Justice Minister addresses Council
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- Reducing Real Estate Risk


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REACH – the six ds of delegation


- Notice of Discontinuance
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- 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.
Justice Minister addresses Council

On 10 April 2013, the Council of the Society welcomed the Justice Minister, David Ford MLA, to Law Society House.

The Justice Minister had been invited to address the Council of the Society on the ongoing work of his Department in relation to a number of key justice issues including access to justice and legal aid.

The Minister reflected on the value and need for independence of the legal profession.

He indicated that the focus of his Department would be on speeding up the criminal justice process, safeguarding the victims/witnesses of crime and rehabilitating offenders.

The Minister commented that there was a need particularly in austere budgetary times for reform and detailed engagement would be sought.

Following the Minister’s address, the President invited Council members to raise with the Minister a number of issues of interest affecting members.

The Minister acknowledged the contribution made by the Solicitor branch of the legal profession and was receptive to the issues raised by Council members.

Minister Ford’s address to the Council of the Society continues the programme of engagement launched by the Society’s Chief Executive, Alan Hunter, to strengthen working relationships with key informed parties within the justice system including the Ministers of the Executive and the Judiciary.
New schemes to assist vulnerable persons give evidence

New schemes to assist vulnerable persons in the criminal justice process will commence in the Crown Court on 13 May 2013 for offences that are triable on indictment only and occur in the Belfast District Council area. The Registered Intermediaries Schemes pilot will assist vulnerable defendants and defence witnesses, as well as victims and prosecution witnesses, with significant communication difficulties.

The relevant provisions relating to the examination of a vulnerable person through an intermediary are Articles 17 and 21BA of the Criminal Evidence (Northern Ireland) Order 1999, as amended by the Justice Act (Northern Ireland) 2011. In the case of Article 17, an application for an intermediary may be made where it is considered that their use is likely to improve the quality (completeness, coherence and accuracy) of the evidence given by the witness. For Article 21BA, an application for an intermediary may be made where their use will enable the defendant to participate effectively in the proceedings as a witness giving oral evidence in court and ensure a fair trial.

The purpose of a phased approach to the commencement of these Articles is to act as proof of concept to allow the Department of Justice (DOJ) to assess uptake and associated costs before rolling the Schemes out more widely. It is anticipated that the pilot will last for approximately 18 months. For the purposes of the pilot, the DOJ will be funding the use of Registered Intermediaries (RIs). Where a vulnerable person may need to be examined through an intermediary in a Crown Court sitting outside of the pilot area, the court may use its inherent jurisdiction to give a direction to that effect as is the case at present.

RIs are professionals with specialist skills in communication. They come from backgrounds such as speech and language therapy and social work. Eleven RIs have been recruited by the DOJ to act in this role. In order to do so, they had to pass Northern Ireland Department of Justice Registered Intermediary accreditation training (Masters level). RIs are bound by a Code of Practice and a Code of Ethics, and are subject to a complaints procedure. They are aware of legal professional privilege and will treat what they hear as confidential, not disclosing anything about the defence case or what has been said to them without the defendant’s express consent.

The function of the RI is to facilitate communication during the police investigation and at trial between the vulnerable person and others in the criminal justice process.

On identification, by the police, of a vulnerable person whose ability to give evidence is compromised by deficits in their ability to communicate, the RI conducts an assessment of the person’s communication abilities and needs. RIs will be available at short notice in view of PACE timescales. They will not take on cases unless they assess that the vulnerable person needs RI assistance to be able provide evidence. The RI will provide the investigating police officer with a preliminary report (this may be provided orally) to enable planning for the interview. This report will also be provided to the defence solicitor in the case of suspects. The RI will be present in the interview in order to advise and assist with communication; the RI does not ask the questions or interpret the answers given.

The RI role is significantly different from that of the Appropriate Adult (AA); the latter has a role in ensuring general understanding, whereas the RI’s role is a more specialised one and requires expertise in assessing the vulnerable person and advising on communication strategies. In addition, while the AA’s role includes making sure that an individual is treated appropriately, RIs are neutral and do not have a support role. There must always be a third person present when the RI is with the vulnerable person. Where a suspect is being assessed by the RI whilst in police custody, the solicitor would normally be the third party. It would clearly not be appropriate for a police officer to be the third party since the suspect would not be under caution at the time.

Following the investigative stage, the RI will write a report for court about the communication needs of the vulnerable person. In order to do this, the defence solicitor should gather as much information about the defendant’s/defence witness’s communication needs and obtain the necessary consents for the RI to obtain further information, such as reports from schools and doctors. The court report will go the defence solicitor in the case of a defendant or defence witness. The court report advises the Judge and advocates on how best to communicate with the vulnerable person at trial. The report is confidential and is intended only for the parties and the court involved in the case. The report is a free standing document for advice only. It is not evidence in the case and is not given to the jury. The RI is not an expert witness.

Experience in England and Wales has shown that trials work much better if there has been a Ground Rules Hearing in which the trial judge, trial advocates and the RI discuss the court report and its recommendations, and agree the rules on questioning and other matters which concern the vulnerable person’s evidence, e.g. how the RI will intervene and when there should be breaks.
The RI assists with communication when the vulnerable person is giving evidence at trial. They do not examine or cross-examine the vulnerable person, and they do not answer on their behalf.

It is important to remember that the RI is an officer of the court and, therefore, is not acting for either the defence or prosecution. They are impartial, neutral, objective and transparent in all that they do. In view of this, the RI can assist any vulnerable person, regardless of whether they are a defendant, defence witness, prosecution witness or victim. However, an RI would not assist both the defendant and prosecution witness in the same case.

It is not part of the RI’s function to assist the defendant to follow a trial. This role may be fulfilled, as necessary, by another person, such as a carer, social worker or a voluntary sector organisation (such as a MindWise Linked-In officer). However, the RI may make a recommendation in their court report that the vulnerable defendant may benefit from a suitable person being appointed to assist them to follow the trial.

The solicitor acting for the defendant will be responsible for making an application to the court for the examination of the defendant or defence witness through an intermediary at trial (see the Crown Court (Amendment) Rules (Northern Ireland) 2013 (SR2013 No 82)). He must also submit a Request for Service form to the DOJ who will select an RI with the appropriate skills and abilities to assess and assist the vulnerable person. This form will be made available on the DOJ website (www.dojni.gov.uk) before the pilot goes live. A leaflet giving some further information about principles of RI practice, areas covered in their assessment and their duties at court, as well as examples of vulnerable persons who may be eligible for intermediary assistance, will also be available on the website.

For any further information on the Registered Intermediaries Schemes, please contact the DOJ’s Intermediaries Schemes Secretariat on 028 9016 9594 or by email at intermediaries@dojni.x.gsl.gov.uk.
At Hays we offer specialist legal recruitment advice to both clients and candidates across commercial, private practice, in-house and company secretarial positions. Our UK and Irish legal network enables Hays to offer an unrivalled service, delivering on a broader range of legal jobs with greater access to quality candidates. Have a look at some of our legal jobs below.

**COMMERCIAL PROPERTY SOLICITOR**
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A leading commercial firm with offices in Belfast, requires a talented commercial property solicitor for a permanent position within their firm. You should have at least four years’ PQE including commercial property. A qualification in England and Wales would be an advantage. You will gain exposure to global projects and receive a desirable benefits package. This is a unique role and a fantastic opportunity to further your career.
Ref: 1879050

**COMMERCIAL LITIGATION SOLICITOR**
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This top tier law firm has an opening within their notable and widely recognised commercial litigation department; you will be managing risk through litigation and ADR for a broad range of clients. Eligible candidates should have a commercial background with at least two years’ post qualified experience in commercial litigation matters. You will be working in one of the most experienced litigation teams in Northern Ireland with a diverse and interesting workload. Ref: 1774746

**LEGAL ASSISTANTS (CONTRACT ROLES)**
Belfast, £negotiable

An excellent opportunity has arisen with a leading global law firm, based in Belfast, to join its team as a Legal Assistant on a contract basis. You will gain exposure to global legal projects amongst an inspiring team of people. Requirements for this role are a 2:1 degree in law or higher. You must be highly motivated and diligent, with meticulous attention to detail. Applications from legal graduates and newly qualified solicitors will be considered. Ref: 1879801

**PARALEGAL**
Dublin, €30,000-€38,000

Our client, an affiliated company to a leading global institution, is recruiting for a paralegal to join their team on a 12-month contract in Dublin. You will have 3-5 years’ work experience in a multinational company, law firm or financial institution. Strong interpersonal skills are essential and competency in speaking German is a plus. This role will suit a self-motivated and independent individual who can work well in a team. This is a fantastic opportunity. Ref: 1016893

For a confidential chat about all legal opportunities speak to Patrick MacDonald at Hays Legal on 028 90 446 911, email: patrick.mcdonald@hays.com and/or connect with me on LinkedIn.

hays.co.uk/legal
An alternative to tribunals

The new Labour Relations Agency Arbitration Scheme provides a legally binding alternative to employment tribunals in Northern Ireland. This article sets out the benefits of using the Scheme.

A new approach to resolving employment disputes in Northern Ireland was launched on 27 September 2012. Under the Labour Relations Agency Arbitration Scheme, claimants and respondents can choose to refer a claim to arbitration instead of going to a tribunal. The arbitrator’s decision is legally binding and has the same effect as a tribunal determination.

The Scheme covers claims in all employment rights jurisdictions, including unfair or constructive dismissal, payments owed, breach of contract, and discrimination in recruitment or employment.

The Scheme was conceived as part of a fundamental review of the existing systems for resolving workplace disputes in Northern Ireland. The review was carried out in 2009–10 by the Department for Employment and Learning (DEL). DEL was advised by a group comprising the Confederation of British Industry, the Northern Ireland Committee of the Irish Congress of Trade Unions, the Federation of Small Businesses, the Equality Commission for Northern Ireland and the Labour Relations Agency.

When introducing the enabling legislation in the Northern Ireland Assembly (July 2012) Stephen Farry, the Minister for Employment and Learning, noted that:

“A consistent message from the public consultation process was the need to provide a viable alternative to….. employment tribunals. That is not a criticism of the tribunals. But a recognition that not all disputes require or are suited to formal legal determination.”

He went on to state:

“…..many employees are unwilling to go through the stress of a formal legal process because of its adversarial nature….. They are simply looking for an independent person to consider and make a decision on the merits of their grievance, and that is what arbitration is designed to achieve.”

The new Scheme offers a comprehensive and credible alternative to a tribunal. Previous arbitration schemes were limited to claims of unfair dismissal and flexible working complaints, with such cases being out of scope if they were linked, as many tend to be in Northern Ireland, to other alleged breaches of employment rights.

The Scheme, which is unique in the UK, provides a non-adversarial, non-legalistic and informal means of resolving claims. Hearings will be arranged quickly, normally within two months of the agreement to use arbitration, and will usually be concluded in less than a day. They are held in a non-legal setting at the Labour Relations Agency’s offices in Belfast or Derry–Londonderry.

Hearings are conducted by an arbitrator sitting alone. The Labour Relations Agency appoints the arbitrator to a particular hearing from its panel of arbitrators, who have all been selected for knowledge of employment law, experience of employment relations and adjudication skills. A cornerstone of arbitration is that the arbitrator is independent and impartial, so particular care is taken to ensure that the arbitrator appointed to a hearing has no previous relationship with any of the parties to a claim, which might give rise to a conflict of interest.

Prior to an arbitration hearing, which is held on a date agreed with the parties, the parties are asked to prepare submit a written statement of their case and submit this, together with any supporting documentation, to the Labour Relations Agency. These submissions are then forwarded to the arbitrator and exchanged with the other party and form the basis for oral presentations at the hearing.

The parties to a claim can be represented at hearings, for example by a colleague, friend, union representative or legal adviser. However, the informality of the proceedings, without the legal trappings of a tribunal, make it ideally suited to claimants and respondents who are unrepresented. Its non-adversarial nature also makes it particularly appropriate where an employment relationship is expected to continue after the claim is resolved.

The parties may also bring witnesses to help support their case. Rather than cross examining the parties or witnesses, the arbitrator will adopt an inquisitorial approach at the hearing. S/he will ask questions to clarify issues. The parties may also ask questions of each other, through the arbitrator.

Arbitral decisions are based on the general principles of fairness and best practice in employment relations, including principles referred to in relevant Codes of Practice. Decisions can be appealed or challenged in specified circumstances.

As with other alternative dispute resolution approaches such as conciliation and mediation, the arbitration scheme is underpinned by the principles of mutual consent (in this case, to agree to a third party deciding the outcome) and confidentiality (hearings are closed to the public and decisions are not published).

Jim McCusker, Chairman of the Labour Relations Agency, noted:

“In Northern Ireland we are seeking regional solutions to employment disputes. Our aim is a comprehensive system of alternative dispute resolution that will gain the confidence of claimants, respondents and their representatives. This will take time but our fundamental objective is to ensure that workplaces are harmonious and that disputes, when they do arise, are resolved quickly and, whenever possible, to the satisfaction of all concerned.”
“This means a continuing focus on in–house resolution, mediation and conciliation. Where these approaches do not succeed, then the new Arbitration Scheme provides a real alternative for resolution. It’s an alternative designed to prevent any further fracturing of the employment relationship caused by the dispute.

“Furthermore, as well as resolving the dispute, and where appropriate, the arbitrator will make recommendations to help improve employment relations within the organisation, which is something tribunals are not able to do.”

Further information on the Labour Relations Agency Arbitration Scheme is available at www.lra.org.uk.

Don Leeson
Arbitration Secretary
Labour Relations Agency

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From left: Penny Holloway, LRA Director of Conciliation and Arbitration; Dr Stephen Farry MLA, Minister for Employment and Learning and Jim McCusker, LRA Chairman.
Are you interested in joining the Society of Trusts and Estates Practitioners (STEP)?

What is STEP?

The Society of Trust and Estate Practitioners (STEP) is the leading worldwide professional body for practitioners in the fields of trusts, estates and related issues. STEP was originally founded with the aim of bringing together all of the practitioners in the field and cutting across old established professional boundaries. Through meetings, seminars, lectures, national and international conferences and the exchange of technical papers and reports, STEP members share information, knowledge and experience, and benefit from the network of contacts that membership provides.

STEP in Northern Ireland

In the early years Northern Ireland trust and estate practitioners were represented in STEP by a few pioneering individuals who chose to join either the English or Irish branches through London or Dublin. Then in 2007 a few interested practitioners, including two former Presidents of the Law Society of Northern Ireland, (Alastair Rankin and Alan Hewitt), got together to establish the Northern Ireland Branch of STEP (STEP Northern Ireland). One of the primary motivations of the founding members was to facilitate local practitioners by bringing Northern Ireland the excellent annual tax conference to be held at the Stormont Hotel on 30 May 2013 (see insert for further details and Booking Form) and an Elderly Client Practitioner Day on 23 October 2013, as well as the usual annual tax conference to be held on 21 November 2013. Plans are already afoot for the Second Cross-Border Event to be held on 7 March 2014 (this time in Belfast) and for an interdisciplinary event dealing with professional negligence in the trusts and estates field. Watch this space! As always, these events will be open to non-STEP members, with a discount for STEP members.

Interested in becoming a member?

For the first three years membership of STEP Northern Ireland was via the “grandfathering” route involving recommendations by existing members. Unfortunately that route has long since closed. At present practitioners can only become Full Members of STEP by completing the STEP Diploma for Northern Ireland. The Diploma consists of four papers: Administration of Estates; Administration of Trusts; Taxation of Trusts and Estates and Trust and Estate Accounting. The first Diploma programme commenced in September 2011 and the initial cohort of students are due to complete in May 2013. A second cohort of students commenced in September 2012 and there are currently about 20 individuals at different stages of this flexible programme. The vast majority have successfully completed the papers which they have sat to date (indeed the pass rate has consistently exceeded that in the equivalent English papers) and we look forward to our first fully-fledged “graduates” this summer.

In addition all papers of the STEP Diploma in Trusts and Estates (Northern Ireland) have been recognised by the Law Society of Northern Ireland as giving rise to the full annual CPD requirements.

However, it is recognised that the Diploma and exam format is not for everyone. STEP Northern Ireland will now be offering a Qualified Practitioner Route as an alternative entry route to Full STEP Membership to trust and estate practitioners who have established themselves in their field (thus bringing STEP Northern Ireland fully into line with other jurisdictions). Candidates are required to write three papers of approximately 5,000 words in length on selected topics within a four year period.

Further information on completing both routes to membership (the Diploma and the Qualified Practitioner) can be obtained by contacting the Chair of the Branch, Michael Graham (M.Graham@cfilaw.co.uk) or any of the Committee Members.

STEP CPD events in the coming year

A busy programme has been planned for the current year. There was a Probate Practitioner Day on 18 April 2013 at the Stormont Hotel at which the speakers included Geoffrey Shindler OBE, the President of STEP Worldwide. Looking ahead there is a day entitled “Charity Law in Professional Practice” to be held at the Stormont Hotel on 30 May 2013 (see insert for further details and Booking Form) and an Elderly Client Practitioner Day on 23 October 2013, as well as the usual annual tax conference to be held on 21 November 2013. Plans are already afoot for the Second Cross-Border Event to be held on 7 March 2014 (this time in Belfast) and for an interdisciplinary event dealing with professional negligence in the trusts and estates field. Watch this space! As always, these events will be open to non-STEP members, with a discount for STEP members.

The Committee of STEP Northern Ireland

Currently the STEP Northern Ireland Branch has four members of the Law Society on its Committee: Michael Graham of Cleaver, Fulton, Rankin who is the current Chair of the Branch; David Cook of Sheldon and Stewart; Ian Huddleston of Pinsent Masons and Anne Wilson of MKB Russells. The remaining committee members are Nigel Anketell (Head of Capital Taxes, PwC); Jane Foy (Senior Tax Manager, PwC); Bob Fraser MBE (Chartered Financial Planner, Towry Ltd), the Honorary Treasurer; Sheena Grattan (Barrister), chair of the Education Sub-Committee; Fiona Pinder (Director Personal Tax, BDO) and Robert Stevenson (Chartered Financial Planner, SRG Financial Management Ltd), the Honorary Secretary. There is also one student representative, namely Sean Larkin (Chartered Financial Planner, First Financial Management).
Northern Ireland Chest Heart & Stroke

When you make a Will, you probably think the one thing you can’t leave your loved ones is good health.

Actually, you can. Chest, heart and stroke illnesses claim over 7,500 lives a year in Northern Ireland. But a legacy from you could provide the breakthrough that makes them a thing of the past. Local research funded by NI Chest, Heart & Stroke is saving and improving people’s lives every day.

If you’re looking for the greatest gift you could leave your children and grandchildren, you don’t need to look any further.

For a leaflet on leaving a legacy to NI Chest Heart & Stroke, please phone Alison in confidence on: 028 90 266 706

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Drug Testing & Family Law

Alcohol and drug abuse is a growing problem in our society. Substance misuse has a huge impact on social and work life both in financial and legal terms. Almost 17 million working days are lost each year in the UK due to alcohol misuse alone and it is estimated that alcohol misuse generates overall social costs of £680 million per annum in Northern Ireland.

Misuse of alcohol or drugs can impair an individual's ability to perform even normal, routine tasks and it also affects their ability to interact socially. This will impact on all areas of an individual's life and their family and business lives are no exception.

Substance misuse within general society puts children at risk in relation to parental care and has become a significant issue with regards to family law, criminal law, child protection and Social Services matters. The fact that the majority of substance abusers (74%) are in full time employment puts public safety at risk in the workplace and makes the management of substance misuse a priority for all HR and Occupational Health Professionals.

Drug use can affect an individual's judgement and performance. Very often drug use will pertain to irrational behaviour, aggression and high levels of confusion affecting ability to carry out a whole range of tasks and functions. Parental substance abuse remains a huge factor when it comes to putting children at risk in the UK. Research by Alcohol Concern and the Children's Charity estimated that 2.6 million children in the UK live with a parent whose drinking could lead to neglect or abuse. Given the increasing widespread availability of alcohol and drugs it is important to understand and deal with the potential impact of substance abuse.

As a result, courts and social workers are becoming reliant on testing to profile patterns of drug and alcohol use.

It has become commonplace that courts and Social Services will request that an individual take a drug or alcohol test in support of divorce or child care litigation and it has been determined that there has been an increased percentage of parents who are testing positive for drug use in child care cases. The majority of tests are typically requested by Social Services, family law specialists and by the court themselves. It has been estimated that the total number of hair tests on parents to be between 5,000 – 6,000 a year in the UK for alcohol, and slightly more for drugs, with around 1 in 3 testing positive to substance abuse (ie) of all screenings 1/3 end up testing positive for that substance.

A recent study by the Department of Health found that 28% of respondents in Ireland and Northern Ireland aged 15-64 years reported taking illegal drugs at some point in their life. Furthermore over 10% of 35-64 year olds reported use of antidepressants on a monthly basis. Reducing the harm caused by alcohol misuse is a very significant element of the public health agenda in Northern Ireland. The Institute of Alcohol Services has estimated that alcohol is a bigger factor than high cholesterol levels, obesity, diabetes and asthma in causing ill-health and premature deaths in Europe and accounts for almost 10% of these deaths.

Randox Testing Services offer a complete Drugs of Abuse and Alcohol testing service tailored to our client’s requirements. We have a dedicated laboratory and state-of-the-art medical testing equipment, where we perform a wide variety of tests ranging from alcohol and commonly abused drugs to more unusual substances. An effective screen will test for alcohol and multiple drugs of abuse which can include; amphetamine, methamphetamine, barbiturates, benzodiazepine, cannabinoids, cocaine metabolite (benzoylecgonine), methadone, opiates, phencyclidine and ecstasy (MDMA). This test menu can be modified to suit screening policy or testing requirements.

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For further information please contact: Randox Testing Services
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First, a confession: I am a hopeless geek when it comes to travelling abroad. I read about the country, watch every documentary I can, and buy the phrase book by way of preparation. For our Annual Conference this year I need not have bothered. All the preparatory work was done for us by our esteemed conference coordinators.

When the white smoke settled after last year’s elections, President Michael Robinson was our newly anointed one. A humble but sophisticated lawyer, for all I know he may even take public transport to work. His choice of Milan was simply inspired and the Westin Palace Hotel magnificent.

A city that has a strong work ethic and is also a world centre of fashion, a capital of publishing and media and on the sporting scene it boasts two of the world’s top soccer teams.

We arrived in Milan at lunchtime on Thursday, our first day, 21 March. The 170 intrepid delegates were treated to a wonderful Conference. Our guests included the Presidents and Chief Executives of the Law Societies of England & Wales, Scotland and Ireland. We achieved a refined karma in discovering the real Italy, in a city that embodies all that is chic in Italian culture, the home of haute couture, tasteful galleries, museums, and spacious piazzas.

A City Sightseeing bus and walking tour eased us into the warm spring sunshine and the relaxed atmosphere of the most glamorous city in Italy.

We soon settled into the Westin Palace - a focus point for designers, artists, photographers, models, as well as Law Society celebrities.

During our first reception and dinner at the Dolce & Gabbana Gold Restaurant (yes “Gold”) the atmosphere was warm and convivial with friends and colleagues reminiscing and rekindling old friendships, planning trips to La Scala, the temple of world opera, the Gothic Cathedral, the Duomo and Leonardo’s Last Supper in the Church of Santa Maria Delle Grazie.

The evening was planned to perfection from the delicious champagne on arrival to the beautiful meal and wines in mirrored and gilt edged surroundings which were almost as glamorous as our own Law Society House. The evening continued on into the early hours in the Hotel Lounge Bar with breaks for songs, music and gentle libations.

Musical celebrities such as Justin Bieber, Kylie Minogue, and Bruno Mars are known to frequent there after dark but we had to make do with the musical talents of Martin McLaughlin and Noel Phoenix, with delightful contributions from some of the modest performers of the celebrated Law Society Choir.

Conference veterans such as Joe and Agnes Donnelly, Mary Doherty, Barry Finlay, Clive Neville, Neil Faris, Mary-Frances McWade, Brigid Napier, John Andrews and Adam Curry mingled with new first timers such as Linda Johnston and Robert Brown.

The Conference Session the next morning chaired by Rory McShane, included a Welcome Address from Michael Robinson with worthy contributions from Sean O’Kane of First Trust Bank, and Sam Goldblatt, Tony Nicholl and Paul O’Connor of Goldblatt McGuigan.

In the afternoon, thanks to the brilliant foresight of Gerry and Megan McManus through advance booking, we had the privilege of viewing the Last Supper and some of Leonardo Da Vinci’s sketches and early works.

Our evening was spent in the Ristorante Sofferino in the Castelfidardo area, the splendid choice of Mary Murnaghan and Sean Meegan. We managed to enjoy ourselves despite word filtering through of Arctic like conditions at home, with power failures and school closures.

On Saturday morning, the Business Session commenced with contributions from Sandra Neilson from Marsh followed by Steven Goldblatt from Leaf Consultancy. The final Business Session centred on “The Future of Civil Litigation”, with significant contributions from Mr Justice Gillen, Brian Stewart and Cormac Fitzpatrick.

In the afternoon many of the shopaholics went on the Outlet Mall Shopping Tour while a separate group including Timothy Rankin, Lorraine Keown, Charlene Graham and Garrett McCann of the Northern Ireland Young Solicitors’ Association joined others who remarkably still believe they are young including Seamus Leonard, Melanie English, Cathy McKay, Karen McNally and Eugene McNally at the San Siro Football Stadium which was the cheaper and wiser option.

The Drinks’ Reception and final Gala Dinner illustrated that fun and fashion make the perfect couple. The evening was enhanced by bright and dazzling displays of rhetorical fireworks.
from Sean O’Kane, Michael Robinson, Rory McShane and Mr Justice Gillen, which encouraged the audience to even greater feats of storytelling and song into the early hours of Sunday. Some of the musical highlights included a virtuoso mouth organ performance by Norville Connolly and Ian Bamford’s rendition of Steam Boat Willie accompanied by a Rory McIlroy-style swing will never be forgotten.

The early flight home to Dublin was much quieter.

As we crossed the Border into Armagh/Down in early afternoon, we were astonished to discover the snowy landscape of Narnia which reminded us we were nearly home.

This was one of the great Law Society conferences.

All the attendees owe a huge debt of gratitude to our President Michael Robinson, Rory McShane (Conference Chairman), Paul O’Connor, (our Communications’ Officer), Jenny Ferguson, and Lisa Haycock and Ross License from Inform Communications. To our Sponsors, including the First Trust Bank, our principal sponsor, we offer thanks for your generosity.

They came from throughout the jurisdiction. Fermanagh, Coleraine, Newry, Downpatrick, Newtownards and even Derry – (with Fiona Stelfox, a solicitor now practising in Italy) were all represented.

Rarely were eight CPD points earned in more pleasant surroundings.

I can only speculate where Richard Palmer might spirit us away to next year. Carrickfergus or Copenhagen?

The geek in me is purely dying to know.

We are grateful to Joe Rice for this article.
The Society recently hosted a delegation of 20 newly elected members of the Libyan Parliament at Law Society House. Society Chief Executive, Alan Hunter, delivered a short presentation to the Parliamentarians on the justice system in Northern Ireland, with particular reference to the role and structure of the Law Society of Northern Ireland.

Members of Libyan Parliament visit Law Society House

EXPERT WITNESS SERVICE

The Law Society Library has been offering an Expert Witness Service to its members since 1984.

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All of the details of experts gathered by the library are complemented by a range of commercial resources and databases which the library subscribes to.

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‘Lawyers vital to a democratic society’ says Law Society President

In his keynote address to newly admitted solicitors, the President of the Law Society, Michael Robinson said:

“Lawyers play a vital role in our democratic society and this should never be taken lightly. When disputes cannot otherwise be resolved, clients will call upon lawyers to invoke the rights and privileges afforded by our democratic system and law.”

The President made his comments during the Law Society’s Admission Ceremony which took place in Belfast in February 2013. More than 100 newly admitted solicitors were joined by friends and family in the Whitla Hall at Queen’s University, Belfast.

As part of the Admission Ceremony, the Registrar of Solicitors, Alan Hunter, presented the newly admitted solicitors to the Society’s President and to the Lord Chief Justice for Northern Ireland, Sir Declan Morgan.

Newly admitted solicitors with Society Chief Executive, Alan Hunter; Society President, Michael Robinson and the Lord Chief Justice for Northern Ireland, Sir Declan Morgan.
President congratulates award winners at Admission Ceremony 2013

The President, Michael Robinson, presented awards at the Admission Ceremony 2013 to two newly admitted solicitors in recognition of their excellence in their studies.

The awards were presented to:

Daniel Curran for Excellence in the Professional Conduct Course

Louise Alexandra Dunn for Excellence in the Solicitors’ Accounts Course
Law Society House venue for 30th anniversary of UNCLOS

Law Society House was the venue for a unique conference which took place to commemorate the 30th anniversary of the opening for signature of the United Nations Convention on the Law of the Sea (UNCLOS).

The two day conference was hosted by the British Institute of International and Comparative Law in conjunction with the Law Society of Northern Ireland.

UNCLOS, often referred to as “the Constitution of the Sea”, sets the legal framework for all matters concerning the world’s oceans, including navigation, piracy, maritime jurisdictional boundaries, continental shelf, living and mineral resources and protection of the marine environment. UNCLOS now has more than 160 signatory states, including all 27 Member States of the EU and continues to attract new ones. On 1 April 1998 the EU itself became a signatory to the Convention.

The two day conference analysed the development of UNCLOS in its first 30 years and looked ahead to the challenges of the future.

Distinguished speakers and guests from around the world attended the conference. A special reception was held at the new Titanic Signature Building which recognises the maritime history of Belfast.

Speaking at the conference the Society’s Chief Executive, Alan Hunter, said:

“The Law Society is delighted to be working with the British Institute of International and Comparative Law in hosting this important event marking the signing of UNCLOS. We particularly would like to welcome the distinguished international delegates and guests to Belfast. The UNCLOS event reflects the growing interest in Belfast and Northern Ireland as a location for international conferences and legal tourism.”

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The Society hosted a major international conference entitled ‘Child Friendly Justice - Guaranteeing Children’s Rights within the EU Legal Framework’ in early March 2013.

The two day conference, which took place at Law Society House, was organised in cooperation with the Academy of European Law (ERA).

Welcoming the delegates to Belfast, Society President Michael Robinson, said:

“The Law Society is delighted to welcome this important conference to Belfast at a time when the issue of Children’s Rights is very much at the forefront of discussions within the European Union. This conference takes place during Ireland’s Presidency of the Council of the European Union and is a reflection of the growing recognition of Northern Ireland’s significance in the European legal community.”

Delegates attending the first day of the conference had the opportunity to hear from a number of distinguished and key note speakers including the Society’s Chief Executive, Alan Hunter, the Lord Chief Justice for Northern Ireland, the Right Honourable Sir Declan Morgan and the Justice Minister, David Ford MLA.

Addressing the conference the Justice Minister said:

“I welcome the opportunity to address this prestigious conference. Ensuring that the justice system is child-friendly is hugely important, which is why I have made it a priority within my wide programme of reform.”

Amongst those attending the conference were senior members of the Judiciary, legal practitioners and civil servants and officials from across Northern Ireland and other European jurisdictions.

Speaking about the conference, Dr Wolfgang Heusel, Director of ERA, said:

“The rights of children within the Member States’ legal systems and the development of minimum standards for a child-friendly justice throughout the EU have come high up the political agenda of the European institutions. ERA, a genuine European actor providing legal and judicial training and a forum for legal debate across European jurisdictions, is delighted to be back to Belfast with a conference on such a topical and sensitive issue.”

Rebecca O’Donnell, Senior Policy Adviser, Save the Children EU Office, Brussels, said:

“Policy makers and practitioners around Europe are increasingly focussing on what children’s rights mean for how justice systems engage with children, whether they be claimants, accused persons, victims, witnesses or family members. This seminar provides an excellent opportunity to explore how the EU and the Council of Europe contribute to ensuring that the best interests of children are secured in judicial and administrative proceedings across Europe.”

From left: Alan Hunter, Society Chief Executive; the Lord Chief Justice for Northern Ireland, Sir Declan Morgan; Justice Minister, David Ford MLA and Michael Robinson, Society President.
Legal professionals complete Mediation Course

Seventeen solicitors, barristers and members of the Judiciary successfully completed the most recent Mediation Training Course.

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Health Support and Advice for Lawyers
Seminars highlight important role of women in legal profession

The importance of women in the legal profession in Northern Ireland is being highlighted in a series of seminars organised by the Law Society of Northern Ireland and the Bar Council.

The first seminar took place at Law Society House and was attended by the Lord Chief Justice for Northern Ireland, Sir Declan Morgan, who has been supportive of the initiative. Presenting at the seminar were two eminent lawyers, Phyllis Agnew from Tughans solicitors and Denise McBride QC.

Senior Vice President of the Law Society, Imelda McMillan, said: “The Law Society is delighted to be working with the Bar Council in delivering these important seminars which will not only help raise awareness of the importance of women in the legal profession but also provide a vehicle for greater examination of the issues of concern and interest to practitioners.”

Denise McBride QC from the Bar Council, said: “The Bar Council is pleased to be contributing to these series of seminars which we hope will positively highlight the significant contribution female barristers and solicitors make to the legal profession and our community as a whole.”

Society raises £10,000 for Friends of the Cancer Centre charity

The Senior Vice President of the Society, Imelda McMillan, presented Colleen Shaw, Director of Friends of the Cancer Centre, with a cheque for £8515 which was raised during 2012 when it was the Society’s nominated charity of the year. It brings the total amount raised for the charity to just over £10,000.

Speaking after the presentation of the cheque, Mrs McMillan said: “On behalf of the Law Society I am delighted to be handing over this cheque which I know will go some way to support the invaluable work undertaken by the Friends of the Cancer Centre who continue to work tirelessly to help those suffering from cancer and their families and loved ones.”

From left: Phyllis Agnew from Tughans Solicitors; Sarah Witchell from the Law Society of Northern Ireland and Denise McBride, QC from the Bar Council.

From left: Colleen Shaw, Friends of the Cancer Centre, receiving the cheque from Imelda McMillan, Society Senior Vice President.
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Security of members

Where a member is concerned about their personal safety they should inform the Police Service of Northern Ireland and may inform the Law Society by contacting the Chief Executive.

Where the Society receives notification directly from a member or otherwise, concerning the personal safety or threats to the security of a member or a member of staff, the following organisations shall be so notified by the Chief Executive:

i. PSNI
   The Society shall in every case, irrespective of any view expressed, report the matter to the PSNI.

ii. Department of Justice

iii. Other as appropriate (eg Courts and Tribunals Service, Legal Services Commission)

The Society shall copy members into all correspondence regarding their safety concerns and directly liaise/update regularly on the matter as developments arise. Should members require advice on their safety from the PSNI, local police can be contacted using 0845 600800.

In non-emergency cases the PSNI has provided the following contact details:

Detective Superintendent Kevin Geddes
or Detective Chief Inspector John McKeag
Intelligence Branch
PSNI Headquarters
65 Knock Road
Belfast BT5 6LE

These contact details might, for example, be used to arrange crime prevention advice or to obtain advice on how to trigger an application in appropriate cases to the Northern Ireland Office’s Home Protection Scheme etc.

Four Jurisdictions meeting held at Law Society House

Law Society House was the venue in February for a meeting of the Four Jurisdictions attended by the Presidential and Chief Executive Teams of the Law Societies of England and Wales, Scotland, Northern Ireland and the Republic of Ireland. The regular meeting was held in Belfast to discuss issues affecting the solicitor branch of the legal profession and to explore areas of mutual interest.
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Pro Bonos hit right notes at International Conference

In February 2013, the Society’s Pro Bono Choir was invited to give a special recital at Belfast’s Waterfront Hall as part of the welcome reception for the British and Irish Group for the Study of Personality Disorder Annual Conference. The Choir was joined at the Welcome Reception by the Society’s President, Michael Robinson and distinguished medical and legal professionals from across the world who were attending the Conference.

Books for Uganda

When in Uganda last year as a volunteer with Fields of Life charity, Anne Brown, Limavady solicitor, Council Member and Chair of the Society’s Conveyancing and Property Committee, visited the Law Society of Uganda (ULS). At a previous meeting Diana Nabuuso, the Chief Executive of the ULS, had expressed to Anne an interest in receiving from our Law Society library textbooks which are being replaced by newer editions. She explained that these would be of great use in the ULS as a resource for research purposes. Uganda has a common law system which is based largely on our common law and many of the texts in their library are earlier editions of those in our own LSNI library. Uganda land law in particular has many similarities to our own land law as it is based on pre-1925 English law. Last November Anne was able to take some books with her to give to the ULS librarian and Heather Semple of the LSNI library recently arranged for the shipment of a consignment to the ULS of over 50 replaced law texts. These books will be used both in the library of the ULS in Kampala and in various ULS branch offices throughout the country.
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Conference Sponsor Profile

Goldblatt McGuigan

Goldblatt McGuigan was founded in 1978 by Sam Goldblatt. Over the past 35 years the firm has grown to become one of the largest independent professional services providers in Northern Ireland and expanded its expertise to include Tax, Forensic Accounting, Corporate Recovery, Corporate Finance and Management Consultancy services. Goldblatt McGuigan is now an eight Partner practice based in Alfred House, Alfred Street, Belfast, and also comprises of Robinson and Company and Moorhead Hall in Portadown and Hanna Thompson in Lisburn. Overall the staff complement is around 100.

Goldblatt McGuigan has long had a close working relationship with solicitors and barristers throughout Northern Ireland. Managing Partner Tony Nicholl, who succeeded Sam Goldblatt in the role last June and who also heads up the firm’s Forensic Accounting division, believes the firm has a good understanding of the challenges facing those in professional practice, many of which are common to solicitors and accountants.

Tony comments: “Sponsoring The Law Society Conference 2013 was an ideal opportunity to support the legal profession, engage with practitioners and discuss common issues such as trading structures, new services, maximising income, cost control and cash flow, concepts possibly alien to some solicitors prior to the economic downturn.”

“The Changing Structure of Legal Practices” is a complex subject and very topical (subject to a lot of “out of hours discussion”) which is why Goldblatt McGuigan was keen to present on this subject at Conference.

He explains: “We are aware from enquiries coming from our own clients and solicitors for whom we provide forensic services that a number of legal practices have changed their structure and several now trade in the limited liability environment as limited companies or limited liability partnerships.

“We have had a number of enquiries and, as for most business issues, there is no universal solution for all practices. Each practice will have its own set of priorities and objectives, as will each partner, some of which might suggest that limited company status suits and others that don’t.”

Tony says the main factors giving rise to increased consideration for change of structure appear to be the protection of assets through limited liability status and the perceived potential for reduced tax payments to assist cash flow and build reserves to deploy elsewhere in the business.

“Full consideration has to be given to both the short and long term issues. The long term issues are frequently more complex and can often be trivialised from a distance. In this regard I am thinking about the transfer of equity on death or retirement or sale of the practice.”

“Changing structure is not a decision to be taken lightly and there is a definite need to avoid the herd mentality, which can emanate from decisions taken by peers. The old adage ‘horses for courses’ applies and solicitors ought to seek advice from their accountant before taking any final decision on structure. Likewise accountants ought to seek advice from their solicitor on the legal aspects of any change in their own structure.”

Professional standards, ethics and integrity are paramount to all professional firms and have received a lot of press coverage in recent years following the banking crisis.

Tony relates: “In the early days of my training I would, in my enthusiasm, have discussed my day to day work with my late father Peter, himself a chartered accountant, who on qualifying, went straight into the family bookmaking business – horses for courses again! I would have gone home and enthused about the ethics and integrity of professional life. I recall on one occasion my father saying: ‘Don’t kid yourself, accountancy is a business just like any other business and it is a lot easier to maintain your integrity when you are making good profit.’

“There are always issues which challenge professional standards and integrity. They are not confined to a rising or falling market but may be different in nature. Consistent awareness is key and the establishment of control procedures (checklists and reviews) that act as a prompt can often prove to be career saving. It is important in these challenging economic times that as professionals we don’t fall into the trap of failing to maintain high standards, our integrity and ethics.”

Tony has been involved in the provision of forensic accounting services for more than 20 years. He enjoys the nature of the work and advises: “The role of a forensic accountant goes beyond the preparation of an independent assessment of the financial aspects of a case and the giving of evidence where required. It includes working with other professionals (solicitors, barristers and other experts) in helping the plaintiff/defendant understand the strengths and weaknesses of their case to enable them to make an informed decision. It is the variety of cases and the constant challenge from like-minded professionals that makes the job enjoyable and the pressure of never having control of your own diary acceptable.”

Tony points out: “There has been a noticeable change in the nature and volume of cases Goldblatt McGuigan is handling in the High Court. In recent times there has been an increase in the number of commercial and professional negligence cases, which is not unexpected in recessionary times. Commercial and negligence cases involving issues that might have been resolvable in the ‘good times’ are now giving rise to litigation in the ‘bad times’.”
He notes that conversely high value matrimonial cases are declining as the diminishing value of assets and lack of liquidity both impact on settlements.

“A noticeable trend is the increase in commercial cases being referred to us that appear to have little chance of success. To some extent this is to be expected as businesses and individuals clutch at straws to try and improve their financial position.

“However all experts have a duty to the court and there is some evidence of a lack of challenge by accountancy experts to figures and circumstances they are being asked to present. I would encourage all solicitors to robustly challenge their own experts’ reports (not just those from accountants), ascertain the extent of evidence for conclusions reached and determine the areas of weakness at an early stage.

“As a consequence of the above, the number of commercial cases that ultimately settle on a back to back basis, with each side meeting its own costs, is quite high, and on occasion costs exceed the amount in dispute.

“The obvious positive arising out of the economic downturn is the improved commerciality in legal practices in terms of charge-out rates and interim billing as well as improved timing in fee production and debt collection. I believe there is also an increased incentive to resolve cases prior to hearing which is beneficial for the client, improves recovery for the solicitor, and saves costs. These improvements will be of even more benefit to practices as the market improves.”

Tony says a downside has been that legal practices, particularly those, over-dependent on conveyancing, have found these last few years very difficult in terms of implementing cost reductions - primarily redundancies - and developing expertise in alternative service areas.

“An unfortunate outcome of the economic downturn and banking crisis has been the increased professional negligence litigation taken by financial institutions directly and indirectly (effectively underwriting litigation for clients who do not have the resources and where a favourable outcome can be applied to reduce lending exposure). Title issues which previously may have been rectified are now a basis for litigation resulting in significant increases in premiums paid to the professional indemnity master policy and potential personal exposure to practitioners.

“A final point which may be of interest: we return a number of briefs each year to solicitors on the basis that we do not consider there to be a need for a forensic accountant. It is not that we do not want, need or appreciate the work, it has more to do with justifying the fee on completion.”

Meet Tony Nicholl

Educated at Stonyhurst College in Lancashire, Tony completed his training with Ernst & Young in Dublin.

He decided to follow a career as a chartered accountant despite the opportunity to be part of his family business, McAlevey Bookmakers. On more than one occasion his father asked Tony to join the firm with a view to eventually taking it over, but he declined, preferring to plough his own furrow instead, and in 1989 the business was sold to Stanley Racing.

On joining Goldblatt McGuigan after completing his training in 1984, he worked in the Audit Department, where his clients were local small to medium-sized enterprises.

National Australia Bank’s acquisition of the then Northern Bank in 1988 coincided with Tony becoming Senior Audit Manager on the bank audit. Incidentally, National Australia Bank’s pre-acquisition due diligence work on Northern Bank was led by none other than Fred Goodwin, who Tony says has had “a much more interesting career than most accountants – and people call us boring!”.

In the early 1990s Tony moved into the world of forensic accounting, circa 10 years after Michael McGuigan started the forensic accounting department of the firm – having identified the opportunity to become one of the first specialist forensic accounting firms in Northern Ireland.

Tony credits Michael McGuigan as having been a key mentor in his career. Together the pair worked on all manner of forensic cases building the firm’s reputation with the legal community in Northern Ireland. In 1993 Tony joined the Partnership and in 2002 he took over the helm of the Forensic Accounting department where he now works closely with fellow Forensic Partner, Gabriel Greene.

The 54-year-old, who lives in Holywood, County Down, is married to Kathy and they have four children - Joanne, Paul, Lisa and Matthew.

Away from the office, he has a keen interest in watching (his own emphasis) all sports, particularly rugby. He tries to attend Ulster and Ireland matches regularly and drives son Matthew to his weekly fixtures for Academy RFC.

Tony is a former Chairman of the Ulster Society of Chartered Accountants – he undertook the role in 2004-2005. He currently sits on the Council of Chartered Accountants Ireland, one of the few all-Ireland professional bodies, and chairs its Members in Practice Committee as well as sitting on its Representative and Technical Policy Committee.
Sheer volume of work is one of the major causes of office stress. Being overloaded with work means that there is a temptation to stay later in the office, to rush matters (leading to potential negligence claims) and to neglect to take much-needed breaks and holidays. Saying a firm “no” to additional work (even if it means turning away new clients) is sometimes essential.

Delegation, where possible and appropriate, can make all the difference. Proper delegation to a trainee, colleague, paralegal or secretary gives them a chance to develop new skills and demonstrates your faith in their abilities, whilst reducing your burden. Remember too that it is possible to delegate upwards. If you find yourself charged with a task which you feel you are not fully qualified to deal with, then it is prudent to ask a more senior colleague to take it on.

Delegation is a skill to be learned, like any other, and can be divided into six key areas:

1. **Decide**
   Make an active decision to give tasks to your colleagues, and think about which jobs you can pass along.

2. **Divide**
   Don’t give all your tasks to one person. Recognise the strengths of various people and assign matters accordingly.

3. **Deliberate**
   Discuss with your colleague what you are planning to delegate and why, and give them a chance to comment.

4. **Demonstrate**
   You may well have to provide training or help; be prepared to do so, even if it seems that it may be quicker to do it yourself. Remember that next time that person will know how to assist without training.

5. **Dismiss**
   Dismiss your ownership of the task and accept that whilst someone else may not do it your way, it does not matter as long as it is done to the utmost of his or her ability.

   You will also need to dismiss the nagging thoughts that dissuade you from delegating:
   - If you want it done right, do it yourself. This is not necessarily true and you are unlikely to do a good job if you are stressed by overwork.
   - I’m not organised enough to delegate It doesn’t take much organisation. Take a little time to identify tasks that can easily done by someone else and then diarise a date to check on their progress later.
   - My colleagues aren’t capable Have more faith in your colleagues; they are professionals just as you are. You may need to give them a little extra training in some cases but this will be worth the time spent and will be an opportunity for growth for them.
   - My colleagues are too busy Don’t assume this to be the case until they tell you it is. Discussing the task with a colleague first gives them the opportunity to say no if necessary.
   - They won’t do it my way Their way may be just as effective, and you may even learn something.

6. **Determination**
   You can do it! It will be worth it!

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The EU’s Charter of Fundamental Rights offers lawyers a potentially effective new tool to defend the rights of their clients. But there remain many questions about its scope of application. A training project organised by the Academy of European Law (ERA) with support from the European Commission aims to shed light on how to make use of the Charter in practice.

With the entry into force of the Lisbon Treaty the Charter of Fundamental Rights of the European Union has finally become a legally binding document. The Charter purports to make fundamental rights more readily accessible and it ostensibly represents an additional layer of fundamental rights protection for EU citizens. The Charter is not only binding on EU institutions, but it is also directly enforceable in the Member States when they are implementing Union law. As the Charter is an integral part of EU primary law, the rights protected can be enforced before the CJEU and before national courts when EU law is concerned. On the face of it, therefore, the Charter seems to open up an array of additional possibilities for lawyers in their daily work. However, the scope of application of the Charter is still unclear and somewhat disputed and its true substantive effect has yet to be fully revealed in practice.

**Scope of application**

Article 51(1) of the Charter provides that the provisions of the Charter are addressed primarily to the institutions, bodies, offices and agencies of the Union. The Charter also applies to the Member States, however, with the caveat “only when they are implementing Union law”. It is not always immediately evident whether national institutions are acting within the so-called scope of EU law. Moreover, although the Charter states that the fundamental rights must be respected by the Member States “only” when they implement EU law, the Explanations of the Charter would seem to possibly indicate a wider application of fundamental rights.

Recently, by way of example, the Court of Justice of the EU pronounced on the scope of application of the Charter in the case of *Iida v Ulm* (C-40/11). This reference for a preliminary ruling concerned the question whether a Japanese national residing legally in the Member State of origin of his daughter and wife can rely on their EU citizenship as grounds for his stay in this state despite his family moving to another Member State.

Mr Iida submitted, *inter alia*, that his right to full enjoyment of his family rights under Article 7 of the Charter, which is analogous with Article 8 ECHR, were affected. On the face of it, this would appear to be a classic example of the exercise of free movement by a Union citizen (Mr Iida’s daughter) and would appear to fall squarely within the scope of EU law covered by the Charter.

The CJEU held, nonetheless, that Mr Iida’s “situation shows no connection with European Union law” since he cannot claim a right of residence based on Directive 2004/38/EC (Directive on the right of movement of Union citizens and their family members) and has not applied for a right of residence within the meaning of Directive 2003/109/EC (Long-Term Residents Directive).

Hence, the CJEU made clear, the case does not fall within the scope of application of the Charter. Notwithstanding the apparent clarity of this particular decision and the seemingly strict interpretation of the scope of the Charter’s application pursued thus far, the exact reading of Article 51(1) remains unclear and it will be up to the CJEU to further delineate the limits of the scope of application of the Charter.

The scope of application of the Charter is further complicated in respect of the United Kingdom and Poland since an agreement was reached on a protocol by these Member States – though the effect of this protocol in practice seems to be limited. The text of Protocol 30 on the application of the Charter of Fundamental Rights of the European Union to Poland and to the United Kingdom, in particular Article 1(1) thereof, would seem to indicate that these Member States are under the same obligation as all other Member States to respect the Charter, but only when they are acting within the scope of Union law. Bearing in mind the stipulation made in recital 8 of the protocol, Article 1(1) would appear to aim to effect an explanation of Article 51(1) of the Charter rather than implement an additional restriction to the scope of application of the Charter. However, it simultaneously declares, in apparently more strident terms, that
the Charter does not extend the jurisdiction of the CJEU to declare UK or Polish “laws, regulations or administrative provisions, practices or action” to be inconsistent with the Charter.

In particular, the social rights contained in Chapter IV of the Charter are declared to be non-justiciable rights unless the UK or Poland has provided otherwise (Article 1(2)). Moreover, Article 2 also seeks to limit the scope of application of the Charter. It seems to indicate that it is not permitted to interpret the rights contained in the Charter in such a way that would be able to strike down conflicting legislation. Notwithstanding this, the effect of the Protocol in practice would appear to be limited.

In the NS decision of the CJEU (see further below), the Court held that the protocol “does not call into question the applicability of the Charter in the United Kingdom or in Poland. […] Article 6 TEU requires the Charter to be applied and interpreted by the courts of Poland and of the United Kingdom….” (at [119]-[120]). Hence the Charter would appear to retain the character of a primary source of fundamental rights in the EU, even in respect of the United Kingdom and Poland.

The material application of the Charter in practice

Concerning the material scope of the Charter, the CJEU has made some tentative initial statements on the content of individual norms as it did in the request for a preliminary ruling NS v SSHD and ME v Refugee Applications Commissioner, Minister for Justice, Equality and Law Reform (Joined cases C-411/10 and C-493/10). These joined cases concerned several third party nationals who had been arrested following their illegal entry into Greece and then subsequent application to be granted international protection in the United Kingdom and Ireland respectively. The CJEU was asked whether a Member State which intends to return an asylum seeker to the Member State responsible for examining the asylum request (Greece) in accordance with Article 3(1) Dublin Regulation (343/2003) was obliged to assess whether that State respects fundamental rights.

The CJEU first made clear that national authorities exercising the discretionary power conferred on the Member States by Article 3(2) of the Dublin Regulation must be considered as acting within the scope of Article 51(1) of the Charter.

The CJEU went on to hold that the transfer of an asylum seeker to a Member State where he would face the serious risk of inhuman or degrading treatment would amount to a breach of Article 4 of the Charter (prohibition of torture and inhuman or degrading treatment or punishment). The Court went on to state that Member States and, by corollary, national courts may not initiate a Dublin transfer where they cannot be unaware that systemic deficiencies in the asylum procedure and in the reception conditions of asylum seekers in that Member State amount to substantial grounds for believing that the asylum seeker would face a real risk of being subjected to inhuman or degrading treatment within the meaning of that provision.

This would seem to indicate a positive duty on Member States to ensure that the content of Article 4 of the Charter is observed in all other Member States.

The CJEU additionally turned its attention to the comparative scope of protection offered by Articles 1, 18 and 47 of the Charter when considered opposite Article 3 ECHR. The Court in its decision seems to have equated the scope of these articles from the respective treaties with each other and for that reason it ultimately held that the application of Articles 1, 18 and 47 would not result in a different answer than the application of Article 4 of the Charter. This illustrates the complex but potentially useful relationship between the jurisprudence of the Luxembourg and Strasbourg courts.

The relevance of the Charter for legal practitioners

Fundamental rights enshrined in the Charter can have an impact in many areas of domestic law. These examples show that the Charter of Fundamental Rights potentially constitutes an important additional tool for legal practitioners as long as the case at bar falls within the scope of EU law. In several other cases the provisions of the Charter on the prohibition of discrimination were used to stop discrimination based on age and sex (see for example Hennigs C-297/10 and Test-Achats C-236/09). As a consequence, legal practitioners should be well advised to take the provisions of the Charter into consideration in arguing cases with a nexus to EU law. The challenge, however, is twofold, namely: first, to assess whether recourse to the provisions of the Charter is possible with regard to the scope of application laid down in article 51(1) and, second, what is the extent of the substantive content of the right protected by the Charter.

The seminar series “The Charter of Fundamental Rights in Practice” being implemented by the Academy of European Law (ERA) will be an opportunity for lawyers in private practice to improve their knowledge and understanding of the scope and application of the Charter. Making use of an applied approach involving case studies and workshops as well as presentations from established European and domestic experts in this area, the series will bring the Charter closer to the practitioner and enhance its practical applicability. Seminars for lawyers in private practice will take place in Edinburgh, in cooperation with the Faculty of Advocates, in Riga in cooperation with Latvian Judicial Training Centre and in Trier. Further information on this seminar and the entire series can be found at: www.era.int/charter.

Benjamin Koltermann, PR Officer, Academy of European Law (ERA)

Killian O’Brien, Course Director, Academy of European Law (ERA)
The Irish Legal History Society held its 25th anniversary spring meeting in the debating chamber of the Graduates’ Memorial Building of Trinity College, Dublin, on Friday 15 February 2013.

Chaired by the President, Robert D Marshall, Solicitor, the Society was pleased to welcome the Provost of TCD, Dr Patrick Hegarty and the Hon Thomas A Finlay, who as Chief Justice of Ireland with the late Lord Lowry, then Lord Chief Justice of Northern Ireland, was patron of the Society upon its foundation 1988.

The meeting was held in the format of the College Historical Society (the Hist) which kindly lent the ballot box and auditor’s bell for the occasion. Also present were the Director General of the Law Society, Ken Murphy; the Chairman of the Bar Council, David Nolan SC; the Chairman of the Bar Council of Northern Ireland, Mark Mulholland QC; the President of the Hist, Dr David McConnell and Prof Michael Laffan (UCD). The meeting was sponsored by the Law Society of Ireland and the Bar Council of Ireland.

The WN Osborough Composition Prize in Irish Legal History was inaugurated by the Society in 2012 and the prize of €500 for the first bi-annual completion was presented at the meeting to Dr Maebh Harding, Solicitor, of Portsmouth University for her article entitled “The Curious Incident of the Marriage Act (No. 2) 1537 and the Irish Statute Book”.

Daire Hogan, Solicitor and former president, addressed the Society in a discourse entitled ‘ . . . “I want the chancellorship. You can get it for me”; James Campbell’s path to judicial office, 1915 - 1918.’ in which he described from vivid correspondence how Campbell became the penultimate Lord Chancellor of Ireland. A vote of thanks to Mr Hogan was proposed by Mr Justice Hardiman and seconded by Dr David Capper (QUB), the northern secretary of the Society. The Auditor of the Hist, Hannah MacCarthy, proposed the motion that the Society was worthy of support which was seconded by Dr Patrick Geoghegan, a vice President of both the Society and the Hist.

Following the meeting, there was a reception in the Saloon of the Provost’s house where Dr Hegarty, in welcoming the Society, spoke about a number of his predecessors who were lawyers.

The next meeting will be held at Stormont on Friday 8 November 2013.

Daire Hogan, 3rd President, delivers the 25th Anniversary Discourse at TCD.

Dr Geoghegan speaking in the presence of Prof Osborough on presentation to Dr Maebh Harding of the first composition prize.
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The Professional Conduct Committee of the Bar Council has requested the Society to publish the following document.

**UPDATED GUIDANCE ON ATTENDANCE BY SOLICITORS ON COUNSEL**

1. The Professional Conduct Committee of the Bar continues to have concerns about Solicitors not attending counsel. The following advice is issued for the guidance of all members.

2. The starting point is Rule 12.06 of the Code of Conduct which states:

   Apart from work in the Magistrate’s Courts and work in other Courts which only involves dealing with un-contentious matters, a Barrister should not consult with a lay client or any witness or represent that client in Court in the absence of the professional client or a member of the professional client’s staff. If the professional client or a member of staff is absent, the Barrister should decline to represent the lay client and the absence of the professional client or the member of staff should be brought to the attention of the Court. Where, in exceptional circumstances, in the absence of the professional client or a member of staff the Barrister consults with the lay client or represents the lay client in Court, the Barrister shall forthwith furnish a written memorandum of instruction received during the consultation or the outcome of the hearing to the professional client. Attention is drawn to the “Guidance on Attendance by Solicitors on Counsel” contained in Appendix 4.

3. As members can see from the wording of this rule it is only in exceptional circumstances that a Barrister should consult with a lay client or represent the lay client in Court when not attended by a Solicitor or a member of the Solicitor’s staff. It is the view of the Professional Conduct Committee that a Barrister should never undertake a substantive hearing without being so attended.

4. Normally a Barrister should not consult with a client, or represent a client in Court, unless the instructing person or member of that person’s staff is present. This is standard practice in other than the Magistrate’s Courts, and a Barrister should have no compunction in so advising a Solicitor who ignores the practice.

5. The presence of the Solicitor ensures that there is less room for dispute about what has actually happened during a consultation or in Court. A significant part of the work of the Professional Conduct Committee continues to be taken up with investigating allegations made against Barristers by clients when Solicitors have not been present. The absence of the Solicitor leaves Barristers more vulnerable to allegations about their attitude, lack of preparation, poor presentation of the case etc.

6. It had been previously indicated by a Judge that he would not insist on a Solicitor attending providing that counsel is attended by someone from the Solicitor’s firm. That is in accordance with the rule which refers to the staff of the Solicitor. However, even in that situation, a Barrister should have no reservation in advising the Solicitor that the person attending him/her should have some knowledge of the case so that the attendance of the person concerned is meaningful.
What is NICPLA?
NICPLA is the Northern Ireland Commercial Property Lawyers’ Association. NICPLA’s membership is made up of solicitors from large commercial firms, to those solicitors in general practice and those in-house.

What does NICPLA do?
The NICPLA committee meets once a month to discuss topics and issues faced by practitioners both in general and in the current climate together with any proposed reform in the law. The Association seeks to educate its members by holding seminars throughout the year on topical issues.

NICPLA also continuously seeks to review any standard documentation being used in England and Wales and seeks to tailor such for use in Northern Ireland and to encourage the use of these documents by all practitioners. Those documents which have been reviewed by the committee to date include – CPSE 1-5, the London Long Form Certificate of Title and Standard Commercial Property Conditions. NICPLA also engages with the Land Registry on issues such as the online registration system and priority searches in an effort to improve communication between solicitors and the Registry.

Why should you join?
NICPLA hosts a number of seminars throughout the year and keeps members up to date via email circular. The seminars are competitively priced and members not only benefit from reduced rates at the seminars, but often some seminars are offered free of charge to members.

What does membership cost?
The annual cost of membership is £10.00

How do I join?
By completing the attached form and returning it together with a cheque made payable to “NICPLA” to the NICPLA secretary at the address below:

Victoria O’Hara, Carson McDowell, Murray House, Murray Street Belfast, BT1 6DN

NICPLA
Northern Ireland Commercial Property Lawyers’ Association

MEMBERSHIP FORM

I enclose a cheque for £10.00 made payable to The Northern Ireland Commercial Property Lawyers’ Association.

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(Please complete your email address so this can be added to our database to keep you advised of all future seminars and events)

Please return the form complete with membership fee to the NICPLA secretary as follows:

Victoria O’Hara
Carson McDowell
Murray House
Murray Street
Belfast BT1 6DN
Solicitors ditch suits and don running gear for Marie Curie Cancer Care

Arthur Cox got off to a running start by entering relay teams in the Deep RiverRock Belfast City Marathon to mark the beginning of its partnership with Marie Curie Cancer Care.

Anne Hannan, Marie Curie Cancer Care Corporate Development Manager, said:

“Marie Curie Cancer Care is delighted to have been chosen as Arthur Cox Charity Partner for 2013/14. It takes around £5 million to run our services in Northern Ireland and with Arthur Cox staff taking part in many of our events, as well as further fundraising, this will go a long way to helping us raise those much needed funds. We look forward to the years ahead.”

The relay teams hoped to raise £1000 and encouraged other companies and their staff to join with them by entering a team into the Deep RiverRock Belfast City Marathon in aid of Marie Curie Cancer Care.

Holly Lyons of Arthur Cox said: “We may pace the courts daily but it’s time to pick up the pace on the streets in aid of vital services.

“The specialist care & support provided by Marie Curie nurses is delivered free of charge and the charity depends on fundraising through events, such as the Belfast City Marathon, to maintain its nursing services and Belfast Hospice. At Arthur Cox we are delighted to help sustain this critical work.

“The Marie Curie Cancer Care nursing service does a wonderful job in improving the quality of life for terminally ill patients and their families and the Marathon was just one event in which Arthur Cox will be taking part in 2013.”

The Belfast City Marathon took place on May Day Bank Holiday, Monday 6 May 2013.

To find out more about supporting Marie Curie Cancer Care contact 0845 052 4184 or visit www.mariecurie.org.uk/run2013

Innovative app’ortunity for Northern Ireland’s law trainees— ‘LawStart’

Corporate law firm A&L Goodbody has officially launched Northern Ireland’s first dedicated recruitment mobile app aimed at those interested in a career as a corporate lawyer.

The free “LawStart” app, accessible through the iTunes or Android Store, is suitable for undergraduates and graduates and is designed to provide users with an insight into what it is like to work with A&L Goodbody. The easy to navigate app includes footage of recent interns and trainees discussing their experiences with A&L Goodbody as well as key dates, events and answers to FAQs about the trainee and intern programmes available at the firm.

The team behind this initiative includes members of A&L Goodbody’s Trainee and Intern Programme. Speaking about the development and launch of the app, Gareth Walls Partner & Head of Employment Law at A&L Goodbody, said: “This is an exciting development for our recruitment programme. We recognise the high calibre of talent in the graduate recruitment market in Northern Ireland with both of our universities having excellent Schools of Law, and we know that those students have embraced the latest technologies in how they communicate. We are very keen to make information about our Trainee and Intern Programmes as accessible to students as possible. ‘LawStart’ is the ideal platform for us to do this.”

A&L Goodbody is one of Northern Ireland’s corporate law firms, advising both domestic and international clients across every facet of business law. The firm recently celebrated the 5th anniversary of the opening of its Belfast office, having grown in that time to be a 10 partner-led firm with a current total head count of more than 60. With offices also in Dublin, London, New York and Palo Alto, the firm offers an all- island and international approach to corporate law.

For more information on career opportunities or the app click www.algoodbody.ie or contact belfast@algoodbody.com / 028 9031 4466
Article 8 ECHR and the new immigration rules – one size fits all?

Kirsty Linkin, apprentice solicitor at Law Centre (NI), explains the new rules regarding Article 8 ECHR appeals and discusses their application, including the potential for caselaw development.

Introduction

On 13 June 2012, the government announced significant changes to the Immigration Rules with most key amendments taking effect from 9 July 2012. The impact of these new rules on Article 8 ECHR appeals was considered in September 2012, in MF Nigeria.

This article will seek to give an overview of the incorporation of Article 8 in the new Immigration Rules and the potential impact that this could have for Article 8 cases, including asylum claims, stand-alone applications and appeals against removal or deportation.

Clearly, rights under Article 8 are not absolute as they may be qualified by the legitimate aims of the state.

Previous system

In October 2000, the Human Rights Act 1998 (HRA) came into force and under s.6 rendered it unlawful for a public authority to act incompatibly with an individual’s rights under the European Convention on Human Rights (ECHR). Although this had a profound effect on immigration decisions and appeals, there had been no attempt to recognize the impact of Article 8 within the Immigration Rules. Therefore, applications based on Article 8 rights were made outside the rules and, if successful, discretionary leave was granted.

Generally, on appeal a judge would firstly consider whether the decision was made in accordance with the rules; and if not, go on to determine whether the decision was contrary to the appellant’s rights under Article 8.

In determining rights under Article 8, the key question usually is whether, ‘such interference [is] proportionate to the legitimate public end sought to be achieved’. This involves a balancing exercise between the rights of the individual and the interests of the state.

The courts have not been prescriptive as to the factors relevant in the determination of proportionality and numerous fact specific issues have been considered.

New rules

The government, in a bid to emphasise the qualified nature of Article 8 and to “fully reflect the factors which can weigh for or against an Article 8 claim,” introduced major changes to the Immigration Rules.

The requirements are lengthy and complex and practitioners should consult the relevant parts of the rules when advising clients. The main provisions are outlined below.

Family life – Parts 8, 13 and Appendix FM

Leave to enter or remain on the grounds of family life, other than in ‘exceptional circumstances’ may be granted only if the following criteria are met:

- the applicant has a genuine and subsisting relationship as parent of a child (under eighteen who is a British citizen or has lived in the UK continuously for seven years immediately preceding the application) and it would be unreasonable to expect the child to leave the UK
- the applicant has a genuine and subsisting relationship with a partner (spouse/civil partner/flâncé/cohabited akin to marriage for a minimum of two years, who is a British citizen or is settled in the UK or has been granted refugee or humanitarian protection) and there are insurmountable obstacles to family life continuing outside the UK, or
- the applicant is an elderly relative who requires long-term personal care that can only be provided by a relative in the UK and without recourse to public funds

Private life

In order to establish private life grounds for leave to remain, other than in ‘exceptional circumstances’, one of the following periods of continuous residence in the UK must be met:

- 10 years lawfully – as in the previous rules
- 20 years lawfully or unlawfully – the previous 14 year rule was revoked
- seven years lawfully or unlawfully – if the applicant is under 18
- half of their life lawfully or unlawfully – if the applicant is aged 18 to 25, or
- less than 20 years lawfully or unlawfully – if the applicant is over 18 but can demonstrate that they have no ties in the country of return
These private life and family life criteria remain subject to meeting the suitability and eligibility requirements set out in Appendix FM.

**Deportation – Part 13**

Where the state’s legitimate aim lies in the need to prevent disorder or crime, the government has set an even higher threshold for Article 8 claims. Deportation will be proportionate other than in ‘exceptional circumstances’ if:

- the person has been given a custodial sentence of more than four years, or
- the person has been given a custodial sentence of 12 months to four years or of less than 12 months where the person is a persistent offender or has caused serious harm, unless:
  - the person has a genuine and subsisting relationship with a child (defined above) and it is not reasonable to expect the child to leave the UK and there is no other person to care for the child in UK, or
  - the person has lawfully lived in the UK for 15 years and is in a genuine and subsisting relationship with a partner (defined above) and there are insurmountable obstacles to continuing family life outside the UK, or
  - the person has lived in the UK for 20 years continuously (lawfully or unlawfully) and has no ties to country of removal, or
  - the person is aged 18 to 25 and has lived in UK for half of his or her life and has no ties to the country of removal.

A successful application based on the above criteria will result in the grant of 30 months limited leave to remain under the new rules.

**Discussion**

In light of the new rules, a number of observations can be made. First, there have been no concurrent amendments to the primary statutory framework and most notably, there remains a right of appeal based on Article 8.7

Secondly, the government has sought to limit the scope of Article 8. In particular, the government states that “exceptional” means circumstances in which refusal would result in unjustifiably harsh consequences for the person and it would not be proportionate to refuse the application.18

However, as the Upper Tribunal noted:

> ‘We cannot say that we find it easy to regard everything that is said about Article 8 within the new rules as part of a coherent whole. At the very least, there appears to be tensions within them … between an approach which sees them as a complete code for dealing with Article 8 claims and an approach which sees them as requiring decision-makers sometimes to go beyond the rules.’19

The Upper Tribunal concluded that decision makers will firstly need to consider whether the application would be successful under the new rules; if not, they will still go on to consider whether the decision would breach Article 8. 15 As such, there will always remain cases that, despite failing under the rules, may succeed as their Article 8 rights have been breached and practitioners can expect potential challenges to arise in this area.

However, when carrying out the balancing exercise, the Upper Tribunal emphasised that the rules ‘operate to enhance judicial understanding of the “public interest” side of the scales.’11

Finally, in relation to children, despite government assurances that the new rules are compliant with their statutory duties12, the Upper Tribunal still considered the best interests of the child as a discrete factor when assessing proportionality.15

**Conclusion**

Lord Bingham observed: ‘The consideration of an appeal under Article 8 calls for a broad and informed judgment which is not to be constrained by a series of prescriptive rules.’14 Despite this unequivocal guidance from the House of Lords (as it then was), the government has sought through the new rules to be prescriptive as to the factors that may be relevant to the finding of proportionality under Article 8. Nevertheless, a fact specific determination of proportionality as it existed under the previous system will continue to apply and it may still be possible to succeed under Article 8 whilst continuing to fall outside the requirements of the Immigration Rules.

To echo the words of Upper Tribunal Judge Storey:15

> ‘We suspect that the issue of the status and meaning of the new rules will preoccupy Tribunal and higher court judges for some time to come and doubtless, as case law about the new rules develops, a fuller understanding will be reached than that offered here.’


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1. MF (Article 8 – new rules) Nigeria [2012] UKUT 00393(IAC)
2. Article 8 of the European Convention on Human Rights
3. MF Nigeria op.cit.at para 6
4. R (Razgar) v SSHD [2004] UKHL 27, Lord Bingham at para 17
5. Explanatory Memorandum to the Statement of Changes in Immigration Rules Presented to Parliament on 13 June 2012 (HC 194) p.2 para 7.2
6. UKBA Immigration Rules paras 399 and 399A
7. ss.84(1)(c) and (g) Nationality Immigration and Asylum Act 2002
8. Long residence and private life – UKBA Guidance – version 7.0 p.66
9. MF Nigeria op.cit. at para 20
10. MF Nigeria op.cit. at para 41
11. Ibid. at 48
12. Including s.55 Borders Citizenship and Immigration Act 2009
13. MF Nigeria op.cit.at para 69.
14. EB (Kosovo) v SSHD [2008] UKHL 41 at para 21
15. Ibid. at para 2
Justice Minister David Ford announced proposals for major reform of the tribunal system in Northern Ireland at Tribunal Reform: the Way Ahead, a conference organised by the University of Ulster and Law Centre (NI) in the Bar Library, Belfast.

University of Ulster Vice Chancellor Professor Richard Barnett welcomed the publication of the Department’s proposals, saying: “I am delighted that we are able to provide a platform for the Justice Minister’s important speech.”

Law Centre (NI) Director Les Allamby explained that more people go to tribunals than courts: “Tribunals in Northern Ireland deal with approximately 30,000 cases per year. These involve entitlement to benefits, unfair dismissal and discrimination at work, whether someone can be detained in a mental health institution, access to special educational needs and many other important issues.”

He added: “We are delighted that many of the findings and recommendations of research we commissioned have influenced the consultation document. The document recognises the importance of the tribunal user and the need for an independent and accessible tribunal system with appropriate oversight. Independent advice and support are also vital.”

The conference also heard from Professor Michael Adler, University of Edinburgh; Brian Thompson, University of Liverpool; Professor Dame Hazel Genn, University College London; Gráinne McKeever, University of Ulster; Sir Patrick Coughlin, Lord Justice of Appeal; and David Lavery of the Department of Justice.


The research on tribunal reform commissioned by the Law Centre and funded by the Nuffield Foundation was in three parts:
- Gráinne McKeever of the University of Ulster and Brian Thompson from the University of Liverpool co-authored Redressing Users’ Disadvantage: Proposals for Tribunal Reform in Northern Ireland (2010)
- Gráinne McKeever wrote a further report on Supporting Tribunal Users: Access to pre-hearing information, advice and support in Northern Ireland (2011)
- Brian Thompson also authored a further report, Structural Tribunal Reform in Northern Ireland (2011)

All reports are available at www.lawcentreni.org/publications/other-publications/672-tribunal-reform.html

Launching the Department of Justice tribunal reform consultation, from left: University of Ulster Pro-Vice Chancellor Professor Richard Barnett; Senior Law Lecturer Gráinne McKeever; Justice Minister David Ford MLA and Law Centre (NI) Director, Les Allamby. Photo Alastair Nevin.
Annual Lecture Series

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<tr>
<td>10.10.2013</td>
<td>1 hour</td>
<td>Tort – Update and Developments</td>
<td>Jack Anderson, Queen’s University, Belfast</td>
<td>1.00 – 2.00pm</td>
<td>£20 Members, £40 Non-members</td>
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<tr>
<td>24.10.2013</td>
<td>1 hour</td>
<td>To be confirmed</td>
<td></td>
<td>1.00 – 2.00pm</td>
<td>£20 Members, £40 Non-members</td>
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<tr>
<td>7.11.2013</td>
<td>1 hour</td>
<td>To be confirmed</td>
<td></td>
<td>1.00 – 2.00 pm</td>
<td>£20 Members, £40 Non-members</td>
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<tr>
<td>21.11.2013</td>
<td>1 hour</td>
<td>To be confirmed</td>
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<td>1.00 – 2.00 pm</td>
<td>£20 Members, £40 Non-members</td>
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<tr>
<td>5.12.2013</td>
<td>1 hour</td>
<td>To be confirmed</td>
<td></td>
<td>1.00 – 2.00pm</td>
<td>£20 Members, £40 Non-members</td>
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</tbody>
</table>

LECTURES WILL BE HELD AT LAW SOCIETY HOUSE, 96 VICTORIA STREET, BELFAST

Appointment of 2012/2013 BSA Chairman - John Burke

The Annual General meeting of the Association was held on Friday 25 November 2012 at The Mac, Saint Anne’s Square, Belfast and was well attended by our members. The Association extended a warm welcome to His Honour Judge McFarland, Recorder of Belfast, before the meeting to speak to the BSA members.

John Burke of MacElhatton & Co Solicitors was elected BSA Chairman for 2012/2013, Colin Mitchell of McCartan Turkington Breen Solicitors was elected Honorary Secretary and Paul Dougan of John J Rice and Co Solicitors was elected Honorary Treasurer.
BSA support to IPLS graduates

BSA Committee members John Burke and Fiona Sterritt attended with graduates at the Institute of Professional Legal Studies for the annual end of term party following their exams. By holding this annual event, the Association aims to support and encourage the students of legal education and the future of the legal profession at the Institute of Professional Legal Studies. Thanks are extended to the IPLS Director, Anne Fenton, for the hosting of the event.

John Burke, BSA chair, presenting BSA prize to IPLS student, Margaret O’Leary.

IPLS students celebrating completing their exams at the BSA event.

BSA ANNUAL GALA DINNER DANCE
8th June 2013 at Titanic Belfast
In partnership with Danske Bank and Leaf Consultancy

Three Course Menu served with wine
Entertainment with music by ‘The Booze Brothers’
Black Tie

Tickets are £55 per person or £500 per table of 10.
7.00pm for Drinks’ Reception to be seated for Dinner at 8pm.
Demand is already high for tickets. We would recommend early booking to avoid disappointment!

To book your table please contact our Administrator Briège Williams at the address below by e mail or telephone:
Email: info@belfast-solicitors-association.org
Tel: 028 9058 5974
Merrion Business Centre, 58 Howard Street, Belfast BT1 6PJ
or alternatively on-line at www.belfast-solicitors-association.org
Thursday 16 May 2013
First tee-off 2:00 PM
Entry Fee: £75.00 to include dinner & prizegiving ceremony

Prizes
Overall Winner - BSA Cup and “Open Champions” limited edition print
Runner Up - overnight Stay for two at Lough Erne Resort with golf or spa option
Visitors’ Prize - overnight stay for two at Fitzwilliam Hotel, Belfast
Ladies’ Prize - Beauty treatment from Aura Day Spa
Front Nine - Golf equipment voucher to the value of £200.00
Back Nine - Case of fine wines
Nearest the Pin - bottle of Champagne
Longest Drive - bottle of Champagne

Please contact John Palmer for reservations
T: 028 9032 9545 or 
E: johnpalmer@chjefferson.co.uk

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If you wish to advertise in The Writ please contact Karen Irwin for rates, specification and copy deadlines at:
dcp strategic
communication ltd,
Bamford House, 91-93 Saintfield Road,
Belfast BT8 7HN
Tel: 028 9040 2296
Fax: 028 9040 2291
Email: karen@dcppr.co.uk
The search is on for Northern Ireland’s Young Leader of the Year 2013. The award will be made at the Young Leaders’ NI Conference, sponsored by global law firm, Herbert Smith Freehills LLP, which takes place on 17 May at The Mac in Belfast.

This year’s event builds upon the success of the inaugural Young Leaders’ NI Conference, held last year and attended by over 250 delegates. The conference is organised by the NI Young Solicitors’ Association, JCI Belfast, Chartered Accountants Ulster Society Young Professional Group and the Institute of Directors.

Young Leaders NI was formed to ‘Inspire Leadership’ amongst young professionals in Northern Ireland and to encourage the leaders of tomorrow across industry and the professional services through education, the sharing of ideas and creating unique personal development opportunities.

The aim of the conference is to bring together 300 young leaders in one location from across the professions and industry to share best practice, learn from established business leaders and from each other. The conference will also support the Belfast Visitor & Convention Bureau’s #backinbelfast campaign.

Libby Jackson, Director of Herbert Smith Freehills LLP’s Belfast office said:

“It is our pleasure to again sponsor the Young Leaders NI Conference following the success of the inaugural event last year. Leadership is key to economic growth and it has never been more important to nurture and develop our bright young talent in Northern Ireland. This year’s conference will bring together heads of industry and experts in leadership to inspire young professionals to take on leadership roles now and in the future.”

The ‘Herbert Smith Freehills LLP Young Leader of the Year’ award will be presented at the conference to an outstanding young professional who has demonstrated exceptional leadership skills.

Those wishing to make a nomination for the award can email youngleadersni@gmail.com for an application form.

Guest speakers at the conference include Alyson Hogg (Viva Liberate), David Gavaghan (Titanic Quarter), Billy Dixon and panellists drawn from the NI business community.

Anyone interested in attending the event, which is also supported by PwC, Abacus Recruitment and Wesleyan, can register at www.iod.com/northernireland/events.
From the Courts - abstracts of some recent case law

ADMINISTRATION OF JUSTICE

FLEET STOTHER COOKE V KENNETH IRVINE COOKE AND MALCOLM DOUGLAS COOKE
Summons brought by defendants seeking to strike out proceedings on the basis that the endorsement thereupon discloses no cause of action. - breach of trust. - HELD that proceedings do not disclose any reasonable cause of action they are struck out on foot of the defendants' summons
HIGH COURT
16 JANUARY 2013
DEENY J

ZY V PUL HIGGINS AND NORTHERN IRELAND COURTS AND TRIBUNALS
Whether the plaintiff's right to life under a2 ECHR qualifies him for the remedy of an injunction restraining publication of any information which might disclose his identity. - plaintiff is a convicted sex offender. - first named defendant is a journalist working as a court reporter, second named defendant is the public authority responsible for the organisation and administration of the Courts and Tribunals in Northern Ireland. - anonymity order had been granted for the defendant in the Magistrates' Court which was revoked by the Crown Court and replaced with less restrictive reporting measures. - application for emergency interim relief was made by the plaintiff to the High Court which prohibited the first defendant from publishing any information disclosing or concerning in any way the identity of the plaintiff or which could lead to his identification and permitted the plaintiff to litigate in anonymised form. - plaintiff's right to life. - tort of breach of confidence. - whether knowledge of the plaintiff's identity attracts the protection of the common law duty of confidence. - plaintiff attempted suicide. - mental well being of the plaintiff if his identity was exposed. - HELD that the plaintiff's case against the second defendant succeeds and injunction made which will prohibit the defendants from publishing anything identifying or tending to identify the plaintiff
HIGH COURT
16 JANUARY 2013
MCCLOSKEY J

CONTRACT

BERNARD J FITZPATRICK, NAOMI FITZPATRICK, JOHN G MCLILWAINE AND CLAIRE A MCLILWAINE V SARCON (NO 177) LIMITED
Appeal by the defendant in the proceedings from the judgment of the trial judge who upheld the claim by the plaintiffs in the action (now the respondents in this action) that they were entitled to a declaration that they validly rescinded 2 contracts made between them and the appellant, namely a building agreement and an agreement for lease, leading to the appellant being ordered to repay to the respondents a sum which had been paid as a deposit under the contracts together with interest. - respondents sought a declaration of their entitlement to rescind agreements, the contract and/or order a repayment of the deposit. - whether the appellant had repudiated the contract by reason of its breach and an express term of the contract that time was of the essence. - whether, as the respondents assert, time was of the essence in respect of the contractual obligation to completely finish the apartment and make it fit for habitation on the date of completion. - HELD that the judge erred in construction of the contract. - construction of whether the respondents were entitled to treat the contract as repudiated. - construction of the contract. - HELD that the judge erred in his interpretation of the clause which led to his conclusion that the respondents were entitled to treat the contract as repudiated. - appeal allowed. - matter remitted to the judge to complete and bring to finality the trial of all outstanding issues
COURT OF APPEAL
3 DECEMBER 2012
MORGAN LCJ, GIRVAN LJ, COGHLIN LJ

CRIMINAL LAW

R V DANIEL CURRAN
Appeal against sentence imposed on a guilty plea on five counts of indecent assault on a male attracting a total period of 4 years imprisonment. - aggravating and mitigating factors. - whether the term imposed was manifestly excessive or wrong in principle when set against the background of multiple sentencing exercises in respect of a pattern of behaviour on the part of the appellant over a sustained period. - applicable principles in historic sex abuse cases. - HELD that the sentences imposed were manifestly excessive and reduced accordingly
COURT OF APPEAL
11 JANUARY 2013
MORGAN LCJ, HIGGINS LJ, GIRVAN LJ

R V AARON WEIR AND GARY COLIN CROMIE
Leave to appeal against convictions for robbery and possession of an offensive weapon and criminal damage. - quality of evidence of identification of the applicants as the robbers. - contents and significance of a note passed from a member of the jury to the learned trial judge. - HELD that no material error or misdirection has been established and the convictions are safe. - appeal dismissed
COURT OF APPEAL
14 JANUARY 2013
HIGGINS LJ, GIRVAN LJ, COGHLIN LJ

R V WILLIAM WONG
Appeal against indeterminate sentence with a minimum of 5 years imprisonment imposed in relation to an explosives offence. - whether the learned trial judge was correct to conclude that the dangerousness provisions of the Criminal Justice (NI) Order 2008 applied in the circumstances and if so whether he was correct to impose an indeterminate sentence rather than an extended custodial sentence. - defendant pleaded guilty to be in possession of a pipe bomb with intent to endanger life or cause serious injury to property. - whether defendant presents a significant risk of serious harm with regard. - whether the sentence was unduly severe. - HELD that the appeal dismissed
COURT OF APPEAL
12 DECEMBER 2012
MORGAN LCJ, HIGGINS LJ, COGHLIN LJ

DAMAGES

FELIM BATES V WILLIAM P KEEGAN
Appeal from the district judge relating to the cost of repair of a motor vehicle. - hourly rate for labour. - tort. - general principle of damages.
reasonableness
HIGH COURT
31 DECEMBER 2012
MCCLOSKEY J

EDUCATION

IN THE MATTER OF AN APPLICATION BY A (A MINOR) BY HIS MOTHER AND NEXT FRIEND FOR JUDICIAL REVIEW
Special educational needs. - applicant is a minor who attends a specialist Learning Centre although he is formally registered at a local High School. - application arises following a decision to remove the applicant from the Centre. - special needs statement. - applicant’s attendance at the Centre ceased because of his challenging behaviour and poor attendance and limited home tuition arranged. - whether this arrangement was permanent. - applicant contends that the level of tuition provided at home was insufficient to provide him with an education and failed to comply with his statement of special educational needs. - legitimate expectation of the applicant. - whether the change in the provision of tuition was procedurally unfair. - statutory obligation to teach the child. - whether the appellant was removed from the Centre. - HELD that declaration made that the decision to reduce the applicant’s timetable was inconsistent with the requirements of his statement of special educational needs and wrong in law
HIGH COURT
21 DECEMBER 2012
TREACY J

EMPLOYMENT

ANTRIM BOROUGH COUNCIL V MALACHY MCCANN
Appeal against a decision of an Industrial Tribunal which found that the claimant had been unfairly dismissed from his employment with the defendant as a fitness instructor. - whether the Tribunal failed to identify or determine the true reason for dismissal. - whether the Tribunal failed to apply the band or reasonable responses test. - whether the Tribunal failed to take into account relevant matters. - whether the Tribunal took into account irrelevant matters. - whether the Tribunal’s decision was perverse. - whether the Tribunal erred in law in reaching its conclusion that the employer had unfairly dismissed the claimant. - claimant’s entitlement to payment for attendance at hospital for an appointment for his wife. - claimant dismissed for gross misconduct for the dishonest completion of timesheet in order to fraudulently obtain payment for wages for attending the appointment. - HELD that the reasoning of the Tribunal is not clear and the case is referred to another Tribunal for determination de novo
COURT OF APPEAL
14 FEBRUARY 2013
HIGGINS LJ, GIRVAN LJ, COGLLIN LJ

INQUESTS

APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL REVIEW BY JR29
Application for leave to apply for judicial review of the decision of the coroner concerning the scope of an Inquest. - whether the proposed scope of the Inquest is necessary to determine how each of the deceased came by their death. - applicant objects to the inclusion of certain matters in the course of the Inquest. - whether the Coroner’s ruling was Wednesbury unreasonable in that it went beyond her remit as it could not be said that the proposed evidence related to matters directly causative of the death. - whether the Inquest proposed by the Coroner was unfair as the applicant had no right to call any relevant and admissible evidence and had no right to disclosure of relevant documents nor any right to address factual submissions to the tribunal of fact. - whether the Coroner took into account irrelevant considerations. - HELD that all inquiries outlined by the Coroner are relevant to the central issue in this case of how all the deceased died and that there is no arguable case that the Coroner has gone beyond the proper statutory remit in her investigation. - leave to apply for judicial review of the Coroner’s decision is refused
HIGH COURT
24 NOVEMBER 2009
WEATHERUP J

LEGAL AID

ARTHUR HARVEY AND CIARAN HARVEY V THE TAXING MASTER
Appeal by appellants in relation to the assessment of their remuneration in a criminal case in which they were instructed on behalf of the defendants in a case involving the offences of false accounting, theft and forgery. - appellants appealed to Judge against initial appeal dismissed by the Deputy Master - whether the circumstances of the case were wholly exceptional under the 2005 Rules with regard to the number of separate counts involved, the amount involved in the charge of theft, the voluminous documents, the number of hours of work involved, the period of time, the complexity of the case as considered by the trial judge, the degree of skill and expertise required by counsel, the subject-matter of the case and the number of strands employed by the offender in his criminal activities. - HELD that the exceptional features of this case are of sufficient degree to bring the case into a wholly exceptional category and senior and junior counsel’s fees settled accordingly
HIGH COURT
15 MARCH 2012
STEPHENS J
LIBEL

AB LIMITED, JW, SM AND CM V FACEBOOK IRELAND

Plaintiffs claim damages for alleged libel and torts.
- proceedings have been brought by four plaintiffs against the fist defendant, was dismissed, and are now being taken against remaining defendants who have adopted the pseudonyms.
- defendants have not defended the proceedings.
- plaintiffs still bear onus of proof to the requisite standard.
- plaintiffs claim that the defendants have pursued a campaign of public vilification and harassment by way of publications on the Facebook website and have published libel and malicious falsehoods in respect of the plaintiffs and the tort of misuse of private or confidential information.
- impact of publication of offending statements on the plaintiffs.
- HELD that the test for libel is satisfied and damages of £35,000 in total awarded to the plaintiffs and a similar sum to the second, third and fourth named plaintiffs, the third and fourth named plaintiffs being officers of the first named plaintiffs.

HIGH COURT
6 FEBRUARY 2013
MCCLOSKEY J

PLANNING

IN THE MATTER OF AN APPLICATION BY CORBO PROPERTIES LIMITED FOR JUDICIAL REVIEW

Application for judicial review to challenge two decisions of the Department of Environment (Planning Service) to grant planning permission for retail development at Boucher Place in Belfast.
- relief (if any) that the Court ought to grant in relation to the decision and the impact of issues such as delay, prejudice to the third party and detriment to good administration.
- order of certiorari made to quash the planning decisions, a declaration that they were unlawful, ultra vires and of no force or effect and an order of mandamus to compel the respondent to adjudicate upon and re-determine the notice party’s applications for planning permission in a proper and lawful manner.
- HELD that the decisions are unlawful and an order made quashing the first decision and a declaration made that the 2010 decision was unlawful.

HIGH COURT
21 DECEMBER 2012
HORNER J

IN THE MATTER OF AN APPLICATION BY MUSGRAVE RETAIL PARTNERS NORTHERN IRELAND FOR LEAVE TO APPLY FOR JUDICIAL REVIEW

Application for leave to apply for judicial review in respect of the grant of planning permission for the construction of a supermarket and the demolition of existing offices.
- application for an order of certiorari to quash the permissions or, in the alternative, certain declarations.
- range of grounds for judicial review surrounding decision making process of the Department (the domestic grounds) and breach of the Environmental Impact Assessment requirements (the EU grounds).
- promptitude criterion.
- whether the court should extend the time in respect of domestic grounds.
- whether good excuse.
- whether prejudice to the developer.
- HELD that leave granted in respect of the applicant’s EU grounds but otherwise leave refused in other grounds

HIGH COURT
21 DECEMBER 2012
MAGUIRE J

POLICE

SALMON V CHIEF CONSTABLE OF THE POLICE SERVICE OF NORTHERN IRELAND

Appeal against decision of judge dismissing the plaintiff’s claim for damages for assault and battery and false imprisonment of the plaintiff by police officers by arresting the plaintiff at his home and removing him to a police station.
- whether, even if an arresting officer has honest and reasonable suspicion providing grounds for arrest, the arrest will be unlawful where the investigating officers fail to complete reasonable enquiries that would have established that the grounds for reasonable suspicion did not exist.
- a.5 ECHR right to liberty.
- legitimate basis on which arrests can be effected.
- objective test for reasonable suspicion.
- whether it has been established that there were reasonable grounds for arrest.
- HELD that the plaintiff would have been arrested in any event and there were reasonable grounds for suspicion.
- appeal dismissed.

HIGH COURT
21 JANUARY 2013
WEATHERUP J

REAL PROPERTY

SHAH DIN AND SONS LIMITED (COMPANY VOLUNTARY ARRANGEMENT) V DARGAN PROPERTIES MANAGEMENT LTD

Landlord and tenant.
- remedies for breach of covenant of lease.
- defendant holds a leasehold interest in premises known as Dargan Estate as successor in title of the lessee of a lease granted by Belfast City Council.
- assignment of lease of a portion of the estate to the plaintiffs together with the benefit of the covenants and was obliged to pay rent and service charges which the plaintiff persistently did not do for 10 years.
- defendant re-entered and recovered possession of the premises.
- whether the entry by the defendant onto the premises in the absence of notice under the Conveyancing Act 1881 was unlawful.
- whether the defendant was obliged to comply with the provisions of s.14 Conveyancing Act 1881 which requires a landlord to serve a notice on the lessee specifying the particular breach complained of.
- relief against forfeiture sought by the plaintiff.
- HELD that the discretion of the Judge should not be exercised to grant relief of forfeiture.

HIGH COURT
5 DECEMBER 2012
BURGESS J

SWIFT ADVANCES PLC V MICHAEL GERARD MCKAY AND BRIAN F WALKER [NO.2]; SWIFT ADVANCES PLC V GERARD DALRIMPLE AND BRIAN F WALKER [NO.2]

Appeal from the Orders of the Chancery Master granting to the plaintiff company possession of their respective dwelling houses.
- both defendants discharged bankrupts.
- whether the agreement relied on by the plaintiff is a modifying agreement of the Fixed-Sum loan Agreement between the parties which was regulated by the Consumer Credit Act 1974.
- whether, if the Court finds that the agreement is not a modifying agreement of an earlier agreement, the plaintiff is estopped from relying on it.
- whether, if the Court finds the agreement to be only a modifying agreement, the agreement and the charge are as a result unenforceable against the defendant by the plaintiff.
- HELD that the agreements are freestanding and separate agreements and the Court therefore finds for the plaintiff.
- the defendant’s appeal from the order of the Master for possession of the dwelling house fails and the plaintiff is entitled to enforce said order.

HIGH COURT
28 JANUARY 2013
DEENY J
Library Update

Employment Law and Social Networking Policies

Discusses the importance of having a social media policy in the workplace rather than simply trusting employees not to post negative comments about their employer or fellow employees.

Caselaw

Smith v Trafford Housing Trust
Claimant employed as manager with defendant Trust – claimant made comments on Facebook site criticising gay marriage in church – claimant subject to disciplinary proceedings – claimant was demoted and salary reduced by 40% - whether breach of contract – whether claimant’s comments amounted to misconduct justifying demotion and salary cut - whether Trust in breach of contract – whether claimant entitled to damages. – HELD that the claimant was wrongfully dismissed and was entitled to damages [2012] EWHC 3221 (Ch)

Crisp v Apple Retail (UK) Limited
Claimant suspended and subsequently dismissed for gross misconduct following a series of Facebook posts. Latter referred to his job in expletive terms, complained about his malfunctioning iPhone and problems with an Apple app

Preece v JD Wetherspoons plc
Claimant was dismissed for gross misconduct following a series of posts on her Facebook page about respondent’s customers who had subjected her to verbal abuse and physical threats

Whitham v Club 24 Ltd t/a Ventura
Claimant was employed by the respondent as a team leader for Skoda, part of the Volkswagen group and a client of the respondent. The claimant worked in an office alongside employees from both the respondent and from Volkswagen/Skoda. Claimant entered into a conversation on her Facebook page in which several disparaging comments about her colleagues were made. The claimant was suspended and, following disciplinary proceedings, dismissed for misconduct.

Stephens v Halfords plc (unreported ET/1700796/10)
Claimant employed as a deputy store manager. Claimant had been on sick leave but had attended a work consultation on proposed workplace reorganisation. Claimant posted confidential information on his Facebook account following the consultation, but realised shortly afterwards that this was against company policy and removed the information. Claimant was dismissed for breach of trust but his dismissal was unfair as the claimant had recognised his mistake and removed the information.

NI Caselaw

Daniel Joseph Teggart v Teletelch UK Limited
Whether claimant was unfairly dismissed. - claimant was employed as a customer services representative from July 2007 until January 2011. - claimant had a profile on Facebook and posted messages and comments from time to time. - claimant’s Facebook friends included respondent employees. - claimant in his own time on his own computer posted a derogatory message on Facebook about a fellow employee which started a debate among other people on Facebook. - claimant was asked to remove the page by the employee. - claimant refused and continued to write remarks about her on Facebook. - respondent held an investigatory meeting with the claimant who admitted being the author of the remarks. - claimant was guilty of gross misconduct. - the comments could be seen to bring the respondent company into disrepute. - Tribunal decided that dismissing the claimant was justified by the respondent and the claim of unfair dismissal is dismissed 704/11IT 15 March 2012

Steven Braden v Ulster Independent Clinic Ltd
Whether claimant was unfairly dismissed. - claimant employed as a IT Assistant. - claimant had full administrative access to the respondent’s computer systems and also full internet access. - respondent had a computer internet and e-mail misuse policy. - employees were prohibited from using the Internet or e-mail except for respondent business. - respondent had become aware that claimant had a high level of Internet usage to sites such as Facebook and Twitter contrary to the respondent’s policy. - claimant was suspended on full pay while respondent carried out a detailed investigation on the level of Internet usage on the claimant’s laptop. - respondent decided that there had been a serious breach of trust and confidence on behalf of the claimant which had resulted in gross misconduct. - respondent was left with no option but to dismiss the claimant. - Tribunal decided that the respondent had established the reason for the dismissal was the claimant’s conduct which was a fair reason and that the respondent’s disciplinary policy and procedure fell into the category of gross misconduct. - claim of unfair dismissal is dismissed 2747/11IT 12 April 2012

Cases are available free of charge on the Libero database via the Law Society website
Articles

Employment: the social network (examines the legal issues arising out of social media and the need to have suitable policies in place)
Salter: 2011 161 NLJ 1538

Handling the social media explosion (discusses the challenges that social media presents to employers and reviews recent caselaw)
Jones: 2012 April ELN 75

Facebook fuels litigation (comments on the Smith v Trafford Housing Trust case)
Brookes: 2013 150 (1433) Accountancy 57

Internet misuse at work (discusses staff misuse of the Internet and the implications for both employer and employee)
Baker: 2011 December ELN 46

Call-centre worker fairly dismissed for offensive Facebook comments about colleague (discusses the Teggert v Teletech case)
2012 Jun Employ. L. 6

Investigating employee misconduct: the rights and wrongs (discusses the issues an employer has to consider when conducting an investigation on an employee. Highlights the use of technology when monitoring staff)
Brown: 2011 July ELN 3

Social media @ work - a checklist for global businesses (discusses the development of social media sites and explains the legal issues employers should be aware of)
Determann: 2012 12(4) W.D.R. 36-44

Articles are available from the Law Society Library

Internet Sites

ACAS
http://www.acas.org.uk/
Offers social networking advice and guidance. Discusses the benefits and dangers of employees using social media. Also includes articles on
• Social networking and recruitment
• Social networking and discipline and grievances
• Social networking and bullying
• Social networking and defamation, data protection and privacy
• Social networking and how to develop a policy

ACAS research paper
Workplaces and social networking: the implications for employment relations
Examines the implications of social networking, mobile information and communications technologies (ICT) for employment relations

Precedents
There are a number of precedents available electronically from the library dealing with social media policies

Textbooks
The library has a wide selection of textbooks on employment law available for reference.

New Books in the Library

• Cook, M J. Cook on costs 2013. LexisNexis. 2012.
• Whitehouse, C. A modern approach to wills, administration and estate planning (with precedents). 2nd ed. Jordans. 2013
• Martyn, J. Williams, Mortimer and Sunnocks on executors, administrators and probate. 20th ed. Sweet & Maxwell. 2013
Missing Wills

Re: John Burns (deceased)
Late of: 45 Finglush Road, Caledon
Date of death: 15 November 2012
Would any person having knowledge of the whereabouts of a Will for the above named deceased please contact:
C T McAlpine & Son
Solicitors
Northland Row
Dungannon
County Tyrone BT71 6AT
Tel: 028 8772 2718
Fax: 028 8772 3226

Re: Matilda Roberts Bostock (deceased)
Late of: 70 Newtownards Road, Comber, County Down BT23 5LB
Date of death: 11 October 2012
Would any person having knowledge of the whereabouts of a Will for the above named deceased please contact:
Philip J Smith & Sons
Solicitors
1a Lisburn Avenue
Belfast BT9 7FX
Tel: 028 9066 1116
Fax: 028 9066 1035
Email: philipsmith@btconnect.com

Re: Frieda Judith Johnston (deceased)
Formerly of: 86a Beechill Road, Belfast
Late of: 35a Upper Malvern Road, Belfast BT8 6XN
Date of death: 6 December 2012
Would any person having knowledge of the whereabouts of a Will for the above named deceased please contact:
Neil Bleakley
Carson McDowell LLP
Murray House
Murray Street
Belfast BT1 6DN
Tel: 028 9024 4951
Fax: 028 9024 5768
Email: neil.bleakley@carson-mcdowell.com

Re: Patricia Sheils (deceased)
Late of: 16 Sunnyside Street, Belfast
BT7 3EX
Date of death: 24 January 2009
Would any person having knowledge of the whereabouts of a Will for the above named deceased please contact:
Terence T McAllister
Basil Glass & Company
Solicitors
21 University Street
Belfast BT7 1FY
Tel: 028 9032 2061
Fax: 028 9033 1302
Email: basilglass@btconnect.com

Re: Gladys McMahon (deceased)
Formerly of: 8 Ballynafoy Road, Annaclone, Banbridge BT32 5BA
And lately residing at: Seapatrick Care Home, 80 Lurgan Road, Seapatrick, Banbridge BT32 4LY
Date of death: 8 October 2012
Would any person having knowledge of the whereabouts of a Will made by the above named deceased please contact:
Adrian Travers BCL
Solicitor
40 Rathfriland Street
Banbridge
County Down BT32 3LA
Tel: 028 4062 9990
Email: adrian@adriantravers.com

Re: Norbert Quinn (deceased)
Late of: 9 Highfields Avenue, Dublin
Road, Newry, County Down BT35 8UG
Date of death: 1 October 2012
Would any person having knowledge of the whereabouts of a Will made by the above named deceased please contact:
M L White
Solicitors
43-45 Monaghan Street
Newry
County Down BT35 GAY
Tel: 028 3026 8144
Fax: 028 3026 0966
Email: lawyers@michaelwhitesolicitors.com

Re: Ellen Forbes (deceased)
Late of: 93 Firmount Crescent, Holywood, County Down
Date of death: 11 September 2007

Would any person having knowledge of the whereabouts of a Will made by the above named deceased please contact:
Tully & Co
Solicitors
Twisel River Studios
18 High Street
Holywood
County Down BT18 9AD
Tel: 028 9042 2556
Fax: 028 9042 3636
Email: info@taklotully.com

Re: Thomas Adair Doyle (deceased)
Late of: 51 Vauxhall Park, Belfast
Date of death: 12 January 2013
Would any Solicitor having information regarding the whereabouts of the Will of the above named deceased please contact:
Mrs Beatrice Doyle
51 Vauxhall Park
Belfast
Tel: 028 9066 1397

Re: Joseph Lammey (deceased)
Late of: 20 Dunronan Road, (Ballynenagh, Loup), Moneymore, Magherafelt, County Londonderry BT45 7SY
Date of death: 10 January 2013
Would any person having knowledge of the whereabouts of a Will for the above named deceased please contact:
Mallar Shearer & Black
Solicitors
40 Moresworth Street
Cookstown BT80 8BH
Tel: 028 8676 2346
Fax: 028 8676 6761
Email: m.robinson@msb-law.co.uk

Re: James Fitzpatrick (deceased)
Late of: Wood Lodge Nursing Home, Mill Hill, Castlewellan, County Down
Formerly of: 3 Cross Lane, Kilcoo, Newry, County Down
Date of death: 21 November 2012
Would any person having knowledge of the whereabouts of a Will for the above named deceased please contact:
Emmet J Kelly & Co
Solicitors
41 Bridge Street
Banbridge
County Down BT32 3JL
Tel/fax: 028 4062 9397
Email: kellyemmet@hotmail.com
Re: Charles Walter Patterson (deceased)
Late of: 4 Helen’s Wood, Dunmurry, Belfast BT17 0RY
Formerly of: 46 Falcarragh Drive, Old Suffolk Road, Belfast
Date of death: 30 January 2013
Would any person having knowledge of the whereabouts of a Will for the above named deceased please contact:
Neil Mulholland
Gallery & Campbell Solicitors
48a Church Place
Lurgan
Craigavon
County Armagh BT66 6HD
Tel: 028 3832 4112
Fax: 028 3832 1758
DX: 2100 NR LURGAN

Re: John Shanks (deceased)
Late of: 36 Parkmount Gardens, Belfast BT15 4GP
Date of death: 27 November 2012
Would any person having knowledge of the whereabouts of the Will made by the above named deceased please contact:
McConnell Kelly & Co Solicitors
217-219 Upper Newtownards Road
Belfast BT4 3JD
Tel: 028 9065 5511
Fax: 028 9065 9570
Email: catherinef@mcconnellkelly.com

Re: Jean Beckett (deceased)
Late of: 11 Gray’s Court, Belfast BT15 4HW
Date of death: 15 December 2012
Would any person having knowledge of the whereabouts of the Will made by the above named deceased please contact:
David Sturgess
Solicitor
Stewart Solicitors
3-4 Donegal Quay
Belfast BT1 3EA
Tel: 028 9031 2777
Fax: 028 9043 4404
Email: d.sturgess@stewartsolicitors.com

Re: Dr Kieran S Walshe-Brennan (deceased)
Late of: 9 Moygannon Court

Warrenpoint, County Down
Date of death: 15 February 2013
Would any person having knowledge of the whereabouts of the Will for the above named deceased please contact:
Patrick J Cole
Solicitor
12 Duke Street
Warrenpoint
County Down BT34 3JY
Tel: 028 4177 2021
Fax: 028 4175 2030
Email: colelaw@btconnect.com

Re: Patrick Joseph Shields (deceased)
Late of: 4 Demesne Grove, Holywood, County Down BT18 9NQ
Date of death: 8 February 2013
Would any person having knowledge of the whereabouts of a Will for the above named deceased please contact:
Tully & Co
Solicitors
Twisel River Studios
18 High Street
Holywood
Co Down BT18 9AD
Tel: 028 9042 2556
Fax: 028 9042 3636
Email: info@taktotully.com

Re: Patrick Brendan Hannon (deceased)
Late of: 11 Moss Road, Gawley’s Gate, Craigavon, County Armagh BT67 0BU
Date of death: 19 February 2013
Would any person having knowledge of the whereabouts of a Will for the above named deceased please contact:
Mr Neil Mulholland
Gallery & Campbell Solicitors
48a Church Place
Lurgan
Craigavon
County Armagh BT66 6HD
Tel: 028 3832 4112
Fax: 028 3832 1758
DX: DX 2100 NR LURGAN

Re: Kevin Casey (deceased)
Late of: 1 Cashel Close, Camlough, Newry, County Down BT35 7DU
Date of death: 8 March 2013
Would anyone having any knowledge of the whereabouts of a Will made by the above named deceased please contact the undersigned as soon as possible:
A D McClay & Company Solicitors
1 Limavady Road
Waterside
Londonderry BT47 6JU
Tel: 028 7134 5666
Fax: 028 7131 1198
Email: charles.kane@admcclay.com

Re: William Moreland (deceased)
Late of: 18 Drumaknocken Road South, Dromore, County Down BT25 1EB
Date of death: 19 March 2013
Would any person having knowledge of the whereabouts of a Will made by the above named deceased please contact:
Gillen & Co
Solicitors
3 Old Kentis Street
Banbridge
County Down BT32 3BD
Tel: 028 4062 6639
Fax: 028 4066 9564
Email: maria@michaelgillen.co.uk

Re: Garvin Hayes Douglas (deceased)
Late of: Templemoyle Private Nursing Home, 41A Whitehill Road, Eglinton, County Londonderry BT47 3JT
Formerly of: 43 Gorticross Road, Drumahoe, County Londonderry BT47 3LP and 11 Beechleigh Park, Eglinton, County Londonderry BT47 3QA
Date of death: 30 March 2013
Would any person having knowledge of the whereabouts of a will made by the above named deceased please contact:
A D McClay & Company
Solicitors
1 Limavady Road
Waterside
Londonderry BT47 6JU
Tel: 028 7134 5666
Fax: 028 7131 1198
Email: charles.kane@admcclay.com

Re: Maud Russell (deceased)
Late of: Victoria Nursing Home, Windsor Park, Belfast BT7 7AB
Would any solicitor having knowledge of the whereabouts of the original will or any
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.

John P Hagan
Solicitors
Montrose House
17/21 Church Street
Portadown
County Armagh BT62 3LN
Tel: 028 3833 3333
Fax: 028 3835 0011

Folios: 38218 and 38219
County: Down
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Lands of: Kinalien Road, Dromara, Dromore

Take notice that any person having custody of or information as to the whereabouts of the Land Certificates relating to the above mentioned folios should forthwith produce said Certificates or communicate such information to the undermentioned Solicitors. And take further notice that unless the said Land Certificates are so produced or adequate information as to their whereabouts is so communicated within three weeks of publication of this notice, new Land Certificates may be applied for.

M Diane M Coulter
Solicitors
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Kilkeel
County Down BT34 4AT
Tel: 028 4176 9772
Fax: 028 4176 9773

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