THIS MONTH

Brian H Speers
new President of the Law Society
Please find below a list of standard title insurance risks which are covered by First Title:

- Absent Landlord
- Adverse Possession
- Bankruptcy / Insolvency – Gratuitous Alienations
- Building Over a Sewer
- Contaminated Land / Environmental Policies
- Contingent Buildings (covering defective insurance provisions)
- Defective Lease
- Exceptions and Reservations- Know and Unknown
- Flying Creeping / Freehold
- Forced Removal / Obstruction of a Right of Way
- Good Leasehold
- Judicial Review
- Lack of Building Regulations Consent
- Lack of Listed Building Consent
- Lack of Planning Permission
- Limited / No Title Guarantee
- Local Authority Search
- Missing Deeds / Leases
- Missing Matrimonial Homes Consent
- Outstanding Charges Entry
- Possessory / Qualified Title
- Pre-Eemption Rights
- Profits à Prendre
- Rent Charge
- Restrictive Covenants- Known and Unknown
- Rights of Light
- Title Subject to a Lease

Supplemental cover is also available for loss of profits, consequential loss, rental liability, inflation and portfolio risks.

To discuss one of the above listed risks or for a general enquiry please contact your dedicated underwriting team – NORTHERN IRELAND

Direct Dial Number: +44 (0) 141 248 9090
Email: scotinfo@firsttitle.eu
Contact: Reema Mannah
Address: FIRST TITLE INSURANCE plc, Suite 5.1, Turnberry House, 175 West George Street, Glasgow, G2 2LB
Website: www.firsttitleinsurance.eu

For further information about First Title or access to our services please contact the appointed NORTHERN IRELAND representatives:

Gary Mills
Mobile No: +44 (0) 7793814300
Email: gm@bluechiptitle.eu

Derek Young
Mobile No: +44 (0) 7763924935
Email: dy@bluechiptitle.eu

Website: www.bluechiptitle.eu

First Title Insurance plc. Is authorised and regulated by the Financial Services Authority, registration number 202103.
04 Cover Story: New President – Brian H Speers

05 New Presidential Team

08 Focus on commercial mediation

11 Solicitors’ undertakings – part 1

13 Political lobbying

14 Advanced Advocacy course 2010

19 Group relief for Stamp Duty Land Tax and Stamp Duty

24 CCBE at 50

26 Norman Scott obituary

35 High Court and Court of Appeal Decisions

42 Library Update – Tripping and Slipping
Brian H Speers – new President of the Law Society

He was a founding member of the Northern Ireland Young Solicitors Group and was Chair from 1988 – 1990. He is the first Chair of the Young Solicitors Group to become the President of the Society.

As I begin my Presidential term it is important for me to take this opportunity to consider some challenges presently facing the profession, to contemplate challenges, and to explain some of the issues which the Council of the Society will be considering.

As with all Presidents of the Law Society I am a practising solicitor and I fully understand and appreciate the enormous difficulties and hardships caused to many firms and colleagues as a result of the present financial recession and the dramatic reduction in housing transaction volumes.

I am all too well aware of the many difficult conversations that have had to be undertaken with colleagues and staff either in the context of redundancy or in negotiating a reduction of hours or a reduction of salary. It is one of my priorities to support the backbone of the profession, which is the ordinary general practitioner throughout the province, in as many ways as I can during the Presidential year.

This support can be demonstrated in a number of ways. Last year the President and Chief Executive embarked on a series of roadshows with local associations with a view to presenting some of the issues facing the Society and listening carefully to concerns expressed from members attending those presentations. I intend to continue that programme of roadshows and to continue to ensure better two way communication between the Society and members.

I also believe passionately in the value of continuing legal education. Since qualifying I have been a member of the Education Committee. (Recently I have completed a comprehensive review of vocational legal training with colleagues on the Review of Vocational Training Working Group). I want our trainee solicitors to be widely and expertly taught and I want practitioners to be involved as much as possible in their teaching. This provides opportunities for practitioners to deliver lectures and to participate in tutorials and this contributes greatly to the learning experience of the trainees.

In addition to education I want to expand and develop further the CPD programme of the Society to provide inexpensive seminars and lectures to ensure that all solicitors can keep up to date and have the opportunity of learning new areas of practice.

Another area where skills can be acquired is in the area of disputes resolution. There has been an increasing attention paid to what has been called the “paramount importance”...
of avoiding disputes coming to court. There is obviously a prospective costs saving for the courts, if cases are resolved. However there is also an opportunity for solicitors to be central to the resolution process. This can be as a representative of a client in a negotiation or mediation or as acting as the neutral mediator assisting the parties and their solicitors to reach an accommodation which meets each party’s needs and is better than the alternative of continuing to pursue the case to court.

The resolution of disputes has received an attention and sharpness of focus since the speech of the Lord Chief Justice at the opening of the legal year. It is my desire to provide more mediation training courses for solicitors and barristers and to promote the use of the Society’s Dispute Resolution Service and make its superb attributes known more widely to the profession at large, to the Judiciary and to the client community.

It is my view that what we have learned in our troubled society about conflict resolution and about the advantages of discussion and dialogue and accommodation that can be offered to an international clientele thereby providing opportunities to showcase our legal profession in this jurisdiction and to provide opportunities for mediators and representatives to participate in the resolution of disputes on a wider stage.

There remain many other challenges which must be met. We are all aware of the calls for budgetary restraint and reduction in public expenditure – the legal sector will not escape. However it is important to ensure that even though the amount available for publicly funded Legal Aid may reduce it is applied fairly and appropriately and so that the access of a citizen to a forum where their rights can be upheld is not eroded or eliminated or made impossible. In that context it is my belief that the availability of an independent objective, well trained and knowledgeable legal community spread throughout the province is essential to ensure that access to justice is achieved and maintained through access to a choice of legal solutions.

How we handle relations with clients also requires attention. While the Bain recommendations provided challenges to the Society they nonetheless recognised that any regime for dealing with complaints needed to be proportionate. It is certainly my view that an expensive body set up to deal with complaints and paid for by the profession is a step which must be resisted because among other reasons the present economic stresses on solicitors’ firms. The adoption of Bain is the correct way forward and this will be strongly contended for in ongoing political engagement and in representations to the Assembly.

We have also been challenged by the attitude of some lenders to reducing their panels. There is much concerning conveyancing and property transactions which needs to be urgently considered. These transactions give rise to the bulk of Professional Indemnity Insurance claims. The teaching of land law and conveyancing should be examined to see if improvements can be made. I have formed a new Conveyancing and Property Committee which will deal exclusively with
these matters. The Committee will refresh and update and re-examine the workings of the Home Charter Scheme, will consider forms of terms of engagement letters to be issued to clients under the Client Communication Regulations and will also then provide a mechanism for dealing with complaints which often at their core have misunderstandings or unrestrained expectations as to what solicitors ought to be doing and can do. I hope that the Conveyancing and Property Committee will embark energetically on a very useful programme of work which will benefit the entire profession.

I was also privileged to be the Chair of a Working Group dealing with the Review of Vocational Training. These recommendations included an endorsement of the existing system, whereby an integrated approach of in-class and in-office teaching is provided. In addition they recommended improving the in-office elements of training and I anticipate that there will be both engagement with the profession and support from the Law Society to ensure that offices are equipped and able to provide effective training to trainee solicitors during the course of their qualification period.

During his Presidency, Norville Connolly established and took forward the exploration of wider horizons for the profession and this theme will continue during my year and into the conference in Amsterdam in April where we will be setting up opportunities to explore the provision of legal work in Europe. It is also necessary to continue the political engagement with our devolved Assembly, and meetings with all political parties on a variety of issues will continue, as will the response on behalf of the profession of the Society to various consultation processes that are underway.

As I list some of these themes, namely support for the general practitioner; solicitor advocacy; skills training and disputes resolution; education; engagement with the review on Access to Justice; implementing Bain recommendations and dealing with complaints; outreach to wider horizons to generate legal work for the profession here; and other local political engagement it can be clearly seen that there is much to be done and an interesting year will lie ahead. However the year will not be possible without the support of the Council of the Society, the membership of the profession and the hard work and dedication of all of the staff within the Law Society.

I hope to continue the work to build a stronger, more expert, more flexible, highly skilled and united profession and I hope to progress these aims during my year as President.

Brian H Speers
Practising Certificate reminder

By the time you read this you should have received the Application Form (PCR1) to facilitate the renewal of your Practising Certificate. The covering letter which accompanied the PCR1 emphasised the importance of correct completion and timely return of the form to the Society. You are reminded again that all forms must be returned not later than 5 January 2011.

As regards correct completion, please bear in mind:

a. The responsibility for proper completion and return of the form lies with the individual applicant solicitor (i.e. not the firm or employer).

b. The application must bear the personal signature of the applicant, and be both signed and dated.

c. The application must be accompanied by the correct remittance. By way of reminder, the Practising Certificate Fee for 2011/2012 is £1050. The prescribed Compensation Fund contribution applicable to the applicant is also calculated and shown on the PCR1. For 2011/2012 the relevant full-contribution is £500 (payable by solicitors with more than six Practising Certificates since admission); the half-contribution is £250 (payable by solicitors receiving their fourth, fifth or sixth Practising Certificate), and a Nil contribution is levied in accordance with the relevant statutory provisions on solicitors receiving their first, second or third Practising Certificate following admission.

d. For solicitors in private practice the Practising Certificate Application Form must be accompanied by the correct and original Professional Indemnity Insurance Certificate. It is common for the Form to arrive with the Society with no Insurance Certificate, with a photocopy of an Insurance Certificate, or with the wrong Insurance Certificate. In respect of each solicitor a Schedule will have been provided by the Society broker (MARSH) which clearly identifies itself in these terms: “(NB: This schedule should be forwarded to the Law Society as evidence of insurance)”.

e. The Society is particularly keen to optimise communication with members by e-mail. You can fill in details of your e-mail address at Part A (iii) of the application form. Please update as required or if you have not previously done so, please actively consider providing these details.

The Society is appreciative of your co-operation and attention in all these respects.

ALAN HUNTER
Registrar

CPD reminder

As we enter the Christmas party season, CPD is probably the last thing on most people’s minds. However, the CPD year is once again coming to an end, and this is a reminder for those who have not yet completed and sent your CPD Record Card to the Society.

It is compulsory for every solicitor who currently holds a Practising Certificate to complete 15 hours of CPD and to send the completed Record Card to the Society. There are some exceptions to this, such as those solicitors who will have worked less than 200 hours during 2010, or those who are retiring before the end of 2010. Other exemptions are given on page 3 of the pink 2010 CPD Record Card. Anyone who is exempt or partially exempt from the requirements must nevertheless complete a card detailing the relevant exemption so that our records can be kept up to date.

The completed Record Cards should be sent to the Society before 5 January with all relevant sections filled in. We would ask that you do not include certificates of attendance at events, as this generates a huge amount of paper to be stored within the Society. However, each solicitor should retain these attendance records on file until the end of 2011 as you may be asked to provide these as evidence. Solicitors are also asked to keep a photocopy of the Record Card they submit to the Society.

The CPD section of our website (www.lawsoc-ni.org) features a selection of FAQs which may be of assistance to you in completing your card. Alternatively, please contact the CPD Coordinator at CPD@lawsoc-ni.org.

Finally, thanks to all of you who have already sent in your 2010 Record Card. Receiving a percentage of the cards before the holiday period means that we can begin processing the cards much earlier.

If you have any queries about CPD, please contact the CPD Co-ordinator at the Law Society on 028 9023 1614.

Thank you for your continued support of Law Society CPD events during 2010. Have a wonderful Christmas and we look forward to seeing you all at the Society’s CPD events in 2011.

The Society is appreciative of your co-operation and attention in all these respects.
Focus on commercial mediation

The value of mediation as a means to settle business and commercial disputes was highlighted on 21 October 2010 at an event organised jointly by the Law Society and the Centre for Effective Dispute Resolution (CEDR), London.

The event, which was held at Law Society House in Belfast, underscored the growing importance of mediation as a highly effective way to resolve business and personal disputes.

Over the last number of years the Society, through the Dispute Resolution Service, has provided training to solicitors interested in offering commercial mediation services to clients and has endeavoured to increase awareness in the business community and in the Courts.

The Law Society believes that the wealth of knowledge and experience of commercial mediation, which can be offered, by solicitors and solicitor firms in Northern Ireland is a valuable and underused business resource which can be offered to business clients at home and abroad.

The benefits of commercial mediation, the Society believes, are far reaching and the resolution of business disputes in a cost effective and successful way can assist business and can potentially create new revenue streams for solicitor firms in advising and for solicitors who act as commercial mediators.

Speaking at the event, Brian Speers, incoming President of the Law Society at the time said;

“This event is a part of series of initiatives, which the Society is developing to actively promote commercial mediation not only to our members but to the wider business community.

In these difficult economic times businesses in Northern Ireland and further afield are looking for solutions to their disputes and will expect advisers to present the most appropriate, cost effective and practical options. This will enable clients to elect the approach which best meets their interests.

Mediation recognises these commercial realities and offers a quality and effective process for dealing with often difficult issues.

In addition commercial mediation can resolve disputes while maintaining or rebuilding personal and business relationships.

The Society has been proactive in developing mediation training programmes and equipping our members with the necessary skills and knowledge, which will be needed to undertake commercial mediation.

This event is part of our training programme and we are grateful to Karl Mackie, the Chief Executive of the Centre for Effective Dispute Resolution (CEDR) for his help in jointly organise this event.”
Keith McGarry, Partner with Conn and Fenton solicitors in Lisburn, reflects on his participation on the recent mediation course hosted by SLS in partnership with the Law Society.

I undertook the recent mediation course for two reasons. Firstly I am completing my Masters Degree in Sports Law. Following three years of study and being involved with a company, Sport Resolutions Limited I am aware that there is a strong body of opinion that sport disputes should be resolved by way of alternative dispute resolution, not least mediation.

My second reason for undertaking the course follows the recent publicity surrounding mediation from the Law Society and the address of the Lord Chief Justice at the Opening of the Legal Year.

Initially I was unsure what to expect from the course and attended with a degree of trepidation. However, my initial concerns soon dissipated. I found the course was efficiently well run by Brian Speers, Alva Brangam QC and David Gaston. Their expertise, humour and manner of delivery were excellent and certainly added to the enjoyment of the course.

I can say without fear of contradiction and on behalf of the 15 participants (latterly 16!) that we collectively enjoyed ourselves whilst at the course was enhanced tremendously by the calibre of the individuals on it.

Like many courses you attend it’s hard to put into practice what you actually learn. Nevertheless, the course has enthused me sufficiently to apply to the Law Society to join its alternative dispute resolution panel and Just Sport Ireland to sit on its panel as mediator.

Having participated in many courses, I certainly feel that this has been the most beneficial and without doubt the most enjoyable.

I would like to thank SLS and The Law Society for facilitating this course and look forward to maximising my new skills in the future.
The Dispute Resolution Service of the Law Society of Northern Ireland proposes to deliver in conjunction with SLS a mediation training course in Spring and Autumn 2011.

The course is likely to run for seven consecutive weeks – on the same evening each week between 6.00pm and 8.30pm plus one all day Saturday programme.

The course will be delivered by experienced mediators and skills trainers and those who have taken part in previous courses have found the course to be of great interest, value and enjoyment. The nature of the course means that the maximum numbers attending is restricted so you are asked to register your interest as soon as possible. If you have an interest in attending please notify Miriam Dudley of SLS at m.dudley@qub.ac.uk

The course is open to solicitors and barristers with five years’ post qualification experience and the likely cost will be £895 per person. This compares extremely favourably with mediation training course fees offered by other providers.

The course attracts 24 hours CPD training including 3 hours Client Care.
In the first of two articles on Solicitors’ Undertakings, Stephen Gowdy of King & Gowdy Solicitors Belfast highlights four key questions every solicitor should ask himself before giving an undertaking.

The above, as a title, is a misnomer if ever there was one. The very nature of a solicitor’s undertaking is that it is personally provided, of course. It is a Solicitor’s Undertaking, that is, with a capital S and a capital U.

The profession is, of course, very familiar with solicitor’s undertakings. They are, after all, the lubricant which oils many transactions and allows them to proceed as smoothly as possible to completion. But the very fact of that familiarity, and the frequency with which they are encountered can mean that they are perhaps not treated as seriously as they ought to be. Familiarity can and does breed contempt. And in so many cases when there is familiarity, it is sometimes helpful to look afresh at the basic propositions which underlie solicitors’ undertakings.

An undertaking of itself is nothing more than a promise. Although the maker of a promise may feel morally obliged to honour a promise which he has given, the law generally will not require the giver of a promise to keep his promise unless that promise is supported by consideration. The basic definition of a contract is well known. It is an exchange of promises. The consideration for the giving of one promise is a promise by the recipient. Thus, in general terms, promissory estoppel apart, an undertaking is not enforceable at law or equity unless it is supported by consideration.

An undertaking given by a solicitor may be different. It may well be enforceable in the absence of consideration for a solicitor must fulfil an undertaking which he gives in the course of his practice and in his capacity as a solicitor. Such an undertaking given professionally is enforceable summarily upon application to the Court and notwithstanding the absence of any consideration. A person’s word ought to be his bond. The Court’s jurisdiction to enforce a voluntary undertaking is based on its right to require its officers to observe a high standard of conduct, such as keeping their word. It flows from the solicitor’s position as an officer of the Court and therefore when he gives an undertaking in his capacity as solicitor, he cannot plead that the undertaking is not enforceable as a contract against him.

Crucially the undertaking must be given by him qua solicitor; otherwise it is not a Solicitor’s Undertaking. For example, a solicitor may ask his bank for a loan and he may undertake to pay to the bank the sum of £x on such and such a date. If he does not draw down the loan, or if the bank does not make the loan,
the solicitor is obviously not bound by that undertaking even though it is an undertaking and even though it is given by a solicitor. The reason for that is that it is not given by him in his capacity as a solicitor.

The principles which may be distilled, are that, to be enforceable as a solicitor’s undertaking:

(a) there must be an underlying transaction of the type which forms part of a solicitor’s business and in connection with which the undertaking is given and

(b) in the case of an undertaking to pay money there must be a fund to draw on in the hands of or under the control of the solicitor or, at any rate, there must be a reasonable expectation that such a fund will come into the firm’s hands and that that fund must come into the firm’s hands in the course of a transaction which is the sort of work that solicitors undertake.

Normally there is very little difficulty in establishing whether or not an undertaking has been given in the course of an underlying transaction and in the vast majority of cases it will also be self evident as to whether that underlying transaction is in the nature of a business undertaken by a solicitor.

The key is that once a Solicitor’s Undertaking is established, the solicitor who gave it is bound to comply with it. And it is not just binding on the solicitor who gave it. A Solicitor’s Undertaking given by a solicitor employee is also binding on all the members of the firm which employs him, unless that firm is a limited liability partnership when it will bind the firm, rather than the individual members of the firm. An undertaking given by a partner is binding on all the partners in the firm, again, unless that firm is a limited liability partnership when it will bind the firm, rather than the individual members of the firm. The only exception is a Solicitor’s Undertaking which was impossible ab initio for the solicitor to perform; such is not enforceable. The test is impossibility not impracticability, nor inability to do so without expenditure of money.

Because the enforcement of a Solicitor’s Undertaking goes to the conduct of a solicitor, and the supervisory power which the Court has over its officers, breach of undertaking is inextricably bound up with contempt of Court. In theory, a solicitor could be committed to prison for breach of the undertaking, although that is unlikely to happen nowadays. Before there would be committal, an order would be made requiring the solicitor to perform the undertaking. Failure to obey that order would be the contempt upon which an application for committal or sequestration of assets could be made. Concurrently with the committal jurisdiction, there is also the power to order the solicitor to pay compensation to the person to whom the undertaking was given. This is the remedy which a person claiming the benefit of an undertaking will normally seek.

Breach of an undertaking will hit the solicitor and his firm in the pocket. Accordingly, undertakings should not be given lightly, without due consideration, or as a matter of course. It is no part of a solicitor’s function to act as a guarantor for his client but yet that, in many cases, is what the solicitor does when he gives an undertaking. It therefore follows, that no-one can force a solicitor to give an undertaking. His client cannot force him to do so, another solicitor cannot force him to do so, a bank or lending institution cannot force him to do so, nor can the Law Society or the Home Charter Committee force him to do so. The choice must be that of the solicitor. It is not unprofessional conduct to refuse to give an undertaking.

In view of this, the inclusion in the General Conditions of Sale of General Condition 15.7 is inexplicable. The General Conditions form part of a contract between the purchaser and the vendor. A solicitor is not a party to the contract. Accordingly, any condition in a contract between the vendor and the purchaser which deals with undertakings which the purchaser’s solicitor may require from the vendor’s solicitor is meaningless. Neither solicitor is a party to the contract and how the purchaser’s solicitor can give any acknowledgement in connection with an undertaking in a document to which he is not a party is strange. Indeed, there is a strong argument that a solicitor should only give an undertaking to facilitate himself in conducting the transaction.

Before giving an undertaking which will bind him as a solicitor, a solicitor should ask himself the following four key questions:

1. Is the performance of this undertaking entirely within my control, or do I have to rely on a third party to do some act before I will be able to perform the undertaking. If the answer to the first part of this question is “No”, which means that the answer to the second part must be “yes”, then the undertaking should not be given.

2. If the performance of this undertaking requires me to pay out money for the client, can I be certain now that I will hold the necessary fund on behalf of the client at the time when I will be required to pay it out, to allow me to pay that money without having to use my own money. Again, if the answer to that question is “no”, then the undertaking should not be given.

3. Can the transaction proceed without undue difficulty if I do not give the undertaking? If the answer to that question is “yes”, the undertaking should not be given. If the answer is “no”, there is still no obligation on the solicitor to give the undertaking.

4. If I give this undertaking, am I being asked to assume liability for what would be a breach of contract by my client? The solicitor is not a party to the contract, and so should not be liable for the breach of contract by his client. If the client is in breach of contract, the remedy of the other party should lie against the client and not against the client’s solicitor. So, if the answer to this question is “yes”, the undertaking should not be given.

The type of transaction dealt with by a solicitor in which undertakings play an important role is, of course, the conveyancing transaction, and the majority of the claims for breach of undertaking with which the Master Policy insurers deal arise from conveyancing transactions. In the second part of this article to be carried in the next edition of The Wnt, consideration will be given as to how the four key questions apply to the typical undertakings encountered in a typical conveyancing transaction.
Chief Executive highlights the value of political engagement

The need for an integrated approach to political lobbying, combining high level discussions with Executive Ministers and grass roots engagements with local MLAs, was the subject of a recent conference organised by the Law Society of Northern Ireland.

Speaking at the event were Alan Hunter, the Chief Executive of the Law Society and Barry Turley, Director of Public Affairs at ASITIS Consulting.

The Chief Executive of the Society gave delegates an overview of the workings of the Northern Ireland Assembly and provided an update on the activities and approach taken by the Law Society, with respect to political lobbying.

Delegates attending the event included a number of solicitors from members of Law Society Council and Committees, to chairs of local Solicitors’ Associations and specialist interest groups.

In his opening remarks to delegates the Chief Executive emphasised the need for political engagement commenting:

“The new political arrangements in Northern Ireland require the profession to engage more fully with decision makers.

The profession faces many challenges and it is of fundamental importance that we jointly respond.”

Barry Turley gave a presentation about how successful organisations lobby effectively, providing a number of examples from his own experience.

The Chief Executive concluded the conference by emphasising the importance of the profession keeping itself informed and that the process of communication between members and the Society was built upon.


Mr Hunter also emphasised the need for Solicitors’ Associations or specialist solicitor interest groups to keep the Society informed of any political engagements to ensure the coordination of activities and key messages.

Members should continue to keep the Writ and Enformer under review and where issues emerge do not hesitate to bring them to the Society to enable a joint approach to be taken.

The new political arrangements in Northern Ireland require the profession to engage more fully with decision makers.

The profession faces many challenges and it is of fundamental importance that we jointly respond.”

From left:  Alan Hunter, Chief Executive of the Law Society and Barry Turley, Director of Public Affairs from ASITIS Consultancy.
Advanced Advocacy Course 2010

“It was a great experience, very helpful, great group of instructors and back-up team. Congratulations on a fabulous course.”

The first week in September provided a unique event for solicitors when 40 of them challenged themselves, pushed at their own personal boundaries, opened themselves up to new ways of doing things, hungered for improvement and achieved huge success on the Law Society’s Advanced Advocacy Course which was held at the Institute of Professional Legal Studies.

The Society has provided this course for over a decade to enable solicitors to improve as professionals and to achieve excellence. The participants completed an Evidence Course and assessment before embarking upon an extremely challenging week at the end of which they all had an incredible sense of achievement and were better able to bring added value to their clients, to the courts and to society.

The profession wants to offer a quality service to our clients and the Society offers a quality course to enhance the key skills of advocacy. The Advocacy Working Party works throughout the year to ensure that this week works for each participant.

An important element of this is the involvement of NITA – the National Institute for Trial Advocates – an American not for profit organisation with the aim of improving advocacy skills on a world-wide basis. Since the inception of the course, NITA has worked with the Society bringing international recognition and benchmarking to this course which has been followed in other jurisdictions in these islands. This year we were delighted to welcome three colleagues from Scotland who had joined us for the course.

We are very grateful to Mr John Baker President of NITA for the fabulous faculty he sent to us. In the words of one of the participants:

“The knowledge that is imparted by the experts is tremendous, [the] skills that you learn invaluable.”

The American faculty was led by former superior court judge, Jeanne Jourdan. Accompanying her were litigation lawyer (and now Professor) Jay Leach and with more jury trials under her belt than most lawyers could hope for, Pacific McGeorge Day’s Professor of the Year in 2006 – Cary Bricker. To this list were added Dan Toomey from Washington, senior counsel and former Assistant US Attorney for the District of Columbia, from San Diego Public Defender’s Office, Mary Jo Barr together with Marsha Hunter, and Brian Johnson, communication specialists who have co-authored two books, The Articulate Advocate and The Articulate Attorney.

The American faculty, together with the local tutors - members of the judiciary and experienced practitioners, who come with enthusiasm to teach and to share their valuable experience, put the participants through their skills at an often gruelling pace throughout the entire week.

On the Friday afternoon the course participants presented cases in the High Court with members of our judiciary giving of their time and generously sharing their knowledge and guidance.

We were also delighted to welcome back past participants who acted as witnesses, throughout the week and for the trial to ensure that the learning experience was as full for the participants as it can be. The involvement of our ten accountant expert witnesses ensured a practical and realistic opportunity to learn how to work with expert witnesses.

By the end of the week those involved enjoyed a “night at the Museum” for an awards ceremony and a celebration of their achievements. The comments on the course were wholly positive and people relaxed with the many new friends they had made during the week.

The Advanced Advocacy Course will run in the week commencing 5 September 2011. It will be preceded by a compulsory Evidence Course which will probably be held on two Saturdays, one in May and one in June. The Advocacy Working Party is already making preparations for the 2011 Course. Full details will be publicised in The Writ and by Enformer. Application forms will be available in February 2011. Anyone interested should contact Anne Devlin at the Society by email at anne.devlin@lawsoc-ni.org

Fiona Donnelly
Chair
Advocacy Working Party and Course Director
**Solicitors’ Disciplinary Tribunal Appointment of Secretary**

Our client, the Solicitors’ Disciplinary Tribunal for Northern Ireland, seeks to appoint a Secretary to the Tribunal to serve for a three year term (subject to formal review after 18 months) beginning on 1 February 2011. The position will become vacant following the retirement of the current Secretary. The powers of the Solicitors’ Disciplinary Tribunal are set out in the Solicitors (NI) Order 1976 as amended. The Tribunal is wholly independent of the Law Society of Northern Ireland and largely deals with complaints of professional misconduct or other conduct tending to bring the solicitors’ profession into disrepute.

### The role/key responsibilities:

- To manage the work of the Solicitors’ Disciplinary Tribunal under the direction of the President of the Tribunal
- To administer and support the work of the Tribunal, likely to encompass a commitment by the Secretary of c2/3 days per month
- To support the regular review of the statutory basis, rules, procedures, practice directions and protocols underpinning the work of the Tribunal
- To convene meetings of the Tribunal as required usually in the Greater Belfast area, typically one or two meetings per month (excluding July and August)
- To keep a record of all Tribunal meetings and obtain the Tribunal’s written findings and order as soon as possible following the hearing
- To maintain appropriate records and analysis of business of the Tribunal through the year and to compile an Annual Report for approval by the Tribunal
- To support the development of the ‘independent public face’ of the Tribunal, including revisions to website content, etc.

### The person:

- Qualified solicitor with at least ten years on the Roll of Solicitors as at 1 January 2011
- Individual should not be a current member of the Solicitors’ Disciplinary Tribunal nor have been a member of the Council of the Law Society of Northern Ireland since 1 January 2008
- Individual should not have been the subject of an adverse finding of the Tribunal
- Excellent drafting, organisation, IT and administration skills
- Understanding and experience of the work of professional conduct tribunals

### Remuneration:

The appointment is likely to attract a payment of c£15000 per annum (based upon c25 days per annum) subject to the approval and agreement of the Law Society of Northern Ireland.

**Drawing down mortgage funds**

The Society is very well aware of the difficulties being experienced by many solicitors, in being removed from Lenders’ panels.

It is understandable that colleagues may wish to be of assistance to those who have either been removed from panels, or have not been admitted to them at all, in facilitating the drawdown of mortgage funds, through their own client accounts.

If you are assisting a colleague in this way, we have to remind you however, that the Lenders will regard themselves as your client and as such, you are liable to account to them for the funds in question and to act in accordance with the CML Handbook, as if you were acting for the Borrower.

As such, and to protect yourself, it is insufficient for you simply to pass mortgage drawdown funds to your colleague’s client account. You will, at least, be on an undertaking to return those funds should the matter not complete.

Therefore, not only should you identify the Purchaser for anti-money laundering reasons and carry out a similar exercise in relation to the bona fides of the transaction, you must also ensure completion is effected properly and that information is given as regards any changes in the contractual arrangements; the value of the property; discrepancies in the purchase price; cash payment; changes in the Purchasers’ circumstances; and otherwise as appropriate.

For further details and an application form, please contact Victoria Johnston at BDO, Lindsay House, 10 Callender Street, Belfast, BT1 5BN. Telephone: 028 9043 9009 or email victoria.johnston@bdo.co.uk quoting reference BDO/LSNI/SDT/10.

The closing date for receipt of completed applications is 4pm on Friday 7 January 2011.
Christmas seems to have become synonymous with eating, drinking and being merry in the minds of many of us. With party after party and the festive spirit encouraging us to let go of our inhibitions, many people find themselves drinking far more than usual at this time of year.

The number of calls to LawCare’s helpline related to alcohol abuse is always proportionally higher in the first months of the year. In the cold January light of day it seems many Christmas revellers start to see their drinking behaviour as rather more sinister than it appeared during the festive season.

Denial is a major part of alcohol addiction and one which makes it difficult to tackle. Alcoholics will use excuse after excuse to explain away their behaviour. “I’m not an alcoholic - I only drink wine”, or “I only drink at weekends”. We even heard of one case where the addict explained away his nightly alcohol withdrawal symptoms - sweats, shakes and liver pain - by claiming he had TB!

But even among those who are not addicted to alcohol, myths abound which seem to rationalise the drinking behaviour. Before you throw caution to the winds this Christmas, consider which of these might become your denial technique.

“A little alcohol is good for you”
That’s true - a little alcohol has been shown to be beneficial to health. If you are an elderly man with a heart complaint, half a glass of red wine each night can prolong life (but then, so can purple grape juice). If you’re not an elderly man or you’re drinking more than this amount, or drinking something other than red wine or grape juice, then this excuse won’t hold water.

“Just one won’t hurt”
Again, this is probably true for many people. However, as the government reminds us graphically each Christmas, if you’re driving then just one drink can hurt a great deal. Similarly, if you’re pregnant, alcohol is best avoided altogether. In addition, scientists have discovered that there is a gene which predisposes some people to alcoholism. In the case of people who carry this gene, and especially alcoholics in recovery, just one drink might be all it takes to tip them down the slippery slope. If you find that you can’t stop at just one drink, then stick to fruit juice.

“Alcohol warms you up”
A roaring log fire may tempt you into the pub on a cold December night but alcohol actually cools down core body temperature. Drinking too much and staying outdoors during colder months could lead to hypothermia.

“Anyone who passes out from drinking too much should be put to bed”
This is the very worst thing you can do for a friend or colleague who has overindulged. Alcohol slows the heart rate and breathing and lowers blood pressure and the amount required to make you pass out is dangerously close to the amount it takes to kill you. In addition, the body will try to expel the poison through vomiting, which in a supine unconscious state can cause the person to choke to death.

“You have to drink alcohol to have fun”
Any five year old child will tell you this is nonsense - if you really believe it then you may need to call LawCare to assess the amount you drink. In fact one tee-totaler commented that her social life improved enormously once she stopped drinking because she got invited to all the good parties as the designated driver. Being sober enough to be in control of your speech and actions means that you’re less likely to make a fool of yourself, more likely to impress your boss and colleagues, and far more likely to remember all the fun in the morning.
Road users detected breaking speed limits in Northern Ireland are now being offered a one-off opportunity to go back to the classroom and improve their driving skills - rather than picking up a fine and three penalty points on their licence.

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

Speaking about the new initiative, Assistant Chief Constable Duncan McCausland, said: “Excessive speed for the conditions is the single biggest killer of people on Northern Ireland roads. This is the final warning for those who continue to break the speed limits.

“Additional road policing patrols will be deployed across Northern Ireland to target people who take the completely selfish decision to speed and put other people at risk. These new diversionary courses will re-educate speeding road users and graphically illustrate the very real dangers and consequences of breaking the speed limit.

“Driver and riders who participate will find the interactive sessions very challenging. They will gain an insight to tragic and horrific consequences that often result from reckless driving and be urged to take more responsibility for their actions on the roads.

“There is no doubt that the roads would be a much safer place if more people took heed of this advice,” Assistant Chief Constable McCausland said.

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

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

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

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

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

In the future, it is intended that further courses will be offered tailored to motoring offences such as driving while using a hand-held mobile phone, driving while not wearing a seat-belt and red light jumping.
John W D Pinkerton (pictured) has retired from Council after serving for 15 years as a representative of the Northern Circuit.

John held the unique position of being the third generation of the Pinkerton family who have been President of the Society – John W Pinkerton in 1937, John L Pinkerton in 1971 and John W D Pinkerton in 2004.

During his period as member of Council, John W D served on numerous Committees, and perhaps his service on the Non-Contentious, Home Charter and as Chair of the Library Committee best reflected his particular interests in law, namely conveyancing and research and technology within law firms.

John chaired the Northern Ireland branch of the Society for Computers and Law and was Chair of the Library Committee at a time when key online resources and services were being introduced into the library.

John’s practice in Ballymoney has a renowned collection of conveyancing precedents which has been developed over numerous years, and he is widely called on to provide advice and assistance to his colleagues in this area.

John’s contribution to the Home Charter Committee has been principally the drafting of Vendors Replies to Pre-Contract Enquiries which have been adopted by the Society.

The Society wishes to record its thanks to the contribution John has made over the years and wishes him well in his retirement.
Group relief for Stamp Duty Land Tax and Stamp Duty: partnerships

Stamp Duty Land Tax – a change in HMRC’s view of the law

Where land transactions take place between members of a group, relief for Stamp Duty Land Tax (SDLT) is available (Part 1 Schedule 7 Finance Act 2003). Companies are members of the same group for the purposes of the relief if one body corporate is a 75% subsidiary of another or if both are 75% subsidiaries of a third body corporate. Broadly, the 75% relationship refers to the beneficial ownership of the subsidiary company’s issued ordinary share capital.

A ‘company’ for group relief purposes is defined in Schedule 7 FA 2003 as a ‘body corporate’. HMRC did not consider that a ‘body corporate’ for the purposes of Part 1 Schedule 7 FA 2003 included a Limited Liability Partnership incorporated under the Limited Liability Partnership Act 2000 (LLP), so that LLPs were disregarded (‘looked through’) when considering whether a group relationship existed, the members of the LLP being treated as the beneficial owners of the LLP assets.

This view has recently been challenged. Following legal advice, HMRC now accepts that, for the purposes of SDLT group relief, a ‘body corporate’ does include an LLP. An LLP can therefore be the parent in a group structure. However, as an LLP does not itself have issued ordinary share capital it cannot be the subsidiary of other companies. This also means that any subsidiaries of the LLP cannot be grouped with the companies that are the corporate members of the LLP.

This revised view does not affect which party can claim group relief, but does affect which entities are regarded as forming part of a group. An LLP cannot claim group relief itself because its chargeable interests in land are treated as held by or on behalf of the individual members (Paragraph 2 Schedule 15 FA 2003), and this position is unchanged. As such, in broad terms, an LLP continues to be disregarded if it is the vendor or purchaser in a transaction. In such a transaction group relief may be, in part at least, available if some or all of its members (which are incorporated companies) are themselves grouped. It also follows that if an LLP transfers land to a company that it owns, and that is within the LLP headed group, no group relief will be available as the land is deemed to be owned by the members of the LLP, and those members are not within the same group as the company owned by the LLP.

If SDLT group relief has been incorrectly claimed solely as a result of an LLP in the group structure being disregarded or looked through for the purposes of establishing group relationships then HMRC will not seek to revisit the claim.

Stamp Duty

Group relief for Stamp Duty is available to bodies corporate that are associated (Section 42 FA 1930). Bodies corporate are associated if one is a 75% subsidiary of another or if both are 75% subsidiaries of a third body corporate. Broadly, the 75% relationship refers to the beneficial ownership of the subsidiary company’s issued ordinary share capital. In general, HMRC has taken the view that an LLP, as a body corporate, can be the ultimate parent of a group for the purposes of Section 42 FA 1930. Furthermore, as an LLP does not itself have issued ordinary share capital it cannot be the subsidiary of another company.

Transfers of stock and marketable securities from a body corporate are claimed solely as a result of an LLP in a group for the purposes of the relief if one is a 75% subsidiary of another or if both are 75% subsidiaries of a third body corporate. Broadly, the 75% relationship refers to the beneficial ownership of the subsidiary company’s issued ordinary share capital. In general, HMRC has taken the view that an LLP, as a body corporate, can be the ultimate parent of a group for the purposes of Section 42 FA 1930. Furthermore, as an LLP does not itself have issued ordinary share capital it cannot be the subsidiary of another company.

If you have any questions about this announcement please contact Stamp Taxes Policy team on 020 7147 0092

English /NI partnerships

As English/Ni limited and general partnerships do not have legal personalities separate from the persons who are the partners they must be 'looked through' when establishing bodies corporate that form a group for Stamp Duty Land Tax and Stamp Duty purposes. As such the companies that are the partners of an English/Ni general or limited partnership can, depending upon the facts, be grouped with those companies that are below the partnership in the group structure.

Scottish Partnerships

Both Scottish limited and general partnerships have legal personalities separate from the persons who are the partners. They cannot therefore be 'looked through' when establishing bodies corporate that form a group. But they are not bodies corporate and so cannot be the parent of a group of companies.

Non-UK partnerships

The principles set out in the earlier section on UK partnerships will be applied case by case to non-UK partnerships.

HMRC is actively reviewing the group relief legislation for both SDLT and Stamp Duty, including the change of interpretation covered in this announcement, to understand how well it reflects the underlying policy aims on this changed view of LLPs.
The first cohort of trainee solicitors graduated from the University of Ulster’s Graduate School of Professional Legal Education at the Magee campus on 6 July 2010.

Among the group of 30 at the Millennium Forum ceremony was Maria O’Donovan who was named top law student after winning the Arthur Cox prize this year.

She said: “It is wonderful to have won the award for best overall student. I thoroughly enjoyed my year at the Graduate School and I am proud to be among the first class of trainee solicitors.

“The Director Paul Mageean and lecturers provided us with an excellent standard of professional training. I found the experience both challenging and rewarding. I am now enjoying the final period of my apprenticeship at Caldwell & Robinson and am delighted to have been offered employment as a solicitor with the firm from September.”

Arthur Cox, one of Ireland’s largest law firms, announced last year the sponsorship of a £1,000 prize for the leading student at Ulster’s Solicitor Training School at Magee.

Paul Mageean, Director of the Graduate School of Professional Legal Education, said: “We are delighted that our first cohort of trainees have successfully completed the course and I would like to congratulate all of them and particularly Maria for her achievement of being the first winner of the Arthur Cox prize. This is an important day in the history of Magee and professional legal education in Northern Ireland.”

The School was officially opened in 2009 by the then Lord Chief Justice for Northern Ireland, Sir Brian Kerr. Its launch marked a major development in professional legal education as it is the sole such provider in the North-West and only the second in Northern Ireland.

The School provides full-time training to those wishing to qualify as solicitors. Trainees must be law graduates and have apprenticeship places in solicitors’ practices. The course has received strong support from the judiciary, law firms and agencies such as the PSNI and the Court Service, which have hosted study visits.

We are grateful to the Graduate School of Professional Legal Education for this article.
Developing working relationships between banks and solicitors was the central theme of a special seminar hosted by the Society at Law Society House in early November.

The seminar, which was organised by the Society in conjunction with Northern Bank, provided an opportunity for solicitors from across Northern Ireland to pose questions to senior representatives from Northern Bank including the Chief Executive, Mr Gerry Mallon, on a wide range of banking issues and topics.

The banking seminar is part of the Law Society’s ongoing work stream aimed at supporting members through the economic downturn by providing training and support on key issues of practice management.

Speaking after the event Mr Connolly said: “In these turbulent economic times a good working relationship with the bank is essential in ensuring that solicitors and their clients’ working capital needs are fully understood and practical financial solutions are always offered.

“Our seminar is the first in a series of banking events which will examine the importance of the bank/solicitor/client relationship and will allow our members an opportunity to pose questions to senior Northern Bank representatives.

“I am grateful to the Chief Executive of the Northern Bank, Mr Gerry Mallon and his colleagues for taking the time to join us to speak on the important issue of banking relationships with solicitors.”
SLS 30th anniversary conference

The Human Rights Act – 10 years on - the implications for practice

This anniversary conference, which took place at the Waterfront on 8 October, celebrated two special anniversaries. 2010 is the 30th anniversary of SLS Legal Publications and also the 10th anniversary of the coming into force of the Human Rights Act. SLS organised a conference in 2000, supported by the Law Society and the Bar Council, when the Human Rights Act came into force, and so this seemed the perfect occasion to revisit the topic, review what has happened to date, and what is likely to happen in the future, especially in relation to practice. Human Rights lie at the core of all legal practice and this important Anniversary Conference brought together leading judicial and practitioner experts from three linked jurisdictions to provide a comprehensive, up to date picture of the key issues in relation to practice. This was no academic debate, but an examination of core principles for all practitioners, and was also designed to highlight areas of work which may expand practice.

Human Rights law is about striking the balance between competing interests in difficult situations. It inevitably engages where there is crisis, conflict or controversy. The speakers were Lord Kerr of Tonaghmore (Supreme Court of the UK), Rabinder Singh QC (Matrix Chambers), Mr Justice Donal O’Donnell (Supreme Court of Ireland), Mr Justice McCloskey (Court of Judicature of Northern Ireland) and Fiona Murphy (Bhatt Murphy Solicitors). Together they provided a comprehensive and expert analysis of how human rights law is responding to fast-moving events in all aspects of people’s everyday lives.

The aim of SLS for this conference (as in every area of its work) is to promote best practice within the legal profession, and to extend general understanding of the law and the legal system throughout Northern Ireland.

The purpose of SLS is to provide high quality, up to date legal information in various forms in response to the particular needs of a small jurisdiction.

Background of SLS

SLS was established in 1980 in response to a pressing need for information about the law and legal system of Northern Ireland. The impetus for this came from a paper prepared in February 1979 by Professor Colin Campbell, then Dean of the Law Faculty at Queen’s University and some of his colleagues. Sir Colin, (as he now is), has had a distinguished academic and public career in England. After outlining the serious lack of any adequate and systematic approach to legal publications in Northern Ireland, and the consequent difficulties for practitioners and others, the paper proposed that finance should be sought to achieve the following objectives:

- Publication of books and pamphlets for the public
- Preparation and publication of texts describing and synthesising the law in force
- Establishment of a current awareness service
- Organisation of conferences and seminars on legal topics

Finance was obtained and the company set up in 1980 with a Board of Directors representative of the sponsoring bodies. Lord Justice Gibson was the first Chairman, followed by Lord Justice Murray until his retirement in 1994; he was succeeded by Lord Justice Campbell who continued until his own retirement in 2008, and Mr Justice McLaughlin is the current Chairman.

Over the last 30 years, SLS has developed and expanded its activities by publishing books, current awareness services, shorter works and periodicals, and organising courses, conferences and seminars for various interest groups, both pursuing initiatives of its own and also working in liaison with others. It is the only publisher producing works specifically for the Northern Ireland legal profession.

SLS is a unique collaborative venture between the Northern Ireland Courts and Tribunals Service, the Law Society of Northern Ireland, the Bar Council of Northern Ireland and Queen’s University. In part it is self-financing through annual sales income, particularly from its CPD programme, but also receives direct sponsorship from the Northern Ireland Courts and Tribunals Service, the Law Society of Northern Ireland and the Bar Council of Northern Ireland and we are extremely grateful for that continued expression of support. Its current Director is Miriam Dudley with Deborah McBride and Sara Gamble as editorial staff and a general office run by Marelle Crawford.
SLS was awarded one of the first Queen’s Anniversary prizes for Higher and Further Education in 1994. The prize citation reads: “This is an outstanding service to overcome the special problems of distributing knowledge about new law inside a small jurisdiction. It is an international exemplar”.

Another commentator noted that: “The results of this programme have unquestionably been most beneficial to the legal profession in Northern Ireland. It would be hard to imagine what greater help could have been given than the recent publications in the SLS series which includes an excellent Bulletin on the law of Northern Ireland.”


We firmly believe that it remains true that SLS represents an exceptional and valuable contribution to the community here in Northern Ireland. It is in many ways a miracle that SLS has reached its 30th anniversary, as there have been many vicissitudes along the way, and we wish to thank all of you for your support for our work. Please remember that we are not a commercial operation and that by attending our CPD events you allow us to continue producing essential publications for all practitioners in Northern Ireland. We really need that continued support if we are, as we hope, going to survive for another 30 years.

Miriam Dudley
Director, SLS Legal Publications
What is the CCBE and how do individual lawyers benefit from its work?

The year 2010 marks the 50th anniversary of the Council of Bars and Law Societies of Europe (CCBE). The CCBE was founded in 1960 as a simple committee of the Union internationale des avocats (UIA), aiming to study the effects of the Treaty of Rome on the legal profession.

The CCBE is now recognised, by the national bars and law societies on the one hand, and by the EU institutions on the other, as the voice of the European legal profession. Covering the 27 European Union (EU) Member States, the three European Economic Area (EEA) states and Switzerland, plus 11 observer countries, it represents through its members around a million European lawyers. Acting as the liaison between Europe’s national bars and law societies and the EU, the CCBE has regular institutional contacts with European Commission officials, the members and staff of the European Parliament, the staff of the Council Secretariat-General and the representatives of the EU Presidency who deal with issues affecting the legal profession.

The CCBE’s work principally focuses on European cross-border matters as they affect lawyers. The CCBE was closely consulted by the European Commission on – and influenced the development of - the Directives on the free movement of lawyers, which regulate the way that lawyers can practise in other Member States, ie the Services Directive in 1977, the Diplomas Directive in 1989 and the Establishment Directive in 1998, in addition to subsequent legislation touching on this topic.

The CCBE has also contributed to the free movement of lawyers through instruments of its own, such as the CCBE Identity Card – a kind of passport created as early as in 1977, to facilitate lawyers of the member nations of the European Union to provide legal services in each other’s countries – and the CCBE Common Code of Conduct adopted in 1988 – a framework of principles of professional conduct, which in practice has become the applicable code for cross-border activities for lawyers in the European Union, and is also used as a model by young democracies for the establishment or restructuring of their own Bars’ professional rules. In 2006, the CCBE adopted a ‘Charter of core principles of the European legal profession’, a list of ten principles on lawyers’ ethics identified as common to the whole European legal profession, which is aimed at informing the ethical codes of the member and observer states of the CCBE.

Beyond ensuring and facilitating the free movement of lawyers, there are many other issues which affect lawyers at the European level, such as the impact of competition law on the profession, the important challenges of effective representation for clients, and defining the necessary basic common standards without which mutual recognition – the cornerstone of judicial cooperation – will not work. In addition, the defence of the rule of law, human rights and democratic values are increasingly important goals of the CCBE. Of special concern are the rights of access to justice and the protection of the client by ensuring respect for the core values of the profession.

The CCBE also represents its members in their dealings with other lawyers’ organisations around the world on issues of common interest to the legal profession, such as the fight against terrorism and other serious crime, the money laundering legislation and the ability of lawyers globally to practise their profession freely without harassment or hindrance. The CCBE is currently working towards a uniform Code of Conduct for Bars and Law Societies which is aimed at being applicable to national activities of all European lawyers. The work currently focuses on professional secrecy/legal professional privilege/confidentiality.

The European institutions engage with the CCBE as the representative of a profession which, besides lobbying for its own interest, supports the community of law and values which the European Union is meant to be. In accordance with this, the CCBE is an official observer at committees of the Council of Europe dealing with justice questions.

During this anniversary year, the CCBE is dedicating a large part of its lobbying efforts to promote an ambitious set of procedural rights for suspects and the accused – the necessary complement to judicial cooperation for the benefit of the public; and access to legal aid, in criminal as well as in civil matters. Great attention is being paid also, inter alia, to ensuring that EU law training schemes will be open on an equal footing for lawyers, and not only for judges and prosecutors; the CCBE succeeded in ensuring that this option was included in the preparation and adoption of the “Stockholm Programme” which defines the political priorities in the area of justice, freedom and security for the next five years.

2009 was a very busy year because of the many institutional changes at EU level that marked it, such as the re-elected European Parliament, the European Commission reorganised with a separate portfolio for Justice, Fundamental Rights and Citizenship, as called for by the CCBE since 2003, and the entry into force of the Lisbon Treaty, 2010 is equally important because all these developments are now producing their effects and require the CCBE’s constant attention and contribution. This includes areas where it is less a matter of protecting the interests of the profession or of justice than of offering participation – eg in the development of e-justice, in which the CCBE is very active – or of expertise as practitioners – eg in the effort to develop a European contract law, or in initiatives in the sensitive area of family law and succession law and arbitration (establishing guidelines for lawyers acting as arbitrators).

More importantly for the CCBE, all legislative
initiatives at EU level need to be assessed as compatible with the fundamental rights defined in the EU Charter of Fundamental Rights, now a legally binding instrument. This will doubtless strengthen the CCBE’s role as a watchdog for the respect of the rule of law.

At the same time, innovations in the competences and rules of the European Courts of Justice are also being analysed jointly with Judges and Registrars, in order to achieve better and quicker administration of justice, without affecting the quality of decisions.

As can be seen, the CCBE’s work has grown to be complex and profound, and is developed through frequent meetings of many expert lawyers from all European countries. Individual lawyers may not see all the effort that is put in, but will undoubtedly benefit greatly from it.

JOSE MARIA DAVÓ FERNANDEZ
President of CCBE

---

Sittings and vacations of the Court of Appeal and the High Court: 2011-2012
Order 64 of the Rules of the Northern Ireland Court of Judicature 1980

<table>
<thead>
<tr>
<th>Michaelmas Term</th>
<th>Halloween Recess</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monday 5 September 2011 to Wednesday 21 December 2011</td>
<td>To be confirmed</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Christmas Recess</th>
</tr>
</thead>
<tbody>
<tr>
<td>Thursday 22 December 2011 to Thursday 5 January 2012 inclusive</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Hilary Term</th>
<th>Easter Recess</th>
</tr>
</thead>
<tbody>
<tr>
<td>Friday 6 January 2012 to Friday 30 March 2012</td>
<td>Monday 2 April 2012 to Friday 13 April 2012 inclusive</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Trinity Term</th>
<th>Long Vacation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monday 16 April 2012 to Friday 29 June 2012</td>
<td>Monday 2 July 2012 to Tuesday 4 September 2012 inclusive</td>
</tr>
</tbody>
</table>

---

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 and 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.

Northern Ireland, Chest Heart & Stroke
21 Dublin Road, Belfast, BT2 7HB
Registered Charity No: XN 47338
www.nichs.org.uk
Obituary Norman Scott 1944 – 2010

The death of Norman Scott on 25 September last, less than three weeks after a diagnosis of a serious illness has left his many friends and colleagues numb with grief.

Norman was brought up in the York Park area of the Shore Road in Belfast. He was the youngest of three sons in a warm, loving, working-class family and the family values and virtues ingrained there remained with Norman throughout his adult life. After attending Seaview Primary School, he moved to Belfast High School where he achieved great success both academically and on the sporting field.

His footballing skills had already been evident with the Boys’ Brigade attached to Seaview Presbyterian Church but at Belfast High School his main focus was on rugby where he became Captain of the 1st XV and also played for Ulster Schools. He was Head Boy of the school and in subsequent years also served on the Board of Governors of the School and became Chairman of the Board of Governors. In 1963 he entered the Law Faculty at Queen’s University Belfast and continued playing rugby eventually playing for the Queen’s University Belfast 1st XV and being awarded a Rugby Blue.

After graduation he became an apprentice to the late Hugh Harper Wilson in the firm of Messrs FJ Orr & Co and after the death of Mr Wilson became the senior partner of that firm, a position which he held for some 30 years. He continued his rugby playing with the great North team of the late 1960s and early 1970s, playing in the company of fellow solicitors, Mike Gibson and Brian Turtle and when his playing career ended he became involved with coaching at the club and his love of rugby in particular and other sports generally continued throughout his life.

On the rugby field Norman was a hard committed player giving 100% effort and expecting the same from his fellow players. He applied the same principles in his practice where he was a tenacious advocate for his clients and their cases but always willing to recognise the deficiencies where appropriate and unwilling to compromise principles for expediency. He abhorred pomposity and regarded arrogance as a personality defect but not one for which he had much sympathy. He had a healthy scepticism of many of the activities of the Law Society but that did not stop him enthusiastically supporting me in my Presidency, including attending the Annual Dinner, probably for the first time since his admission, and going to the conference in Berlin with his wife Rosemary where, by all accounts, they participated fully and had a wonderful time.

Following the dissolution of his partnership in FJ Orr & Co some three years ago Norman did not take the expected route into retirement but rather joined his old friend Charles Stewart at the firm of Stewarts, principally to ensure a continuity for all his clients, many of whom had become good friends. Then freed from the hassle and responsibility of partnership, he was able to undertake what he enjoyed most and that was acting for and representing his clients. Norman was in the process of winding down towards full retirement when his sudden illness and death tragically frustrated all his plans.

Outside the areas of sport and law Norman and Rosemary had many and varied interests but were especially focused on their family and loved to retreat to Donegal to their holiday home at Portnoo or over to England to visit their children and grandchildren.

The esteem with which Norman was held has been very clear since his death not only at the funeral at St Mary’s Church in Comber where the congregation was filled to overflowing and attended by countless members of the Judiciary, the Bar, colleagues, friends and clients but also by the many contacts I have had from fellow members reminiscing about Norman and telling anecdotes regarding his life.

Norman was my friend and mentor for over 36 years and I shall miss him very, very much not least his wise counsel and sense of fun and I know that many colleagues will also miss him greatly.

If our loss is great, it is as nothing to that of his family, to his son Michael who is a partner in the London firm of Messrs Shepherd & Wedderburn, his daughters Gillian and Fiona and his grandchildren with whom Norman was besotted but in particular Rosemary, who was not only Norman’s soulmate and best friend but had been his constant companion throughout all his adult life and with whom he shared every aspect of his life.

I feel privileged to have known Norman for so many years and treasure the memories of one who led such an active life and who has been taken away so suddenly but these memories will endure forever.

TD EAKIN
Society GAA team crowned All Ireland Legal 7 a-side Champions

The Law Society GAA team won the Joseph O’Ryan Cup an All Ireland Legal Seven a side competition, on Saturday 16 October.

The competition, now in its second year and being hosted by the Law Society in Belfast, was launched by the Lord Mayor of Belfast, Councillor Pat Convery. The Joseph O’Ryan Cup was named after one of the founding fathers of the GAA in 1884 who was a solicitor by profession and the competition came about following the successful inaugural Brendan McCann Memorial Cup. Last year’s event was held at the superb facilities of Kilmacud Crokes in Dublin where the trainee solicitors from Blackhall Place in Dublin were victorious.

Home advantage assisted the Belfast teams this year and it was the Law Society GAA team and the Bar Council of NI GAA team that ultimately contested the final. Both teams were unbeaten in the run up to the final, beating the young pretenders to the Law Society, namely the Institute of Professional Legal Studies team and the visiting solicitors and barristers, en route.

The final was a particularly exciting affair with the Bar Council of NI GAA team looking dangerous opponents given their displays in the earlier stages. Joe Brolly, (him off the telly), was their play maker and the team adapted to the sevens format. The Law Society GAA team however started very well, defending superbly against the initial Bar attacks. The game settled into quite a battle but it was scores from Andy Morrow and Cahal Carvill that broke the resistance of the barristers and ensured victory. The Law Society GAA team consisted of Colm McElroy, Joe George, Kevin McAllister, Paul Sweeney, Martin Durkan, Ronan McCourt, Aidan Donnelly, Conan O’Brien, Paul McCrudden, Hugh Sally, Gary Rocks, Eoghan McKenna, Cathal Carvill and Andy Morrow.

The Law Society GAA captain Paul McCrudden collected the Joseph O’Ryan Cup from the Law Society GAA Honorary President, Sean O'Neill and then the celebrations began. The victory made up a little for the defeat in the Brendan McCann Memorial Cup match in Dublin earlier this year but the Law Society GAA team will be anxious to win back that trophy next April when it is hosted in Belfast.

It was an enjoyable day for all on a professional, social and footbal ling front and next year’s competition is eagerly anticipated when the Law Society GAA Team hope to retain the JOR Cup.

Thanks must go to Gary Rocks (Law Society NI), Chris McCann (IPLS), Conor Lunney (Bar Council of NI), Conor Dignam (Kings Inn) and Eamon Harrington (Law Society of Ireland) for organising the 2010 event and special thanks also to the Law Society of Northern Ireland for their support and assistance.
BSA Chairman’s address to AGM

As predicted, it has been another difficult year for the profession with ever increasing amounts of doom and gloom. The property market remains in the doldrums which has not been helped by the continued reluctance of financial institutions to lend. Further cuts in Legal Aid budgets are inevitable. All these and other recessionary pressures have increased the burden on already suffering firms. Inevitably more redundancies have ensued and many trainees have not been kept on.

Into the midst of this has arrived our new Minister of Justice, David Ford MLA. His message is that change in Legal Aid arrangements are both inevitable and necessary as he believes that the system is not working as well as it should be. An Access to Justice Review has just been launched which will look at legal provision throughout this jurisdiction.

Regrettably, the recent Justice Bill does not provide for the extension of rights of audience for solicitors in the highest Courts. Whilst this had been promised there have been some difficulties recently following the intervention of the Attorney General.

However, despite the troubling backdrop the Association has continued to function successfully. Its various sub committees have met regularly and addressed many of the issues affecting us all. In particular, the Litigation and Criminal Sub Committees have been very active for the reasons outlined above and have liaised closely with their equivalents in the Law Society. Thanks must be given to the respective Chairmen Colin Mitchell and Matt Higgins.

A special mention must also be made of the continued success of the ‘Learn at Lunch’ CPD lecture series, which allows the Association to maintain its central role in professional development. This year’s lecture programme was again varied and most importantly, relevant. A great deal of hard work has gone into this and thanks must be given to the CPD Sub Committee and its Chairman Mr Reg Rankin. One of the most important benefits of BSA membership is access to high quality CPD lectures at very reasonable cost.

I also must thank Susan Brennan and Fiona Sterritt for their efforts in the production of the 2009/2010 Year Book and ensuring that the Association continues to keep in touch with its members through its Ezine and the provision of articles in the Writ.

The Social Sub Committee, in particular Susan Brennan and Olivia O’Kane must be acknowledged for organising the dinner dance at the Europa at the start of the year. This was enjoyed by all who attended. Next year’s dinner in a break from tradition will be held in the summer. It is taking place at Belfast City Hall on Saturday, 11 June 2011 and promises to be a great success.

The dinner will tie in with the Association’s hosting of the Tripartite Weekend involving our sister Associations in Liverpool and Dublin. This year we had the pleasure of attending the event in Dublin. We met the Lady Mayoress at the Mansion House who was delighted to receive a copy of the BSA 65th Year Anniversary Book. We were taken on a guided tour of the Dail followed by dinner at the University Club in St Stephen’s Green.

The next day necessitated a visit to the Guinness Factory for lunch and the obligatory pint followed by a most entertaining evening in Johnny Foxes. I have every confidence that my successor Susan Brennan will make the Belfast event just as enjoyable!

This year’s golf outing was held in the worst possible weather. Despite this Colin Mitchell and John Guerin ensured the attendance of players of such quality that a hole in one was achieved! No mean feat in the middle of a storm. We hope that next year’s May will be kinder.

I believe that the Law Society’s increased presence is in small part due to the Association which has consistently encouraged and cajoled when necessary.

We continue to fund three Institute Bursaries and provide prizes for the Client Counselling Competition. The venerable tradition of providing pizzas and refreshment at the end of term party continues. It is important that we maintain our link with the next generation of lawyers.

The Association continues to raise funds for its nominated charity, the Northern Ireland Hospice. I was shown around the Hospice and was most impressed with the quality and breadth of services offered. I thank those who entered the Belfast Marathon on behalf of the Association for raising substantial funds. I would urge all members to read my letter on page 30 and do what they can to help this most worthy of causes.

I must thank the Law Society President for being so proactive and reaching out to the profession at large. I believe that the Law Society’s increased presence is in small part due to the Association which has consistently encouraged and cajoled when necessary.

Committee members have often worn two hats at the same time and having allowed themselves on occasion to be coopted into the relevant Law Society Committees where it was felt appropriate. The Association will take an independent line when necessary but is always open to working hand in hand with the Law Society when it is the best interests of the profession.
Our close links with the Law Society have resulted in many former Chairmen and other committee members going on to the Law Society Council. I wish to express my thanks to the President, Norville Connolly, the Chief Executive, Alan Hunter and the Secretariat of the Law Society.

During the year I have had the honour of representing the Association at the annual dinners of the Mayo Solicitors’ Bar Association, the Dublin Solicitors’ Bar Association, the Northern Ireland Law Society Council and most recently the Liverpool Law Society. The maintaining of such links continues to be of great importance. I can assure the membership that the Association continues to be held in the highest esteem.

In October I attended the Aras an Uachtarain along with the Dublin Solicitors’ Bar Association and had the privilege of meeting President McAleese. She has been a long standing friend of the Association and appears to have enjoyed my discourse on the BSA Chairman’s medal!

I also attended the Law Society Conference in Budapest with my wife Jena. This provided a wonderful opportunity to meet other members of the profession and maintain those all important bonds of collegiality. I went to the opening of the Legal Year in St Peter’s Cathedral in September and would recommend members to attend next year’s.

My gratitude must be extended to our administrator Briege Williams who makes all of this possible by ensuring that the wheels continue to turn so smoothly.

My final thanks must go to my fellow office bearers, Susan Brennan and Reg Rankin to whom I owe a great deal for all their hard work and support throughout the year. Susan will have a full year ahead of her and I am sure that she will make the most of it. I and the other committee members will do all we can to support her.

I have thoroughly enjoyed the privilege of being Chairman in what has been a very interesting and busy year. I can confirm that even in the present economic climate the Association continues to flourish and represent its members’ best interests.

Simon Crawford
Chairman 2009/2010

Save the date!

Belfast Solicitors’ Association

The Annual Dinner Dance has moved!

Venue: BELFAST CITY HALL

Date: SATURDAY 11 JUNE 2010

More details will follow in the next issue of ‘The Writ’.

If you would like to know more or have any queries please contact Briege on info@belfast-solicitors-association.org or phone 028 9058 5974.

The Belfast Solicitors’ Association is presently engaged in organising its CPD Lecture Series for 2011.

A number of interested parties have been contacted but the Association is always keen to consult with its membership concerning both the nature of the topics which will be the subject of a lecture and also with regard to any ideas or the willingness of individuals to provide a talk. Any views that members may have with the quality of the BSA CPD series, the range of areas covered and with regard to potential speakers would be very much welcome. Contact can be made by emailing the Association directly at info@belfast-solicitors-association.org
The present timetable for the 2011 CPD BSA series is as follows:

1. Thursday 20 January 2011 - the role of the Parole Commission in Northern Ireland - speaker Mr Peter Smith QC.
2. Thursday 3 February 2011 - topic and speaker to be confirmed.
4. Thursday 3 March 2011 - topic and speaker to be confirmed.
5. Friday 25 March 2011 - half day conveyancing seminar. Speakers to be confirmed.
6. Thursday 14 April 2011 - defamation and privacy law - Dr Jack Anderson of Queen's University of Belfast.
7. Thursday 5 May 2011 - topic and speaker to be confirmed.
8. Friday 27 May 2011 - litigation seminar - speakers to be confirmed.
9. Thursday 9 June 2011 - topic and speaker to be confirmed.
10. Thursday 23 June 2011 - ten leading cases in Judicial Review - Dr Gordon Anthony of Queen’s University Belfast.

Friends and colleagues:

The Hospice needs your support more than ever …..

As you know the Hospice is your local charity, caring for people with life-threatening illnesses here in Northern Ireland. It has seen continued demand for services in recent years and last year with our support, it helped more people than ever before with over 3000 adults and children receiving Hospice care.

The Hospice also supported their families. To receive the diagnosis that your loved one has a life threatening illness is devastating and you never expect it will happen to you but sadly it will happen to one in four of us and over 3000 more people will need Hospice care this year. Hospice nurses will give that support. They will be there to give emotional support and a shoulder to lean on when it all gets too much.

NI Hospice is struggling to raise the funds it needs to provide the nursing and care services that these families will need next year. It is because of this that the Belfast Solicitors’ Association is working in partnership with the Hospice to help it raise funds and awareness about its work and provide support where we can. Throughout

2011 we will be supporting the Hospice and bereaved families and I would ask you to join with us and support your local Hospice. You can make a personal or corporate donation, run the Belfast Marathon, take part in Big Walk Week or abseil down the Europa in February. The options are endless. Just contact the team on 028 9078 1836 or visit nihospice.org for details.

It really needs the legal profession to support it in any way we can. Think about this … every £30 we raise will pay for another hour of Hospice care in 2011.

Serious illness has no respect for recessions or credit crunches. It happens, regardless, no matter what the time of year or what the age of the person. So, I would urge you to think of Northern Ireland Hospice in 2011 and how hard it will be for families coping with a terminal illness. Your donation will make a big difference.

Thank you so much.

Simon Crawford
Chairman
Belfast Solicitors’ Association

PS The Northern Ireland Hospice relies on voluntary income and legacies to continue its work. Next year they will need to raise £4.5m from these sources.
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

Health Support and Advice for Lawyers

Ever wonder maybe if you took a left turn instead of a right, you could be somewhere completely different?

You now have that choice with...

PEAPOD
LegalOffice®
The Software Suite For The High Street Firm

OUR PRODUCT SUITE

PrintAForm Online
Online Legal Forms

LegalOffice LA
The comprehensive suite of software

OfficeDictate
Digital Dictation

StrongBox
Legal Accounts

PrintAForm Plus
Forms & Document Production

MyCase
The Office Communication Suite

Contact Us:
028 9261 3110
76 Main Street
Moira, Co. Armagh
Northern Ireland
BT67 0LQ

National Sales: 0845 683 2517
Email: colinp@legaloffice.com
Web: www.legaloffice.com
Tough times ahead: the impact of benefit cuts

This article summarises the changes and analyses some of the issues facing Northern Ireland as a result.

### Changes in the pipeline

The timeline for changes extends over a number of years.

#### October 2010
- The standard interest rate for mortgage interest in Income Support, Income-based Jobseeker’s Allowance (JSA) and Income-related Employment and Support Allowance (ESA) was reduced from 6.08 per cent to a level based on Bank of England published average mortgage rate (currently 3.63 per cent).

#### January 2011
- The health in pregnancy grant will be abolished.
- Arrangements introduced by the previous government start to apply where any new claimants on Income-based JSA after 4 January 2009 have mortgage interest support withdrawn after two years on JSA.

#### February 2011
- The migration of claimants on Incapacity Benefit (IB) to ESA will begin; claimants will be referred for Work Capability Assessment (WCA). The plan is to complete the migration by March 2014.

#### April 2011
- Benefits will be uprated based on the Consumer Price Index (CPI) rather than the more generous Retail Price Index (RPI). The exception to this change will be the state retirement pension which will go up in line with earnings, prices or 2.5 per cent whichever is the best. The minimum income guarantee in Pension Credit will increase in line with the rise in the full basic state pension.
- Child Benefit will be frozen for three years.
- Payment for a Sure Start Maternity Grant for a second or subsequent child will be abolished.
- The second income threshold for the family element of Child Tax Credit (CTC) will be reduced from £50,000 to £40,000.
- The withdrawal rate for tax credits will increase from 39 per cent and 6.67 per cent above second income threshold to 41 per cent.
- The CTC baby element for children under one year of age will be removed.
- The child element of CTC will increase by £180 above CPI uprating.
- The level of in-year rises in income for tax credits which are ignored will be reduced from £25,000 to £10,000.
- Private rented sector tenants claiming Housing Benefit will no longer be able to receive more in local housing allowance (LHA) than actually paid in rent. Previously up to £15 of the amount by which LHA payment exceeded rent could be kept.

### Trying to keep up with the pace and scope of developments in social security is difficult at the best of times.

The emergency budget and comprehensive review statements announced £11 billion and £7 billion worth of expenditure savings to social security respectively.

In parallel has come a considerable increase in the rhetoric deployed against people who claim benefits, particularly those of working age; the publication in November 2010 of a white paper, Universal Credit: Welfare that Works, setting out a radical overhaul for social security provision; and the implementation of significant changes to social security inherited from the previous government.

Law Centre (NI) director Les Allamby analyses how benefits will be affected by planned budget cuts and welfare reform and assesses the likely impact in Northern Ireland.

### Training at Law Centre (NI)

**BELFAST**
- Mental Capacity and Decision Making
  18 January
- Welfare Rights Adviser Programme
  20 January - 10 March (eight days)
- Employment Law
  8 and 9 February (two days)
- Legal Research Skills for Advisers
  23 February (half day)
- Challenging Social Security Overpayment Decisions
  1 March
- Benefits for Carers
  23 March

**DERRY**
- Mental Capacity and Decision Making
  13 January

**LEGAL RESEARCH SKILLS FOR ADVISERS**
16 February (half day)

**EMPLOYMENT LAW**
8 and 9 March (two days)

**BENEFITS FOR CARERS**
30 March

**CONTACT**

For courses run in Belfast, contact

**Deborah Hill**
Tel: 028 9024 4401 Fax: 028 9023 6340
Textphone: 028 9023 9938
Email: deborah.hill@lawcentreni.org

For courses run in Derry, contact

**Noirin Hyndman**
Tel: 028 7126 2433 Fax: 028 7126 2343
Email: admin.derry@lawcentreniwest.org

Download our full training programme from www.lawcentreni.org
LHA weekly rates in Housing Benefit will be capped at £250 for one bedroom, £290 for two bedrooms, £340 for three bedrooms and £400 for four bedrooms or more.

The LHA in Housing Benefit will be set at the 30th percentile of local rents rather than the current 50th percentile level.

The freeze on the level of non-dependent deductions from Housing Benefit will be ended.

Disabled Housing Benefit claimants with a non-resident carer will be entitled to have entitlement assessed on the basis of an extra bedroom.

Funding for discretionary housing payments will increase.

*The changes marked with an asterisk will be introduced for existing claimants between April 2011 and January 2012. New claimants will be subject to the rules from April 2011 onwards.

October 2011

Lone parents with a youngest child aged five or over will no longer be eligible for Income Support and must claim Income-based JSA instead. Existing claimants will be transferred to Income-based JSA from April 2012.

April 2012

The family element of CTC will be withdrawn straight after the child element.

Backdating of tax credit claims and certain changes of circumstances will be reduced from three months to one month.

A disregard of £2,500 will be introduced in tax credits for in-year falls in income.

Child element of CTC will increase by £110 above CPI uprating.

The 50 plus element of Working Tax Credit will be removed.

2012/2013 (date to be determined)

Payment of mobility component of DLA to claimants in residential care who are not self-funding will end.

The age limit for shared room rate for Housing Benefit will increase from 25 to 35 years of age.

Contributory ESA for those in the Work Related Activity Group will be restricted to one year’s entitlement.

January 2013

Child Benefit will be removed from higher rate tax payers.

April 2013

Housing Benefit will be reduced for the long term unemployed receiving income-based JSA to 90 per cent of the initial award.

Housing Benefit entitlement for working age people in the social rented sector will reflect family size.

In-year rises in income in tax credits which are ignored will be reduced from £10,000 to £5,000.

Disability Living Allowance (DLA) claimants of working age will become subject to a new objective medical assessment.

Household welfare payments (excluding one off payments) will be capped to the level of median earnings after tax for working households except for those on DLA, WTC or War Widow’s Pension

Analysis

**Housing costs and low income**

Cutting help with housing costs looms large as an initial impact. Based on the Equality Impact Assessment in Britain, the reduction in help with mortgage interest will leave half of all claimants worse off, with seven per cent of them losing more than 40 per cent of their mortgage interest payments. Housing Benefit changes will cause real difficulties in the private rented sector initially, which will eventually spread to the public rented sector.

The assumption (or hope) is that landlords will respond to the changes by lowering rents and/or claimants will respond by moving to cheaper accommodation. It is difficult to see why landlords will reduce rents unless there is no alternative to taking on Housing Benefit tenants. In effect, where there is an alternative market, (for example in student areas), which encompasses a significant part of the private rented sector, then Housing Benefit claimants will be faced with funding a shortfall or eviction.

The second assumption underpinning changes in housing costs is that it will act as an incentive for people of working age to get into work. With five people for every job vacancy in Britain and a worse ratio in Northern Ireland there will remain large numbers in long term unemployment regardless of people’s motivation.

**Lone parents**

For lone parents being pushed towards finding work at an earlier stage, the missing element is childcare. With no lead government department, no statutory duty on public authorities to provide adequate child care and no cross-departmental strategy, Northern Ireland lacks the infrastructure, resources and (apparently) the will to ensure accessible and affordable childcare is in place.

**Long term ill health and disabilities**

The migration of IB claimants to ESA has set an ambitious (or unrealistic) timetable. The current plans entail dealing with around 500 people a week, every week for three years. The Department’s estimate is that almost one in four claimants will fail the WCA on migration. In addition, with the tightening of the WCA test the expectation is that over two thirds of new claimants to ESA will also fail the test. Whether the Social Security Agency and Appeals Service have the capacity to deal with the likely numbers appealing remains to be seen.

Large numbers of people will move from IB and ESA to JSA and be expected to look for work. Others, for example where a partner is in employment, will fall out of the benefit system altogether. In the current financial climate, the necessary support from Jobs & Benefits offices to assist people back to work is likely to diminish rather than increase.

Perhaps the largest sting in the tale is the long term change to DLA. The proposals for change are light on detail beyond the introduction of revised eligibility criteria with a points based system to assess entitlement to the different rates of benefit along the lines of the WCA test. The Treasury report on the budget, however, has suggested there will be around a 20 per cent reduction in caseload and expenditure once the proposals are fully implemented.
The long term picture

Universal Credit: Welfare that Works sets out a longer term direction of travel. The government intends to introduce a new benefit, Universal Credit (UC), aimed at people of working age, and providing support whether in or out of work.

UC will consist of a basic allowance with additional elements for children, disability, housing and caring. It will replace tax credits, Housing Benefit, Income Support, Income-based JSA and Income-related ESA.

The new benefit will be administered by one department, the Department for Social Development, removing the role of administering benefits from HMRC and the Housing Executive.

A key part of the change is to improve work incentives. UC is likely to be withdrawn at a constant rate of 65 pence for each pound of net earnings with higher disregards for, for example, couples with children and people with a disability. The change to a marginal tax rate of 65 per cent is still very high; nonetheless, it represents a significant improvement on current arrangements.

The downside is that new sanctions will be introduced, with certain claimants facing a loss of benefit for failure to apply for a job, accept a job offer or take part in mandatory work activity. The sanction will apply for three months in the first instance, then six months and three years for a third failure.

The Universal Credit as a concept has some merit, although the White paper is short on detail about how important issues such as child care costs for those in work, help with mortgage interest, support for carers and integration with pension age benefits will be handled.

A Welfare Reform Bill will be introduced in Britain in January 2011, with a separate Bill produced for Northern Ireland. The intention is to introduce the new system from 2013 onwards on a phased basis.

Distributional impact on Northern Ireland

Where does this leave social security here? With a higher proportion of long term unemployed; higher rates of disability particularly with mental health problems; greater reliance on public expenditure and the public sector and a longer prognosis for economic recovery, the prescription for welfare reform of getting more people into work faces formidable obstacles here.

Despite social security being the responsibility of the Northern Ireland Executive and Assembly, finding room to manoeuvre within the legal principle and financial realities of Treasury arrangements for coordination of provision will be difficult. The ‘Northern Ireland is a special case’ argument is unlikely to cut much ice. Instead there is a need for a sober assessment of what is different here and objective ramifications of these differences for proposals emanating from the Department for Work and Pensions.

In effect, there must be space for doing things differently to ensure that the recipe for change works in practice. Alongside increased work for the voluntary sector and firms doing social security work (assuming a different approach to legal aid reform in Northern Ireland to the approach proposed in Britain), the impact of the changes will revolve around whether the increased numbers will become eligible for legal aid. The economic forecast suggests a slower financial recovery than in Britain, with unemployment peaking in 2012. This suggests that the desire to make further savings in the legal aid budget will be even more challenging in the short term.

CCLG

Company & Commercial Lawyers Group Northern Ireland

ANNUAL GENERAL MEETING

The Company and Commercial Lawyers Group has pleasure in inviting its members to attend its AGM.

Date: Thursday 20 January 2011
Venue: Morrisons Bar, 21 Bedford St, Belfast
Time: 5.30pm

The business to be discussed shall include reports on the work done by the Committee, the accounts of the Group and the election of the Committee (including Office Bearers) for the forthcoming year.

Pub Quiz

The AGM shall be followed by a pub quiz commencing at 6.30pm.

There will be a free bar and food will be available to order until 8pm.

Teams should consist of five to seven persons.
Everyone welcome!
ADMINISTRATION OF JUSTICE

DEAN DEENY J
15 OCTOBER 2010
HIGH COURT

IN THE MATTER OF AN APPLICATION BY CIARA PATRICIA THOMPSON FOR JUDICIAL REVIEW AND IN THE MATTER OF A DECISION OF THE DEPARTMENT OF THE ENVIRONMENT FOR NORTHERN IRELAND (PLANNING SERVICE)
Applicant granted leave to apply for judicial review of a planning permission. - application for leave of the Court for representation by her Father as McKenzie friend. application by applicant to review the Protected Costs Order. - rights of audience in the High Court and Court of Appeal and the circumstances in which representation other than by Counsel or as a personal litigant can be permitted. - nature of the inherent jurisdiction of the Court. - interests of justice. - rights of McKenzie friends. - HELD that the Court refuses the application of the applicant to be represented by her Father or to be permitted to have his assistance as a McKenzie friend. - application to alter the Protected Costs Order is refused
HIGH COURT
29 OCTOBER 2010
TREACY J

JANE HOLLOWAY AND PAUL HOLLOWAY V SARCON (NO 177) LIMITED
Contract. - building agreement. - plaintiffs wished to rescind the building agreement because the developer had not completed on the due date and time was of the essence of the agreement. - time is of the essence clauses in building and construction contracts. - HELD that it was the intention of the parties that time was not of the essence, and applicant's application for summary judgment refused. - defendant given unconditional leave to defend the proceedings and continue with its counterclaim
HIGH COURT
15 SEPTEMBER 2010
DEENY J

THOMAS JAMES SMYTH V LAWRENCE DIAMOND; NEVILLE PHILLIPS V ELSIE RITCHIE; HENRY JAMES TORRENS V MAJELLA
Conjointed appeals to the High Court possessing certain common features. - insurance companies and credit hire companies. – hire of vehicles pending repairs. – whether insurers liable to pay. - defendant contested the claims on the ground that these agreements were chancerous and unlawful. - reasonableness in respect of any damages recoverable. - whether the plaintiffs failed to mitigate their losses. - whether the credit hire agreements in these appeals are enforceable and are compliant with the fundamental legal requirements for any valid contract
HIGH COURT
17 JUNE 2010
MCCLOSKEY J

MARY BERNADETTE MAGILL AS PERSONAL REPRESENTATIVE OF BRIAN MAGILL V THE ULSTER INDEPENDENT CLINIC, DR JOHN COLLINS, MR THOMAS DIAMOND, DR PETER ELLIS, PROFESSOR R A J SPENCE, ROYAL GROUP OF HOSPITALS AND BELFAST CITY HOSPITALS
Application for extension of time for service of notice of appeal. - applications by the respondents seeking orders against the appellant for security for costs in respect of her appeal. - application by the appellant for a protected costs order. - appellant seeks to challenge the judgment of the trial judge and consequent order of the court dismissing the appellant's claim arising out of alleged negligence and breach of contract by the respondents in the medical care and treatment of her late husband. - HELD that the application for an extension of time must be rejected as unnecessary to rule on the questions whether an order for security for costs of a protective costs order would have been made
COURT OF APPEAL
30 SEPTEMBER 2010
MORGAN LCJ, DEENY J, COGHLIN LJ

JOURNAL OF THE LSNI
WINTER 2010/11

Selected High Court and Court of Appeal Decisions October – November 2010
CRIMINAL LAW

R V WONG SIU CHING
Applicant convicted of murder and sentenced to life imprisonment. - appeal against tariff set under the Life Sentences (NI) Order 2001. - applicant also appeals against conviction. - evaluation of circumstantial evidence. - whether the trial judge was correct to let the case go to the jury. - whether verdict safe. - HELD that the tariff should remain at 18 years but in determining the earliest date before he can be considered for release credit must be given for the period of time spent by the applicant in custody in Hong Kong pending his extradition to the UK on the murder charge
COURT OF APPEAL
26 MARCH 2010
MORGAN LCJ, HIGGINS LJ, GIRVAN LJ

R v GARY JONES: RECUSAL
Application by the defendant that the trial judge should recuse himself based on his knowledge of an earlier judgment and subsequent retrial of the defendant. - whether threat of bias. - whether a judgment, where known to the trial judge contains anything prejudicial to a fair retrial. - whether appropriate steps can be taken to safeguard the accused. - HELD that the judge’s available knowledge would not impel a fair-minded and informed observer to conclude that there exists a real possibility of bias and application rejected
CROWN COURT
10 SEPTEMBER 2010
MCCLOSKEY J

R v GARY JONES: NO CASE TO ANSWER
Application by the defendant at the close of the prosecution case for a verdict of not guilty on the murder charge
COURT OF APPEAL
30 SEPTEMBER 2010
MCCLOSKEY J

R V DESMOND PAUL KEARNS, PAUL ANTHONY JOHN MCCAUHERTY AND DERDMOT DECLAN GREGORY
Entrapment. - whether the court should stop the prosecution of each defendant. - whether the defendants have been prosecuted for an offence that was artificially created by the misconduct of agents of the State, or whether their actions did no more than offer the defendant an opportunity to commit that offence and the defendant freely took advantage of that offer. - onus of proof in relation to disputed facts. - HELD that the case against the first defendant should be stayed, but that there are no grounds to justify ordering a stay of proceedings against the second defendant
CROWN COURT
17 JUNE 2010
HART J

R V EUGENE LEWIS
Indecent assault. - defendant is an ordained priest of the Catholic Church who was convicted of abusing three sisters over a period of ten years. - Victim Impact Reports and Pre-sentence reports. - likelihood of re-offending given his sexual offending history and continued denial of guilt. - aggravating and mitigating factors. - HELD that the defendant be sentenced to four years imprisonment, an Article 26 licence be issued under the Criminal Justice (NI) Order 1996 and a Disqualification Order be made against the defendant that he be disqualified indefinitely from working with children
CROWN COURT
2 SEPTEMBER 2010
BABINGTON HHJ

R V PAULINE SHAW AND COLIN FRANCIS SHAW
Sentencing. - first defendant accused of manslaughter of her husband and perverting the course of justice. - HELD that the defendant be sentenced to a minimum period of four years
CROWN COURT
23 SEPTEMBER 2010
MCCLOSKEY J

R V DENNIS PATRICK MCCALMONT AND DERDMOT JAMES WADE
Applicants sought leave to appeal convictions and sentence. - applicants convicted of sexual abuse of an historic nature. - whether the direction of the trial judge on the issue of delay and good character was inadequate. - whether the trial judge failed to direct the jury on the effect of the guilty pleas, dangers of contamination and onus of proof. - whether evidence should have been admitted. - HELD that the convictions of the applicants could not be regarded as safe and appeals allowed
COURT OF APPEAL
28 MAY 2010
HIGGINS LJ, GIRVAN LJ, COGHIN LJ

R V PAUL ANTHONY JOHN MCCAUHERTY AND DERDMOT DECLAN GREGORY (OTHERWISE KNOWN AS MICHAEL DERMOT GREGORY)
Sentencing. - defendants were convicted of various terrorist offences including conspiracy to possess explosives and firearms and ammunition with intent to endanger life, using money for the purposes of terrorism and belonging to a proscribed organisation. - aggravating and mitigating factors. - HELD that the first defendant be sentenced to 20 years imprisonment and the second defendant be sentenced to four years’ imprisonment
CROWN COURT
1 OCTOBER 2010
HART J

R V DESMOND PAUL KEARNS, PAUL ANTHONY JOHN MCCAUHERTY AND DERDMOT DECLAN GREGORY
Entrapment. - whether the court should stop the prosecution of each defendant. - whether the defendants have been prosecuted for an offence that was artificially created by the misconduct of agents of the State, or whether their actions did no more than offer the defendant an opportunity to commit that offence and the defendant freely took advantage of that offer. - onus of proof in relation to disputed facts. - HELD that the case against the first defendant should be stayed, but that there are no grounds to justify ordering a stay of proceedings against the second defendant
CROWN COURT
17 JUNE 2010
HART J

R V EUGENE LEWIS
Indecent assault. - defendant is an ordained priest of the Catholic Church who was convicted of abusing three sisters over a period of ten years. - Victim Impact Reports and Pre-sentence reports. - likelihood of re-offending given his sexual offending history and continued denial of guilt. - aggravating and mitigating factors. - HELD that the defendant be sentenced to four years imprisonment, an Article 26 licence be issued under the Criminal Justice (NI) Order 1996 and a Disqualification Order be made against the defendant that he be disqualified indefinitely from working with children
CROWN COURT
2 SEPTEMBER 2010
BABINGTON HHJ

R V PAULINE SHAW AND COLIN FRANCIS SHAW
Sentencing. - first defendant accused of manslaughter of her husband and perverting the course of justice. - HELD that the defendant be sentenced to a minimum period of four years
CROWN COURT
23 SEPTEMBER 2010
MCCLOSKEY J

R V DENNIS PATRICK MCCALMONT AND DERDMOT JAMES WADE
Applicants sought leave to appeal convictions and sentence. - applicants convicted of sexual abuse of an historic nature. - whether the direction of the trial judge on the issue of delay and good character was inadequate. - whether the trial judge failed to direct the jury on the effect of the guilty pleas, dangers of contamination and onus of proof. - whether evidence should have been admitted. - HELD that the convictions of the applicants could not be regarded as safe and appeals allowed
COURT OF APPEAL
28 MAY 2010
HIGGINS LJ, GIRVAN LJ, COGHIN LJ

R V PAUL ANTHONY JOHN MCCAUHERTY AND DERDMOT DECLAN GREGORY (OTHERWISE KNOWN AS MICHAEL DERMOT GREGORY)
Sentencing. - defendants were convicted of various terrorist offences including conspiracy to possess explosives and firearms and ammunition with intent to endanger life, using money for the purposes of terrorism and belonging to a proscribed organisation. - aggravating and mitigating factors. - HELD that the first defendant be sentenced to 20 years imprisonment and the second defendant be sentenced to four years’ imprisonment
CROWN COURT
1 OCTOBER 2010
HART J

DAMAGES

MARY BAXTER V WILDRose PROPERTIES
DAMAGES FOR PERSONAL INJURIES AS A RESULT OF AN ACCIDENT SUSTAINED WHEN THE PLAINTIFF WAS STRUCK ON THE BACK OF THE HEAD BY AN OBJECT WHICH SHE ALLEGES WAS THROWN FROM THE TOP FLOOR OF A CAR PARK CAUSING HER TO TWIST HER ANKLE. - inconsistenies in the plaintiff’s evidence. - HELD that the plaintiff did not provide the requisite standard of evidence, and in any case the plaintiff failed to establish that the defendant had not taken all reasonable steps to prevent a third party assaulting the plaintiff. - claim dismissed
scale of the operations. - whether reasonable steps were taken by the defendant to ensure that no undue influence was caused to neighbours.
- HELD that there was undue interference with the plaintiffs use and enjoyment of the premises, there was a lack of reasonable care and skill by the defendant in managing the demolition and construction works and there were reasonable measures that could and should have been taken in order to minimise the nuisance and these measures were not taken. - defendants are liable to the plaintiffs for private nuisance and general damages awarded at £16,875

HIGH COURT
29 JUNE 2010
WEATHERUP J

MARGARET MCGAULEY, MARK CAMPBELL AND BERNARD CAMPBELL AND CO SOLICITORS V MELANIE BROWNLESS ALSO KNOWN AS MELANIE HARRISON
Damages. - plaintiffs operated a building firm known as Period Homes and entered into a licence with the defendant concerning a proposed residential development to be constructed by Period Homes on the defendant’s lands. - whether the actions of the defendant and her representatives delayed the completion and marketing and sale and transfer of the properties in the development and resulted in loss and damage sustained by the plaintiffs. - whether breach of contract. - defendants were responsible for planning permission and the delays caused by their actions impacted on the manner in which the development proceeded. – counter-claim by the defendants that the plaintiffs were responsible for the non-completion of the site. - HELD that the counter-claim be dismissed and the plaintiffs have judgment against the defendant in the sum of £197,310 together with interest

HIGH COURT
30 JUNE 2010
WEATHERUP J

TERENCE NOEL LIGGETT AND DENISE LIGGETT TRADING AS PERIOD HOMES V MELANIE BROWNLESS ALSO KNOWN AS MELANIE HARRISON
Damages. - plaintiffs operated a building firm known as Period Homes and entered into a licence with the defendant concerning a proposed residential development to be constructed by Period Homes on the defendant’s lands. - whether the actions of the defendant and her representatives delayed the completion and marketing and sale and transfer of the properties in the development and resulted in loss and damage sustained by the plaintiffs. - whether breach of contract. - defendants were responsible for planning permission and the delays caused by their actions impacted on the manner in which the development proceeded. – counter-claim by the defendants that the plaintiffs were responsible for the non-completion of the site. - HELD that the counter-claim be dismissed and the plaintiffs have judgment against the defendant in the sum of £197,310 together with interest

HIGH COURT
29 JUNE 2010
WEATHERUP J

JOHN SHORT V BELFAST HEALTH AND SOCIAL CARE TRUST
Interlocutory appeal whereby plaintiff challenges an order of the District Judge requiring him to make specific discovery of certain documents.
- plaintiff claims damages for loss and damage arising out of a road traffic accident. - vehicle hire costs and vehicle repair costs. - District Judge had required the plaintiff to make specific discovery of any correspondence between Crash Services and the repairing garage and the plaintiff’s indemnity policy. - whether request disproportionate costs and oppressive. - whether it was within the plaintiff’s power to secure the relevant invoice. - whether the invoice was relevant to any issue. - HELD that the plaintiff’s appeal is dismissed

HIGH COURT
4 OCTOBER 2010
MCLOSKEY J

ELECTIONS
HELD ON 6 MAY 2010
Petition by Rodney Connor, an unsuccessful candidate in the Parliamentary election for Fermanagh and South Tyrone. - whether on the holding of the election breaches the statutory rules governing the conduct of elections were committed by the Deputy Returning Officer. - whether the petitioner had a majority of the lawful votes and ought to have been returned. - petitioner seeks a scrutiny of the votes, an order for a recount and a determination that the first named defendant was not duly elected and ought not to have been returned. - verification process, doubtful and rejected votes and counting of votes. - failure of the returning officer to conduct a fourth recount. - HELD that the breach of the Election Rules which did occur did not affect the result of the election and determine that Michelle Gildernew was duly elected as Member of Parliament

HIGH COURT
22 OCTOBER 2010
MORGAN LCJ

EMPERLOYMENT
CLAIRE MARTIN V SOUTHERN HEALTH AND SOCIAL CARE TRUST
Case stated from a decision of an Industrial Tribunal. - working time. - whether a nurses’ rest
break could be considered on call time since the claimant’s rest breaks could not be guaranteed to be interrupted and the claimant was required to spend her rest time on the employer’s premises.

**ABC V A HEALTH AND SOCIAL SERVICES TRUST**

**S v S**

Ancillary relief. - parties divorced after a long marriage. - how inherited assets should be dealt with. - whether a figure should be taken from the overall total representing an implied trust in favour of the husband’s brother. - what the rate of ongoing periodical payments should be between the parties.

**SOUTHERN HEALTH AND SOCIAL SERVICES TRUST V F**

Permanent care planning. - child in kinship care. - Mother had sole responsibility for the child and her parenting skills were inadequate due to alcohol abuse and domestic violence. - Mother failed to engage with Social Services whilst her child was in kinship care.

**WESTERN HEALTH AND SOCIAL SERVICES TRUST V L AND M**

Application for care order in the best interests of the child. - drift on the part of the Trust with regard to the care of the children and its effect on the children. - risk of child abduction. - HELD that the care order be granted with a plan for adoption

**HUMAN RIGHTS**

GIGI LEE, GEORGE IVAN MORMISSON AND X (A MINOR) BY HIS MOTHER AND NEXT FRIEND GIGI LEE V NEWS GROUP NEWSPAPERS LIMITED, SUNDAY WORLD AND TONY MAGUIRE AND PERSON OR PERSONS UNKNOWN WHO HAVE OBTAINED INFORMATION CONCERNING THE PRIVATE LIVES OR RELATIONSHIP OF THE PLAINTIFFS

Privacy. - injunction sought prohibiting the defendants from publishing information concerning the private lives or relationships of the plaintiffs including any photographs or other information revealing or tending to reveal the place of residence of the first and third plaintiffs or identifying them. - claim for damages for loss, injury to feeling, stress and inconvenience by reason of the misuse of private information by the defendants. - breach of a.8 ECHR. - whether plaintiffs had reasonable expectation of privacy. - whether proposed article and photographs contributed to a debate of general interest or was in the public interest. - right to respect for private and family life. - freedom of expression. - HELD that there is no general public interest in publishing the contents of the impugned article or the photographs and that the plaintiffs are
likely to establish at trial that publication should not be allowed
HIGH COURT
1 OCTOBER 2010
GILLEN J

IMMIGRATION

IN THE MATTER OF AN APPLICATION BY KASUMU TUNDE KERU FOR JUDICIAL REVIEW AND IN THE MATTER OF A DECISION BY AN IMMIGRATION OFFICER

Applicant challenges a decision by the respondent that he is an illegal entrant to the UK, as a result of which he was detained. - application for the cancellation of any endorsement on his passport and rectification of any other documents as well as damages. - whether the applicant was guilty of deception either at the time of making the visa application or on entry into the UK in order to obtain immigration status. - HELD that the applicant's actions amounted to deception and application for judicial review dismissed
HIGH COURT
2 SEPTEMBER 2010
MORGAN LCJ

IN THE MATTER OF AN APPLICATION BY MILIAM UNAMOYO FOR JUDICIAL REVIEW

Application for judicial review brought by a Congolese national who seeks asylum in the UK. - declaration sought that that the Immigration and Asylum Act operates to provide the Secretary of State with a discretion to permit the continued provision of temporary asylum support while an appeal against refusal of asylum support is pending. - whether the present judicial review application is an abuse of process. - res judicata. - HELD that the applicant should be granted a declaration in the amended form sought in the notice of motion
HIGH COURT
28 JANUARY 2010
GIRVAN LJ

JUDICIAL REVIEW

AN APPLICATION BY JOHN QUINN FOR LEAVE TO APPLY FOR JUDICIAL REVIEW

Application for order quashing the decision of the proposed respondent to close the Accident and Emergency Department of the Mid Ulster Hospital. - whether, following assurances from the proposed respondent to the effect that the A&E Department would remain open until 2012 and that relocation would not occur until provision had been made at Antrim Area Hospital (AAH), his legitimate expectation that this assurance would be honoured has been frustrated without adequate consultation and before AAH had sufficient capacity to deal with the increased attendances caused by the relocation. - HELD that the overriding interest was patient safety which extinguished the applicant's legitimate expectation. - application for leave refused
HIGH COURT
21 SEPTEMBER 2010
TREACY J

LIMITATION

WILLIAM MCFARLAND V NORMA GORDON

Application by the defendant by way of preliminary issue for a ruling of the court that the plaintiff's claim is statute barred having been issued outside the time limit prescribed by the Limitation (NI) Order 1989. - discretion of the court to override the prescribed time limits. - HELD that the defendant has been disadvantaged in the investigation of this claim and assembly of evidence to an inappropriate extent and the reasons for the delay on the part of the plaintiff are inexcusable. - it is not fair and just that this matter should be allowed to proceed and plaintiff's claim dismissed
HIGH COURT
25 AUGUST 2010
GILLEN J

MENTAL HEALTH

BIJAN SHAYEGH V SOUTH EASTERN HEALTH AND SOCIAL SERVICES BOARD TRUST

Appeal from a decision of a trial Judge's dismissal of appellant's claim for damages and negligence and false imprisonment arising from his detention under the Mental Health (NI) Order 1986 for a period of 26 days. - whether the detention was lawful and justified in the light of medical evidence. - whether failure to compulsorily detain the appellant would create a substantial likelihood of serious physical harm to himself or to other people. - HELD that the statutory preconditions for detention had not been satisfied and his the appellant's detention was unlawful, appeal allowed and matter remitted to the trial judge to determine damages
COURT OF APPEAL
18 MARCH 2010
HIGGINS LJ, GIRVAN LJ, TREACY J

IN THE MATTER OF AN APPLICATION BY JR44 FOR LEAVE TO APPLY FOR JUDICIAL REVIEW

Applicant is a patient detained in Muckamore Hospital. - application for declaratory relief that the rule promulgated by the Mental Health Review Tribunal placing restraints on the ability of patients and their representatives to instruct psychiatrists on the MMRT panel was ultra vires, a declaration that the MHRT erred in law in refusing to permit the applicant to instruct the psychiatrist of her choice and an order of certiorari to quash the decision of the MHRT and order that the Review be convened before a freshly constituted Tribunal. - challenge to recent directions to Medical Members of the MHRT that they should not accept instructions to act as expert medical witnesses on behalf of patients whose detention or guardianship is due to be considered by a tribunal. - HELD that the applicant's rights have not been unlawfully interfered with and application refused
HIGH COURT
15 OCTOBER 2010
TREACY J

PLANNING

AN APPLICATION BY LOUISA BLACKBURN FOR LEAVE TO APPLY FOR JUDICIAL REVIEW AND IN THE MATTER OF A DECISION BY THE MINISTER FOR SOCIAL DEVELOPMENT

Application for leave to apply for judicial review of a decision of the Minister for Social Development whereby she approved a redevelopment scheme for the village area of Belfast. - vesting order made
Selected High Court and Court of Appeal Decisions October – November 2010

which included the applicant’s home. - whether the application has been brought promptly as required by o.53 r.4(1) RSC. - HELD that the application for leave for judicial review is dismissed
HIGH COURT
17 MAY 2010
TREACY J

IN THE MATTER OF AN APPLICATION BY CENTRAL CRAIGAVON LIMITED FOR JUDICIAL REVIEW
Application to quash a decision of the Department of the Environment whereby it purported to adopt Draft Planning Policy Statement 5: Retailing, Town Centres and Commercial Leisure Developments. - applicant is the owner of the Rushmere Shopping Centre. - whether the promulgation of Draft PPS 5 by DRD was unlawful since the DRD is required to provide policy guidance and advice in relation to its regional development strategy and implementation thereof. - whether the respondent was in breach of EU Directive 2001/42 which imposes obligations on member states in relation to the assessment of the effects of certain plans and programmes on the environment. - whether the Minister complied with the Ministerial Code in failing to bring matters on the transfer of responsibilities between DOE and DRD to the Executive. - whether the adoption of draft PPS 5 by the Department gave rise to an obligation under the Ministerial Code to refer the matter to the Executive for decision. - HELD that a declaration made that the adoption of Draft PPS 5 should have been brought to the Executive for approval as a cross cutting issue, but that the adoption of the policy is not quashed
HIGH COURT
14 JUNE 2010
MORGAN LCJ

AN APPLICATION FOR JUDICIAL REVIEW BY CENTRAL CRAIGAVON LIMITED
Applicant challenges two statements of what was new planning policy made in the Northern Ireland Assembly for the former Minister of the Environment. - first impugned statement was made in relation to the weight to be given to the economic benefits of development proposals (the economic statement). - second statement was made in relation to major economic development proposals and the development plan scheme (the prematurity statement). - applicant is the landlord of the Rushmere Shopping Centre and is concerned that the statements made by the respondent will assist the Sprucefield Shopping Centre in obtaining planning permission for the retail development at Sprucefield, which the applicant contends will have a serious effect on his business. - whether the applicant has a legitimate expectation that the economic statement will not be treated as a material consideration in the development control process. - whether the respondent was making a new planning policy unlawfully. - whether the statements constituted formulation of new policy. - HELD that the respondent misdirected himself in concluding that the statements did not represent a change in planning policy and failed to consult since these statements amounted to a change of policy
HIGH COURT
1 OCTOBER 2010
TREACY J

PLANNING SERVICE V WILLIAM YOUNG AND ROBERTA YOUNG
Defendants prosecuted for breach of an planning enforcement notice. - whether the Enforcement Notice was invalid. - whether proceedings were an abuse of process. - HELD that none of the grounds are made out and the defendants convicted of the offence
MAGISTRATES COURT
5 OCTOBER 2010
WHITE DJ

PRISONS

AN APPLICATION BY PAUL MORGAN FOR JUDICIAL REVIEW
Applicant is a prisoner at HMP Magilligan. - application for judicial review seeking a declaration that the Northern Ireland Prison Service unlawfully failed to provide library services in breach of its duty under r. 54(1) of the Prison and Young Offender Centre Rules (NI) 1995. - practicability test. - applicant was for significant periods of time not allowed to borrow books from the library. - HELD that the resource and staffing issues do not absolve the respondent from performance of its statutory duty and the application for judicial review is successful
HIGH COURT
1 OCTOBER 2010
TREACY J

PROCEDURE

BRENDAN CASSIDY V DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT AND PUBLIC PROSECUTION SERVICE FOR NORTHERN IRELAND
Application by defendant that some of the particulars in the plaintiff’s Statement of Claim be struck out as disclosing no reasonable cause of action. - plaintiff was employed by the defendant as an animal health and welfare inspector. - plaintiff was convicted of charges under the Cattle Identification (Notification of Births, Deaths and Movements) Regulations and convictions subsequently quashed on the basis of irregularities in the operation of the Regulations. - plaintiff claims for damages and loss alleged to have been sustained by the plaintiff by reason of the breach of contract and negligence of the defendant in relation to the employment of the plaintiff. - whether the defendant was the prosecutor of the plaintiff. - HELD that some of the impugned particulars be struck out and the action continue against the defendant on an amended Statement of Claim
HIGH COURT
30 JUNE 2010
WEATHERUP J

SOLICITORS

KEITH HOLYWOOD V LAW SOCIETY OF NORTHERN IRELAND
Appeal by the appellant from a decision of trial judge dismissing the appellant’s application for judicial review of a decision of the Judicial Committee of the Law Society of Northern Ireland which refused to relax or dispense with the requirements of the Solicitors Admissions and Training Regulations 1988 so as to permit the registration of the appellant as a student solicitor of
the Society. - whether the 1988 Regulations are unlawful in that they have not been maintained in accordance with the jurisprudence of the ECJ and the Morgenbesser decision. - whether the Society's reasons for not amending the Regulations is unlawful and ultra vires the enabling statute. - whether the Society’s refusal to similarly apply the waiver in the appellant’s case is improperly motivated or is alternatively irrational. - freedom of movement for workers within the EU. - development of legal education in Northern Ireland. - HELD that the Society’s decision to reject the appellant was not irrational and appeal dismissed

COURT OF APPEAL
30 JUNE 2010
HIGGINS LJ, COGHLIN LJ, MCLAUGHLIN J

SURVEILLANCE

IN THE MATTER OF THE JUDICIAL REVIEW APPLICATION BY R A OF A DECISION TAKEN BY THE POLICE SERVICE OF NORTHERN IRELAND
Application for assurances that the applicant’s consultations with his solicitor, his medical practitioner and a responsible adult during his period of detention by the police would not be the subject of surveillance, given that the police could neither confirm or deny whether any form of covert surveillance had been conducted or would be conducted. - regulation of surveillance under the Regulation of Investigatory Powers Act 2000. - whether covert surveillance could not be lawfully authorised in the applicant’s case and whether he is entitled in these proceedings to establish that this is the legal position. - whether the exceptional and compelling circumstances regarding surveillance are sufficiently clearly defined. - whether adequate guidance given in relation to securing legally privileged confidential information and how it should be secured and destroyed. - HELD that application be dismissed

HIGH COURT
21 SEPTEMBER 2010
MORGAN LCJ, GIRVAN LJ, COGHLIN LJ

If you wish to advertise in The Writ please contact Karen Irwin for rates, specification and copy deadlines at:

dcp strategic communication ltd
Bamford House
91-93 Saintfield Road
Belfast
BT8 7HN

Tel: 028 9040 2296
Fax: 028 9040 2291
Email: karen@dcppr.co.uk

New Books in the Library

- Valentine, BJAC. Criminal procedure in Northern Ireland. 2nd ed. SLS. 2010.
- Bridge, M. Benjamin’s sale of goods. 8th ed. Sweet & Maxwell. 2010.
**Library Update**

**Tripping and Slipping**

**Articles**

Slippery slope (considers when people may claim against local authorities or owners of private land for injuries sustained due to hazardous conditions caused by bad weather)

Wright: 2010 L. Ex, Mar, 39

Brock v Rochdale MBC: injuries to lower limbs (discusses the decision of Brock v Rochdale MBC (unreported) where the claimant received £8,500 for knee injuries sustained after she tripped over a raised concrete storm drain outside the defendant’s school premises)

Sabry: 2009, Kemp News 1/2(Jul), 11-12

Claimant partially to blame in contractor mud slip claim (discusses the judgment in Swain v Geoffrey Osborne Ltd (unreported) on the liability of a building site contractor and subcontractor for the personal injuries sustained by a heavy goods vehicle driver who slipped on the footway to the site due to the absence of an adequate system for checking the area was clear of mud)

Hazleton: 2010 Post Mag 2010, Jul 15, 26

Personal injury: pedestrians - slippery substances (whether the owner of a flower shop had been responsible for injury suffered by the claimant when he slipped and fell after stepping on a petal as it had negligently failed to operate a reasonably effective and safe system of work for dealing with the danger of fallen petals)

McQuater: 2007 J.P.I. Law, 4, C170-173

**Caselaw**

Barclay v British Airways Plc

Claimant slipped on a plastic strip embedded in the floor of the aircraft which covered the seat track. - whether there had been an accident within the meaning of the Convention. - defendant submitted that claimant had to show that the fall had been caused by an unusual or unexpected event external to her. - No external event, apart from the fall itself, had been demonstrated. - it had not been established that the plastic strip was the cause of the slipping. - claim dismissed as there was no relevant accident.

[2008] 1 Lloyd's Rep. 661

Craner v Dorset CC

Claimant, a school handyman had tripped on a protruding paving slab while pushing a trolley between classrooms. - claimant’s right knee struck the trolley and he suffered an immediate and painful injury. - claimant had to stop doing manual work three to five years earlier than he would otherwise have done. - local authority appealed against a decision that a personal injury suffered by claimant involved a breach of the Workplace (Health, Safety and Welfare) Regulations 1992 reg.12(3) and of the Provision and Use of Work Equipment Regulations 1998 reg.4. - Appeal dismissed. - no one had taken measurements of the distance of the protrusion of the relevant slab over the neighbouring slab. - no controlled experiment had been carried out. - no one had asked the judge to do a site visit and the judge was therefore entitled to come to the conclusion he did


Lisa McQuillan v Department for Regional Development

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


Available on Libero via the Law Society website

Jacqueline Bovaird v Westfield Shoppingtowns

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


Available on Libero via the Law Society website

**Textbooks**

- Foster, C. Tripping and slipping cases: a practitioner’s guide. 4th ed. Sweet & Maxwell. 2005
- Butterworths personal injury litigation service. Looseleaf.
Missing Wills

Re: Miss Bernadette Margaret O'Hanlon (deceased)
Late of: 22 Monteith Road Annaclone
Banbridge, County Down BT32 5LS
Date of Death: 21 September 2010
Would anyone having any knowledge of the whereabouts of a Will made by the above named deceased please contact:
Adrian Travers
Solicitor
40 Rathfriland Street
Banbridge
County Down BT32 3LA
Tel: 028 4062 9990
Fax: 028 4062 9991
Email: adrian@adriantravers.com

Re: Margaret Lewis
Late of: 36 Barry Street, Londonderry
Date of Death: 21 August 2010
Would anyone having any knowledge of the whereabouts of a Will made by the above named deceased please contact:
Brendan Kearney & Co
Solicitors
Clarendon House
4 Clarendon Street
Derry BT48 7ES

Re: Joseph Woods
Late of: 29 Killybracken Road, Dungannon,
County Tyrone
Would anyone having any knowledge of the whereabouts of the Will of the above named deceased dated 20 November 2006 please contact:
Francis Rafferty
Rafferty & Donaghy
Solicitors
2 Donaghmore Road
Dungannon
County Tyrone BT70 1EZ
Tel: 028 8772 7055
Fax: 028 8775 2085
Email: francis@raffertyanddonaghy.com.

Re: Mary Coyle (deceased)
Late of: 1 Lower Nassau Street, Derry
BT48 0ES
Date of Death: 18 July 2010
Would any person having knowledge of the whereabouts of any Will made by the above named deceased please contact:
Dermot Walker, Madden & Company
Solicitors
6 Queen Street
Derry BT48 7FF
Tel: 028 7126 3082
Fax: 028 7126 5409
Email: dwalkerandcosols@btconnect.com

Re: John James McConnell (deceased)
Late of: 45 Main Street, Newtownstewart,
County Tyrone BT78 4AD
Would anyone having knowledge of the whereabouts of a Will for the above named person please contact:
Crawford Scally & Co.
Solicitors
45 Bowling Green
Strabane
County Tyrone BT82 8BW
Tel: 028 7188 3591
Fax: 028 7138 2298

Missing Title Deeds

Folio: 29493
County: Antrim
Registered Owner: Stanley Hubert Boxall and Maureen Boxall
Address of premises: 4 Oakridge Park, Lisburn, County Antrim BT27 4LY
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 information to the undermentioned 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.
Joseph Lockhart & Son
Solicitors
24 Bachelors Walk
Lisburn
County Antrim BT28 1XJ
Tel: 028 9266 3225
Fax: 028 9267 7621

Folio: 8852
County: Armagh
Registered Owner: Joseph Francis Corrigan
Lands: Adjacent to 33 Carrickbolie Road, Derrynoose, Keady, County Armagh
BT60 3HP
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.
The Elliott-Trainor Partnership
Solicitors
3 Downshire Road
Newry
County Down BT34 1EE
Tel: 028 3026 8116
Fax: 028 3026 9208

Property at: 130 Brompton Park, Belfast, BT14 7LE
Registered Owner: Desmond Madden
Would any solicitor knowing the whereabouts of the documents of title in respect of the above premises please produce such deeds or communicate such information to:
Richard McLaughlin
Jones & Co
4th Floor, The Potthouse
1 Hill Street
Belfast BT1 2LB
Tel: 028 9024 5471
Fax: 028 9023 6879
Direct email: Richard@joneslawni.com

Folio: 10583
County: Armagh
Registered Owner: Kieran Hughes
Lands at: Ballytrue, County Armagh
Take notice that any person having custody of or any 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 communicated within three
weeks of publication of this notice, a duplicate
Land Certificate may be applied for:

John P Hagan
Solicitors
Montrose House
17/21 Church Street
Portadown BT62 3LN
Tel: 028 3833 3333
Fax: 028 3835 0011
Email: david@jphagan.com

Folios: 216 & 34499
County: Antrim
Lands of: 24 Shore Road, Ballinderry Upper, Lisburn, County Antrim
Registered Owner: Elizabeth Colette Brankin

Take notice that any person having custody of or any 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 communicated within three weeks of publication of this notice, duplicate Land Certificates may be applied for:

Harry McPartland & Sons
Solicitors
11 Market Street
Lurgan
County Armagh BT66 6AR
Tel: 028 3832 2452
Fax: 028 3834 9561
Email: omallon@macpartlands.com

Conveyancing Solicitor required

Conveyancing Solicitor required for Belfast office. Five years’ PQE. Must have experience in Wills, Probate, Conveyancing (Residential and Commercial Leases). A high standard of IT skills is also essential. Salary negotiable.

Apply with CV to:
PO Box 205
c/o dcp strategic communication ltd
B Bamford House
91-93 Saintfield Road
BELFAST BT8 7HN

Solicitors / Firms required

Wilson Nesbitt (www.wilson-nesbitt.com) are a broadly based firm with offices in Belfast & Bangor. We are continuing to invest heavily in IT, staff training, accounting and compliance with excel & 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 gnesbitt@wilson-nesbitt.co.uk.

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 2899
macall@btinternet.com

Classified advertising

Please note that from 1 January 2010 the VAT rate on all advertising will rise to 20%.
All small classified advertisements which are paid in advance will now cost £30 (ie £25 plus VAT at the new rate).

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 Waring Street
Belfast BT1 2DX

Tel (028) 9043 6965
Fax (028) 9041 6699
Mobile 0797 001 1226
Web www.psychologist-ireland.com
E-mail jack@psychologist-ireland.com
Offices in Glasgow and Edinburgh
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)
- Full and Part Company Searches
- Local Authority and DOE Property Certificates
- Water Service maps
- NAMA Searches
- Debt Case and Title
- Matrimonial Charges
- National and International
- Priority and Probate Searches

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) 6776763
or (00 3531) 6707901
Fax: (00 3531) 6768702

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)

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

Stephen Donaghy
I.Eng. M.Inst. AEA, I.IMI, M.SOE.

Automotive Consulting Engineer

Tel & Fax: 028 3022 3357
Mobile: 0780 895 2003
Email: stephen.donaghy@glasmail.net
Web: www.sdonaghy.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 equipment 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 Knockvaule Grove, Knock,
Belfast BT5 6HL

Journal of the LSNI
Winter 2010/11
MEMBERS OF THE ASSOCIATION OF BRITISH INVESTIGATORS
Upholding professional values

Bramley Legal
cecil@bramleylegal.co.uk

Cairns & Co
www.cairnsandco.net
stephen@cairnsandco.net

Comac Investigation Services
www.comacinvestigations.co.uk
info@comacinvestigations.co.uk

Gilbert Law & Co Investigators Ltd
www.gilbertlaw.co.uk
info@gilbertlaw.co.uk

Securway NI Ltd
www.securwayni.co.uk
info@securwayni.co.uk

Stem Investigations
www.steminvestigations.com
enquiries@steminvestigations.com

NORTHERN IRELAND BRANCH

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), 98 Castle Street,
Comber, Co. Down BT23 5DY. Tel: (028) 9187 3899.

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

UNITED STATES INJURY CLAIMS

Kleeman & DiGiovanni, P.C. is a prominent U.S. law firm specialising in
representing foreign travellers injured in the U.S.

Contact Michael Kleeman at
(international toll free)
00-800-221-56970
or at
mkleeman@kleemanlawfirm.com
Visit our website at
kleemanlawfirm.com

REPUBLIC OF IRELAND AGENTS

For your agency work in

CORK

Frank Joyce & Company Solicitors
In practice since 1988
25 Grand Parade, Cork

Tel: (0035321) 4251700
Fax: (0035321) 4251702

Contact
Frank Joyce. BA. LLB.
Email: frank@joycelaw.eu
Leonard Leader LLB
Email: leonard@joycelaw.eu
IS Series prices start from £24,335 OTR. *For business users only on Lexus IS 250 auto F-Sport 20 Years Celebration edition, when ordered, registered and financed between 1 October and 31 December 2010 through Lexus Financial Services on Lexus Contract Hire at participating Lexus Centres. Advertised rental based on 3 year non-maintained contract at 10,000 miles per annum. Excess mileage charges apply. Other finance offers are available but cannot be used in conjunction with this offer. Terms and conditions apply. Indemnities may be required. Finance subject to status to over 18s only. Lexus Financial Services, Great Burgh, Burgh Heath, Epsom, Surrey, KT18 5UZ. Subject to availability. This offer is not available in conjunction with the 3 years Complimentary Servicing offer.

IS Series fuel consumption figures: urban 16.8 – 44.8 mpg (16.8 – 6.3 L/100km), extra-urban 34.0 – 62.2 mpg (8.3 – 4.4 L/100km), combined 24.8 – 50.4 mpg (11.4 – 5.6 L/100km). CO₂ emissions combined 270 – 209 g/km. +18% BIK. Euro 5 Emissions Standards.

UNDERESTIMATED, UNIQUE AND UNMISTAKABLY NOT GERMAN

IS 250 Auto F-Sport only £389 + VAT
(+VAT and initial rental. For business users only)

<table>
<thead>
<tr>
<th>Initial rental</th>
<th>£1167 + VAT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Followed by 35 monthly rentals of</td>
<td>£389 + VAT</td>
</tr>
</tbody>
</table>

To find out more visit Lexus Belfast, 62 Boucher Road, BT12 6LR or call Paul Griffiths on 0844 558 6063
Our gift to you...

- £30 Cashback*
- 1st Year Technical Support Free (worth £1200)
- 10 User System From Just £99/Month

Go Digital with Asdon

PHILIPS sense and simplicity

T: 028 92 675 114  
E: sales@asdongroup.com  
W: www.asdongroup.com

Offer applies to all orders placed before 28th Jan 2011. * Cash back applies to the trade in of each analogue unit.