouse which they decided to sell pending retirement and move to a bungalow currently on the market. - bridging loan was arranged. - guesthouse which was to be sold in order to finance the purchase of the bungalow remained unsold. - plaintiffs wish to bring the account into credit and sell the guesthouse. - defendant claims that the bank wishes to market the guest house at a price that is much lower than he believes to be the value of the property. - requirements of Banking Code when banks are dealing with personal customers. - principles governing the duty of bankers. - whether the bank is entitled to demand repayment in advance in accordance with its terms. - whether any duty to customers as to whether and when it decides to enforce debt and security. - whether the bank acted fairly and reasonably or tried to sell the guesthouse at an improper price. - HELD that the plaintiff’s case is unanswerable and that they are entitled to judgment. - order of Master reversed.

**CONTRACT**

**JAMES OLIVER MCDONALD V NICHOLAS MCKENNA, WILLIAM JOHN IRWIN AND PATRIC JAMES MCGRATH**

Plaintiff claims against the first-named defendant for an order for specific performance of a contract made between the plaintiff and the first defendant for the sale and purchase of property and payment by the first defendant of the balance of purchase monies in respect of the sale of the said property. - plaintiff claims in the alternative damages in lieu of specific performance for breach of contract and negligence. - credibility of the parties. - interpretation of contracts. - whether the contract for sale was void for uncertainty because of the absence of a fixed completion date. - whether the document signed by the parties constitutes a contract in writing for the sale of the property. - HELD that an order be made for specific performance of the contract requiring the first defendant to pay the plaintiff the balance purchase monies together with interest.

**HIGH COURT**

10 SEPTEMBER 2012

**COGHLIN LJ**

**CRIMINAL LAW**

**R V GERARD CONNORS**

Application for leave to appeal the sentence of a minimum tariff of 13 years’ imprisonment in respect of murder. - whether the trial judge should have applied the lower starting point. - whether he failed to give sufficient weight to the applicant’s expression of remorse and whether he did not properly give sufficient weight to the applicant’s youth and clear record. - personal circumstances of the offender. - guilty plea. - HELD that the credit given to the applicant’s admissions and his plea was not as great as it should have been and minimum term reduced to 12 years.
From the Courts – abstracts of some recent case law August - September 12

to include the period spent on remand in custody

COURT OF APPEAL
15 MAY 2012
MORGAN LCJ, GIRVAN LJ, COGHLIN LJ

DISPUTE RESOLUTION

SAM ABBAS AND ANTHONY HAYES TRADING AS A H DESIGNS V ROTARY (INTERNATIONAL) LIMITED
Application by defendant for a stay of proceedings pending adjudication. - what the approach of the Court should be when a party bringing legal proceedings has disregarded a scheme for dispute resolution provided for in contractual arrangements between the same parties. - where an agreed method of dispute resolution in included in the contract the burden is on the party who would come to Court instead to show why the agreed method of dispute resolution should not operate. - plaintiffs claim fees due in respect of services rendered which are disputed by the defendant. - consultancy agreement and sub contract special conditions. - incorporation and enforceability of the adjudication process. - whether an adjudicator has not been identified. - HELD that the absence of any attempt to adjudication during the period since the claim arose is a ground on which the matter should not be stayed and application refused

HIGH COURT
28 MAY 2012
WEATHERUP J

HUMAN RIGHTS

AN APPLICATION BY MARTIN COREY FOR JUDICIAL REVIEW
Applicant challenges the refusal of the Parole Commissioners to release him from prison primarily on the ground that it breaches his a. 5(4) ECHR rights. - applicant sentenced to life imprisonment for murder and released on licence and re-arrested. - whether revocation of licence should remain in force or whether the prisoner should be released. - confidential information and appointment of Special Advocate. - relief sought against the impugned decision on the basis that the open materials consisted virtually exclusively of general assertions and the decision to uphold this detention was based solely or to a decisive degree upon closed materials and this offended the applicant’s human rights. - whether the applicant had sufficient information at the time of consultation with the Special Advocate to give effective instructions. - test to be applied in relation to the sufficiency of disclosure and its relation to a fair trial. - status of a convicted person’s right to liberty under a. 5(1) and his procedural rights under a. 5(4) in these circumstances. - extent to which the Parole Commissioner’s determination was based on closed material. - extent to which the quality of the open evidence remedies the lack of full disclosure. - extent to which the open material allowed the Special Advocate to provide a sufficient counterbalance and ensure fairness in proceedings. - whether the independent court was effective in providing a safeguard. - whether the lack of disclosure was sufficiently counterbalanced to allow the applicant to effectively challenge the allegations against him. - HELD that the decision of the Parole Commissioners was reached in breach of the applicant’s a. 5(4) rights to procedural fairness

HIGH COURT
9 JULY 2012
TREACY J

LEGAL AID

AN APPLICATION BY MATTHEW KELLY FOR JUDICIAL REVIEW
Legal aid. - determination of financial means. - applicant sought legal aid

in relation to a medical negligence claim which was granted subject to a contribution by the applicant based on an assessment of his disposable income and capital. - applicant challenges the calculation of his disposable income and the corollary contribution to the legal aid fund. - applicant seeks certiorari of the decision to require him to make a contribution and a declaration that the practice of treating the value of food and heating as a benefit in kind or free keep to be added to a person’s income is unlawful and unjustified. - whether it was within the power of the assessment board to consider the provision of free meals as a source of non-cash income. - concept of Lower Income Limit. HELD that application allowed and relief sought granted

HIGH COURT
14 JUNE 2012
TREACY J

NEGLIGENCE

CIARAN HUGHES (A MINOR) ACTING BY HIS MOTHER AND NEXT FRIEND MARIE HUGHES V NEWRY AND MOURNE DISTRICT COUNCIL
Plaintiff sustained a major injury to his eye at playing fields. - plaintiff developed tinnitus and suffered from a psychological reaction. - plaintiff had been playing with friends one of whom lit a discarded firework from a Hallowe’en bonfire held the night before which exploded causing serious injury to the plaintiff and slight injuries to others. - plaintiff claims damages against the defendant, the owners and occupiers of the playing fields on the basis that they were in breach of the duty of care contained in the Occupiers Liability (NI) Order 1987. - whether one of the defendant’s purposes in providing the playing fields was to attract children, that the defendant knew or ought to have known of the risk of unexploded fireworks at the playing fields as a
result of the activities of those who had attended the bonfire the previous night and despite that knowledge the defendant failed to inspect the playing fields and also failed to take precautions such as removing fireworks and other dangers including broken glass before permitting the plaintiff and his friends to be on the premises. - defendant claimed that the bonfire was organised by others and it was powerless to prevent its land from being used given the level of anti-social behaviour surrounding the event. - HELD that the precautions required by the defendant to have been taken were not achievable since it was reasonable for the council to anticipate that its staff and the staff of contractors would be threatened, intimidated and assaulted and thereby at risk. - judgment for the defendant

HIGH COURT
10 AUGUST 2012
STEPHENS J

BILLY MORROW V DUNGANNON AND SOUTH TYRONE BOROUGH COUNCIL

Plaintiff claims damages for personal injuries, loss and damage by reason of negligence and breach of contract of the defendant in and about the instruction, supervision, management, control and assistance of the plaintiff whilst performing weightlifting exercised at Dungannon Leisure Centre. - plaintiff suffered fracture of shoulder/neck. - whether plaintiff had received adequate induction, instruction and supervision in lifting of weights. - standard of care for those such as the defendant who provide the facilities. - nature of risk involved in weight lifting. - HELD that the plaintiff's action dismissed

HIGH COURT
6 JULY 2012
GILLEN J

PROCUREMENT

IN THE MATTER OF AN APPLICATION BY TRAFFIC SIGNS AND EQUIPMENT LIMITED AND DAVID CONNOLLY FOR LEAVE TO APPLY FOR JUDICIAL REVIEW

Procurement. - application for leave to apply for judicial review of decision of judge to let 15 of 18 contracts for the supply and delivery of permanent and temporary road traffic signs and signposts. - whether the 15 let contracts were tainted by the same unlawfulness as the decisions that were set aside. - whether the award of the 15 contracts arose from a process adjudged to be unlawful and thus ultra vires. - whether the letting was in breach of EU law, the Public Sector Directive and the principles of objectivity and transparency. - whether the decision arose from a process to be adjudged to be unlawful and was Wednesbury unreasonable. - whether the decision breached legitimate expectation. - HELD that a viable argument that the applicants can be entitled to judicial review relief has not been demonstrated and appeal dismissed

COURT OF APPEAL
12 JUNE 2012
MORGAN LCJ, GIRVAN LJ, COGHLIN LJ

REAL PROPERTY

BANK OF SCOTLAND PLC V TERENCE BROGAN AND MARY BROGAN

Defendants are husband and wife who are separated. - first defendant had property transferred to him from his father for natural love and affection. - he paid monies to the rest of his siblings who had not received any property and took out a mortgage accordingly and a charge was registered. - first defendant took out an additional mortgage to begin building development several years later which is in arrears. - first named defendant is the registered owner of the land. - second named defendant was in actual occupation of the premises at all material times. - whether the second named defendant had a beneficial interest in the property prior to the mortgage, resulting in her beneficial interest having priority over the interest of the plaintiff obtained through the first defendant. - whether there was intention that the ownership of the property be shared from the date of the marriage. - financial contribution of the second defendant to the property. - HELD that the second defendant has half the interest in the property and is entitled to a declaration that the first named defendant holds the lands as constructive trustee in part for the second defendant and a declaration that her beneficial interest in the lands ranks in priority to the plaintiff's charge as she was in actual occupation of the property at the time of the latter charge. - no order for sale made

HIGH COURT
3 AUGUST 2012
DEENY J

BANK OF SCOTLAND PLC V LAURENCE SEAMUS MCGUIGAN

Plaintiff seeks delivery by the defendant of possession of a dwelling house, payment of monies due, further and other relief and costs. - plaintiff's claim is founded on a charge between the defendant and the Halifax which is said to have formed part of the undertakings subsequently transferred by the Halifax to the plaintiff. - Master had previously ordered the defendant to deliver to the plaintiff possession of the dwelling house, which the defendant had appealed. - defendant questioned the plaintiff's legal entitlement to proceed against the defendant pursuant to the charge. - HELD that the defendant's discovery application is based on speculation and is dismissed and the plaintiff has discharged its burden of establishing on the balance of probabilities that it is entitled to the relief sought in the originating summons

HIGH COURT
19 JUNE 2012
MCCLOSKEY J
Forced Marriages

A forced marriage is a marriage conducted without the consent of one or both parties, where pressure is a factor.

**Legislation**

Forced Marriage (Civil Protection) Act 2007

Ch 20

An Act to make provision for protecting individuals against being forced to enter into marriage without their free and full consent and for protecting individuals who have been forced to enter into marriage without such consent. Commencement: main provisions in force on 25 November 2008.


The Forced Marriage (Civil Protection) Act 2007 (Commencement No. 1) Order (Northern Ireland) 2008 SR 446

This Order provides for the main provisions of the Forced Marriage (Civil Protection) Act 2007 relating to Northern Ireland to come into force on 25 November 2008.


The Family Proceedings (Amendment No. 3) Rules (Northern Ireland) 2008 SR 466

Commencement: 22 December 2008


The Rules of the Supreme Court (Northern Ireland) (Amendment No.2) 2008 SR 401

Commencement: 3 November 2008

These Rules apply the Rules of the Supreme Court (Northern Ireland) 1980 (SR 1980/346) so as to assign proceedings under Schedule 1 to the Forced Marriage (Civil Protection) Act 2007 [c.20] to the Family Division of the High Court by amending Order 1, rule 12 (rule 2(1)).


All the above legislation is available on Libero free of charge via the Law Society website.

**Articles**

**Forced Marriage** (discussion of the human rights implications of and motives behind forced marriage)

Pasha, S: 2012 Counsel Jan. 31

The Forced Marriage (Civil Protection) Act 2007: Two years on (considers whether the Act has fulfilled its obligations)

Chokowry, K: 2011 Jan Fam Law 76-80

And they call it puppy love: young love, forced marriage and immigration rules (considers the Supreme Court decision in R. (on the application of Aguilar Quila) v Secretary of State for the Home Department on the validity of a rule that UK nationals aged under 21 could not sponsor the entry of a foreign spouse or civil partner)

Tew, Y: 2012 C.L.J., 71(1), 18-21

Criminalising forced marriage through stand-alone legislation: will it work? (discusses the government proposal to introduce legislation criminalising forced marriage. Presents, and assesses the validity of, the arguments made for and against criminalisation)

Gill, A: 2012, Fam. Law, 42(May), 534-542.

Enacting a specific criminal offence of forced marriage (argues that forced marriage should be criminalised)

Proudfman, C: 2012, C.L. & J., 176(20), 281-282

**Caselaw**

R. (on the application of Aguilar Quila) v Secretary of State for the Home Department

Refusal to grant a marriage visa to a foreign national. - spouse of a person settled in the United Kingdom. - where either party to the marriage was aged under 21, in accordance with the Immigration Rules r.277, breached the art. 8 rights under the European Convention on Human Rights 1950 of those affected. – HELD appeals dismissed [2011] UKSC 45; [2012] 1 A.C. 621; [2011] 3 W.L.R. 836; [2012] 1 All E.R. 1011; [2012] 1 F.L.R. 788;

NS v MI

NS born and brought up in United Kingdom. – MI from Pakistan. – NS brought to Pakistan on pretence of a holiday and kept there until she married MI. – NS returned to UK with mother and had no contact with MI. – NS sought a decree of nullity on the grounds of duress. – latter had married as a result of moral blackmail and pressure from her family. – HELD that NS was granted a decree of nullity [2006] EWHC 1646 (Fam); [2007] 2 FCR 748

XCC v AA et al

Adult woman, DD, having significant learning disabilities – DD entering into arranged marriage in Bangladesh – Court making declaration that DD lacked capacity to enter into marriage – Whether and on what basis court should make non-recognition declaration. [2012] EWHC 2183 (Fam); [2012] ALLER D 38 (Aug)

Available from the Law Society Library

G and D (risk of forced marriage: forced marriage protection order)

Wardship orders already in existence in relation to both children giving care and control to the Trust since the Trust believed that the children were being sent to Pakistan and would be forced to marry. - no final hearing had been heard in the wardship application and children’s mother now brings the matter back to court. - outstanding issues on behalf of the mother for the court to consider. - definition of forced and arranged marriages. - a. 8 ECHR and right to family life without interference. - evidence prompting the current application including the mother telling their...
In the matter of the Forced Marriages (Civil Protection) Act 2007 between the Mother of and G and D v Belfast Health and Social Services Trust

Appeal against discharge of a wardship order. - draft Forced Marriage Protection Order made available to all parties for consideration. - whether the evidential threshold for establishing the criteria for a forced marriage had been met and whether there was adequate evidence that the children were being forced into a marriage or that there was any attempt or intention on behalf of the appellant to do so. - whether the trial judge had exceeded his powers under the Forced Marriages Act and unlawfully and disproportionately interfered with a.S. ECHR rights of the appellant by placing a blanket prohibition upon any betrothals, arranged marriages or marriages freely entered into without leave of the court, placing an indefinite travel restriction without leave of the court, ordering the appellants to surrender their passports and identity cards and directing that the Order should continue on an indefinite basis. - HELD that appeal dismissed


The above cases are available on Libero free of charge

**Websites**

Home Office – Forced Marriage E-Learning
www.fmelearning.co.uk

The government launched the first interactive online training tool to help lawyers and other professionals handle forced marriage cases. The Forced Marriage Unit (FMU) resource, “Forced Marriage E-learning” uses scenarios based on real life stories to show professionals how to identify the first warning signs, provide the right support and reach a positive outcome. It encourages anyone who comes in to contact with those affected to work together closely in order to protect victims. To access the site solicitors need to set up an account which is free of charge.

**Books in the Library**


**Foreign and Commonwealth Office – Forced Marriage Unit**
http://www.fco.gov.uk/
Information and guidance for victims and professionals. Also statutory guidance and best practice examples.

**Law Society of England and Wales**
http://www.lawsociety.org.uk/
Consultation on forced marriage – Law Society response (making forced marriage and breach of Forced Marriage Protection Orders criminal offences.)
Consultation is available from the library

The library also has access to electronic databases, including LexisNexis and Westlaw. Please ask a member of library staff for more details.

---

**New Books in the Library**


---

**Websites**

Home Office – Forced Marriage E-Learning
www.fmelearning.co.uk

The government launched the first interactive online training tool to help lawyers and other professionals handle forced marriage cases. The Forced Marriage Unit (FMU) resource, “Forced Marriage E-learning” uses scenarios based on real life stories to show professionals how to identify the first warning signs, provide the right support and reach a positive outcome. It encourages anyone who comes in to contact with those affected to work together closely in order to protect victims. To access the site solicitors need to set up an account which is free of charge.

**Books in the Library**


---

**New Books in the Library**


---

**Websites**

Home Office – Forced Marriage E-Learning
www.fmelearning.co.uk

The government launched the first interactive online training tool to help lawyers and other professionals handle forced marriage cases. The Forced Marriage Unit (FMU) resource, “Forced Marriage E-learning” uses scenarios based on real life stories to show professionals how to identify the first warning signs, provide the right support and reach a positive outcome. It encourages anyone who comes in to contact with those affected to work together closely in order to protect victims. To access the site solicitors need to set up an account which is free of charge.

**Books in the Library**

## Classifieds

### Missing Wills

<table>
<thead>
<tr>
<th>Re:</th>
<th>Thomas James Scott (deceased)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Late of:</td>
<td>12 Rock Road, Stoneyford, Lisburn</td>
</tr>
<tr>
<td>Date of Death:</td>
<td>15 July 2012 (found dead)</td>
</tr>
<tr>
<td>Would any person having knowledge of the whereabouts of the Will for the above named deceased please contact:</td>
<td>Margaret Sloane Donaldson McConnell &amp; Co Solicitors Castle Chambers 1 Castle Street Lisburn County Antrim BT27 4SR Tel: 028 9260 1421 Fax: 028 9267 5705</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Re:</th>
<th>Mrs Ellen Visser (deceased)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Late of:</td>
<td>2 Dundrod Court, Lisburn, County Antrim</td>
</tr>
<tr>
<td>Would any person having knowledge of the whereabouts of a Will for the above named deceased please contact:</td>
<td>McCoubrey-Hinds Solicitors 61 Main Street Bangor County Down BT20 5AF Tel: 028 9127 1916 Fax: 028 9127 1315</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Re:</th>
<th>John Joseph Connolly (deceased)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Late of:</td>
<td>4 Carrick Road, Tamnaharry, Warrenpoint, County Down BT34 3QU</td>
</tr>
<tr>
<td>Date of Death:</td>
<td>31 July 2012</td>
</tr>
<tr>
<td>Would any person having knowledge of the whereabouts of a Will for the above named deceased please contact:</td>
<td>Comerton &amp; Hill Solicitors 2nd Floor 32/36 May Street Belfast BT1 4NZ Tel: 028 9023 4629 Fax: 028 9023 3908</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Re:</th>
<th>William Henry Armstrong (deceased)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Late of:</td>
<td>86 Pettigo Road, Kesh, County Fermanagh Or Killyleagh, Kesh, County Fermanagh</td>
</tr>
<tr>
<td>Date of Death:</td>
<td>9 May 2012</td>
</tr>
<tr>
<td>Would any person having knowledge of the whereabouts of a Will for the above named deceased please contact:</td>
<td>Murnaghan Fee Solicitors Boston Chambers Queen Elizabeth Road Enniskillen County Fermanagh BT74 7JA Tel: 028 6632 2819 Fax: 028 6632 3073 Email: <a href="mailto:law@murnaghanfee.com">law@murnaghanfee.com</a></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Re:</th>
<th>Robert Garmony (deceased)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Late of:</td>
<td>119 Cavehill Road, Skegoney, Belfast BT15 5BJ</td>
</tr>
<tr>
<td>Date of Death:</td>
<td>5 August 2012</td>
</tr>
<tr>
<td>Would any person having knowledge of the whereabouts of any Will for the above named deceased please contact:</td>
<td>Jack McCann &amp; Son Solicitors 20 Ballymoney Road Ballymena County Antrim BT43 5BY Tel: 028 2564 2388 Fax: 028 2565 1292</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Re:</th>
<th>Damian Patrick Devlin (deceased)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Late of:</td>
<td>2 Millbank Close, Omagh, County Tyrone BT79 7YF</td>
</tr>
<tr>
<td>Date of Death:</td>
<td>5 August 2012</td>
</tr>
<tr>
<td>Would any person having knowledge of the whereabouts of any Will for the above named deceased please contact:</td>
<td>James McNulty &amp; Co Solicitors 25-27 George Street Omagh County Tyrone BT78 1DE Tel: 028 8224 2177 Fax: 028 8224 9834 Email: <a href="mailto:frontoffice@jamesmcnulty.co.uk">frontoffice@jamesmcnulty.co.uk</a></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Re:</th>
<th>Richard Hopkins (deceased)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Late of:</td>
<td>53 Ellis Street, Carrickfergus, County Antrim BT38 8AY</td>
</tr>
<tr>
<td>Date of Death:</td>
<td>2 August 2012</td>
</tr>
<tr>
<td>Would any person having knowledge of the whereabouts of a Will made by the above named deceased please contact:</td>
<td>Eamonn Doherty J M Hughes &amp; Co Solicitors 47 University Street Belfast BT7 1FY Tel: 028 9032 0831 Fax: 028 9023 5017 Email: <a href="mailto:law@jmhughes.com">law@jmhughes.com</a></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Re:</th>
<th>John Gibson (deceased)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Late of:</td>
<td>Tennent Street Care Home, 1 Tennent Street, Belfast BT13 3GD</td>
</tr>
<tr>
<td>Previously of:</td>
<td>Flat 15, John Blanking House, Lower Regent Street, Belfast and Carrick House, Clifton Street, Belfast</td>
</tr>
<tr>
<td>Date of Death:</td>
<td>13 January 2012</td>
</tr>
<tr>
<td>Would any person having knowledge of the whereabouts of a Will made by the above named deceased please contact:</td>
<td>Shauna McSorley John Fahy &amp; Company Solicitors 8 Bowling Green Strabane County Tyrone BT82 8BW Tel: 028 7138 2356 Fax: 028 7138 2180 Email: <a href="mailto:keelin.devine@johnfahysolicitors.com">keelin.devine@johnfahysolicitors.com</a></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Re:</th>
<th>William (Willie) Elliott (deceased)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Late of:</td>
<td>12 Springhill Park, Strabane, County Tyrone</td>
</tr>
<tr>
<td>Date of Death:</td>
<td>11 September 2012</td>
</tr>
<tr>
<td>Would any person having knowledge of the whereabouts of a Will made by the above named deceased please contact:</td>
<td>Shauna McSorley John Fahy &amp; Company Solicitors 8 Bowling Green Strabane County Tyrone BT82 8BW Tel: 028 7138 2356 Fax: 028 7138 2180 Email: <a href="mailto:keelin.devine@johnfahysolicitors.com">keelin.devine@johnfahysolicitors.com</a></td>
</tr>
</tbody>
</table>
Re: Michael Agnew  
Late of: Broadwater, 13 Old Church Lane, Aghalee 
Date of Death: 16 August 2012 
We are in possession of a Will executed on the 5 April 1979. If anyone knows of any later Wills made by the above named deceased, please contact: 
Harry McPartland & Sons 
Solicitors 
11 Market Street 
Lurgan 
County Armagh BT66 6AR 
Tel: 028 3832 2452 
Fax: 028 3834 9561 
Email: pmcpartland@mcpartlands.com

Re: Terence Edward Hanna (deceased)  
Late of: 88a Greenview Avenue, Dublin Road, Antrim, County Antrim 
Date of Death: 20 April 2012 
Would any person having knowledge of the whereabouts of a Will for the above named deceased please contact: 
Timothy Mayes 
Andrew Walker & Co 
Solicitors 
6 Bridge Street 
Portadown 
County Armagh BT62 1JD 
Tel: 028 3833 7591 
Fax: 028 3839 2552 
Email: dorothy@andrewwalkersolicitors.com

Re: Shaun Henderson (otherwise Shaun Fitzgerald Bulleymont Henderson) (deceased)  
Late of: 86 Stratheden Street, Belfast, BT15 2DT 
Date of Death: 29 September 2012 
Would any person having knowledge of the whereabouts of a Will for the above named deceased please contact: 
Francis Crilly Solicitors 
24 Antrim Road 
Belfast BT15 2AA 
Tel: 028 9075 5722 
Fax: 028 9035 2490 
Email: info@franciscrilly.com

Re: Mabel Dorenda Acheson 
Late of: Graan Abbey Private Nursing Home, Enniskillen, County Fermanagh 
Formerly of: Stratore, Derrygonnelly, County Fermanagh BT93 6GB. 
Would any person having knowledge of the whereabouts of a Will for the above named deceased please contact: 
Maguire & Comigan 
Solicitors 
20 East Bridge Street 
Enniskillen 
County Fermanagh BT74 6AA 
Tel: 028 6632 4724 
Fax: 028 6632 5900

Re: Robert Garmony 
Late of: 119 Cavehill Road, Skegoneill, Belfast BT15 5BJ 
Date of Death: 5 August 2012 
Take notice that any person having custody of or information as to the whereabouts of the Title Deeds relating to the above mentioned property should forthwith produce said Title Deeds or communicate such information to the under mentioned Solicitors. 
And take further notice that unless the said Title Deeds are so produced or adequate information as to their whereabouts is so communicated within three weeks of publication of this notice, new Title Deeds may be applied for. 
Jack McCann & Son 
Solicitors 
20 Ballymoney Road, Ballymena 
County Antrim BT43 5BY 
Tel: 028 2564 2388 
Fax: 028 2565 1292

Missing Title Deeds 
Folio: 1809 & 2245 
County: Antrim 
Lands at: Bovoclan, Stoneyford, County Antrim 
Also known as: Dwelling house and lands at 12 Rock Road, Stoneyford, Lisburn 
Take notice that any person having custody of or information as to the whereabouts of the Title Deeds relating to the above mentioned property should forthwith produce said Title Deeds or communicate such information to the under mentioned Solicitors. 
And take further notice that unless the said Title Deeds are so produced or adequate information as to their whereabouts is so communicated within three weeks of publication of this notice, new Title Deeds may be applied for. 
Margarita Sloane 
Donaldson McConnell & Co Solicitors 
Castle Chambers 
1 Castle Street 
Lisburn 
County Antrim BT27 4SR 
Tel: 028 9260 1421 
Fax: 028 9267 5705

Practice for Sale 
For sale or amalgamation, long-established practice with extensive client base, including large stock of Deeds and Wills. Located approximately 30 miles south of Belfast. May suit an existing practice seeking to expand. Enquiries in the strictest confidence to: 
PO Box 215 
c/o dcp strategic communication Ltd 
Bramford House 
91-93 Saintfield Road 
Belfast BT8 7HN
A study found that office workers are exposed to more germs from their phones and keyboards than toilet seats. Sticky fingers, crumbs and not washing hands after using the bathroom can all add up to one filthy keyboard. Germs transfer to the natural oils on your fingers and then into your mouth if you’re eating while typing.

Hygientec transform dirty work stations into clean, sanitised places to work. What’s more, your deep clean will be completed at a time that suits your business to keep disruption to a minimum.

The result?
Clean, safe work environments. Happy, motivated staff. Fewer sick days and enhanced productivity.

Interested?
Call John today on: 07790 460388 or email john@hygientec.co.uk

ANTIVIRUS SOFTWARE WON’T PROTECT YOUR COMPUTER FROM E. COLI, MRSA & SALMONELLA!

That’s my job!

A study found that office workers are exposed to more germs from their phones and keyboards than toilet seats. Sticky fingers, crumbs and not washing hands after using the bathroom can all add up to one filthy keyboard. Germs transfer to the natural oils on your fingers and then into your mouth if you’re eating while typing.

Hygientec transform dirty work stations into clean, sanitised places to work. What’s more, your deep clean will be completed at a time that suits your business to keep disruption to a minimum.

The result?
Clean, safe work environments. Happy, motivated staff. Fewer sick days and enhanced productivity.

Interested?
Call John today on: 07790 460388 or email john@hygientec.co.uk
AGENCY SERVICES

Hello. I’m Nicholas Hughes Solicitor originally from Co. Tyrone. My firm and I have been offering agency services to Northern Ireland legal firms for over 25 years.

We set out our fee splitting arrangement clearly at the outset. See www.businesslawyers.ie/agency-services

You can contact me directly on 00 353 87 9978912 / nick@businesslawyers.ie

Or alternatively contact our admin on law@businesslawyers.ie and they will forward your referral to the most qualified lawyer to handle the instruction.

Our fundamental principle is Client First. You can be assured of a professional and courteous service to you and your client.

Leeson Chambers, 32 Leeson Street, Dublin 2
Tel 00 353 1 7088470 Fax 00 353 1 7088410

AGENCY SERVICES

Hello. I’m Nicholas Hughes Solicitor originally from Co. Tyrone. My firm and I have been offering agency services to Northern Ireland legal firms for over 25 years.

We set out our fee splitting arrangement clearly at the outset. See www.businesslawyers.ie/agency-services

You can contact me directly on 00 353 87 9978912 / nick@businesslawyers.ie

Or alternatively contact our admin on law@businesslawyers.ie and they will forward your referral to the most qualified lawyer to handle the instruction.

Our fundamental principle is Client First. You can be assured of a professional and courteous service to you and your client.

Leeson Chambers, 32 Leeson Street, Dublin 2
Tel 00 353 1 7088470 Fax 00 353 1 7088410

AGENCY SERVICES

Hello. I’m Nicholas Hughes Solicitor originally from Co. Tyrone. My firm and I have been offering agency services to Northern Ireland legal firms for over 25 years.

We set out our fee splitting arrangement clearly at the outset. See www.businesslawyers.ie/agency-services

You can contact me directly on 00 353 87 9978912 / nick@businesslawyers.ie

Or alternatively contact our admin on law@businesslawyers.ie and they will forward your referral to the most qualified lawyer to handle the instruction.

Our fundamental principle is Client First. You can be assured of a professional and courteous service to you and your client.

Leeson Chambers, 32 Leeson Street, Dublin 2
Tel 00 353 1 7088470 Fax 00 353 1 7088410
MCA Associates.
For all your Process Service needs:
• Service of legal documents including Statutory Demands/ Bankruptcy & Winding up Petitions.
• £65.00 fixed service fee [includes 3 visits], excluding repossession/matrimonial proceedings, fee negotiable.
• Fast and efficient service.
• Same day confirmation of service by phone or email.
• Over 8 years experience.
• Professional Indemnity Insurance cover.
• Centrally located within the Province.
• Delivery/Collection service available upon request.
• Data Protection Licence.
Cases are personally and professionally handled by an experienced server.
MCA ASSOCIATES
P.O. Box 310
CRAIGAVON
BT65 9AR
TEL. 07879222789.

KEVIN J McVITTY
BSc(Hons) MRICS
Chartered Building Surveyor

• Expert Mapping Services for the Legal Profession Including Compulsory First Registration
• Maps Prepared Digitally on Ordnance Survey Data by Qualified Chartered Surveyor
• Un-Mapped Boundaries Surveyed and Accurately Incorporated into Ordnance Survey Detail

Kevin J McVitty BSc(Hons) MRICS
Dash House 34 Shore Road
Holywood Co Down BT18 9HX
028 9039 3933 / 077 0707 5558
mail@kevinmcvitty.co.uk
www.kevinmcvitty.co.uk

Consulting Engineer

Mechanical & Manufacturing / Industrial / Materials Handling

Professional Engineer - Practitioner with 30 years’ engineering design and industrial/manufacturing experience.

Specialist in materials handling equipment and operations.

Incident investigation and management.

Contact:
Colum McCavana
BSc CEng EurIng MIEI
columnmccavana@googlemail.com
07881 511303

Need a Drink?

If you are relying on alcohol to make you feel better after a difficult day, you may find that the days just become more and more difficult.

If you are wondering whether you need to cut down on your drinking, if you are feeling guilty about your drinking, or if people are commenting, you can call us for free and completely confidential advice.

Our helpline is open 9 a.m.—7.30 p.m. on weekdays, and 10.00 a.m.—4.00 p.m. at weekends and public holidays.

0800 279 6869
www.lawcare.org.uk
Nora needs her Winter Fuel Payment to survive... do you?

Nora is in her seventies and lives mostly in one tiny room of the home she can no longer afford to heat. Without close relatives she lives a solitary existence. She struggles to get by, especially in winter... But her story has a happy ending.

Last year, people like you donated their Winter Fuel Payment to Age NI. They told us they wanted to pass on their payment so that Age NI could help people in a less fortunate position. People just like Nora.

Winter Fuel Payments are distributed during November and December to anyone over 61. If you receive State Pension or certain other benefits it is paid automatically. If not, you will need to claim your 1st payment by calling the Winter Fuel Payment Hotline on 08459 151515. If you’re entitled to it, claim it. If you don’t need it, donate it.

Nora’s story is more common than you think. In Northern Ireland more than 65,000 people aged over 60 live in poverty. Over 300,000 Winter Fuel Payments will be distributed this year. If you can survive without it, donate it to Age NI. We will help more people like Nora survive winter.

Thank you

Donate online www.ageni.org/survive
Donate by phone 028 9024 5729
Donate by post to Age NI, 3 Lower Crescent, Belfast, BT7 1NR
ARE YOUR BUSINESS PROCESSES WORKING FOR YOU?

IT Compliance is becoming increasingly important factor for legal firms and whether you are looking to bring your organisation into compliance or just need to be in better control of your business, Asdon are a trusted technology advisor with the experience you need to assist you in documenting your policies, procedures, and controls.

We can also assess and implement regulation - mandated security and business continuity plans.

**IT Compliance Review**

Asdon are currently offering a complimentary IT Compliance Review which will audit the current IT systems and processes you currently have in place and offer recommendations on any improvements that could be made. As part of the review we will assess the following:

- Email Solutions
- Internet Usage and Control
- Mobile Device Management
- Data Backup Compliance

*Apply for your Complimentary IT Compliance Review today*