THIS MONTH

The Bribery Act 2010
Integrating title insurance into your practice will:

**Save time and reduce costs**
Because your investigative work can be greatly reduced.

**Provide peace of mind**
Settle transactions knowing your client is protected and that covered claims will not typically affect your professional indemnity insurance.

Stewart Title’s dedicated Underwriter for Northern Ireland is available to discuss your title insurance requirements.
04 Cover Story: The Bribery Act 2010

06 E registration in Land Registry

08 Mutual v mirror wills

15 Protecting the Core Values of the Profession

20 Improving research skills

24 LSNI CPD events

30 Win a weekend at the Bushmills Inn Hotel - competition

40 Law Centre NI – The Equal Justice Initiative

44 Trainee solicitors stateside bound

49 High Court and Court of Appeal Decisions

56 Library Update – Default Retirement Age
The Bribery Act 2010 – what does it mean for businesses in Northern Ireland?

High value frauds tend to be uncovered in times of economic downturn. The multitude of agencies fighting fraud in the UK has led to a lack of coherent strategy for tackling the problems which cost the country an estimated £30 billion each year. Economic downturn also leads to the discovery of corrupt business practice both domestic and overseas. Increasingly, companies are carrying out anti corruption due diligence to protect themselves from inheriting corruption liabilities following the US Foreign Corrupt Practices Act (“FCPA”). What therefore does the Bribery Act 2010 which came in to force on 1 July 2011 mean for UK businesses?

The Act creates offences of giving or receiving an improper advantage, of giving an advantage (whether improper or not) to a foreign official and renders directors and senior management criminally liable if they consent or connive in bribery. For the first time, it creates the corporate offence of failing to prevent bribery by third party service providers including employees, contractors, agents, subsidiaries or joint venture partners. It applies overseas and to foreign companies.

UK-incorporated companies, UK subsidiaries or branches of non-UK companies and non-UK companies operated (in whole or in part) in the UK will be caught by the Act. UK Nationals and non-UK Nationals resident in the UK will be liable wherever in the world they might be. The Serious Fraud Office (“SFO”) has indicated that mere listing of a foreign company’s shares on a UK Stock Exchange would be sufficient for the activities of that company to fall within the ambit of the legislation. Finally, overseas companies would be caught if any part of the bribery offence takes place in the UK.

What constitutes a bribe? It is essentially any payment (or favouring of another) in any way knowing that this will involve that person misusing their position or misusing your own position in connection with payments (or other favours) for yourself or others. Examples are “commissions”, “consulting fees”, “marketing fees” paid to employees or contractors of the company’s customer, employing a public official’s family member, facilitation, “grease” or “dash” payments (eg paying £50 to get through Customs) and lavish corporate hospitality and travel. Unlike the Act, the FCPA permits “facilitation payments”. The FCPA defines facilitation payments as payments made to expedite a “routine government function.” It is this difference that has led critics of the Act to maintain it will make UK business uncompetitive in winning overseas business.

The possible consequences of bribery are far reaching and include criminal investigation and prosecution, fines and jail sentences, disgorgement of profits, debarment from EU public contracts, adverse impact on share price, damage to reputation, extradition for individuals, remediation costs and costly civil penalties. The Act carries a maximum jail sentence of 10 years for individuals and unlimited fines for companies.

As of 1 July 2011, a company will now have to show that it has adequate procedures in place to prevent bribery and can defend its position on that basis. The defence will not apply if it can be shown that a senior company officer consented to the committal of the offence. Then, both the individual and the company will be guilty of the offence.

The Ministry of Justice has published guidance to help commercial organisations understand what sort of procedures can be put in place to prevent bribery. This guidance is general in application and is formulated around six guiding principles; proportionate principles, top level commitment, risk assessment, due diligence, communication (including training) and monitoring and review.

Risk assessment is key and should be the first step taken by a commercial organisation as it develops its own procedures. Such an assessment should cover awareness, culture, remuneration structure, financial controls, country and transaction risk and approach to business development. Third Party Due Diligence may be challenging but is also vital to establishing and keeping in place adequate procedures.

In determining if a company has such procedures in place, the Courts are likely to consider the training provided to relevant employees, the rigour of due diligence undertaken before entering into arrangements with third parties and the quality of checks applied when processing payments.

Companies will be expected to have in place anti-corruption policies and procedures, to carry out anti-corruption vetting on their service providers and have in place anti-corruption contractual controls. In commercial transactions including sales and purchases, joint venture agreements, commercial agency contracts, distribution contracts and consultancy contracts the company should...
conduct anti-corruption due diligence and seek anti-corruption warranties and indemnities.

Since July 2009, the SFO has promoted its “Leniency Policy” to tackle overseas corruption. The SFO in Northern Ireland has issued guidelines for reporting corruption and, in return for full co-operation with any investigation, the SFO will generally agree a civil settlement with the company which can wipe the slate clean and limit damage to business reputation. Crucially, the absence of a criminal conviction means the company avoids EU Public Procurement debarment. However, the company has to be alert to the fact that an external monitor may be required as part of the settlement. This can be extremely costly, as companies in the US have learnt, where such monitors are quite common. In addition, the company may be required to announce its contrition publicly.

The Act has led many interest groups to examine what activity might amount to “corruption”. The future of corporate hospitality, in particular, is under the spotlight. Business leaders have in the past been nervous that the potential criminalisation of lavish hospitality and promotional expenditure together with the failure to allow for facilitation payments would make UK business uncompetitive and expose business executives to a disproportionate risk of prosecution.

However, the Ministry of Justice seeks to reassure businesses that legitimate hospitality remains acceptable. In the private sector, any hospitality which will amount to bribery must be provided with the intention of inducing the recipient to do something improper. With foreign public officials, greater care is needed, as any advantage given with the intention of securing business will constitute bribery. The MoJ has also recommended that commercial organisations set reasonable financial limits beyond which further approval will be required. They have assured that the usual business lunches, dinners and sector events will safely remain under this limit.

Companies and advisers must now familiarise themselves with this new legislation and its provisions. Northern Irish companies have to realise that they are not exempt and should act sooner rather than later to implement best practice.

Deirdre Cormican is a Solicitor in the Litigation and Dispute Resolution Team at McGrigors Belfast LLP and may be contacted on deirdre.cormican@mcgrigors.com

Suzanne Morrison is a Solicitor in the Litigation and Dispute Resolution Team at McGrigors Belfast LLP and may be contact on suzanne.morrison@mcgrigors.com
E-registration in the Land Registry
Forthcoming legislative changes

For several years the Land Registry of Northern Ireland has been moving towards the introduction of an electronic registration system and the first phase of that system is already in place. Under phase 1 authorised customers of the Land Registry may prepare their applications on-line but they still have to lodge the physical documents with each application. It is the Registry’s intention to move to the next phase (ie full E-registration) once a number of legal and technical obstacles are overcome and accordingly a major consultation exercise was conducted over the last two years in order to identify the best way forward.

That process has now resulted in two pieces of subordinate legislation: the Electronic Registration (NI) Order 2011 and the Land Registration (Amendment) Rules (NI) 2011 which are due to come into operation on 3 October 2011.

The principal amendments are:

1. The Registry may accept transactions for registration without the production of the relevant Land Certificate (or Certificate of Charge), except where the transaction is an application to register a Notice of Deposit of Land Certificate.

2. The Registry is permitted to issue electronic Land Certificates and Certificates of Charge.

3. The system of full electronic registration may be rolled out on a phased basis in accordance with directions issued by the Registrar, after consultation with the Law Society.

4. In the case of fully electronic applications, there will be an exception to the requirement for conveyancing transactions to be carried out by way of a paper deed.

5. Where extrinsic evidence, for example a Grant of Probate, is required for fully electronic applications, authorised customers may certify the existence of that evidence instead of producing it.

The legislation also makes some additional amendments to first registration procedures, which were proposed during the consultation process (see below). The combined effect of these pieces of amending legislation is to prepare the way for a full E-registration system that will give customers the option of lodging applications electronically.

But please note that phase 2 of the E-registration system will not come into force until the Registrar issues a formal Direction prescribing the procedures for electronic registration. Since a number of technical obstacles remain to be overcome, it may be some time before phase 2 comes into operation.

Therefore, so far as practitioners are concerned, the main practical changes1 that will come into operation on 3 October are:

1. Land Certificates and Certificates of Charge

It will no longer be necessary to lodge a Land Certificate or Certificate of Charge with any application for registration (except a Notice of Deposit of Land Certificate under Rule 137). The intention behind this provision is that, in time, Land Certificates and Certificates of Charge will become obsolete.

Accordingly, the Registry is now discouraging the creation of new Land Certificates and is recommending that, instead of requesting a Land Certificate, customers should request an up to date copy of a new Folio from Landweb Direct on receipt of the notice of completion of registration.

Similarly, since Land Certificates do not have to be lodged, an updated Land Certificate will not normally be sent out on completion of registration; and the Registry therefore recommends that customers should obtain an up to date copy of the Folio from Landweb Direct on receipt of the notice of completion of registration.

2. Registrar’s Orders regarding Certificates

Applications for Orders for Production, Orders to dispense with production and Orders for the issue of Duplicate Certificates are likely to become obsolete, since it is no longer necessary to lodge such certificates when applying for registration.

3. Applications for first registration

The situation remains unchanged for any applications where the title is to be Absolute, Good Fee Farm Grant or Good Leasehold2. But, where an application is for a Possessory title, the application should now be made in:

- The new Form 3A if the applicants have obtained a Court Order declaring their title to the land, or
- Form 3 (as amended) in all other cases

In addition, where an application is being made for a qualified title, the application should be in:

- Form 1 if the title is being certified by a solicitor, or
- Form 2 (as amended) in all other cases.

---

1 Details of the changes can be viewed on the LPS website (www.dfpni.gov.uk/lps) and an explanatory article is due to appear in the forthcoming edition of Folio.

2 Applications in Form 1 may be made under E-registration phase 1, but it is not currently possible to make applications in Forms 2, 3 or 3A electronically.
THE ARCHIVE OF OSNI®
MAPPING AND AERIAL PHOTOGRAPHY

ACCESS 175 YEARS OF MAPPING AND A COMPLETE RECORD OF HIGH QUALITY AERIAL PHOTOGRAPHY AT LAND & PROPERTY SERVICES.

The Archive Service provides public access to a vast collection of Northern Ireland historical mapping and aerial photography. This material is authenticated, date verified and suitable for numerous applications associated with the legal profession.

Admissible as evidence in court, OSNI mapping and hi-resolution aerial photography provide information on land access, rights of way, site usage and activity, habitat, environmental impact etc. Changes can be tracked through the different editions of mapping to reveal developments and movement in property boundaries.

Also preserved in the archive are the original field surveys, with each map feature annotated and Name Books defining the spelling and description of names depicted on the maps.

Some of the available material covering Northern Ireland is:

- 6 inch mapping from 1833 onwards
- 25 inch mapping from 1900 onwards
- 1:10,000 scale mapping from 1970 onwards
- Aerial photography from 1959 onwards

Contact us for advice or an appointment at:

Land & Property Services
OSNI Mapping and Photography Archive
Colby House
Stranmillis Court
Belfast
BT9 5BJ
Telephone 028 9025 5743

Above is an illustration of one site represented by three different sources of OSNI mapping and photography.

© Crown Copyright 2010. Anyone wishing to reproduce Land & Property Services material, or use it as a basis for further publication, must obtain a licence from our copyright branch. Ordnance Survey of Northern Ireland and OSNI are registered trade marks of The Department of Finance and Personnel.
In the past 80 odd years there have been very few occasions which have resulted in a finding of “Mutual Wills” in the absence of express evidence of the terms of the “Mutual Agreement”.

Mutual wills involve a binding contract between two testators that the survivor of them (which ever it may be) will not alter his or her will after the first testator has died. Usually the first testator leaves his or her estate to the survivor, having mutually agreed how the combined estate should ultimately devolve after both of them have died.

On the other hand Mirror wills of married testators may contain similar provisions taking affect on the death of the surviving spouse but these are not usually mutual wills as there is no contractual agreement precluding the survivor from altering his or her will.

Two recent cases (Charles & Others-v-Fraser [2010] EWHC 2154 (Ch) and Fry-v-Smith [2010] EWCA Civ 1410) are such cases which determined that mutual wills did in fact exist despite there being no specific reference to the concept within the wills. Needless to say the Judge in each occasion criticised the Solicitor for not making it perfectly clear either in the will or at very least in his attendance notes whether or not the wills were to be considered “mutual”.

The case of Charles & Others-v-Fraser involved two elderly sisters who agreed to leave their estates to one another and that both wills would contain identical gifts taking affect on the death of the survivor. The agreed list of beneficiaries included each sister’s own friends and in laws. Crucially, the Court found that the sisters had effectively agreed with each other that neither will was to be altered after the death of one sister. The mutual wills were executed in 1991 so the Court had the difficult task of sifting evidence of the parties’ intentions nearly 20 years afterwards and after both had died. The first sister, Mabel, died in 1995. The second sister, Ethel, signed new wills in 2003 and 2006. There were strong doubts about Ethel’s testamentary capacity in 2006 but the evidence showed clearly that Ethel had capacity in 2003 and that she had not forgotten her agreement with Mabel but believed it was permissible to amend her will to change the beneficiaries of “her” share, as long as she made no alteration to Mabel’s chosen beneficiaries.

However, the Court held that Ethel was bound by the agreement not to make any changes to her will after Mabel’s death. The Judge summarised the law to include the following:

(i) Mutual wills are wills made by two or more persons usually in substantially the same terms and conferring reciprocal benefits, following an agreement between them to make such wills and not revoke them without the consent of the other.

(ii) For the doctrine to apply there has to be what amounts to a contract between the two testators that both wills will be irrevocable and remain unaltered. A common intention, expectation or desire is not enough.
The mere execution of "mirror" or reciprocal wills does not imply any agreement either as to revocation or non revocation.

It is perfectly possible for there to be an agreement preventing revocability as to part of the residuary estate only, in which case the doctrine only applies to that part.

The agreement may be incorporated in the will or proved by extraneous evidence. Such evidence may be oral or in writing but must be clear and satisfactory on the balance of probabilities.

The Judge stated that the issue for the Court is therefore whether the evidence justifies a finding that the two sisters committed themselves to testamentary dispositions which so far as the survivor was concerned, were to be irrevocable ".... In approaching that question I should bear in mind that people do not usually want to give up their freedom of testamentary disposition and preclude themselves from changing their will in the light of later events. In Re Goodchild, Legatt LJ emphasised this when he said: "The test must always be, suppose that during the lifetime of the surviving testator the intended beneficiary did something which the survivor regarded as unpardonable, would he or she be free not to leave the combined estate to him? The answer must be that the survivor is so entitled unless the testators agreed otherwise when they executed their wills. Hence the need for a clear agreement"..."

Having considered all the evidence and referring to reasons why evidence used to establish mutual wills must be treated with appropriate scepticism, the Judge found as a matter of fact that there was an agreement that the respective wills should not be altered after the death of the first testator. As stated above the solicitor who made the wills did not escape criticism: "I think it was the plain duty of any solicitor, then as now, faced with two sisters wishing to make reciprocal wills, to ascertain their intentions as to revocation, to advise as to the affect of making mutual wills and to ensure that any agreement the testatrixes wished to make was clearly and accurately recorded ....".

In Fry-v-Smith the English Court of Appeal in October 2010 confirmed the trial judge’s finding that an oral agreement for mutual wills was made and acted upon. It was held that following a second marriage in November 1985, a husband and wife made an oral agreement for mutual wills. The spouses initially made wills leaving their estates to each other and on the death of the survivor the estate was to be divided 50/50 between the one child of each spouse from previous marriages. The Judge held invalid the term of the survivor's subsequent will, leaving her entire estate to her child.

Important lessons can be drawn from these cases. As stated above in both cases the solicitors were criticised for their contemporaneous attendance notes not mentioning the word "mutual" when it should have been obvious that that was the intention of the testators. It is always worth asking clients whether they intend their wills to operate as "mutual" explaining what this entails.

Mutual wills may guarantee that both testators' chosen beneficiaries will ultimately inherit, but the price of this inflexibility (between the first and second deaths) means no changes can be made to cater for new circumstances such as tax, death, or divorce or indeed bankruptcy of beneficiaries etc. If, nevertheless, the client’s intention is to create mutual wills this should be set out in clear terms in both wills. If the wills are not intended to operate as mutual, then a prudent practitioner will record this fact on the contemporaneous attendance note and store those notes with the wills themselves as evidence of the basis on which the wills were prepared and signed.

The Solicitor (Client Communication) Practice Regulations 2008 now make it mandatory for "Terms of Engagement" to be forwarded to clients for any new work. Nowhere in those Regulations does it make any reference to the preparation of wills being exempt. Accordingly, the onus is now on solicitors to prepare such terms for every will they make or alternatively face the wrath of the Probate Judge when any interpretation issue arises.

Terms of Engagement for a Will could include reference to the following:

- Whether the wills are mutual or mirror
- Whether or not Inheritance Tax advice has been given
- The implications of long term care or the fact that this has not been discussed
- The necessity to review the wills regularly and the onus being on the testator to initiate such a review
- Whether the title to any property has been checked
- The fact that the Solicitor has not checked whether bank accounts or investments are in the sole name or joint names
- Whether a Enduring Power of Attorney has been discussed
- That the draft sent out is not valid until approved and signed

Terms of Engagement set out the work which a solicitor is doing but can offer protection by making it clear what work a solicitor isn’t doing!

We are grateful to Michael Gilfedder of Fisher & Fisher Ltd Solicitors, Newry, for this article.
The Institute of Professional Legal Studies is offering two Lectures on mortgage repossession law. The first entitled “Repossession Proceedings” will cover aspects of the law and practice involved in acting for a borrower or a lender in cases of mortgage default. The second entitled “Repossession Sales” will consider aspects of the law and practice involved in the sale of repossessed property.

These Lectures are ideally suited to those who advise lenders or borrowers in repossession proceedings and those who act for vendors or purchasers in the sale of repossessed property.

Speaker: Charles O’Neill LL.B

When: Monday 17 October & Monday 14 November 2011

Time: 6.00pm – 7.00pm

Venue: Institute of Professional Legal Studies, 10 Lennoxvale, Belfast, BT9 5BY

Cost: £40 per Lecture

Charles O’Neill is a solicitor who is currently a legal adviser with the Northern Ireland Co-ownership Housing Association Ltd. He is the author of the textbook The Law of Mortgages in Northern Ireland - published by SLS Legal Publications (NI) in May 2008.

1 CPD hour is awarded for attendance at each of these Lectures.

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

Closing date for applications: Monday 10 October 2011
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

Write to us at:
21 Dublin Road, Belfast, BT2 7HB
or email:
legacy@nichs.org.uk

Alternatively ask your solicitor for our legacy leaflet.
Alan Cook Architects is a local practice established 20 years ago and is based in Crawfordsburn village in the heart of North Down. We are one of Northern Ireland’s leading Architectural Expert Witnesses; specialising in design, technical and professional issues within the construction industry.

See what we can do for you at: www.alancookarchitects.co.uk
OR CONTACT US AT 02891853737 amc@alancook.co.uk

Weighing it up?

Lots of people, even lawyers, use drugs. It helps them to relax, to have fun, to work harder. It’s no big deal, is it? Apart from being illegal...

If you find yourself worrying about your drug use, our helpline is free and completely confidential. It’s open 9 a.m.—7.30 p.m. on weekdays, and 10.00 a.m.—4.00 p.m. at weekends and public holidays.

0800 279 6869
www.lawcare.org.uk

Law Care
Health Support and Advice for Lawyers
First Choice for Medico-Legal MRI

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

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

Call us now on 028 9066 0050
Big Brother: Who is watching whom?

Many employers use surveillance to protect commercial interests and to record the activities of their staff. They are not alone as there is an increasing trend for employees to make covert recordings of conversations in meetings to gather evidence in potential claims that they may bring.

However, surveillance can’t be undertaken without regard to the limits imposed by various enactments such as the Data Protection Act 1998 (“DPA”) and Article 8 of the European Convention of Human Rights (“Article 8”) covering the right to private and family life and the Human Rights Act 1998.

The ICO Code of Practice
The Information Commissioner’s Office has produced an extensive Code on workplace monitoring and it provides good practice recommendations in relation to video and audio monitoring. The key points in the Code are:

- an employer should consider whether the benefits of monitoring justify the adverse impact on staff
- employees should be made aware of the extent and purpose of video monitoring
- where possible, such monitoring should be targeted at areas of particular risk
- monitoring should be confined to areas where expectations of privacy are low

The Code also deals with covert video monitoring where the employee is unaware that this activity is taking place. Such monitoring might be justified where there are grounds for suspecting that criminal activity or where the employer is satisfied that notifying staff about the monitoring would prejudice the prevention or detection of such activity.

The Code anticipates that covert monitoring will be rare and establishes a number safeguards where an employer considers that it might be justified. Accordingly, covert monitoring:

- should only be authorised by senior management
- should be strictly targeted for the purposes of a particular investigation

Is email monitoring lawful?
Monitoring of work related emails that have already been sent or received and which are stored on an employer’s system is permissible. However, as with video monitoring there are Data Protection implications. The Code recommends that there should be a corporate internet and email policy in place that notifies employees that their communications may be monitored and sets out what types of communication would be unacceptable, eg pornographic material.

Staff are entitled to have a reasonable expectation of privacy in relation to emails clearly marked “Private and Confidential” and there should not be routine monitoring of such emails. However, where there is suspicion of unlawful or criminal activity, it may be reasonable to monitor even private emails for a limited period.

Admissibility of surveillance evidence
Evidence obtained by means of deception to gain access to a private area will be unlawfully obtained and issues as to its admissibility may therefore arise at a later stage. Indeed, the intrusive nature of covert filming means that Article 8 may be engaged and covert surveillance of a person’s home “raises at least a strong presumption that the right to respect for private life is being invaded” (McGowan v Scottish Water [2005] IRLR 167). The basis for the surveillance must be proportionate. In McGowan, the surveillance was not considered to be disproportionate because the employee was suspected of falsifying timesheets and the employer needed to know whether those timesheets were being inaccurately recorded.

Covert monitoring by employees
It is not just employers who have access to monitoring technology. In the case of The Chairman and Governors of Amwell View School v Dougherty [2007] IRLR 198, an employee of the school secretly recorded a disciplinary hearing and also the Governors’ private deliberations about what their decision should be. The employee wanted to use the recording in her unfair dismissal claim. The court permitted the recording to be in evidence but restricted it to part of the hearing between the employee and the Governors.

Clearly, while the benefits of surveillance evidence are obvious this is an area where employers must tread with care. Clear and unambiguous policies relating to the monitoring of staff must be in place and employers should ensure that staff are made aware of their obligations, including the prohibition on recording meetings.

We are grateful to Michael Black, Employment Partner at Cleaver Fulton Rankin, Solicitors Belfast, for this article.
Protecting the Core Values of the Profession in the Northern Ireland Legal Economy – A Look Ahead

James Cooper, Past President and Chairman of the Law Society Bain Review Group Response Team

A priority objective for the Northern Ireland Executive and the Northern Ireland Assembly is to find and develop ways to stimulate the local economy and to seize the opportunity to transform Northern Ireland into a thriving economy founded on strong and enduring business. The ongoing discussion about reducing corporation tax is one example of what can be done.

As part of the Society’s vision to contribute to meeting that priority for the new Northern Ireland Assembly and Executive, we have been meeting with Ministers and others in order to promote the legal economy and to raise awareness of its significance. We have been emphasising that Northern Ireland’s 540 solicitors’ practices are an important and dynamic part of the local economy, providing significant employment, underpinning many parts of the service industry and paying considerable local and national taxes.

We have been emphasising that Northern Ireland’s 540 solicitors’ practices are an important and dynamic part of the local economy, providing significant employment, underpinning many parts of the service industry and paying considerable local and national taxes.

The wide network of solicitors across Northern Ireland also supports and positively contributes to the work of voluntary organisations. The Executive is therefore increasingly aware of the important contribution solicitors’ practices make at a business level, let alone providing the legal services which the community has needed in the past, needs at the present and shall continue to need in the future. We expect that the outcome of the Access to Justice Review will recognise this.

For our part, we recognise that change is coming in many ways and we shall continue to adapt.

For our part, we recognise that change is coming in many ways and we shall continue to adapt. Some changes have been under consideration for some time. In England and Wales, a major review of the role of the Law Society resulted in the establishment of the Solicitors’ Regulatory Authority. In Scotland, a different and more proportionate approach was taken against the background of the issues faced in Scotland. The Scottish Executive and Parliament had the courage to identify and deal with the issues at large in their community and not just copy a political mantra from south of the border by adopting the English model.

In Northern Ireland Sir George Bain and his colleagues, comprising representatives from a wide range of interests (including notably the consumer sector), made a series of recommendations, in his report published in 2006, in relation to the future structure of the legal profession in Northern Ireland.

One of the issues discussed in the Bain report is the concept that solicitors’ practices might be partly owned by external interests. This would in effect allow non-legal businesses to part own and have a financial interest in the profits of a solicitors’ firm.

This idea is driven by commercial interests and disregards the ethical foundations which distinguish our profession from purely business interests. These are hugely significant issues that impact upon the core values and basis upon which solicitors provide services to their clients. They are the overriding duties of independence, the duty of confidentiality, the avoidance of conflicts of interest - all of which underpin a solicitor’s duty to always act in the best interest of the client. Such considerations are easily diluted in a context where a major shareholder in the firm is motivated solely by financial interests in the absence of the professional ethical imperative. Indeed significant concerns in relation to issues of compliance and control have already been raised by a number of influential voices in advance of the commencement on 6 October 2011 of the relevant sections of the Legal Services Act 2007 in relation to Alternative Business Structures.

That is why the Law Society response to the Bain consultation was so strongly against joint ownership of solicitors’ firms by outside non-lawyer interests. That remains the policy of the Law Society Council. We dilute
our own marketability, professionalism and opportunities to further develop the Northern Ireland legal economy if we do not strongly maintain and hold dear the core values of the profession. It is these values themselves that distinguish us from those providing services out of a purely financial interest.

These are hugely significant issues that impact upon the core values and basis upon which solicitors provide services to their clients.

I set out below some of the contents of the Law Society response to the Bain consultation on this subject and which remain the policy of the Law Society Council. Sir George Bain and his colleagues agreed with the Society position and the arguments were integral to final findings by Sir George Bain and his colleagues and are set out in his final report.

Extracts from the Law Society response to consultation by the Bain Group on a review of legal issues in Northern Ireland.

• “The debate as to external non-lawyer ownership and control of legal practice has been “live” in various manifestations for some considerable time. Throughout that period the LSNI has consistently sought to articulate a principled position directed to ensuring that commercial interests do not prejudice the core values of the legal profession which serve to protect the interests of the public. We stress that this is approached first as a matter of principle because it is conceivable that the effect of external ownership would serve the financial interests of some individual solicitors or partnerships.

• We highlight again that what is at issue and at stake here are the core values which define the identity of lawyers i.e. guaranteed independence, avoidance of conflict of interest, and client confidentiality (including the principles of legal professional privilege). We believe that a failure to understand fully and protect these values will result in irreversible damage to the interests of individual consumers of solicitors’ services and the public interest in this jurisdiction.

• The public protection issues to which the concept of external ownership and control gives rise are extensive, and in our view formidable in this jurisdiction. From a regulatory point of view these give rise to issues concerning independence of ownership, independence of control, lines of accountability and structure of practice.

• Everything about the real world, and in particular the regulatory experience in the circumstance of Northern Ireland suggests that extreme caution needs to be exercised in diluting the present degrees of regulatory control. We suggest that the onus lies on those who, for commercial reasons, advocate removal of these protections to demonstrate conclusively both that this will be guaranteed to work in the interests of consumers and that the objectives can be achieved without compromising the core values. In this connection we think it is healthy to be sceptical as to whether this objective can in fact be achieved effectively.

• The LSNI has real and justifiable concerns about outside control and ownership of legal practices by what may be termed “undesirable” elements.

• In determining what type of business structures should be permitted in Northern Ireland it is vital that careful attention should be given to regulatory experience here, and also to the working of the current structures. As with other proposals under review the LSNI consider that change should not be implemented for purely ideological or hypothetical reasons.

• As a corollary, the proposals set out in the Consultation Document for review are derived from an analysis and experience of the legal services market in England and Wales. In the debate since an initial review of the market by the Office of Fair Trading in that jurisdiction, there has been a regular acknowledgement that the proposed removal of restrictions in the legal services market may be a significant detrimental effect on small solicitors’ firms and those in practice in rural areas.”

The full response is available and is contained on the Law Society of Northern Ireland website – www.lawsoc-ni.org

We dilute our own marketability, professionalism and opportunities to further develop the Northern Ireland legal economy if we do not strongly maintain and hold dear the core values of the profession.
Copies of the Admission Ceremony photographs can be ordered from Aurora Photographic Agency, 16 Castle Drive, Randalstown, County Antrim BT41 2EF. Telephone: 028 9447 940. Email: info@aurorapa.com
OPSI SPRACTICE MANAGEMENT

integrated practice management systems for all types of legal firms

- Manage clients & cases
- Full Accounts functionality
- Suite of management reports
- Time recording
- Diary and task management
- Workflows – case steps
- PDF bundles for emailing
- Run marketing campaigns
- Prepare for Lexcel accreditation

Ireland’s most affordable practice management system

Our ready-to-run solution requires minimal set-up and training, providing all types and sizes of Irish practices with a range of key functions – whether simply Case Management or Case Management & Accounts.

Installation and full training is provided by local trainers with in-depth knowledge of legal case management systems and the local market.

Our comprehensive support service, with self-help options, is available to help with any problem – Monday to Friday 08.30 to 18.00 hours – and all upgrades to the latest version of the software are included FREE.

For more information, please call 0844 815 5575, email legal@iris.co.uk or download the IRIS Software Solutions Guide 2011 at www.iris.co.uk/legal
The Society’s Library and Business Centre has just completed a very successful Compact Research Course for members of the profession. Comprising four, one hour-long sessions over four weeks, the course took an in-depth and hands-on approach to the law making processes and resources in this jurisdiction.

In addition to looking at the hard copy official material, participants used the computer facilities in the Business Centre to see for themselves the range of material available online commercially and free of charge. With the exception of the second session, the course was delivered by Heather Semple, the Society’s Librarian, and the course outline was as follows:

**Session 1**
How law is made and published – how the law making process has developed in line with Northern Ireland’s constitutional and historical background.

**Session 2**
An in-depth look at legislation.gov.uk by Christine Scott, Head of NI Statutory Publications.

**Session 3**
Googling for law – range of free authoritative sites of use to lawyers in this jurisdiction, tips on safe internet searching so as to avoid the pitfalls of using unauthoritative sites.

**Session 4**
Commercial online resources – a demonstration of the range of online resources available within the Society’s library, both produced locally and nationally.

Due to demand, the course (for which up to 4 hours CPD can be claimed) will be run again. It can be tailored to participant need, both in terms of course timing and content.

If you are interested in participating in such a course, please contact Heather Semple of the Law Society Library at heather.semple@lawsoc-ni.org

Comments from participants from the course:

“Genuinely very useful indeed – has given me greater confidence in conducting legal Research.”

“Super seminar – believe all solicitors should attend in light of increased use of Technology.”

“Very useful and well worth time spent.”

“Interactive content was brilliant.”

Participants in the first Compact Research Course held in the Library and Business Centre are from left: Tony Caher, Kathy Regan, Raymond Crooks, Glyniss Campbell, Christine Scott (Head of NI Statutory Publications Office), Brendan Maguire, Katie Kane, Les Graham and Heather Semple.
FORENSIC ACCOUNTING

BDO's local team of dedicated and highly experienced forensic accountants offer a personable approach and educated insight to assist in solving the most challenging disputes and litigation, at whatever scale. Our services include the following:

**Expert Witness & Dispute Advisory**

**Commercial Disputes**
Business & Share Valuations, Sale & Purchase Agreement Reviews, Consequential Loss Claims.

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

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

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

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

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

[www.bdoni.com](http://www.bdoni.com)
Local Association ‘Roadshow’ meetings begin

The President, Brian Speers and Chief Executive, Alan Hunter, met with members from Local Associations across Northern Ireland at the beginning of May 2011 as part of their annual ‘Local Associations’ Roadshows’.

The Roadshows offer an opportunity for the President and Chief Executive to meet with members, to provide an overview of the ongoing work of the Society, as well as updating members on key issues.

The meetings also allow local members the opportunity to raise with the President and Chief Executive issues of importance to their practice.

As members will be aware, some of the planned Roadshow events had to be postponed until later in the year. Both the President and Chief Executive are keen for the Society to continue developing closer relationships with the Local Associations and they look forward to discussions with members at the remaining meetings.

Legal professionals prove to be top of the class

Solicitors and barristers recently successfully completed the SLS and Law Society of Northern Ireland’s ‘Mediation Training Course 2011’.

The course, now in its tenth year, provides training in advanced negotiation, dispute resolution and mediation. This year’s course was well attended with up to 40 solicitors and barristers undertaking the course.

Those attending were provided with practical and interactive teaching delivered by experienced mediators and skills trainers including Society President, Brian Speers, David Gaston and Alva Brangam QC.

Some of the attendees and trainers from the 2011 course.
President gives presentation to Fordham University

In June 2011 Society President, Brian Speers, gave a presentation on the subject of mediation to an international audience at Fordham University in New York.

The President, who was representing the Society, provided delegates with an overview of the ongoing work of the Law Society and the growing importance of mediation internationally in dispute resolution.

Senior Solicitor recognised for outstanding contribution

Comgall McNally was presented with an OBE by Her Majesty the Queen at Buckingham Palace earlier this year.

At the age of 86 he has had a distinguished career as a practising solicitor, a former President of the Law Society, a Social Security Commissioner and recipient of the President of the Law Society’s Recognition Award for outstanding contribution to legal education.

Dispute Resolution and Mediation Training Course

SLS, in conjunction with the Law Society, is pleased to welcome applications for this very successful course which provides training in advanced negotiation, dispute resolution and mediation. The course is delivered by experienced mediators and skills trainers led by Brian Speers (CMG Solicitors), David Gaston and Alva Brangam QC and will combine lectures with experiential role play and analysis.

Response to this course has been immensely enthusiastic and those who have taken part to date have found the course to be of great interest, value and enjoyment.

Numbers on this course are limited and there is high demand for places so please email Miriam Dudley at SLS m.dudley@qub.ac.uk for information about the next course.
## LSNI CPD events

<table>
<thead>
<tr>
<th>Title</th>
<th>Date</th>
<th>Venue</th>
<th>Cost</th>
<th>CPD hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Older Client: Property Law Capacity Issues</td>
<td>2 Sept 11</td>
<td>Law Society House</td>
<td>£30</td>
<td>1</td>
</tr>
<tr>
<td><strong>NOTE: ALL INCOME FROM ABOVE COURSE TO BE DONATED TO THE ALZHEIMER’S SOCIETY</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Solicitors’ (Client Communication) Practice Regulations: An Update</td>
<td>15 Sept 11</td>
<td>Canal Court Hotel, Newry</td>
<td>£50</td>
<td>1.5 Client Care</td>
</tr>
<tr>
<td></td>
<td>15 Sept 11</td>
<td>Law Society House, Belfast</td>
<td>£50</td>
<td>1.5 Client Care</td>
</tr>
<tr>
<td></td>
<td>16 Sept 11</td>
<td>Killyhevlin Hotel, Enniskillen</td>
<td>£50</td>
<td>1.5 Client Care</td>
</tr>
<tr>
<td></td>
<td>16 Sept 11</td>
<td>Da Vinci’s Hotel, Derry</td>
<td>£50</td>
<td>1.5 Client Care</td>
</tr>
<tr>
<td>The Apprentice and You</td>
<td>11 Oct 11</td>
<td>Law Society House</td>
<td>£45</td>
<td>3 Client Care</td>
</tr>
<tr>
<td>Charities’ Act (NI) 2008</td>
<td>9 Nov 11</td>
<td>Law Society House</td>
<td>£30</td>
<td>1.5</td>
</tr>
<tr>
<td>The Role of the NI Ombudsman</td>
<td>17 Nov 11</td>
<td>Law Society House</td>
<td>£20</td>
<td>1.5</td>
</tr>
<tr>
<td>Consumer Credit Act</td>
<td>23 Nov 11</td>
<td>Law Society House</td>
<td>£45</td>
<td>1.5</td>
</tr>
<tr>
<td>The Leadership of Change</td>
<td>29 Nov 11</td>
<td>Law Society House</td>
<td>£20</td>
<td>1.5 Client Care</td>
</tr>
<tr>
<td>Law Society Library &amp; Information Services: Compact Research Course</td>
<td>Nov/Dec</td>
<td>Law Society House</td>
<td>£90</td>
<td>3 Client Care</td>
</tr>
<tr>
<td>Contentious Costs</td>
<td>9 Dec 11</td>
<td>Law Society House</td>
<td>£60</td>
<td>2 Client Care</td>
</tr>
<tr>
<td>Client Care and Practice Management: Lexcel and Business Continuity</td>
<td>14 Dec 11</td>
<td>Law Society House</td>
<td>£50</td>
<td>3 Client Care</td>
</tr>
</tbody>
</table>

### Other forthcoming events:
- Negotiation Workshop
- The Bank /Solicitor Relationship with the Bank of Ireland
- Anti Money Laundering
- Conveyancing event
- How to progress a Road Traffic Accident claim
- Processing of Civil Legal Aid Applications
- Statutory Charge: An Update
- Immigration seminar
- Career Planning for newly/recently qualified solicitors
- Client Care and Practice Management event
- Mediation lunchtime seminars

Full details of these additional courses will be available shortly. Information will be available via the Enformer, in the hard copy brochure sent to all solicitors and on the website – www.lawsoc-ni.org

For more information or to book any of the above courses please e-mail susan.duffy@lawsoc-ni.org or jennifer.ferguson@lawsoc-ni.org or telephone 028 9023 1614.
Tierney Associates, founded by Martina Tierney OT, is the only company in Britain and Ireland to offer a one stop shop to personal injury lawyers, insurers and claimants. We provide the services of Nurse Consultants, Dentists, Occupational Therapists, Speech & Language Therapists, Physiotherapists, Vocational Rehabilitation Consultants, and Assistive Technology experts.

We assess the cost of injuries caused by accidents and clinical negligence. Our experts identify the needs of injured people and establish the cost of rehabilitation and care needed to give them as independent a life as possible. A holistic approach is taken in our assessments, considering the needs of the carers and families as well as the client.

Through Tierney Associates, you will have access to a full range of independent medico-legal experts who have extensive experience in;

- Paediatrics e.g. Cerebral Palsy, Erb’s Palsy
- Acquired Brain injury
- Spinal Injury
- Burns
- Neurological Impairment
- Visual Impairment
- Palliative care
- Orthopaedic injuries

Email: info@tierneycostofcare.com
Tel: +44 (0) 28 7776 4318
Web: www.tierneycostofcare.com
Tierney Associates, 131 Carnamuff Rd, Limavady, N. Ireland, BT49 9JG
Lord Chief Justice speaks at Council meeting

In June 2011 the Lord Chief Justice of Northern Ireland, Sir Declan Morgan, was invited by Society President, Brian Speers, to address the Council of the Law Society at its monthly Council meeting.

The Lord Chief Justice took the opportunity to reflect on a number of issues as well as take questions from Council members.

President launches Mediation Symposium

The President of the Society, Brian Speers, was one of a number of key note speakers, including Mr Justice Gillen, Turlough O’Donnell SC, Adrian Colton QC and Gareth Jones, at the launch of the Law Society Mediation Symposium in May 2011. Delegates attending the Symposium were provided with an overview of the developing issues in respect of mediation. The President also took the opportunity to publicly launch the Society’s newly branded Alternative Dispute Resolution logo and documents which are available to download from the http://www.lawsoc-ni.org/members/members-services/adr-service-2011/

From left: Turlough O’Donnell SC, Adrian Colton QC, Mr Justice Gillen, Gareth Jones and President Brian Speers.

German-Irish Lawyers visit Law Society House

Society President, Brian Speers, welcomed delegates from the German-Irish Lawyers and Business Association e.V. (GILBA) to Law Society House in June 2011.

The German delegates held part of their Annual Conference this year at Law Society House. The delegates were provided with presentations from local solicitors in Northern Ireland including the President of the Society and Kathryn Walls from Mills Selig.

The conference culminated in a charity dinner at Queen’s University in Belfast.

In the picture is Markus Patrick Neuhaus from GILBA speaking at Law Society House.
Tollymore June 2011

After a very wet Friday more than 20 solicitors, their friends and family, met with trepidation at Tollymore Outdoor Pursuit Centre on Saturday 18 June, unsure of the weather and even more unsure of what lay before us.

The staff at the Centre quickly put us at our ease with a warm and re-assuring welcome. After an introductory talk, they arranged for us to be kitted out in our safety harness and helmets.

The first event on the programme was indoor rock climbing. The wall was a daunting 25 feet tall – but some of our party, who have the potential to be mountain goats, were soon reaching the top handholds of the wall. Most exciting was the descent, which involved putting your faith in the guide rope, while jumping away from the wall to be lowered to the ground and keeping your dignity intact.

The next event was outdoor rock climbing and then abseiling back down. This proved just as challenging as the indoor wall – the first try at abseiling for most. Anne Devlin looked the part with an impressive attempt on the rock face.

After that the toughest challenge lay ahead of us – the high ropes. This is an assault course built 30 feet high in the treetops. The stars of our group were Brian Cole (Diamond Heron) and his wife Aisling (Cleaver Fulton & Rankin). They showed us how to do it! The finale was to drop on the jump lead to the forest floor from a 30 foot high platform using only the guide rope for safety – a pure adrenaline rush.

Finally, we all gathered together for an orienteering race. During fierce competition, Imelda McMillan’s husband, Jim, took the lead and beat all the groups to first place. Well done Jim – but I think you might have a competition for next year’s top spot!

The afternoon ended with a delicious steak barbeque enjoyed with gusto by all present after the afternoon of outdoor pursuits. All in all a great afternoon out – extremely enjoyable for children and for the adults too. It was a personal challenge for most of us, encouraged by great team spirit. We will definitely be back next year.

We are grateful to Council Member, Anne Copeland, for this article.
Human Rights Committee debate

On Thursday 26 May 2011 the Law Society hosted a Human Rights Debate involving trainee solicitors from the Institute of Professional Legal Studies and Graduate School of Professional Legal Studies. The debate focused on the topical issue of retention of the DNA of those acquitted of criminal offences.

The Law Society’s Human Rights and Law Reform Committee who arranged the event were pleased to have Mr Justice Deeny, His Honour Judge Burgess and Imelda McMillan, Law Society Junior Vice President as judges for the competition. Six teams of apprentice solicitors participated in the debate, three for the proposition and three for the opposition.

The aim of the debate was to encourage trainee solicitors to develop a greater understanding of human rights based arguments and to encourage the use of right based arguments in the preparation of cases. The debate was a great success and all judges were impressed by the quality of arguments put forward by the teams. It is hoped that the event will become an annual event.

Kevin R Winters & Co generously provided the prize money for the debate.

Feeling the Pinch?

Many lawyers are struggling, and suffering the effects of the credit crunch just as much as their clients.

If you need support and help through this difficult and stressful time, LawCare is here to listen.

Our helpline is free and completely confidential. It’s open 9 a.m.—7.30 p.m. on weekdays, and 10.00 a.m.—4.00 p.m. at weekends and public holidays.

0800 279 6869
www.lawcare.org.uk

Health Support and Advice for Lawyers
Laganside 10k

The annual Laganside 10k road race is taking place on 4 September 2011. This year it will be sponsored by Napier & Sons Solicitors together with Up & Running.

The Laganside 10k road race is now considered to be Northern Ireland’s fastest, most inclusive and popular 10k road race. It is an event for all the community, catering for elite runners, recreational joggers and families.

Route - the two lap course, which will be chip timed, covers a large and small lap of a circuit which will take in Ormeau Road Embankment, Ravenhill Road, Queen’s Bridge, Oxford Street, the Lagan towpath and Ormeau Bridge.

The Corporate Team Challenge - this year the Laganside 10k is also introducing its Corporate Team Challenge. This is the chance for all legal firms to compete to be the fastest workplace over the Laganside 10k course. This challenge will give your workplace a worthwhile team building opportunity while allowing you to compete for a prize. There is no limit to the number of people on a team but only the first three runners from a team will count. Teams who enter 20+ people will be able to have £2 per team member donated to a charity of their choice.

Start and finish – the start and finish will be at the entrance to the Ozone Complex on the Ormeau Embankment. The 10k will start at 2pm.

Fun run – in addition to the 10k road race, there will also be a fun run. No times or places will be recorded but all finishers will receive a goody bag on completion. The fun run is within Ormeau Park and will be sign posted. Start time 1.30pm.

Prizes – all finishers in the 10k will receive an £8 voucher for the sports stall at the finish area plus a goody bag as they finish. Spot prize vouchers will be given out randomly at the finish line.

More information on the race can be found on the race website www.laganside10k.com or alternatively by contacting Lisa Sturgeon at lisa@napiers.com

NOTICE OF NIYSA AGM 2011-2012

Please note that the Annual General Meeting of the Northern Ireland Young Solicitors’ Association (NIYSA) will take place on:
Friday 9 September 2011 at 5.30pm at Law Society House, 96 Victoria Street, Belfast BT1 3GN
Win a stylish, luxury weekend at the Bushmills Inn Hotel, Bushmills, Co Antrim

The Bushmills Inn Hotel & Restaurant is offering one lucky reader the chance to win two nights’ bed and breakfast in a Mill House Deluxe bedroom.

The award-winning four star Bushmills Inn Hotel is one of Ireland’s most well known luxurious hotels and member of the prestigious ‘Ireland’s Blue Book’.

Steeped in history, the original Coaching Inn and Mill House date back to the 1600s. It has since been faithfully restored and recently extended and refurbished to an exceptionally high standard and now features 41 oversized sumptuous guest rooms and suites, many with views extending over the River Bush and the ‘Area of Outstanding Natural Beauty’ which surrounds the Giant’s Causeway Coast.

Situated in an enviable location, right in the heart of Bushmills, a stone’s throw from the Old Bushmills Distillery, Royal Portrush Golf Club, Dunluce Castle and the Giant’s Causeway, the hotel offers all that you would expect from an internationally renowned four star hotel and more besides.

From the moment you step inside the Bushmills Inn you know that you are in a very special place, with peat fires roaring, the Gas Bar which is still lit by gas light today and nooks and crannies just waiting to be explored. Pull up a chair and enjoy a glass of Bushmills Malt from the hotel’s private cask and contemplate a gentle walk round the rugged coastline.

The award winning AA Rosette Restaurant blending ‘new Irish’ cuisine with the finest North Antrim fresh produce, overlooks the garden courtyard and contrasts intimate ‘snugs’ with white washed walls, warm mellow brick with well aged timbers and the Garden Room conservatory.

The spacious guest rooms are beautifully appointed and creatively designed with walk-in dressing rooms, luxury bathrooms and small sitting areas. For a romantic interlude, chose a junior suite with four-poster bed, Ralph Lauren fabrics and a slipper bath or a large duplex suite, split over two floors with living room and shower room downstairs and bedroom and bathroom upstairs.

How to enter our competition to win two nights bed and breakfast in a Mill House Deluxe bedroom

Simply answer the following question:

The Bushmills Inn is situated beside which river?

Send your answer, name address and phone number marked ‘Bushmills Competition’ to: mail@bushmillsinn.com

Entries to be received no later than 16 September 2011. One entry per person. One separate email/postcard for each competition. Judges’ decision is final. Two night break for two must be pre-booked. No cash alternative. Prizes re non-transferable.

www.bushmillsinn.com
Two great events from Legal-Island – coming soon!

Northern Ireland Mediation Symposium

Bringing mediation into the mainstream

Opening Address from David Ford, Justice Minister for NI
A review of current mediation activity in NI
Panel Discussion and Debate
What type of mediation standards body do we need for NI? How do we drive mediation past the “Tipping Point” in Northern Ireland?
How mediators can manage their own differences constructively
Mediation in the workplace – Why it makes good business sense
Afternoon Parallel Sessions
Attend your choice of session from our four options.

Find out about Early Bird Offers on all Legal-Island events at www.legal-island.com

in association with

Carecall
CEDR
Charis Consultancy Services
FMNI
MII
Mediation Northern Ireland
TIDES

How to Book
www.legal-island.com
028 9446 3888
events@legal-island.com

 Winning Tenders in Northern Ireland

Focusing mainly on tenders with a value of £30,000 and over

Morning
How do you find out about tenders in Northern Ireland and keep “In the know”?
What types of tenders are around and which typically receive the most/fewest bids?
Where are the opportunities likely to be in the forthcoming months/years?
Where in NI can you get professional help with a tender? Is there such a thing?
How do you assess whether going for a tender is worthwhile?
How do you work in a partnership, framework or consortium and what’s the difference?
Why do bids commonly fail?
How are tenders evaluated?

Afternoon
How can you make your tender stand out and for the right reasons?
How can you best get your message across in a tender?
How can you best present complex information in a simple fashion?
How can you find out why your bid was unsuccessful?
How can you find information about the winning bid?
Do accreditations help successful tenders? For example Investors in People, ISO9001, “The Green Badges” etc?
What are your rights in a public sector tender situation?
What sort of de-brief are you entitled to?

How to Book
www.legal-island.com
028 9446 3888
events@legal-island.com

Island House, Station Road, Antrim, BT41 1BH
Telephone: 028 9446 3888
Fax: 028 9446 3516
Email: events@legal-island.com
www.legal-island.com

La Mon Hotel, Greater Belfast
Wednesday 21st September 2011

CIPFA Offices, East Bridge Street, Belfast
Tuesday 27th September 2011
Perhaps Shylock gives him a run for his money-lending but there is almost no other character to compete with Fagin for the title of the most grotesque and villainous Jew in all of English literature. Of all the 989 characters who sprang from the pen of Charles Dickens, the evil old gang-master is one of his most vivid caricatures but does he deserve the death penalty for all his various activities by the final instalment of Oliver Twist or the Parish Boy's Progress, to give the book its full title?

**Background**

When *Oliver Twist* was serialised in 1837 it was a sensational success and the crafty old Jew, who runs a school for child thieves, was central to its compelling portrait of life among the criminals and prostitutes of London's East End. It was controversial from the outset. Polite novelists did not write about what Dickens later described as “the very dregs of life”. It was all a world away from the jollity of *The Pickwick Papers* but it is what many have seen as the anti-semitism running through his depiction of the menacing figure of Fagin that has made it most controversial.

The book, like most of his work, has never been out of print – hardly surprising since it combines a gripping narrative with graphic characterisation, social conscience and heart-tugging sentimentality in measured proportions. The character of Fagin has transcended the storyline to become, like only a handful of other literary figures, a character in his own right.

*Oliver Twist* had been a campaigning book, targeted against the Poor Law Amendment Act of 1834, which threw huge numbers of the poor into conditions of semi-imprisonment and the most startlingly alien of its features is the looming prospect of capital punishment which informs the entire book. Oliver's very surname, given to him by Bumble, suggests not only perversity but also its likely “fate” - one slang sense of twisted is hanged. The book repeatedly refers to Fagin – no less than 257 times in the first 38 chapters – as “the Jew” whereas the race and religion of the real criminal, Bill Sikes, goes unremarked.

Fagin was the only Jew in the story, Dickens said, and “all the rest of the wicked dramatis personae are Christians”. Fagin has been described as a Jew, Dickens explained: “because it unfortunately was true of the time to which that story refers, that that class of criminal almost invariably was a Jew”. If Jews were offended, he said, then “they are a far less sensible and a far less good-tempered people than I have always supposed.”

But there is more to the story of Fagin than the intentions of his creator. For Fagin has assumed a mythic status, Dickens knew no Jews when he conceived the character and Fagin is likely based on newspaper reports of a Jewish fence named Ikey Solomons, who died around 1850 in the East End. Fagin stands on the shoulders of a long line of literary Jewish villains, the mystery-play portrayal of Barrabas, the cut-throats of Chaucer’s *The Prioress’s Tale*, Marlowe’s monstrous Jew of Malta and Shakespeare’s Shylock. The Jew was a vilified abstraction in medieval legend and folklore. Fagin grew fully formed from this tradition and Dickens was fully aware of the prejudice seeping around him.

Dickens introduces his villain – standing before a fire, fork in hand, with a villainous and repulsive face and matted red hair. Red hair was worn by the devil in medieval mystery plays. Dickens refers to Fagin as the ‘merry old gentleman’, an ancient euphemism for the devil, as is the phrase Bill Sikes uses when he says Fagin looks as if he has come straight from the old ‘un without any father at all betwixt you.

**The evidence**

The workhouse, the child at large on dusty roads, the gang of pickpockets, Bill Sikes swinging from a rope on a chimney pot, Dodger, Nancy…… all rely upon the brilliant beam of the writer’s imagination to illuminate them.

Yet it is Fagin who seems most archetypal, the figure who has outgrown the plot itself. However the Jew is no mere archetype. It is only the ferocity and prejudice of Dickens’s presentation that makes him seem so.

He runs a gang of boy thieves who pick the pockets of rich gentlemen for watches and handkerchiefs; he is the agent for a common burglar Sikes and a prostitute, Nancy; early people traffickers. He is part uncle to the boys, part pimp, part fence, and all Jew. He has no particular religious devotion – indeed the very first glimpse we catch of Fagin is of him frying sausages, which we presume are made of pork.

Dickens cannot be bothered to give him a Jewish name. His name is Irish. The important thing for Dickens is that the name functions well for the character whom
he wants to portray in a dark light: a scraggy beard, long greasy unkempt hair, uncertain avuncularity, a mixture of kindness, cunning, lack of sexuality and Jewishness – all seem to have coalesced in Fagin who seems Jewish just because he is.

It’s possible that consciously or otherwise, Dickens wanted to tap into people’s idea of Jews as money lenders when they see Fagin’s avaricious love of what has been stolen for him by the boys. Usury was an area of activity in which Victorian Jews were prominent but there is nothing illegal about usury itself. Dickens repeatedly uses the phrase “the Jew” rather than Fagin to identify him, particularly at his worst moments and indeed there is a second Jew in Oliver Twist, Barney, a conman in a lowly tavern, “younger than Fagin but nearly as vile and repulsive in appearance” who speaks through his adenoids and in answer to Sikes’s question “Is anybody here?” replies “Dat a shoul”.

Dickens’s usual way with villains was to present them as long-distance plotters who deceive the upright characters. He elicits our moral condemnation by first mobilising our wrath but Dickens ultimately is determined to have Fagin face a Jury trial without any prospect of acquittal.

We may gloat and exalt over the ultimate fall of Uriah Heep in David Copperfield, or Casby in Little Dorrit as we have seen the suffering their hypocrisy over the years has inflicted on people we relate to, such as Dora’s trusting father or the poor tenants of Bleeding Heart Yard. Fagin is not like that.

The reason Fagin works so admirably for Dickens is that he is unstable and unpredictable. Yet there is something warm about him. He, not the “good” characters, is the only provider of real laughter in Oliver’s life but he is a coward. His opening words constitute the first civility ever shown to Oliver Twist “We are very glad to see you”; his first actions are to provide Oliver with sausages, hot gin and coffee and then a game of steal-the-handkerchief. But stealthily Dickens begins to build up the evidence against Fagin. He gives a sly kick to the sleeping Sikes. He has planned to own Oliver, to make him his own creature and to brainwash the young boy’s mind: “Once fill his mind with the idea that he has been a thief and, he’s ours for his life!”

He imbues Oliver’s young mind with stories of crime – “Tyburn tales” to read as though he will be transformed by their dishonest glamour. He conspires with Oliver’s half-brother – Monks. He moves Nancy from thieving into prostitution and there are even suggestions that the young thieves may be more than mere pickpockets.

In real life such gangs would probably also have included “rent boys”, drawing custom from the West End. Subsequently Fagin inflames Bill Sikes to do what is necessary to keep Nancy quiet after she has been heard interceding on Oliver’s behalf. He is like the apparition who tells Macbeth to be bloody, bold and resolute but a cowardly one. Fagin is a moral bankrupt, though there is no real effort by Dickens to understand why, or how, he is bad. But do his various crimes merit the imposition of the death penalty?

There are many social and political questions raised by the lives of Fagin, Sikes and Nancy that Dickens does not care to examine. Nancy is given the chance to reform by Rose Maylie and by Mr Brownlow but chooses to return to the low life she knows best. Why is Fagin not given any opportunity to redeem himself?

Indeed, in Oliver Twist goodness seems to exist only outside the structures of society. The law and its officers, the state
and its workhouses, are as unfair and unkind as the outlaws, Sikes and Fagin. The magistrate Fang, Mr Bumble the beadle and the workhouse madam Mrs Corney are state civil servants but are as bent as freelance criminals. The only way to justice is to bribe the Bow Street Runners, bribe Mrs Maylie’s servants and kidnap Monks to make him confess his plots. Goodness must use criminal means to prosper and in the London of Oliver Twist it is not possible to be happy, good, and law-abiding. In Fagin’s anarchic world, law and morality are separate.

Dickens seems to have had trouble when he came to terminate Fagin’s story: “The Jew is such an out and outer he wrote that I don’t know what to make of him”. He therefore did what he always did when he was in a difficult corner: he conjures up an extra effort, and the results of it are found in the remarkable nightmarish Chapter “The Jew’s Last Night Alive”.

For the first time in the book Dickens uses Fagin’s point of view as we witness the scene in Court, the details of which Fagin, with hours to live, picks out with hallucinatory sharpness of detail. He sees a young court artist making a sketch of him; the point of his pencil with hallucinatory sharpness of detail. Fagin wonders if the likeness is any good. When he looks at the judge he speculates on how much his clothes cost and how he puts them on.

Yet Fagin, for all his money and cunning makes no attempt to buy his freedom. He instructs no quality criminal defence solicitor or barrister. Why? Dickens simply permits him no legal defence. He assigns to him a counsel who Fagin looks towards “in mute appeal”. The guilty verdict at the end of the Old Bailey trial is a popular one in court and Fagin can only plead in mitigation that he is “an old man”. His counsel – yes, Fagin is legally represented – amazingly is silent when “the Judge assumed the black cap”, as part of his ceremonial paraphernalia his visit to the “condemned cells” following as a matter of course.

What charge Fagin is guilty of is not actually clear and the critic John Sutherland has already pointed out that none of his crimes carried the death sentence. Dickens does not allow this minor statutory detail to stand in the way of Fagin’s hanging. Indeed, Dickens proceeds to take the law into his own hands, so that when Fagin is taken down his fellow convicts treat him not as a sad old fence but as evil incarnate, rattling their bars as he passes, screeching and hissing and hitting out at him.

Alone in the condemned cell, (a scene unforgettably depicted by Cruikshank) Fagin thinks of those he has seen hanged. Their ghostly presence oppresses him; he beats the doors and walls with his hands. Wounded in the head by a missile thrown by the mob, he passes an interminable day on his wooden bed, while his creator turns the rhetorical screw.

People come to the gates of Newgate Prison, not to demand a reprieve but to make sure there will be none! No appellate rights in law (or fiction) are to be afforded to this Jew. Mr Brownlow and Oliver visit him in his cell and Oliver asks him to say a prayer but in the end “he beat them off”. Angrily disowning his own faith, he is not much of a Jew in the end.

Did Fagin receive a fair trial and justice at the end of his days? What would now be his Grounds of Appeal against conviction in our imaginary appellate Court?

Perhaps the following might be a useful starting point:

**Grounds of Appeal**

(i) There is no evidence capable of being left to the Jury upon which to reach a verdict.

(ii) There is no evidence that Fagin had been acting as part of a joint enterprise with Sikes in the commission of the murder in relation to Nancy.

(iii) The evidence of Noah Claypole, a Crown witness, is largely uncorroborated.

(iv) The verdict should be set aside on the grounds that under the circumstances it is unsafe and in particular that Fagin is subjected to racial discrimination throughout his trial and that his very trial should have been far removed from the boundaries of the City of London.

(v) There is no factual basis upon which the jury having heard the entire evidence in the case could have properly drawn the inference that Fagin was working together with Sikes by way of joint enterprise in particular in relation to Nancy’s murder.

Indeed any appeal court must have a real sense of unease about the correctness of the verdict against Fagin based on a detailed analysis of the evidence, particularly as the conviction depended almost entirely on circumstantial evidence.

One final thought. Was Dickens really concerned about Fagin receiving a fair trial?

You can be the judge of that.

*We are grateful to Joe Rice, John J Rice & Co, Solicitors, Belfast, for this article.*
“I’m not an alcoholic - I don’t drink spirits.”

“I’m not an alcoholic - I only drink at weekends.”

“I’m not an alcoholic – I need a bottle of wine each night to help me unwind.”

At LawCare we are occasionally phoned by people who are concerned about their use of alcohol. Well, that’s what we’re here for after all. However, unlike most of our callers, these people are phoning us for reassurance and substantiation of their certainty that they cannot possibly be alcoholic. Their opening line generally goes something like this:

“My wife/partners/friends asked me to phone you because they think I have a drink problem, but of course…”

At this point one of the lines above will be trooped out, and the caller will wait expectantly for us to declare how stupid his wife/partners/friends are for thinking anything so ridiculous in the face of this overwhelming evidence to the contrary. They frequently become very upset and angry when we fail to say this. They are locked in denial.

Denial is typical in any type of addiction and can seem bewildering to the onlooker, and very difficult to deal with. The excuses used will vary, and will change to fit the circumstances. So when the loyal wife finally walks out after years of disappointment, deception and even abuse, he reasons that she must have another man. When he is sacked from the firm, his drunken behaviour cited as the reason, he believes that they were using it as an excuse, and the truth is that his work is so superior that the partners felt threatened.

A heavy drinker suffered chronic night sweats. His wife looked up the symptom and discovered that only two illnesses caused this problem; alcoholism and tuberculosis. From that point on, the man claimed to all and sundry that he suffered night sweats because he had TB.

A caller to the LawCare helpline claimed that he only drank to excess because alcohol soothed his throat, which was dry and uncomfortable because he was also a heavy smoker. He asked for our pack on Stopping Smoking, declaring with confidence that if he could give up smoking then he would also stop drinking eight bottles of strong beer throughout the day. Needless to say we also sent out a pack about alcoholism.

These stories may seem silly to us - these people are very obviously addicted to alcohol and are trying to pretend they’re not – they’re not fooling anybody. But actually they are – they are fooling themselves and they are doing it very thoroughly. Often they genuinely cannot see what others see so clearly. They are entirely oblivious to the fact that alcohol, or their drug of choice, is destroying their life.

Why does this happen? It is a subconscious process, whereby alcohol becomes more and more important in the person’s life. They crave it physically and psychologically and it takes precedence over everything else – family, work, financial security, even personal safety. Because it is so important, they cannot ever allow that it could be in any way bad or harmful.

The truth of the matter is, if you are worried about your drinking, and if others have complained about it, then you have a drink problem. Alcoholism is difficult to define but I like the definition that states: “If drinking is causing you problems, you have a drink problem.” Those problems could be the concern of your spouse or colleagues, or your own nagging feelings of uncertainty.

No one ever takes a glass of alcohol with the toast “here’s to addiction”. When people first use any drug, from alcohol to cigarettes to heroin, they are simply choosing to do something that makes them feel good. The trouble is that with continued use they may find themselves addicted. They depend on the drug not simply to feel good but to feel normal. All too often their use becomes no longer a choice but a compulsion. They don’t plan to become addicts, it just happens.

Alan Leshner PhD, Director of the National Institute on Drug Abuse, calls this the “Oops

1 Although “He” is used to refer to the alcoholic throughout this article, both men and women can be affected by alcoholism.
phenomenon*. It is the result of occasional use of a drug turning into weekly use, then daily use and then eventually into a surprising distressing realisation that the person is addicted. The change occurs because over a period of time use of addictive drugs changes the brain. At times this can be in a big dramatic toxic way, at other times in a more subtle way but always in destructive ways that can result in compulsive and uncontrollable drug use.

Drug addiction is now known to be a brain disease according to Leshner. “While every type of drug of abuse has its own individual trigger for affecting or transforming the brain, many of the results of the transformation are strikingly similar regardless of the addictive drug used. The brain changes range from fundamental and long lasting changes in the biochemical make up of the brain to mood changes to changes in memory processes and motor skills.”

The changes which Dr Leshner refers to include specific alterations in the structure and function of the brain. Thanks to recent advances in research a much more complete picture of those changes is becoming apparent. With these discoveries have come new insights into the role of heredity and findings which may actually identify people at risk of addiction and prompt them to learn behaviours which prevent the disease in the first place.

Drugs alter brain function

The effects of addiction on the brain don’t stop with brain size. It is now known that addictive drugs also alter the function of the brain – the very way that cells work. Our brains are dependent on the constant exchange of neurotransmitters to make it possible for the brain to send messages through vast chains of neurons and direct our thoughts, feelings and behaviour. Addictive drugs wreak havoc with this normal exchange of neurotransmitters. They may flood the brain with excess neurotransmitters or stop the brain making them altogether. They may make some receptors more sensitive to some neurotransmitters or alternatively make other receptors less sensitive.

A case in point – Dopamine

Dopamine is a chemical in the brain which helps to create feelings of euphoria and it is therefore one of the primary neurotransmitters involved in addiction. All of the major drugs of abuse – alcohol, nicotine, opiates and cocaine – increase dopamine levels. The “good news” at least temporarily is that the excess dopamine creates feelings of pleasure. The “bad news” is that the excess levels take a long term toll on brain chemistry and promote addiction.

The reason for this is that the brain tries to maintain a constant level of cell activity and that stability is critical to regulating behaviour. When supplies of dopamine remain constant we can experience the ordinary pleasures of life without any compulsion to seek those pleasures in self destructive ways.

However, when consistently subjected to artificially high levels of dopamine from use of a drug, the brain reduces its internal supply of this neurotransmitter. The brain then becomes dependent on the presence of the drug in order to maintain stability and function normally.

There lies the problem. If the extra dopamine supplied by drugs is missing the alcoholic or drug addict feels much less pressure. In fact these people go on to experience symptoms such as depression, fatigue and withdrawal. To the addict it seems that the only relief from these symptoms is to use more and more drugs. It all adds up to cravings and the addict’s constant drive to obtain his or her chemical of choice. Naturally, when the reality might be that that drug is destroying them, the addict’s poor misused brain will warp reality rather than let them realise that simple truth which is so clear to everyone else.

If you are concerned about the amount you, or someone else, is drinking, or about any addiction, LawCare offers a free and completely confidential helpline on 0800 279 6869. There is also a comprehensive website at www.lawcare.org.uk.
Victor Bridges was born in Enniskillen on 1 May 1926. His parents were Sergeant William Bridges RUC and Mrs Eveline Victoria Bridges. He had four sisters Olive, Aileen, Dorothy and the late Noelle.

In 1935 the family transferred to Belfast (Antrim Road). His childhood in Enniskillen was a happy one. He attended Enniskillen Model School and was a choirboy in St Macartin’s Cathedral. He acquired a life long interest in music and the Church of Ireland.

The transition from Enniskillen to the big city of Belfast was analogous to that which Dick Whittington made when he moved from York to London. In particular he was mesmerised by the frequent launching of large cruise liners and warships at Harland & Wolff and also by the fact that there were no less than three railway companies (GNR, LMS, and BCDR) and terminii in Belfast.

Victor obtained a Belfast City Scholarship to RBAI (Inst) in 1938. Although his six years at Inst covered most of the Second World War, they were without doubt the happiest of his school days and whilst the school records will indicate that he formally left in 1944, it was a long standing family joke that Victor never left Inst. He loved that school for the friends that he made, for the opportunities it gave him and for engendering his lifelong passion for history, poetry, and language. Amongst many posts of responsibility at school he was a fire watcher, sergeant with the ATC, deputy head boy, head of house and captain of tennis.

In 1944 Victor won a Kitchener Scholarship to Queen’s University Belfast to study law. He graduated in 1947 and in 1950 he was admitted as a solicitor. In 1960 he was appointed to the staff of the NI Supreme Court where he spent exactly one third of a century. He specialised in Chancery and Bankruptcy work and in 1979 was appointed Chancery Master - a position he held for 15 years until his retirement in 1993. Victor served under three Lord Chancellors, Lord Elwyn Jones (Wales) Lord Hailsham (England) and Lord Mackay (Scotland). He enjoyed his career in the law immensely. His favourite quotation was of the Roman Jurist Justinian ‘Justice is the constant and perpetual desire to render everyone his due.’

Victor liked people and respected them. He was interested in them and was more than willing to help and encourage the young at the Bar and the old as he served as Chairman of the Board of Abbeyfield Residential Homes for 10 years in North Belfast.

He was a deeply committed Churchman. Indeed he served in more or less every capacity open to lay people. He was first elected as a member of the Select Vestry of St James Parish at the age of 21, a rarity in the 1940s. In each parish he served as Church Warden and for many years was a Diocesan member of the General Synod. In the 1960s Victor was appointed by the General Synod to a small group tasked with reviewing the structures of the Church of Ireland at a national level. Their Administration Report, which became famous within the Church, recommended sweeping changes - not least in the reduction of the number of dioceses and, of course bishops to a level which would make economic, demographic and, it has to be remembered, spiritual sense.

Whilst the legal profession and the Church were very important in Victor’s life, his family was paramount. In 1953 he married Joy Moorhead, who survives him along with two daughters Gillian (Breakey) and Jennifer (Wilson) and four grandchildren, Rachel and Stuart Breakey and Niall and Victoria Wilson.
Letter from Mark Orr QC

19 July 2010
Dear Colleague

As you may have seen or heard in the media, I am not going to be appointed to the High Court. The decision to disqualify me arises solely from my involvement as an unpaid volunteer with the Presbyterian Mutual Society and a recommendation from the Principal Private Secretary in the Ministry of Justice in London, Mr Mark Sweeney requesting the Judicial Appointments Commission to reverse an earlier decision.

Please note, therefore, that I am still in practice and shall be in practice for the foreseeable future. I regret that I do not have a complete note of trial dates in matters in which I have been instructed from September onwards and would be grateful to receive reminders concerning same.

I take this opportunity to thank so many in the profession who have sent me messages of good wishes. Your thoughtfulness is much appreciated.

Yours sincerely
Mark Orr QC

The law of refugee status:

a two day training course with Professor Jim Hathaway
Organised by Law Centre (NI) and School of Law, Queen’s University Belfast

Professor Hathaway is James E and Sarah A Degan Professor of Law and Director of the Program in Refugee and Asylum Law at the University of Michigan Law School

The course
- The course provides in depth understanding and analysis of the law of refugee status from the leading authority on refugee law.
- It is directed at immigration law practitioners, decision makers, NGO activists and policy makers.
- It carries 10 CPD hours for solicitors and barristers.

Times
- Thursday 6 October from 9.30am – 4.30pm
- Friday 7 October from 9.30am – 3.30pm
- Registration from 9am to 9.30am

Venue
- Queen’s University Belfast

Course contents
- The Convention Refugee Definition: Context, Interpretation and Essential Elements
- Alienage
- Genuine Risk
- Serious Harm: General Principles
- Serious Harm: Risks to Civil of Political Rights
- Serious Harm: Risks to Economic Rights
- Failure of State Protection: General Principles
- Failure of State Protection: Agents of Persecution
- Failure of State Protection: Internal Protection Alternative
- Nexus to Civil of Political Status: General Principles
- Nexus to Civil of Political Status: The Five Enumerated Grounds
- Needs and Deserves Protection Cost
- £250 private/statutory
- £180 non-Law Centre (NI) member voluntary organisations/academics
- £150 Law Centre (NI) members
- £80 students

It may be possible to offer a reduced fee to asylum/refugee-led organisations with limited means.

How to book
Contact Gemma Graham at Law Centre (NI)
Email: gemma.graham@lawcentreni.org
Tel: 028 9024 4401

For other Law Centre training courses, visit our website www.lawcentreni.org or contact:
for Belfast training, deborah.hill@lawcentreni.org, 028 9024 4401
for Western Area training, noreen.hyndman@lawcentreniwest.org, 028 7126 2433

All our courses carry CPD hours for solicitors, barristers and CAB advisers.
Brendan McCann Cup stays in Dublin!

The local solicitors GAA team suffered defeat for the second year in a row in this annual fixture against the Dublin solicitors. All involved were very grateful to the Carryduff Club for allowing the match to be played at its wonderful facilities. This was particularly apt given the contribution Brendan McCann had made to that Club. Brendan’s wife, Margaret and son Seamus, also attended the match along with Andrew Kinney from Donnelly and Wall, all of whom have been great supporters of this event from the outset.

The Belfast Lord Mayor, Trevor Ringland and the President of the Law Society of Ireland also made the journey to Carryduff for the game, among many others.

The match started wonderfully well for the Belfast solicitors with Shane Byrne setting up Eoghan McKenna, who fist ed to the net after ten seconds.

There were further scores from Andy Morrow, Ciaran Williams and Shane Byrne and a strong lead was established. However, before the half time whistle sounded Dublin, had reduced the lead a little with some fine points.

The second half was dominated by Dublin and Belfast struggled to even generate many attacks. The defence tried valiantly to stop the run of Dublin scores but could only limit the damage in reality. Ultimately, two goals for Dublin finished the contest and the winning margin was six points.

The local Law Society organised an after match function in Law Society House which was well attended and extremely enjoyable. The efforts of Paul O Connor to ensure the smooth running of this event were greatly appreciated. There were various awards presented and Belfast regained some sense of achievement in that Joe George won the man of the match trophy. The Belfast Rose of Tralee was on hand to present that particular prize. The Dublin solicitors were particularly generous in their gifts, including a fantastic signed Dublin jersey for young Seamus.

Thanks must go to all those who organised this event this year and the pressure is now on us for next year. It will be a tough ask but Belfast must now go to Dublin to try to ensure the return of the Cup. They have never won the match in Dublin but 2012 will be the year!

Brendan McCann Cup stays in Dublin!

Gary Rocks makes a presentation to John Costello.

The competing teams for the Brendan McCann Cup.
The Equal Justice Initiative: Litigating in Support of Children in Prison

Carla Rogers is an apprentice solicitor at Law Centre (NI). Here she gives a personal reflection on two weeks spent as an intern with the Equal Justice Initiative in the United States.

In June 2011, I travelled to Montgomery, Alabama, the home of the American civil rights movement, to begin a short legal internship with the Equal Justice Initiative. I was selected for the internship by John Leckey, chief coroner of Northern Ireland, as part of the public interest advocacy competition run by the Graduate School of Professional and Legal Education, at Magee College, University of Ulster in Derry.

The Equal Justice Initiative

The Equal Justice Initiative (EJI) is a non-profit human rights organisation led by the brilliant and talented Mr Bryan Stevenson, New York University professor and recent winner of the MacArthur Fellowship ‘Genius Award’. The organisation gives legal assistance to those on the margins of society: the poor, those sentenced to execution, the incarcerated, children in the criminal justice system and people who have been unfairly victimised by discrimination and/or abuse of power. The EJI is currently active in assisting clients throughout the US in an attempt to reform many areas of the criminal justice system, most significantly capital punishment. The EJI is highly regarded as having one of the most dynamic and innovative legal reform campaigns in the US.

One area of its work is with children who have been sentenced to spend their life in prison without the opportunity of parole.

Children in adult prisons

Sentencing children to death by execution was only declared unconstitutional by the US Supreme Court as recently as 2005 in the landmark judgement of Roper v Simmons. This was an important legal landmark in the protection of children’s rights in the criminal justice system.

However, almost all states in the US retain the power to convict and sentence children as adults in adult courts and send them to adult prisons. EJI figures show there are currently over 2,200 children (aged seventeen or younger) in prison who have been sentenced to life imprisonment without the possibility of parole after being prosecuted as adults and incarcerated in adult prisons. They have further identified that over 73 of these cases concerned children as young as thirteen and fourteen years old: children who, in contrast, are too young to drive, marry, or gain entry to a scary film by themselves.

They note that in many of these cases, appointed trial and appellate lawyers failed to challenge the death in prison sentences imposed on their child client. In addition, their research has discovered that many of these children currently lack legal representation and in most of these cases the propriety and constitutional fairness of their extreme sentences has never been reviewed.

These figures are more disturbing when one learns that many of the crimes allegedly committed by these children do not involve murder/manslaughter or injury to the person. Where children are incarcerated in adult prison, they are five times more likely to be sexually assaulted than in juvenile facilities and ten times more likely to be sexually victimised than adults in adult prisons. It is hard to imagine that a developed, democratic country that considers itself a world leader would allow its children to suffer in such a cruel and inhumane way.

EJI quotes the US as being the only country in the world where a thirteen year old child is known to be sentenced to life in prison without the possibility of parole. The EJI strongly believes that the practice of condemning children to life imprisonment without parole – “to die in prison” violates international law, in particular the Convention on the Rights of the Child. Interestingly, the Convention has been ratified by every country in the world except the US and Somalia (which has no functioning government).

A tireless litigation campaign

The EJI, quite rightly, identified the practice of life imprisonment without parole for children as cruel and unusual in violation of the Eighth Amendment to the United States Constitution. As a result, it is actively pursuing a litigation campaign to challenge ‘death in prison’ sentences imposed on children. The success of its campaign is evidenced by the recent ruling in Graham v Florida [2010]. This case saw the US Supreme Court strike down life without parole sentences for children in non-homicide cases as unconstitutional and in doing so the court adopted the reasoning put to it by the EJI. Although the ruling does not guarantee that juvenile offenders will eventually be released, it dictates that they at least be afforded an opportunity to obtain release in their lifetime and in doing so brings hope to an otherwise bleak future.

The EJI is now litigating and advocating in more than 20 states to assist children who may have been wrongly convicted and to ensure the Graham ruling is applied to children who have been condemned to life in prison without parole. It is relentlessly attempting to identify and make contact with all individuals affected by the Graham decision who were children when convicted of life sentences without parole for non-death related crimes and have them resentenced in order that their constitutional rights are upheld.

I consider myself privileged to have worked, albeit briefly, with the EJI. The organisation’s mission statement is inspiring and its successes admirable. I will never forget the incredible passion or unwavering dedication of its staff who devote themselves so completely to the cause of EJI and making the criminal justice system in
the US a fairer one. Such devotion is all the more admirable considering the hostile attitudes that can exist towards criminal defence lawyers in the southern states of the US; a place where much of the population is in favour of the death penalty and advocates for harsher treatment of convicted prisoners.

Northern Ireland and the legacy of human rights law

Coming towards the end of my solicitor apprenticeship in the Law Centre, this brief trip gave me the opportunity to look with fresh eyes at my own experience of the Northern Ireland justice system to date.

During my training, I have been involved in a variety of cases involving possible breaches of human rights. While these cases did not involve the criminal justice system, my brief exposure to aspects of the criminal justice system in the US has highlighted to me much that is good, in the broadest terms, about our own justice system.

I have a deeper appreciation for the value placed on human rights not only in the Northern Ireland legal system but in our society generally. In this regard, I believe we owe a lot to the European Convention on Human Rights and the jurisprudence of Strasbourg which has led the way in the development of human rights law.

A conference examining the issue of judicial independence was held on Friday, 24 June in the Inn of Court, Belfast.

The conference was organised by the Attorney General for Northern Ireland and Law Centre (NI), with help from the University of Ulster School of Law.

Philip Gilpin, Solicitor to the Attorney General for Northern Ireland, welcomed the audience and chaired the presentations.

Attendees heard from the Right Honourable Sir Declan Morgan Lord Chief Justice of Northern Ireland, who outlined some of the challenges for the judiciary in Northern Ireland brought about by the devolution of the criminal justice system.

John F Larkin, QC, Attorney General for Northern Ireland, spoke about the limits of judicial independence.

Conference also heard from European speakers: Judge Ann Power, Judge of the European Court of Human Rights; Gregor Volkommer, Justice Representation of the Free State of Bavaria to the European Union; and Professor Anne-Lise Sibony, University of Liege.

John F Larkin, QC, Attorney General said: “The conference was an opportunity to hear from prominent international speakers on the subject of Judicial Independence, which is currently at the forefront of both local and international debate.”

Les Allamby, Law Centre (NI) director, chaired the panel discussion and underlined the importance of the debate.

Photograph
From left: Sir Declan Morgan, Lord Chief Justice of Northern Ireland; Judge Ann Power, Judge of the European Court of Human Rights; John F Larkin QC, Attorney General for Northern Ireland; Professor Anne-Lise Sibony, University of Liege; Gregor Volkommer, Justice Representation of the Free State of Bavaria to the European Union; Grainne McKeever, University of Ulster School of Law and Les Allamby, Director, Law Centre
GSPLE trainee solicitors at the Brown-Mosten International Client Consultation Competition


The trainee solicitors, who both attended the Graduate School of Professional Legal Education, University of Ulster, participated in the Brown-Mosten International Client Consultation Competition which was held in Maastricht University, The Netherlands from the 6-9 April 2011 and believe it was an invaluable experience.

The ICCC provides an opportunity for law students to learn and practice interviewing and counselling skills. The topic this year was “Professional Responsibility & Ethics in the Law Office.” Teams had to recognise, clarify and respond to any moral or ethical issues which arose during the interviews.

In the weeks leading up to the competition lecturers from the GSPLE helped us with our preparation and we realised this was an opportunity to expand upon the skills we had already developed during our time at the Graduate School. Mr Paul Mageean, Director and Mrs Anne Brown, Senior Lecturer accompanied us to Maastricht as team coaches.

The Faculty of Law at Maastricht University was an excellent venue as it was right in the heart of the city enabling us to experience an authentic inner city campus. The city itself is very picturesque with its cobbled streets, bustling squares and numerous cafes.

There were 20 teams of law students from all over the world who took part in the competition: Canada, USA, Jamaica, Puerto Rico, The Netherlands, Republic of Ireland, Wales, Scotland, England, Finland, Nigeria, Ukraine, Russia, India, Sri Lanka, Cambodia, Malaysia, Australia and New Zealand.

On the first day a seminar and workshop was held entitled “Lawyer-client relations: should it be part of every law qualification?”. During this seminar American and Dutch academics and practitioners debated this topic and the teams were encouraged to interact.

The competition proper began the following day. The teams were split so that each panel of judges would see five teams per day. Teams of two people from each country interviewed an actor “client” for 35 minutes in front of a panel of three judges. The judges were mainly legal practitioners and academics who were either local or involved in the organisation of the competition.

We had to establish the beginning of an effective professional relationship and working atmosphere from the outset. The special nature of a solicitor-client relationship had to be outlined in a courteous, sensitive and professional manner. In other words we had to ensure we broached the topics of fees, confidentiality, mutual obligations and rights, methods of contact, duration and plan of interview.

The judges assess how you deal with the emotions of different clients, and how you obtain the relevant information from them regardless of how they present. For example, the client on the first day was extremely angry because he had just discovered his solicitor acted on his behalf where there was a conflict of interest. However on the second day the client was reluctant to speak as he was a relatively new lawyer to our jurisdiction worried about problems concerning client funds.

Teams had to elicit relevant information from the client so that a reasonably complete and reliable description of the problem could be developed and relayed back to the client to show our understanding of same.

This is an area where approaches varied quite substantially from one country to another. The USA team for example took a holistic approach, wanting to know basically everything about a client before proceeding with their case. On the other hand Sri Lankan and Malaysian teams indicated that the profession in their countries believed it to be discourteous to ask too many questions during an initial consultation.

The judges also assessed how we managed the client’s expectations whilst understanding their goals. We scored highly for being able to modify and develop this understanding fully, taking into account the emotional aspects of the problems. We had to demonstrate that we could analyse the problems with creativity from both legal and non-legal perspectives.

The ICCC is not a test of specific legal knowledge as obviously the law varies quite a bit between the different jurisdictions that were competing. We just had to ensure that the legal advice we gave was accurate and appropriate to the situation. We could also suggest non-legal courses of action if it was considered appropriate.

An emphasis of the ICCC is for teams to develop an appropriate balance in dealing with the legal and emotional needs of the client. Therefore we were assessed on how we assisted our client in making an informed choice taking legal, economic, social and psychological consequences into account.

We wanted our client to leave with a feeling of reasonable confidence and understanding, appropriate reassurance and a clear sense of what is expected of him and us as his
solicitors. We believe we worked well as a team in ensuring we achieved this aim.

After the interview there was a ten minute post consultation period where we discussed the interview with each other in front of the panel. There were certain ethical issues we chose not to go into detail about in front of our clients due to their emotional state but the post consultation allowed us to demonstrate to the panel that we had identified them. We had to set out a plan of action as to what should be done next and how the ethical issues should be handled.

We were given feedback for fifteen minutes after each interview. The judges commended us for our practical solutions to the problems and also our requests for documentation to support our client's cases. We were told our interviews were engaging, that we asked lots of relevant questions and that we gave very balanced advice.

Unfortunately we did not reach the finals, Jamaica took the crown, but we consider the experience to have been invaluable. We have both been conducting client interviews in our offices for nearly two years now but the few days we had at the ICCC gave us an opportunity to absorb the opinions and techniques of different students from around the world.

In addition to the interviewing skills we have developed it has also enhanced our awareness of potential ethical and moral issues that may arise and the challenge they may pose to our profession.

We were also able to avail of advice from legal practitioners and academics who advocate the concept that learning about solicitor-client interviews should be an integral component to your legal training.

The ICCC is not only a great forum in which to develop your interviewing skills but it is also a great place to meet other law students from many different countries. The ICCC Committee organised a Students' Dinner, Cultural Evening and Awards Dinner which were all great opportunities to socialise with the other teams. Every country even had to perform a song or dance at the Cultural evening and Kathryn silenced the entire room with her stunning rendition of “She Moved through the Fair.”

The best part of the experience was gaining lots of new friends and getting their contact details for the future. We were also able to see a beautiful city and experience its unique culture. We would encourage any law students to participate in the Brown-Mosten ICCC as if we could do it again we would in a heartbeat!

From left: Anne Brown, senior lecturer with Kathryn Stelfox and Orlagh McMurray.
Trainee solicitors stateside bound

Two trainees from Graduate School of Professional Legal Education at Magee are about to embark on a trip of a lifetime after securing placements in public interest law offices in the United States.

Keith Dunn from Coleraine and Carla Rogers from Derry were among the five GSPLE trainees shortlisted to appear before the Senior Coroner for Northern Ireland, Mr John Leckey, in Mays Chambers in Belfast.

Their appearance before Mr Leckey was the final stage of a Public Interest Law competition organised by the Graduate School, explains Paul Mageean, Director of the GSPLE.

“All trainee solicitors were tasked with playing the role of a solicitor approached for assistance by a mother of a young woman who had died in custody. The fictitious case required them to interview the client, draft correspondence, research the issues and take part in a pre-inquest hearing. The five best trainees selected from this week-long exercise then appeared before Mr Leckey when they again made arguments related to the same case.

“Mr Leckey selected Keith and Carla as the two best advocates appearing before him, although he acknowledged that it had been a difficult decision as the standard of advocacy from all five finalists was very high.”

Keith and Carla, who graduated from Queen’s University Belfast and Trinity College Dublin respectively, will take up their short placements in the United States in May and June.

Keith, who is currently serving his apprenticeship with Hillary Carmichael Solicitors in Derry, will do his US placement with the Legal Defense Fund of the NAACP in New York.

Carla, who is apprenticed to the Law Centre in Derry will complete her placement with the Equal Justice Initiative in Montgomery, Alabama.

Congratulating Keith and Carla on their success, Paul Mageean, said they had both worked tremendously hard to get these placements and thoroughly deserved them.

“I am sure they will learn a great deal from this experience,” he said. Mr Mageean also thanked the Senior Coroner Mr Leckey for his assistance with the competition and Atlantic Philanthropies for funding the placement programme.

The Graduate Law School at Magee provides full-time training to law graduates who have apprenticeship places in solicitors’ practices. Its opening in March 2009 marked a significant milestone in the development in professional legal education in the North West. The Graduate School has its own dedicated space at the Magee campus with customised interactive and recording facilities. The School has recruited a team of experienced legal professionals on an associate basis to deliver the core subjects of the course and give trainee solicitors the benefit of their professional experience. It also ensures a tangible link between the Graduate School and ongoing developments in practice.

Note: Carla Rogers is the author of a Law Centre article in relation to this trip which can be read at pages 42 & 43 of this issue of The Writ.
As is the tradition, the annual BSA Golf Outing took place at Malone Golf Club in May.

The weather conditions were much more favourable than last year, which resulted in the event being over-subscribed.

The BSA was delighted to welcome, for their inaugural visit to the Golf Outing, their counterparts from the Dublin Solicitors’ Bar Association under the excellent stewardship of accomplished golfer and former Chairman, Spanner O’Malley. We were particularly delighted to welcome Dublin Solicitor, Aaron McKenna, who made it just in time to join his colleagues on the second hole.

Once again the BSA would like to express its appreciation to the sponsors. The first prize was a corporate event day at Citigolf in Belfast and this was won by Sean Robb with a very presentable score of 39. The second prize, which was sponsored by the Fitzwilliam Hotel in Belfast, was won by Gerry O’Hare.

TM Lewin provided vouchers as prizes which were won by the following:

1. Visitor’s prize, Paul McCrissican, who was playing in the John McKee four ball. He also had an excellent score of 39.

2. The longest drive went to David McAleese from Carson & McDowell.

3. Closest to the pin was won by John Gordon of Napier & Sons.

Orla Mallon of Campbell Fitzpatrick won the Ladies’ prize.

A huge thank you to all our sponsors for their generosity and also to Malone Golf Club for an excellent day out.

As our colleagues from Dublin did not score particularly well, they were presented with a consolation prize – four Belfast Blondes – a pale clean beer brewed by the new College Green Brewery in Belfast!

We look forward to welcoming everybody to Malone in May 2012.
This year was Belfast Solicitors’ Association’s turn to host the Annual Tripartite Conference and we were joined by the Dublin Solicitors’ Bar Association and Liverpool Law Society.

We welcomed our visitors in the salubrious and rather grand Merchant Hotel which is nestled in the heart of Belfast’s Cathedral Quarter.

Our guests were brought on a coach through Belfast, past the Titanic Quarter and dry dock and David and Goliath. Guests were given a glimpse of the ongoing future development and regeneration of this historic location. A fine BBQ was hosted by the Culloden’s Cultra Inn and guests were entertained with a legal and local quiz. Liverpool’s Hon. Treasurer, Glenys Hunt, was one of the many guests to finish their evening by winning some local memorabilia to remind them of their weekend.

On Saturday morning guests set off on a private tour of both Chambers at Parliament Buildings and the beautiful grounds of Stormont. Our Chair, Susan Brennan, was presented with a remarkable water colour of Liverpool’s Parkgate by Norman Jones, the President of Liverpool Law Society. This was followed by a ghostly walking tour around St Anne’s Cathedral, which worked up an appetite for a light lunch at Nick’s, but enough time was allowed to squeeze in a little nip in the John Hewitt.

The rest of the afternoon was dedicated to all the ladies’ preparation for the highlight of the weekend.

In the evening our members and their guests welcomed our Tripartite guests at the BSA Annual Dinner Dance. The evening commenced with the Lord Mayor’s reception, followed by a wonderful evening of fine music, good wine and scrumptious food.

On leaving City Hall, Tripartite guests returned to their hotel, where they and Committee members, past and present, continued to chat into the night!

The Sunday schedule was taken up with travel arrangements but guests said their goodbyes to old and new friends. Next year the Tripartite shall be hosted by Liverpool but we can at least be proud that the BSA certainly succeeded in hosting our colleagues in style in an ever growing and exciting Belfast.
Liverpool and Dublin Tripartite guests at Stormont.

Tripartite guests at Titanic quarter.

Tripartite guests enjoying the drinks reception at The Merchant Hotel.

Liverpool and Dublin Tripartite guests at Stormont.

Tripartite guests enjoying the drinks reception at The Merchant Hotel.
BSA Gala Dinner 2011

The Belfast Solicitors’ Association hosted its Annual Gala Dinner on Saturday 11 June 2011, welcoming almost 270 of its members along with visiting delegates from its Tripartite Conference, including colleagues from the Dublin Solicitors’ Bar Association and the Liverpool Law Society.

The Belfast Solicitors’ Association recently hosted its annual gala dinner, welcoming almost 270 members along with guests from its Tripartite Conference, including The Honourable Mr Justice McCloskey, His Honour Judge Burgess and Presiding District Judge Bagnall. The evening was sponsored by Stewart Title, DX, LexisNexis and Iris Legal Solutions incorporating Opsis and Alpha Law.

The Dinner was held in the fabulous surroundings of Belfast City Hall and guests included The Honourable Mr Justice McCloskey, His Honour Judge Burgess and Presiding District Judge Bagnall. The evening was sponsored by Stewart Title, DX, LexisNexis and Iris Legal Solutions incorporating Opsis and Alpha Law.

Photographs of Gala Dinner courtesy of Ulster Tatler
Further photographs of Gala Dinner will follow in the next edition of The Wnt

From left: Presiding District Judge Fiona Bagnall, Paul Dougan, Conor Houston and Sinead O’Neill

Susan Brennan (BSA Chair) with Jitandra Valera, Iris Legal incorp. Opsis and Alpha Law, Jimmy Scullion, and other guests.

The Honourable Mr Justice McCloskey and Lady McCloskey.

Belfast Solicitors Association Committee members

Susan Brennan with Gary Harkin and Anne Marie Forker (LexisNexis).

Grace McQueen and Liz Birell (Stewart Title) with Susan Brennan.

Susan Brennan with Mr and Mrs Adrian McGreavy (DX).
ADMINISTRATION OF JUSTICE

IN THE MATTER OF AN APPLICATION BY BELFAST INTERNATIONAL AIRPORT LIMITED FOR LEAVE TO APPLY FOR JUDICIAL REVIEW AND IN THE MATTER OF AN APPLICATION BY DONALD MARTIN MELROSE AND BELFAST CITY AIRPORT WATCH LIMITED FOR LEAVE TO APPLY FOR JUDICIAL REVIEW

Manner whereby a non-party should seek to intervene in judicial review proceedings and the procedure which should be followed where it is desired to make representations that a particular judge should not be assigned to try a given case. - applications for leave to apply for judicial review to quash the decision of the Minister of the Environment to remove the seats for sale restriction. - principles and procedure on judicial recusal applications

HIGH COURT
29 MARCH 2011
MCCLOSKEY J

AGENCY

UNITED FEEDS LIMITED V NELSON TRIMBLE AND DENIS NELSON

Claim by plaintiff against the defendant for balance due and owing to the plaintiff in respect of animal feed supplied by the plaintiff to the defendant. - plaintiff is supplier of animal feeds, first defendant is a farmer who purchased feeds from the plaintiff, second defendant was a salesman employed by the plaintiff. - damages for breach of contract of employment between the plaintiff and the first defendant. - first defendant denies liability to the plaintiff in respect of any outstanding debt for the supply of animal feeds. - whether in calculating the sum due the plaintiff failed to take into account certain discounts that are said to have been agreed between the first named defendant and the second defendant as employee and agent of the plaintiff. - authority of agent. - whether the second defendant had the authority to offer discounts on bespoke products. - whether the first defendant knew that the second defendant had no authority to offer the discount. - HELD that the first defendant was entitled to conclude that the second defendant had apparent authority for the discounts agreed and was not reasonably to have been expected to have known that he had no authority for the discounts when it first became clear on a particular statement. - HELD that the first defendant is liable for the full cost of the deliveries from the date of the statement when he ought to have made further enquiries

HIGH COURT
14 APRIL 2011
WEATHERUP J

CONSUMER CREDIT

WILLIAM MCArTEER AND STUART KIRKPATRICK

Contested credit hire litigation. - automatic appeal mechanism to High Court irrespective of the amount involved, the importance of the case or the complexity of the issues. - dispute over the rate of hire. - mitigation of loss and burden of proof with regard to the principles of reasonable necessity, plaintiff's duty to take all reasonable steps to mitigate his loss, and reasonable expenditure in mitigating his loss. - HELD that plaintiff's appeal succeeds and he is entitled to recover costs

HIGH COURT
17 JUNE 2011
MCCLOSKEY J

CRIMINAL LAW

R V ALAN ARCHIBALD

Sentencing. - defendant pleaded guilty to causing death by driving without due care and attention. - evaluation of the quality of driving involved and degree of danger that it foreseeably created. - whether there was a level of carelessness which gave rise to real culpability. - HELD that the defendant be sentenced to 240 hours community service and disqualified from driving for 12 months

28 FEBRUARY 2011
MCLAUGHLIN J
Selected High Court and Court of Appeal Decisions May 2011 – June 2011

R V ROBERT J B A CLARKE
Ruling on bad character evidence. - defendant charged with murder and possession of firearms and ammunition with intent to endanger life. - defendant had subsequently pleaded guilty to counts of murder and attempted murder in relation to a different shooting incident. - application by prosecution to have these convictions admitted as bad character evidence as being relevant to identification and propensity. - HELD that application granted
CROWN COURT
24 MARCH 2010
HART J

R V M
Appeal against conviction. - appellant convicted of indecent assault of a child. - whether the trial judge was correct to admit the defendant’s wife’s evidence as similar fact evidence. - HELD that the evidence was properly admitted and conviction safe. - appeal dismissed
7 JUNE 2011
COURT OF APPEAL
MORGAN LCJ, GIRVAN LJ, HART J

R v MICHAEL PHILIP MCGLEENON
Sentencing. - defendant pleaded guilty to manslaughter of his father on the grounds of diminished responsibility. - defendant was suffering from a severe mental illness at the time the offence was committed. - types of sentencing under the provisions of the Terrorism Act 2000. - HELD that application granted
CROWN COURT
24 MAY 2011
HART J

R V MARTIN RAYMOND JUDE MURRAY, LIAM PATRICK KEVIN MURRAY, KEVIN MICHAEL CHARLES TOYE AND WILLIAM MCDONAGH
Sentencing. - defendants convicted of murder, attempted murder and affray. - minimum term to be served before eligibility to have case referred to Parole Commissioners. - aggravating and mitigating factors and evidence of remorse. - risk to members of the public of serious harm. - HELD that defendants be sentenced to periods of imprisonment ranging from 5 to 18 years
2 JUNE 2011
CROWN COURT
HART J

R V KEVIN EUGENE O’KANE
Application by the prosecution to invoke the provisions of the Domestic Violence, Crime and Victims Act 2004 s.17 to substitute an indictment consisting of 28 sample counts to be tried by a jury and a further 143 counts to be tried by a judge alone for the original indictment consisting of 171 counts to be tried by a jury. - how the court should approach the s.17 application. - defendant charged with obtaining money by false representation in the sale of properties in Turkey. - number of counts and volume of evidence and number of transactions renders a trial by jury impracticable. - use of sample counts. - HELD that an order be made that the trial take place with a limited number of counts to be tried by a judge alone for the original indictment consisting of 171 counts to be tried by a jury
5 JUNE 2011
CROWN COURT
HART J

R V AIDAN QUINN
Defendant arraigned and pleaded not guilty to a single count of assisting in managing a meeting which he knew was to be addressed by persons who professed to belong to a proscribed organisation contrary to s. 12(2) of the Terrorism Act 2000. - defendant applied to the trial judge for a voir dire to determine the admissibility of video evidence on which the prosecution case depended which the judge decided were inadmissible. - prosecution now apply pursuant to a. 17 Criminal Justice (NI) Order 2004 for leave to appeal inadmissibility ruling. - application for leave to appeal was refused
CROWN COURT
9 JUNE 2011
HART J

R V JOSEPH JOHN RICE V YVONNE MCEVOY
Claims of sex and age discrimination by respondent who was the claimant in proceedings at an industrial tribunal. - respondent claims that in the course of her employment as a salaried partner solicitor she had been subjected to discriminatory detrimental treatment because of her sex and age under both the sex and age discrimination legislation. - respondent claims victimisation discrimination because the appellant had victimised her by refusing to pay her full occupational sick pay rather than minimum statutory sick pay. - tribunal upheld her claim of victimisation brought under the sex discrimination legislation. - appellant appeals that decision. - whether the tribunal misdirected itself in law by concluding that it did not need to arrive at any conclusions regarding whether the respondent had a contractual entitlement to 3 months occupational sick pay before deciding that by failing to pay her occupational sick pay the appellant had victimised the respondent. - whether the tribunal misdirected itself in
COURT OF APPEAL
8 JUNE 2011
MORGAN LCJ, GIRVAN LJ, COGHLIN LJ

EMPLOYMENT

JOSEPH JOHN RICE V YVONNE MCEVOY
Claims of sex and age discrimination by respondent who was the claimant in proceedings at an industrial tribunal. - respondent claims that in the course of her employment as a salaried partner solicitor she had been subjected to discriminatory detrimental treatment because of her sex and age under both the sex and age discrimination legislation. - respondent claims victimisation discrimination because the appellant had victimised her by refusing to pay her full occupational sick pay rather than minimum statutory sick pay. - tribunal upheld her claim of victimisation brought under the sex discrimination legislation. - appellant appeals that decision. - whether the tribunal misdirected itself in law by concluding that it did not need to arrive at any conclusions regarding whether the respondent had a contractual entitlement to 3 months occupational sick pay before deciding that by failing to pay her occupational sick pay the appellant had victimised the respondent. - whether the tribunal misdirected itself in
law by concluding that considerations of decency and good industrial relations practice dictated that the appellant should have exercised his discretion in the respondent’s favour by paying to her 3 months occupational sick pay. - whether the tribunal was wrong in law to conclude that the appellant victimised the respondent by withholding 3 months occupational sick pay. - relevant legal principles. - whether the tribunal was entitled to find a prima facie case. - HELD that since the tribunal failed to show in clear terms that it rejected the appellant’s explanation and why and has expressed itself in terms suggesting the application of an inappropriate reasonableness test the respondent’s victimisation claim must be remitted for rehearing by a freshly constituted tribunal COURT OF APPEAL 16 MAY 2011 GIRVAN LJ

EVIDENCE

AIB GROUP V MCELROY
Appeal against Master’s dismissal of her notice of opposition to her bankruptcy petition brought by the AIB Group. - whether respondent could introduce fresh evidence which had not been put before the Master when she heard the matter and which was now on appeal. - judicial discretion to refuse to admit further evidence not before the lower court. - whether exceptional circumstances. - HELD that the additional evidence be admitted HIGH COURT 16 MAY 2011 GIRVAN LJ

FAMILY LAW

DONA (A PSEUDONYM) (NO.7)
(APPLICATION TO DISCHARGE ORDER)
Application to discharge a care order on the grounds that the care plan was not working and that the applicant will remain on a destructive path unless her wishes to reside with her father and be educated in a language of her country. - balancing exercise of the harm that would be inflicted on the applicant if returned to her father as opposed to the harm that will be inflicted on her if she remains in care. - welfare checklist. - wishes and feelings of the applicant in the light of her age and understanding. - applicant’s physical, emotional and educational needs. - HELD that application for discharge of care order dismissed HIGH COURT 6 JUNE 2011 STEPHENS J

L (RELOCATION APPLICATION)
Application under a.13 Children (NI) Order 1995 for relocation of 3 year old girl to Romania. - application brought by the child’s mother who is a Romanian national. - application opposed by the child’s father. - welfare of child and paramouncy principle. - a.8 right to respect for family life. - standard of living and educational systems in both countries. - history of contact with the child and her father. - impact on the child’s mother if a relocation order was not made. - HELD that the application for permission to relocate is refused HIGH COURT 8 MARCH 2011 STEPHENS J

LS V SK
Appeal by defendant from an Order of the Recorder’s Court that the solicitors in the application set up a fund to be administered by the Official Solicitor on behalf of the minor until the minor reaches the age of 25 with administrative fees to be paid equally between the parties in the absence of agreement as to trustees. - order for liberty to apply granted. - agreement by way of settlement of proceedings under the Married Woman’s Property Act 1882 in the wake of the matrimonial breakup of the parties in this matter. - whether the agreement is an agreement to create a trust. - whether the appellant is the settlor of the trust. - whether the Order was defective in that it stepped outside the terms of the agreement and erroneously purported to impose a wholly new agreement contrary to the intention of the parties. - HELD that the application by the plaintiff for liberty to apply is misplaced and the Order cannot be upheld, decision of County Court Judge reversed and order made that the Official Solicitor should release the monies held pursuant to that court order HIGH COURT 11 APRIL 2011 GILLEN J

MCC V MCC
Application by petitioner for ancillary relief. - division of equity in matrimonial home. - treatment as between the parties of borrowings which occurred after the original mortgage and whether any part of the mortgage extension should be the responsibility of the husband alone. - consideration of a.27A Matrimonial Causes (NI) Order 1978 where children have not attained age of majority HIGH COURT 16 MAY 2011 BELL M

FREEDOM OF INFORMATION

KEITH ANDERSON V INFORMATION COMMISSIONER
Appeal against the decision of the Information Tribunal dismissing an appeal against a decision notice issued by the Information Commissioner rejecting a complaint that the Parades Commission had wrongfully withheld certain information requested of it by the appellant. - appellant is Master of a band that had organised a
parade. - allegations were subsequently made by the Parades Commission that the parade breached the Commission’s code of conduct. - application to the Parades Commission to release certain information which was refused. - whether the information was exempt from disclosure under the Freedom of Information Act 2000 s.41(1) (information provided in confidence). - whether the Information Tribunal failed to acknowledge that a.11 ECHR was engaged. - whether absence of an actionable breach of confidence. - whether the Information Tribunal failed to establish that the public interest in disclosing the information outweighs the public interest in keeping it confidential. - HELD that no grounds were made out and appeal dismissed.

GUARANTEES

ULSTER BANK LIMITED AS SECURITY TRUSTEE FOR THE FINANCE PARTIES V MICHAEL ADRIAN TAGGART AND JOHN DESMOND TAGGART
Writs issued against defendants for claims due on foot of the defendants’ joint personal guarantee for the liabilities of 2 companies, one registered in the Republic of Ireland. - petitioner now weeks summary judgment under O.14 RCJ. - defendants are directors and shareholders of companies in the Taggart Group which have been placed in administration and the petitioner has initiated legal proceedings for the purpose of calling in two personal guarantees in connection with bank lending. - summary judgment application. - whether the guarantee under dispute in the first writ was intended to be temporary. - HELD there was insufficient facts on which a court could conclude that the guarantee was only intended to be temporary and the defendants could not use the defence of estoppel, misrepresentation or unilateral mistake. - ALSO where the guarantee under dispute in the second writ was intended to be a re-taking of the previous guarantee on a like-for-like basis or was of a wider nature. - ALSO HELD that the Bank be granted an application for summary judgment in respect of both guarantees.

HIGH COURT
3 MARCH 2011
BELL, M

JUDICIAL REVIEW

AN APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL REVIEW BY JOHN CHRISTOPHER WALSH
Application for leave to apply for judicial review of decisions by the Department of Justice for compensation for wrongful conviction, by the Chief Constable of the PSNI on the conduct of the prosecution of the applicant at his trial, and by the Northern Ireland Human Rights Commission on the applicant’s requests for assistance with the appeals against conviction and in the aftermath of the appeals. - HELD that the application for leave to apply for judicial review of the decision of the Chief Constable is dismissed and application for leave to apply for judicial review of the decisions of the Department of Justice and NIHRC is adjourned pending ruling of Supreme Court.

HIGH COURT
9 MARCH 2011
WEATHERUP J, WEIR J

LEGAL AID

R V AARON WALLACE (NO.2)
Application for the grant of legal aid under s. 19 Criminal Appeal (NI) Act 1980. - applicant transferred his instructions to new solicitors and was requesting legal aid to enable his new solicitor and counsel to consider relevant parts of the transcript and to advise the applicant on the merits of his appeal and grounds of appeal. - HELD that the applicant is entitled to counsel’s opinion and legal aid granted limited to the purpose of enabling them to advise the applicant in respect of the merits of an appeal and to consider the documents and transcripts available.

COURT OF APPEAL
1 JUNE 2011
HIGGINS LJ, GIRVAN LJ, COGHLIN LJ

LICENSING

DIRECTOR OF PUBLIC PROSECUTIONS V MARK DRUMM
Defendant charged with permitting the consumption of intoxicating liquor on licensed premises other that during permitted hours contrary to a. 41(1) (a) (i) and (2) of the Licensing (NI) Order 1996. - defendant had obtained an extension to the permitted hours from the Court. - whether the defendant permitted the consumption of intoxicating liquor outside permitted hours. - purpose of
additional permitted hours. - whether music from a juke box constitutes entertainment. - guidance on practical effect of the Order in regard to the provision of musical or other entertainment, for the assistance of licensees in keeping within the law.

Mental Health

IN THE MATTER OF AN APPLICATION BY JR45 FOR JUDICIAL REVIEW
Applicant is a detained mental health patient. - application for judicial review of a decision of the Mental Health Review Tribunal dismissing his application for discharge from detention. - whether the decision is vitiated by error of law. - whether the tribunal correctly construed and applied the statutory provisions in play. - applicant engaged in stalking a fellow female student prior to this detention. - whether the applicant would make contact with the student following his discharge. - risk of harm. - definition of likelihood. - HELD that the tribunal has failed to correctly apply the statutory tests and Order of Certiorari made quashing the decision. - rehearing and reconsideration of the case ordered under a differently constituted tribunal.

HIGH COURT
3 MARCH 2011
MCCLOSKEY J

IN THE MATTER OF AN APPLICATION BY JR49 (ACTING BY HIS MOTHER AND NEXT FRIEND) FOR JUDICIAL REVIEW
Applicant seeks order of certiorari quashing an order made by the respondent authorising the applicant’s removal from a hospital in Northern Ireland to a hospital in England under the Mental Health Act 1983. - applicant detained in Child and Adolescent Mental Health Unit which, on review by the applicant’s Responsible Medical Officer, were not sufficiently specialist to meet the applicant’s needs. - recommendation that the applicant should be transferred to a secure adolescent unit in England. - applicant and applicant’s family did not want him transferred. - authorisation of transfer by responsible authority. - HELD that the respondent failed to consider the objections to transfer and possible significant disadvantages of transfer and did not take account of all relevant considerations and decision quashed.

HIGH COURT
4 MAY 2011
TREACY J

IN THE MATTER OF AN APPLICATION BY JR47 FOR JUDICIAL REVIEW)
Application for judicial review. - resettlement into the community of an adult person from a hospital from which he had been originally admitted under the Mental Health (NI) Order 1986 but now has the status of a voluntary patient with the theoretic possibility of resettlement in the community. - whether the continual residence in the hospital is unlawful and is a relevant legal failing giving rise to challenge. - legitimate expectation. - a 8 ECHR rights and quality of life. - applicant first requested to leave the hospital in 2009 and two possible community placements were declined by him on the ground of unsuitability. - whether the Department failed to make adequate provision for discharge of patients. - whether breach of statutory duty. - proportionality. - HELD that application for judicial review dismissed.

HIGH COURT
7 MAY 2011
MCCLOSKEY J

IN THE MATTER OF AN APPLICATION BY JR50 FOR LEAVE TO APPLY FOR JUDICIAL REVIEW
Applicant is a man with learning difficulties suffers from a mental condition that requires anti-psychotic drugs. - applicant’s family reject this suggestion, and a professional recommendation of the type of food he eats. - Trust applied for guardianship of the applicant which reduces the applicant’s liberty in this way. - authority conferred on the Trust by guardianship order. - parties have since conciliated their position and are invited to consider and propose alternative formulation of the declaratory relief sought.

HIGH COURT
12 MAY 2011
TREACY J

Negligence

MM, A MINOR ACTING BY CM, HER MOTHER AND NEXT FRIEND V WESTERN HEALTH AND SOCIAL SERVICES BOARD
Clinical negligence. - minor plaintiff is a profoundly disabled child with cerebral palsy which arose as a result of treatment administered to the plaintiff’s mother at her birth. - costs of case management and responsibility of case manager for discharging particular outlays. - whether a team leader was required in addition to a case manager. - HELD that the hours and costs of case management were decided according to the needs of the particular case and that the appointment of a team leader was not required.

HIGH COURT
8 JUNE 2011
GILLEN J

Louise Murphy v Peter John King
Plaintiff claims damages for alleged negligence and breach of contract on the part of the defendant during the course of dental treatment which she received from him. - plaintiff suffered a fracture of the
Selected High Court and Court of Appeal Decisions March 2011 – April 2011

LAURENCE RUSH (ON HIS OWN ACCOUNT AND AS PERSONAL REPRESENTATIVE OF ELIZABETH IMELDA RUSH DECEASED) V POLICE SERVICE OF NORTHERN IRELAND AND SECRETARY OF STATE FOR NORTHERN IRELAND

Appeal against a decision of the Master ordering that the plaintiff's action be dismissed pursuant to O.18 RCJ. - whether amended statement of claim should be struck out on the basis that it discloses no reasonable cause of action and/or alternatively that it is scandalous, frivolous or vexatious. - assumption that all the averments in the statement of claim must be true. - core principle that in the discharge of the general duty of the police in combating and investigating crime the police owe no legal duty of care to the individuals affected. - whether this case constituted an exception. - HELD that it is neither plain nor obvious that the cause of action in this matter has no chance of success and decision of Master reversed.

HIGH COURT
10 JANUARY 2011
GILLEN J

ROBERT JAMES SHAW AND DEIRDRE KATHLEEN SHAW V JAMES J MACAULAY SOLICITORS

Determination of application for an order pursuant to 0.18 r.19 RCJ or, alternatively, invoking the inherent jurisdiction of the High Court by dismissing the plaintiff's claim and entering judgment for the defendant accordingly. - plaintiff's claim for damages for negligence, defamation, fraud and collusion. - HELD that the plaintiff's case against the defendant fails to disclose any reasonable cause of action, is frivolous, scandalous and vexatious, is pursued for improper purpose and constitutes a misuse of the process of the High Court.

HIGH COURT
7 JUNE 2011
MCCLOSKEY J

ROBERT JAMES SHAW AND DEIRDRE ELIZABETH SHAW V LAWRENCE PATTERSON

Application of defendant to strike out the plaintiff's claim under O.18 RCJ. - applicants are personal litigants. - interference with right of way. - claims by applicants of defamation fraud and collusion. - whether present application raises issues determined in the County Court proceedings and ensuing appeal. - whether the application is well founded.

HIGH COURT
7 JUNE 2011
MCCLOSKEY J

CENTRAL CRAIGAVON LIMITED V DEPARTMENT OF THE ENVIRONMENT FOR NORTHERN IRELAND

Appeal in respect of the judgment and order in judicial review proceedings which the appellant instituted against the Department of the Environment (DOE). - appellant sought to challenge the decision of the DOE whereby the DOE purported to adopt draft Planning Policy Statement 5 (draft PPS5) on retailing, town centres and commercial leisure developments. - proceedings arise in the context of a disputed application for development at Sprucefield, and appellant is landlord of Rushmere Shopping Centre in Craigavon and considers it would be detrimentally affected by a major expansion at Sprucefield. - appeal against judgment which had considered whether the DRD had any lawful power to formulate and produce PPS5. - whether the DOE had complied with the mandatory environmental assessment requirements and the development plan process. - whether the plan had been adopted without required Executive approval. - further appeal on whether the draft PPS5 constituted a plan or programme falling within the Environmental Assessment Directive 2001/42/EC. - HELD that appeal dismissed.

COURT OF APPEAL
7 JUNE 2011
HIGGINS LJ, GIRVAN LJ, COGHLIN LJ

TESCO STORES LIMITED V DEPARTMENT OF THE ENVIRONMENT PLANNING SERVICE

Appeal against decision to refuse a judicial review of a decision of the Department of the Environment (DOE) granting Vico Kent Limited outline planning permission for a food store at Edenderry. - Tesco had submitted an application for a food superstore which was also approved. - manner in which the DOE had dealt with the Tesco permission which it issued one month before the impugned decision. - whether the Tesco decision had...
been taken into account when considering the Vico Kent application. - whether the cumulative retail impact should have been assessed. - whether there was reasonable consideration of the Tesco application. - whether the approach taken by the Department to a PAC report was unlawful. - HELD that appeal dismissed
COURT OF APPEAL
21 JUNE 2011
MORGAN LCJ, HIGGINS LJ, COGHLIN LJ

PLEADINGS
BLAIR WALLACE V SUNDAY NEWSPAPERS LIMITED
Claim for defamation. - particulars of a statement of claim. - whether appropriate prefatory averments. - whether some particulars in the statement should be struck out. - HELD that summons dismissed and costs awarded to the plaintiff
HIGH COURT
1 FEBRUARY 2011
GILLEN J

PRISONS
AN APPLICATION BY BRENDAN CONWAY FOR JUDICIAL REVIEW AND IN THE MATTER OF AN ADJUDICATION AT HMP Magheraberry ON 25 OCTOBER 2010
Applicant is a remand prisoner in HMP Magheraberry who seeks declarations that the policy of routine full body searching of prisoners on entering and leaving the prison is unlawful, ultra vires of Rule 16 of the Prison and Young Offender Centre Rules (NI) 1995 and that it is incompatible with ECHR. - declaratory relief sought that the policy of forcible full body searching of prisoners who neither consent or resist such a search is unlawful, and incompatible with a.3 and 8 ECHR. - proportionality. - HELD that routine full body searching of prisoners is lawful, is not ultra vires and not incompatible with ECHR, although routine searches on final discharge may not be lawful or proportionate and still needs to be addressed
HIGH COURT
5 MAY 2011
TREACY J
IN THE MATTER OF AN APPLICATION BY CD (NO. 2) FOR JUDICIAL REVIEW
Appeal from a decision to dismiss application for judicial review of a decision of the Life Sentence Review Commissioners to refuse to direct the release of the appellant. - appellant convicted of murder and was sentenced to life imprisonment and released on licence and subsequently arrested for alleged sexual offences. - whether the Review panel ered in law in relying on the risk of serious harm test. - whether there was an obligation to secure the immediate release of the appellant in order to vindicate his a.5(4) ECHR right to a speedy determination of the lawfulness of his detention. - whether the appellant was being unlawfully detained. - HELD that no grounds are made out and application dismissed
COURT OF APPEAL
14 JUNE 2011
MORGAN LCJ, HIGGINS LJ, COGHLIN LJ

TORTS
DAVID WYLIE, DAVID SIMON WYLIE, LOUISE WYLIE, KEITH WYLIE AND JASON WYLIE V KENNETH BOLTON AND DAVID WYLIE
Appeal against decision of Master Bell when he refused an appellant leave to be joined as an additional defendant in this action and to grant leave to it to exercise the rights of the defendant in the proceedings. - action arises from a road traffic accident when a vehicle driven by the first named defendant collided with a horse owned by the defendant in circumstances where the defendant was guilty of negligence and/or breach of statutory duty in permitting the horse to stray on to the public highway at night. - assessment of damages and costs. - defendant seeking an indemnity from the insurers that the damages of outstanding claims will be met. - whether financial interest is sufficient to merit to join additional defendant. - HELD that the decision of the Master be affirmed and costs awarded to appellant
HIGH COURT
14 JANUARY 2011
GILLEN J
Library Update

Legal Update - Default Retirement Age (DRA)

Legislation

Employment Equality (Repeal of Default Retirement Age Provisions) Regulations (Northern Ireland) 2011 SR 168

These Regulations revoke and amend provisions in the Employment Equality (Age) Regulations (Northern Ireland) 2006 (and repeal and amend related provisions in the Employment Rights (Northern Ireland) Order 1996) which except certain dismissals made on the basis of retirement from constituting direct age discrimination and unfair dismissal. New provision relating to insurance arranged by an employer for the employer's employees in connection with that employment is also made. These Regulations came into operation on 6 April 2011.

- From 6 April 2011, employers are not able to issue any notifications for compulsory retirement using the DRA procedure.

- Between 6 April and 1 October, only people who were notified before 6 April, and whose retirement date is before 1 October can be compulsorily retired using the DRA.

- After 1 October, employers will not be able to use the DRA to compulsorily retire employees.


Government guidance on the legislation can be found at http://www.ofmdfmni.gov.uk/index/equality/age/repeal-of-retirement-age-provisions-2011.htm

Employment contract clause

A retirement clause reflecting the current legislative provisions is contained in the Encyclopedia of Forms and Precedents published by Lexis-Nexis. Contact the library for further details.

Articles

- Implications for employers of the abolition of the default retirement age (key changes brought about by the changes and practical advice on how employers should deal with older members of staff)
  Regan: 2011 35(2) Bus L R, 104-106

- Abolition of default retirement age: what employers need to know (practical advice in the form of questions and answers)
  Wallace: 2011 EOR, 210, 12-13

- Perspective: abolition of the default retirement age – the hidden dangers (Comments on the potential pitfalls for employers arising from the abolition of the default retirement age from October 1, 2011. Explains the notice periods required before the abolition takes effect and the cut-off point after which compulsory retirement without justification will be unfair. Highlights the need for effective performance management procedures which do not focus on older employees)
  Newman: 2011 ELJ, Feb, 10

Caselaw

Seldon v Clarkson Wright and Jakes [2010] EWCA Civ 899

A partnership had not acted unlawfully by compulsorily retiring a partner because he was 65 years old where the inclusion of such a retirement age in its partnership deed was consistent with the government’s social policy justification for introducing the Employment Equality (Age) Regulations 2006.

New Books in the Library

- Waterworth, M. Parker’s Modern Will Precedents. 7th ed. Bloomsbury Professional. 2011
- Carter- Ruck on Libel and Privacy. 6th ed. Lexis Nexis. 2010
- Lawson, R. Exclusion Clauses and Unfair Contract Terms. 10th ed. Sweet & Maxwell. 2011
Missing Wills

Re: Mrs Norma McCoy (otherwise Honora Christina)
Late of: 56 Green Road, Belfast BT5 6JB
Date of Death: 9 November 2010
Would any person having knowledge of the whereabouts of the Will for the above named deceased please contact:
Worthingtons
Solicitors
2 Court Street
Newtownards
County Down BT23 7NX
Tel: 028 9181 1538
Fax: 028 9181 0532

Re: Albert Edward Sargent
Late of: 25 Drumahoe Road, Riverbridge, Drumahoe, Londonderry BT47 3SD
Date of Death: 4 May 2010
Would any person having knowledge of the whereabouts of the Will for the above named deceased please contact:
Carson McDowell
Solicitors
Murray House
Murray Street
Belfast BT1 6DN
Tel: 028 9024 4951
Fax: 028 9024 5768

Re: Edith Doreen Nugent (deceased)
Late of: 17 Armagh Road, Keady, County Armagh
Date of Death: 6 April 2011
Would any person having knowledge of the whereabouts of any Will made by the above named deceased please contact:
Con O’Hagan
Solicitors
13 Church Place
Lurgan
County Armagh BT66 6EY
Tel: 028 3832 4511
Fax: 028 3832 6172

Re: Freda Ethel Grace Moffitt
Late of: 2 Sandyknowes Park, Newtownabbey BT36 5DE
Date of Death: 7 April 2011
Would any person having knowledge of the whereabouts of any Will made by the above named deceased please contact:
Sarah Quinn

McKinty & Wright
Solicitors
5-7 Upper Queen Street
BELFAST BT1 6FS
Tel: 028 9041 2801
Fax: 028 9023 1432

Re: Sandra Charlotte Russell Bradley (deceased)
Late of: 5 Rosemary Drive, Bangor, County Down BT20 3EU
Date of Death: 11 March 2011
Would any person having knowledge of the whereabouts of a Will made by the above named deceased please contact:
Alan Kirk
Joseph Lockhart & Son
Solicitors
24 Bachelors Walk
Lisburn
County Antrim BT28 1XJ
DX: DX 3388 NR Lisburn
Tel: 028 9266 3225
Fax: 028 9267 7621
Email: alan.kirk@joseph-lockhart.co.uk

Re: Helena McStravick (deceased)
Late of: Lisniskey Private Nursing Home, 16 Lisniskey Lane, Portadown, County Armagh BT63 5RB
Date of Death: 17 December 2009
Would anyone having any knowledge of the whereabouts of any Will made by the above named deceased please contact:
Con O’Hagan
Solicitors
13 Church Place
Lurgan
County Armagh BT66 6EY
Tel: 028 3832 4511
Fax: 028 3832 6172

Re: Georgina Henrietta Campbell (deceased)
Late of: 19 Harmony Court, Legann Street, Belfast
Formerly of: 244 Alliance Avenue, Belfast
Date of Death: 11 July 2009
Would any person having any knowledge of the whereabouts of a Will made by the above named deceased please contact:
Thompson Mitchell
Solicitors
Trevor House

9 The Square
Hillsborough
County Down BT26 6AG
Tel: 028 9268 9666
Fax: 028 9268 8187
Email: reception@thompsonmitchell.co.uk

Re: Patricia Cumming
Late of: 20 Jackson’s Road, Holywood, County Down BT18 9EZ
Would any person having any knowledge of the whereabouts of any Will made by the above named deceased please contact:
Hunt & Company
Solicitors
77 High Street
Holywood
County Down BT18 9AQ
Tel: 028 9042 8600
Fax: 028 9042 8144

Re: Mr William Milligan
Formerly of: 296 Whitewell Road, Belfast BT36 7NN
Would any Solicitor holding or having knowledge of a Will please contact:
The Official Solicitor to the Court of the Judicature
The Official Solicitors Office
Royal Courts of Justice
Chichester Street
BELFAST BT1 3JF
Tel: 028 9072 4736
Email: officialsolicitorsoffice@courtsni.gov.uk

Re: Viola Noel Spence (deceased)
Late of: Faith House Nursing Home, 25 Orpen Park, Belfast BT9 7AB
Formerly of: Rock Rimmon, 11 Ballycarragannon Road, Lisburn BT27 6YA
Date of Death: 21 April 2011
Would any person having knowledge of the whereabouts of a Will made by the above named deceased please contact:
Alan Kirk
Joseph Lockhart & Son
Solicitors
24 Bachelors Walk
Lisburn
County Antrim BT28 1XJ
DX: DX 3388 NR Lisburn
Tel: 028 9266 3225
Fax: 028 9267 7621
Email: alan.kirk@joseph-lockhart.co.uk
Classifieds

Re: William Tully
Late of: 2B Whiterock Road, Belfast
Date of Death: 3 November 2009

Would any person having knowledge of the whereabouts of a Will made by the above named deceased please contact:
Paul M Graham & Co
Solicitors
70 Andersonstown Road
Belfast BT11 9AN
Tel: 028 9060 3223
Fax: 028 9060 2678
Email: paul.m.f.graham@btconnect.com

Re: Thomas Sheridan Huston (deceased)
Late of: Gillaroo Lodge Nursing Home, Larne
Formerly of: 5 Coles Row, Mossvale Road, Newtownabbey, County Antrim BT36 4TU
Date of Death: 27 June 2010

Would anyone having any knowledge of the whereabouts of a Will made by the above named deceased please contact:
Maurice J Kempton
Solicitors
23 College Street
Armagh
County Armagh BT61 9BT
Tel: 028 3752 3875
Fax: 028 3751 0555

Re: Bernard Lavery (deceased)
Late of: 128 Battery Road, Coagh, Cookstown
Date of Death: 6 July 2006

Would anyone having knowledge of the whereabouts of a Will made by the above named deceased please contact the undermentioned Solicitors:
Toal & Heron
Solicitors
10 Loy Street
Cookstown
Co Tyrone BT80 8PE
Tel: 028 8676 2395
Fax: 028 8676 6552
Email: colm@toalandheron.com

Re: Mary McNicholl (deceased)
Late of: 51 Main Street, Limavady, County Londonderry
Date of Death: 20 October 2000

Would any person having knowledge of the whereabouts of a Will made by the above named deceased please contact:

Hasson & Company
Solicitors
39 Clarendon Street
Londonderry BT48 7ER
Tel: 028 7126 6818
Fax: 028 7126 7780
Email: info@hassonlaw.co.uk

Re: Michael McShane (deceased)
Late of: 74 Rathfriland Road, Hilltown, Newry
Date of Death: 19 June 2011

Would any Solicitor or any person having knowledge of the whereabouts of a Will for the above named deceased please contact:
Rafferty & Co
Solicitors
83 Hill Street
Newry
County Down BT34 1DQ
Tel: 028 3026 1102
Fax: 028 3026 0757


Missing Title

Deeds

Folios: AN176292, AN112169
County: Antrim
Registered Owners: Joseph McCartney and Anne McCartney
Property at: 62 Linen Green, Derrighy Road, Lisburn BT28 3NZ

Take notice that any person having custody of or information as to the whereabouts of the Land Certificate relating to the above mentioned Folios should forthwith produce said Certificate or communicate such information to the under mentioned Solicitors.

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

Murnaghan Fee
Solicitors
Boston Chambers
Queen Elizabeth Road
Enniskillen
County Fermanagh BT74 7JA
DX: DX 3557 NR Enniskillen
Tel: 028 6632 2819
Fax: 028 6632 3072

Folio: 232
County: Antrim
Re: James Patrick McAvoy (deceased)
Late of: 16 Ashley Lodge, Dunmurry, Belfast BT17 0AF
Date of Death: 28 January 2011

Take notice that any person having custody of or information as to the whereabouts of the Land Certificate relating to the above mentioned Folio should forthwith produce said Certificate or communicate such information to the under mentioned Solicitors.

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

W G Maginess & Son
Solicitors
68 Bow Street
Lisburn
County Antrim BT28 1AL
Tel: 028 9267 2161
Fax: 028 9267 0997

Re: Mary McNicholl (deceased)
Late of: 51 Main Street, Limavady, County Londonderry

Would any person having knowledge of the whereabouts of a Will made by the above named deceased please contact:
Re: James Stanley Reid (deceased)
Late of: 356 Upper Ballynahinch Road, Lisburn
Date of Death: 26 December 2010
Would any person having knowledge of the whereabouts of Documents of Title in respect of lands at Upper Ballynahinch Road, Lisburn, held in the name of the above deceased, please contact:
W G Maginess & Son
Solicitors
68 Bow Street
Lisburn
County Antrim BT28 1AL
Tel: 028 9267 2161
Fax: 028 9267 0997

Property at: 5 Coles Row, Mossvale Road, Newtownabbey, County Antrim BT36 4TU
Registered Owner: Thomas Sheridan Huston (deceased)
Would any Solicitor knowing the whereabouts of the Documents of Title in respect of the above mentioned premises please produce such Deeds or communicate such information to:
Maurice R J Kempton
Solicitors
23 College Street
Armagh
County Armagh BT61 9BT
Tel: 028 3752 3875
Fax: 028 3751 0555

Folio: DN21180
County: Down
Registered Owner: Karen Mathers Downey
Lands of: 20 Derryleckagh Road, Newry, County Down
Take notice that any person having custody of or information as to the whereabouts of the Land Certificate relating to the above mentioned Folio should forthwith produce said Certificate or communicate such information to the under mentioned Solicitors.
And take further notice that unless the said Land Certificate is so produced or adequate information as to its whereabouts is so communicated within three weeks of publication of this notice, a duplicate Land Certificate may be applied for.
Gillen & Co
Solicitors
3 Old Kenlis Street
Banbridge
County Down BT32 3BD
Tel: 028 4062 6639
Fax: 028 4066 9564

Folios: 34837 & 24960
County: Antrim
Registered Owners: David Roy Craig & Margaret Craig
Lands at: Ardmore Road, Crumlin
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 under mentioned 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, duplicate Land Certificates may be applied for.
W G Maginess & Son
Solicitors
68 Bow Street
Lisburn
County Antrim BT28 1AL
Tel: 028 9267 2161
Fax: 028 9267 0997

Folio: DN60281
County: Down
Registered Owners: Winston Victor Hamilton & Patricia Anne Hamilton
Lands at: Teconnought Road, Crossgar
Take notice that any person having custody of or information as to the whereabouts of the Land Certificate relating to the above mentioned Folio should forthwith produce said Certificate or communicate such information to the under mentioned Solicitors.
And take further notice that unless the said Land Certificate is so produced or adequate information as to its whereabouts is so communicated within three weeks of publication of this notice, a duplicate Land Certificate may be applied for.
W G Maginess & Son
Solicitors
68 Bow Street
Lisburn
County Antrim BT28 1AL
Tel: 028 9267 2161
Fax: 028 9267 0997

40 Merok Gardens Belfast
Would any solicitor having knowledge of the whereabouts of the Deeds of number 40 Merok Gardens, Belfast BT6 9NA held in the names of Samuel Lown and/or Hazel Lown please contact:
Nesbitt Solicitors
109 Cregagh Road
BELFAST BT6 8PZ
Tel: 028 9045 4005
Fax: 028 9073 8191

Solicitors/Firms required

Wilson Nesbitt (www.wilson-nesbitt.com) is a broadly based firm with offices in Belfast & Bangor. We are continuing to invest heavily in IT, staff training, accounting and compliance with lexcel & other best practice standards. We have increased our staff numbers generically by 15% over the last 15 months, have ambitious marketing and development plans and seek to grow our 60 staff further. We are always looking for ways to enhance our business and would welcome approaches from individual solicitors or small established teams who believe they could deliver sustainable fee income. Our interest also includes approaches from one or two partner firms who wish to work either on an independent overhead sharing arrangement or a consultancy basis or who wish to retire. We have a flexible attitude to structuring with chambers style overhead sharing, outright purchase, profit sharing, fee splitting, salaried, consultancy or mixed or other arrangements all being open for negotiation.
Approaches in the strictest confidence directly to Gilbert Nesbitt on 028 9127 8166 or gnnesbitt@wilson-nesbitt.co.uk.
Legal Book-keeping Services

Legal Book-keeping Services for small – medium Practices.
Provided by self-employed bookkeeper with wide and varied experience of Sage Accounts, Alpha Law and Payroll Systems.
References available.
Contact
Beverley MacRitchie
07763 006306
028 9337 2999
macall@btinternet.com

Legal Accounts

CMG Legal Accounts: Specialised practice in Legal Book-Keeping Services, providing a confidential and flexible solution for all your business needs. With over 20 years’ collective experience working within the legal sector in NI. Experienced with AlphaLaw; Opsi/ Millennium; TFB; Sage; Sage Payroll and many other bespoke accounting systems. Working knowledge with numerous Law Society inspections; HMRC VAT and Payroll compliance review.
Contact Louise on 07759 299636 or email cmglegal@hotmail.co.uk.

Legal Cost Consultant

Attention all solicitors - do you require the assistance of a Legal Cost Consultant/Cost Drawer?

CM Legal Cost Consultancy offers the following services:

- Advice & assistance in respect of Contentious Costs (Solicitor & Client, Party & Party and Legal Aid)
- Preparation of Bills of Costs for Taxation
- Preparation of Schedules of Work for assessment by LSC
- Complimentary file collection and return of files from your office

CM Legal Cost Consultancy will remove the burden of cost-related issues freeing up fee-earners’ time to concentrate on more productive matters.
For further information please contact:
Miss Catherine Mallon LLB
19 Hilltown Road
NEWRY BT34 2LJ
Tel: 07846 501622
Email: cmallon10@live.co.uk

Practice for Sale

Well established general practice in south of province seeks buyout offer. Would suit ambitious young Solicitor. Mentoring available.
Reply in strict confidence to:
PO Box 210
c/o dcp strategic communication Ltd
Bamford House
91-93 Saintfield Road
BELFAST BT8 7HN

FIRE RISK ASSESS N.I.
WWW.FIRERISKASSESSNI.CO.UK
(PART OF ABBACUS CCTV)
ARE YOU BREAKING THE LAW?
CONTACT US FOR:
FIRE RISK ASSESSMENT
STAFF FIRE AWARENESS TRAINING
EVACUATION DRILLS
FIRE ALARM REPAIRS & CERTIFICATION
INTRUDER ALARMS
CCTV & REMOTE VIEWING
INTERCOM & ACCESS CONTROL INSTALLATION & REPAIRS
TEL 02890 500050
MOBILE 07788901796
UNIT A204 PORTVIEW TRADE CENTRE 310 NEWTOWNARDS ROAD BELFAST

S. C. Clarke
A.Inst. A.E.A. M.I.M.I
Consulting Motor Engineer & Assessor

Professional, Comprehensive Reports

Specialising in:
Private Light Goods Vehicle
Diminution in value
Motorcycle
Commercial Vehicle
Plant & Agricultural Machinery
Fire Investigation
Arbitration
Preparation for Litigation
Paint Defects
Mechanical Failure

TEL: 07505066007
FAX: 02894433417
E-Mail: sclarkeassesor@btinternet.com
7 Lylehill Road East
Templepatrick BT39 0HQ
LAWLINK NI
Northern Ireland’s Leading Law Search Company

Searches Available
- Bankruptcy and Enforcement of Judgements
- Statutory Charges
- Land Registry
- Registry of Deeds (post and pre-1990)
- Fall and Part Company Searches
- Local Authority and DOE Property Certificates
- Water Service maps
- NIHE Enquiry
- NAMA Searches
- Debt Case and Title
- Matrimonial Charges
- National and International
- Priorities and Probate Searches

PROFESSIONAL £5M INDEMNITY

Additional Services
- Tailored Packages to suit your individual requirements
- Same day service via email/ fax - (on searches received before 11am)
- Excellent customer service
- Professional Search Teams with over 70 years experience
- 30 Day Credit Terms

Lawlink NI Law Searchers
Franklin House, 12 Brunswick Street, Belfast BT2 7GE
T: 02890 230095 F: 02890 234649
E: enquiries@lawlink.co.uk www.lawlink.co.uk

Republic of Ireland Agents
We are willing to act as agents in most legal matters.
Our offices are close to Courts, Government Buildings and Commercial Centre.
Fee splitting by arrangement.

Hughes & Liddy Solicitors
2 Upper Fitzwilliam Street
Dublin 2
Tel: (00 3531) 6766763
or (00 3531) 6789701
Fax: (00 3531) 6766702

REPUBLIC OF IRELAND AGENTS

Lavelle Coleman Solicitors
51/52 Fitzwilliam Square,
Dublin 2, Ireland
DX 109010 Fitzwilliam.
Tel: (00 3531) 6445800
Fax: (00 3531) 6619912
E-Mail: law@lavellecoleman.ie

Willing to undertake agency work on behalf of Solicitors in Northern Ireland
Contact
Marc Fitzgibbon (Partner)

STEPHEN DONAGHY
I.Eng. M.Inst. AEA, F.I.M. M.SOE.
AUTOMOTIVE CONSULTING ENGINEER

Tel & Fax: 028 9022 3367
Mobile: 0780 895 2608
Email: advice@sodonaghy.co.uk
Web: www.sodonaghy.co.uk

Ideally qualified and suitably experienced to undertake Appropriate Accident Investigation and Reconstruction of cases where, private cars, light & heavy commercial vehicles, farm machinery, industrial site machines & their associated equipments are the subject.

Experienced in Forensic Examination, the collection & recording of evidence, compiling material facts leading to detailed reporting for the purposes of Litigation.

6 Knockvale Grove, Knock,
Belfast BT5 6HL

Thinking of Selling, Merging or Valuing your Practice?

Then call Ray Fox
on 01494 483728 for free information and guidance.
Email: ray.fox@virgin.net
www.bottomlineconsultancy.com
HEART TRUST FUND
(ROYAL VICTORIA HOSPITAL)

The main object of this established and registered charity is the support and furtherance of the vitally important treatment, both medical and surgical, provided for patients in the Cardiology Centre in the Royal Victoria Hospital Belfast, and the equally important work of research into heart disease carried on there. The charity is authorised to use its fund to provide that support, or achieve that furtherance when, (but only when) public funds are not available, or are insufficient, for the purpose.

The Royal’s splendid record in the fight against heart disease is too well known to need advertisement, and by an immediate cash gift or a legacy or bequest to this charity in your will, you can help directly to reduce the grave toll of suffering and death from this disease in Northern Ireland. The grim fact is that the incidence of coronary artery disease in Northern Ireland is one of the highest in the world.

The administration of the charity is small and compact and the trustees are careful to ensure that its cost is minimal. As a result donors and testators can be assured that the substantial benefit of their gifts and bequests will go directly to advance the causes of the charity.

Further details about this charity and its work will gladly be supplied by the Secretary, The Heart Trust Fund (Royal Victoria Hospital), 9B Castle Street, Comber, Co. Down BT23 5DY. Tel: (028) 9187 3899.

(Registered Charity No. XN52409)
(Inland Revenue Gift Aid Scheme Code EAP76NG)

Republic of Ireland Agents

- Deal with a Northern Ireland firm of solicitors with a full time practice in Dublin
- Fees agreed on an individual case basis
- All communications to client via the introducer only
- Our offices are immediately adjacent to the Courts and available for consultations with Counsel

SEAMUS CONNOLLY
Moran and Ryan Solicitors
35 Arran Quay
Dublin 7
Tel. 00 3531 8725622
Email: sconnolly@moranryan.com

S C Connolly & Co Solicitors
Bank Building, 39 Hill Street
Newry BT34 1AF
Tel. 028 302 65311

Clean Neighbourhoods Legislation Conference

Lagan Island Centre
14th September

We will have a range of council operational and legal speakers to discuss methods of implementing the new legislation, including flyposting, graffiti, littering and dogs.

More information is available at www.tidynorthernireland.org

KEVIN J McVITTY
BSc(Hons) MRICS
Chartered Building Surveyor

- Expert Witness Reports
- Liquor Licensing
- Boundary Disputes
- Due Diligence
- Acquisition Surveys
- Building Pathology
- Schedules of Condition
- Dilapidations
- Mapping

Dash House 34 Shore Road
Holywood Co Down BT18 9HX
028 9039 3933 / 077 0707 5558
mail@kevinmcvitty.co.uk
www.kevinmcvitty.co.uk

Dr. Jack Boyle
B.A., B.Sc., (Econ) M.Ed.

Child/Adolescent Psychologist
- Fostering and Adoption
- Contact
- Child Abuse
- Education
- Children’s Order Panel
- Residence
- Reparation
- Criminal

Court Reports Prepared
DIRECT LINE (028) 9043 6965
Belfast Office
Cathedral House
23-31 Farm Street
Belfast BT1 2DX

Tel: (028) 9043 6965
Fax: (028) 9043 6699
Mobile: 0797 003 1236
Web: www.psychologist-ireland.com
E-mail: db@psychologist-ireland.com
Offices in Glasgow and Edinburgh
Reducing Real Estate Risk

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

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

- **General Residential and Commercial Use**
  - Bespoke policy wordings available for commercial and residential Known Risks.
  - Comprehensive 'Good Title' policy available to include known and unknown risks.

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

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

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

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

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

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

NEW!

Mobility Has Arrived...

digital@asdongroup.com  |  0289267 5114