THIS MONTH

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new President of the Law Society
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Copy deadline for Feb/Mar 2012 Edition:
Friday 27 January 2012

03
I have confidence in this profession.
We do adapt, we do learn, we do lead.

We are all too aware of the continuing impact of the recession on our practices and on our clients and of the hard reality of the new political and economic environment in which we are now all operating. This year, I want to encourage collegiality in the profession. I want us to share our experience of what has worked and what we can do to work better together and how to help practices adapt.

To do so we in the Society are determined to listen to you, our members, even if those messages are difficult sometimes for us to hear. We are determined to engage with you and with those who influence and make the decisions which affect us to ensure that we grasp every opportunity which is available and to provide the best service to our clients underpinned by our core values.

In doing so, we in the Society will carefully consider what we deliver for the public and for our members and ensure that we continue to engender confidence.

During my Presidency the Society shall:

- maintain high standards of conduct within the profession and ensure that high standards of service for our clients are expected.
- maintain high standards through a strong regulatory machinery.
- provide strong and effective training both to our apprentice solicitors and through our continuing professional development programme for all of us.
- represent our members in all areas of the work that our members do, transactional, litigation and advisory.
- participate in discussions and decisions about the reform of the law both substantive and procedural.

- engage with all our interested parties including the Judiciary, the Bar, politicians and officials, the Land Registry, lenders, the commercial world and civic society.
- communicate regularly and meaningfully with you, our members.

In so doing, we shall maintain the standards and discipline of this our profession which we are all proud to be members of.

The Society is broadening its agenda. We have recently held a full election to Council and we are pleased to welcome a number of new members. We are pleased also to welcome back some of our most experienced and knowledgeable members. That combination of experience, knowledge and wisdom with a new perspective and new insight is a real strength of the profession, a real indicator of our strong belief that as the profession continues to grow in numbers, we can provide an ever wider range of services to clients and we can diversify into different areas of work and also different ways of working.

I want to concentrate some of my time during my Presidency to providing support to practices through forums and information which will help us all look at our business model and practices in order to increase efficiency, think strategically about how we can best do our work in this modern era and provide the best service to our clients.

In so doing, the Society will support you by providing information and choices that will empower you in delivering the best service to your clients in the most suitable way for your firm.

I want to engage directly with you, the membership. The Senior Vice President and Chief Executive have now completed the second round of roadshows with local Associations which is a real signal of the Society’s new determination to both lead and listen to our members. I will build on that. I will
build upon our communications by ensuring that timely and relevant information is provided.

So how will these principles be delivered in practice?

We, in the Society shall deliver our vision for the future.

- This means more streamlined and effective committees driven by clear policy objectives.
- This means a willingness to engage positively with key stakeholders such as the media.
- This means building on our engagement and communication with local associations.

It is about delivering more of what you, the membership, want.

Engage and take part in what we do. Your participation will help us to promote our profession to all stakeholders and to our clients.

Talk to us, tell us what you support and why. Your input and your feedback is invaluable.

Under my Presidency, we have an ambitious programme ahead and I will do my best to lead this profession.

You can have real confidence in the capacity of our new Council and Executive Team to deliver on these priorities.

We believe in the fundamental foundation of this profession – acting in the best interest of the client under the rule of law.

Let me finish by renewing the Society’s commitment to stay ahead of the curve, to engage with decision makers and key stakeholders, and do all we can to support all members of our profession.

We shall continue to steer the profession through these current challenges, while making sure that we don’t waste the opportunities which present themselves to all of us.

I look forward to working with the new Council and with Alan Hunter, our Chief Executive, his Senior Management Team and the staff of the Law Society who remain committed and dedicated to our membership.

We all have an interest in weathering this global recession, and in building a new era for the solicitor profession in Northern Ireland based on the high-skill, competitive and dedicated legal profession our community deserves and needs.

We believe in the fundamental foundation of this profession – acting in the best interest of the client under the rule of law.
10 years ago Tom made a simple will leaving his house to his daughter, residue to his son. Tom had a stroke last year, became incapable and entered residential care. The house had to be sold. Tom died last month and his children are now in dispute as to who is entitled to the balance of the sale proceeds.

Unfortunately this is an increasingly frequent problem and the outcome, in the first instance, depends upon the rather arbitrary position as to whether the house was sold by Tom’s Controller or his attorney acting under an EPA.

One of the first principles learnt by students of succession law is that a will is ambulatory. And one of the “off-shoots” of that principle is the doctrine of ademption. It is trite law that a specific gift in a will fails through ademption if the subject-matter of the gift ceases to be part of the testator’s estate at the time of his death. Of course, it is open to a testator to effectively exclude ademption by the express terms of his will, but the fact that ademption otherwise operates automatically as a rule of law, irrespective of the testator’s intent and even though he was unaware that his actions would have such an effect, unfortunately means that testamentary intentions are often defeated. In particular, the sale of assets late in the testator’s life can have unintended consequences, particularly when the property is sold under the authority of an Enduring Power of Attorney. There has, at least, been statutory intervention to mitigate the consequences of ademption where property which has been specifically devised or bequeathed has been sold by the testator’s Controller. However, there is currently no equivalent to the then English equivalent of article 103 of the 1986 Order which would be useful in relation to EPAs. And that, the learned Deputy Judge concluded, was a matter for Parliament.

In respect of Controllerships, article 103 of the Mental Health (Northern Ireland) Order 1986 provides as follows:

103.—(1) Where any property of a person has been disposed of under this Part, and under his will or his intestacy, or by any gift perfected or nomination taking effect on his death, any other person would have taken an interest in the property but for the disposal—

(a) he shall take the same interest, if and so far as circumstances allow, in any property belonging to the estate of the deceased which represents the property disposed of…*

Article 103 undoubtedly ameliorates the impact that the doctrine of ademption would otherwise have on the intentions of the testator. However, it is nonetheless a very blunt tool and does not necessarily restore the respective beneficiaries to the “equilibrium” of their relative pre-sale positions.

Whatever its shortcomings in certain situations, however, article 103 of the 1986 Order is preferable to the current position in respect of EPAs, the deficiencies of which are well illustrated by the decision in Banks v National Westminster Bank [2006] WTLR 1693.

There, the unfortunate daughter was her mother’s attorney under an EPA. By her will of the same date her mother had given her interest in “53 Keston Avenue or my other principal private residence at the time of my death to [the daughter]”. She then further provided that “if my interest in the property referred to [above] shall then be subject to a binding but uncompleted contract for sale, this gift shall take effect as a gift of my share of the net proceeds of sale of that property”. The residue was divided equally between the daughter and her brother. The mother ceased to have capacity, the daughter duly registered the EPA and took over the management of her mother’s affairs. She sold her mother’s house and invested the proceeds of sale in bonds, which remained in the mother’s estate at her death. On her mother’s death, the daughter claimed that she was entitled to the bonds under the will as they represented the proceeds of sale of the house. The executor bank argued that the gift had adeemed and that the proceeds fell into residue.

The daughter sought to persuade the court that there was an exception to the rule of ademption which applied in this case in that it was clear that her mother had not intended that the gift should fail because she had described both the gift and the proceeds of sale. The daughter also sought to rely on the well-established exception that there is no ademption where the subject-matter of the bequest had been extinguished by the action of a third party without the knowledge of the testator. However, the Court limited this exception to the situation where the subject-matter had been extinguished by the fraud or tortuous act of a third party, refusing to extend this exception to one where an attorney had acted lawfully and disposed of the donor’s property. In holding that the gift adeemed and the proceeds of sale fell into residue Michael Rich QC, sitting as a Deputy Judge of the Chancery Division, observed that a statutory provision similar to that contained in the then English equivalent of article 103 of the 1986 Order would be useful in relation to EPAs. And that, the learned Deputy Judge concluded, was a matter for Parliament.

The obvious solution for attorneys under EPAs (and a better solution for Controllers than the inflexible article 103 of the 1986 Order) is to make an application for a statutory will on behalf of the Patient. Re D[1] is an interesting decision of Master Lush (now President of the English Court of Protection) which emphasises the advantages of statutory wills in the scenario described. A now incapable testatrix had made a number of small legacies, devised

her house to a neighbour and divided the residue in two equal parts between certain relatives. The house which has been devised to the neighbour had to be sold and the aim of the statutory will was to compensate him for the adeemed gift by a pecuniary legacy. The testatrix's family objected to the terms of the statutory will. After outlining the main principles which guide the court when exercising its discretion in relation to statutory wills, Master Lush considered that if the donor was to enjoy a brief lucid moment she would still wish to benefit her neighbour, but would take account of the fact that the value of the house had increased considerably more than her investments. This so-called “substituted judgment” approach still governs statutory wills in Northern Ireland (in England the Mental Capacity Act 2005 has introduced a “best interests” test).

Master Lush concluded that the testatrix would still wish to make the gift of the house to the neighbour but she would have expressly provided that this included the proceeds of sale, so as to avoid ademption. However, the Master continued, the testatrix would also seek to restore the parity in value between her neighbour and the residuary legatees. She would do this by providing that the gift of the house should bear its own inheritance tax.

Master Lush’s observations on the then English equivalent of article 103 are particularly interesting. In answer to the submission from Counsel for the neighbour, that [article 103] would preserve the value of the gift in any event, the Master retorted:

“I am not a great fan of [article 103]… it predates the court’s statutory will jurisdiction… and the two do not co-exist comfortably. I much prefer the statutory will jurisdiction because it enables the court to consider the entire picture, in the same way as the testatrix herself would, and it confers on the court a much wider discretion.”

The clear message given to attorneys by Re D is to consider statutory wills. In both Re D and Banks the attorney was fully aware of the contents of the testator’s most recent will. In many cases, however, the attorney will not know that there is a will (let alone the terms of same). Problems still arise on Controllships, but at least the Office of Care and Protection should have a copy of the most recent will on file and at some stage someone may be alerted to the impact which a proposed disposal is having on the terms of same.

On several occasions the author has experienced attorneys who had blithely sold the donor’s house or lands, only to discover post-death that they had adeemed a specific gift to themselves. The solicitor, who often does know the terms of the will (having made same), is immediately in a very difficult position. The Donor remains his client and the solicitor is clearly under a duty of confidentiality to him or her. Sometimes, the attorney (in his personal capacity) is also a client. The problems are easy to state, but the solutions are less straightforward, in view of the many competing interests which have to be balanced. Even when a statutory will application will is made, the attorney (or even the Controller) may not be given sight of the existing will (a practice with which the author disagrees).

It is undoubtedly the case that applications for statutory wills will increase as longevity increases. It is submitted that, properly used, they have the potential to play a vital function in the intergenerational transfer of wealth in future years. Equally, of course, it is a jurisdiction which confers on the Court incredibly wide powers over an individual’s property and it cannot be exercised lightly. Already there have been interesting developments in England under the new Mental Capacity legislation concerning the situation where there is the allegation of undue influence in respect of the earlier will.2 In Northern Ireland there remains a dearth of reported authority and practitioners have to rely on a mixture of pre-2005 English jurisprudence and anecdotal evidence about other people’s experiences and applications (which are invariably vague and never precisely on point). The term “statutory will” is something of a misnomer. “Judicial will” is much more appropriate. It is a subject matter which might benefit from more detailed statutory guidance, especially in relation to the procedure (such as who is to be put on notice and access to the earlier will, subject of course to appropriate undertakings about confidentiality).

In the meantime, is there anything that practitioners can usefully do, so as to better equip themselves to deal with these inevitable difficulties? Two things come to mind. The first relates to the drafting of the will. When advising more elderly testators, will-drafters should aim to anticipate the impact of the doctrine of ademption as much as possible (e.g. by expressly addressing the destination of the proceeds of sale of particular assets and considering the burden of possible care fees on the various category of asset). The second relates to the terms of the EPA. It could be suggested to the client that he or she expressly authorises the attorney to have sight of the will on registration of the EPA (to be inserted as a special provision in the instrument itself).

Sheena Grattan, TEP, Barrister-at-law of the Bar of Northern Ireland and of the King’s Inns, Dublin.

We are very grateful for this article which is taken from Sheena’s recent seminar on Elderly Client Issues. This event was organised by the Society on behalf of the Alzheimer’s Society and raised over £4500.

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2 See in particular the decision of Munby J in Re M 2009 EWHC 2525 (FAM).
Reform of the European Court of Human Rights

Angela Stevens is a solicitor and employed as a caseworker by the Northern Ireland Human Rights Commission. Here she talks about the over-burdened European Court of Human Rights and mentions briefly proposals for reform.

Since its inception in 1959 the European Court of Human Rights (the Court) has evolved into the most essential tool for the protection of human rights in Europe. All State Parties to the European Convention on Human Rights (the Convention) undertake to secure to everyone within their jurisdiction the rights and freedoms enshrined in the Convention, and to provide effective remedies in cases of alleged breach. Respect for these obligations is ensured by the Court in response to complaints by individuals or member states.

It is no secret that the Court has become overwhelmed with an ever-increasing case load. As of September 2011, there were 160,000 pending cases and, given previous statistics on admissibility, over 100,000 of those are destined for a negative decision. In 2010, 35,000 single judge decisions were given, meaning admissibility decisions currently take two and a half to three years. The Registry of the Court estimates an increase of 19% in the final numbers for 2011.

The first principal factor for the numbers of inadmissible applications is a clear information deficit on the part of the applicant. While around 70% of applications declared inadmissible are made by litigants in person, there is still room for awareness raising amongst practitioners on the admissibility criteria of the Court. It is in all of our interests to ensure the effective and timely operation of the Court.

The admissibility criteria

Applications not meeting the admissibility conditions will not be examined by the Court. The conditions are:

1. the applicant must have exhausted domestic remedies; that is, individuals must first have taken their case through their national courts up to the highest possible level of jurisdiction, thereby giving the State an opportunity to provide redress for the alleged violation at national level. However, if the case has no prospect of succeeding in the national system, then this condition does not apply;

2. the applicant’s allegations must concern one or more of the Convention rights. The Court cannot examine complaints concerning violations of any other rights or national laws;

3. the application must be lodged with the Court within six months following the last national judicial decision in the case;

4. the applicant must be personally and directly a victim of the alleged violation and must have suffered a significant disadvantage. Of course applications can only be lodged against one or more of the State Parties to the Convention, and not against any other State or against an individual.

Reform of the Court

Protocol No 14 to the Convention was agreed by the member states of the Council of Europe on 13 May 2004. Its principal purpose is to amend the control system of the Court aimed at guaranteeing its long-term effectiveness. The amendments designed to increase the Court’s filtering capacity include the introduction of a single-judge competent to declare applications inadmissible, or strike them out of the list of cases where such a decision can be taken without further examination.

The second principal factor contributing to the Court’s excessive case load is the significant number of cases concerning repetitive violations. The main measure in Protocol No 14 for dealing with these is the power of three-judge committees to unanimously declare applications admissible and decide them on their merits, when the questions they raise are covered by well-established case-law of the Court.

In 2009 the President of the Court called upon the State parties to hold a conference of high level representatives to both re-emphasise State support for the Court and, building on Protocol No 14, to initiate a process of long-term reform of the Strasbourg system.

The Interlaken Conference of February 2010 resulted in the Interlaken Declaration. According to the Declaration it is necessary to reach a balance between the incoming cases and the settled ones and to reduce the volume of outstanding cases as well as to guarantee that new appeals are dealt with in reasonable time.

Moreover, national implementation of the Court’s judgements should be improved and the Committee of Ministers, which supervises compliance with judgements, should guarantee an effective supervision of the implementation process. To reach these objectives the Declaration contains an Action Plan with a list of short and medium-term measures as well as an agenda for their implementation.

The UK began its six month chairmanship of the Committee of Ministers on 6 November 2011. It has proposed an ambitious Court reform agenda, including measures to help ensure that the Court plays a subsidiary role where member states are fulfilling their obligations under the Convention. While the Government’s proposals to a large extent represent agreements already reached at Interlaken, it does have a good opportunity now to help speed up the much needed reform of the over-burdened Court.
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Personal injury quantum - a changing vista?

The UK Ministry of Justice is currently reviewing the discount rate applied to future losses. If, in doing so, they follow the wisdom of the Courts in recent cases, then there is the potential for awards to increase significantly.

Simon Bull, Senior Manager of Forensic Accounting at RSM McClure Watters, examines the background to the discount rate applied to future losses involving personal injury, and highlights the potential impact of the decision in the case of Helmot v Simon [2009 – 10] GLR 465.

The award of a lump sum for future losses involves the application of a multiplier to the claimant’s annualised loss. The determination of the multiplier requires the Court to make assumptions regarding the future including investment returns, mortality and the wider contingencies of life such as the risk of unemployment.

Mortality risk is contained within the “Ogden” Tables which also provide guidance on the discount to be applied to account for other contingencies.

This leaves the return the claimant will receive from investing their award. Historically Courts had assumed that a return of 4% to 5% in excess of inflation was achievable, after income tax and management charges are accounted for.

In 1999 the House of Lords in Wells v Wells [1999] 1 AC 345 took the view that claimants should not have to embark in risky investment strategies in order to sustain this level of return and the discount rate was reduced to 3%. This assumed the claimant could invest in low risk Index Linked Government Stocks (ILGS).

The same principle was applied when the Lord Chancellor set a discount rate of 2.5% in 2001, where it has remained since. Commenting on his decision the then Lord Chancellor concluded:

“I acknowledge that claimants who have suffered severe injuries are not in the position of ordinary investors. Such claimants have a pressing need for a dependable source of income to meet the costs of their future care. It is accordingly unrealistic to require severely injured claimants to take even moderate risks when they invest their damages awards.”

In making his decision the Lord Chancellor set a rate applicable for the foreseeable future, preventing the need for constant tinkering. The Lord Chancellor considered the average net yield on ILGS over the preceding 3 year period, which produced a net yield of 2.09%, which he rounded up to 2.5%.

The Lord Chancellor is empowered to set rates under the Damages Act 1996. Once set, Courts do not have the discretion to deviate unless in exceptional circumstances. What constitutes “exceptional” has been tested in Court and found to be very exceptional indeed!

Since 2001 net yields have yet to exceed 2.5%, as demonstrated below. Indeed it should be noted that over the last 3 years the net yield on ILGS has rarely exceeded 1%.

To put this in context, a 10 year old boy, with injuries requiring life long care, will be awarded a lump sum based on a multiplier of 34.08 if calculated at 2.5%. Reducing the multiplier to 1% increases the multiplier to 53.78. Illustrated in another way a multiplier of 34.08 would provide care for the claimant until he was 51 years of age while life expectancy would be 88. This shortfall between actual rates of return and that set by the Lord Chancellor is...
accentuated by the fact that ILGS are linked to the Retail Price Index (RPI) while an award will compensate for loss of earnings or for care, both of which have historically experienced levels of inflation that outstrip RPI.

The table below illustrates the differential between earnings inflation and RPI. Earnings inflation has exceeded price inflation to such extent that it overtakes the net yield on ILGS and justifies a reduction in the discount rate into negative territory.

The practical outcome of applying a rate of 2.5% is that Claimants are compelled to take greater investment risks in the hope of producing the necessary yield required to meet their requirements.

Recently the Courts have shown imagination in awarding Periodical Payment Orders (PPO) to Claimants suffering catastrophic injury. In Thompstone v. Tameside & Glossop Acute Services NHS Trust 2008 the Court of Appeal upheld a previous award of a PPO to a Claimant index linking care costs to ASHE 6115, an earnings index for “Care Assistants and Home Carers”.

The Ministry of Justice has supported this approach as the appropriate method of awarding compensation in high value cases stating:

“The use of periodical payments can also provide greater security for claimants, who would not have to bear the risks associated with investing and managing a lump sum award or suffer anxiety about the award running out if they live longer than expected.”

The recent case of Helmot v Simon 2009 – 10 GLR 465 has prompted the Ministry of Justice to reconsider this approach. In that case the Court of Appeal of Guernsey considered the relevancy of the current rate of 2.5% in applying it to a loss of earnings calculation. In the Appeal the Defence argued that this rate should prevail as, although not law in Guernsey, it being UK statute should be persuasive. The Court of Appeal dismissed this argument and, starting with a blank sheet of paper, set a rate of minus 1.5% taking into consideration the evidential components that would make up the applicable rate.

The Court was mindful that 2.5% no longer reflected the investment conditions in the UK and cited the decisions of UK Courts in awarding index linked periodical payments which addressed the deficiency in awarding a lump sum calculated at 2.5%.

The Court of Appeal calculated a discount rate of minus 1.5% making specific reference to investment conditions in Guernsey where inflation is higher and tax rates lower than in the UK. The Table below sets out how the Court of Appeal reached their decision and adjusts their calculations to reflect conditions applicable in the UK.

The decision may be subject to appeal to the Judicial Committee of the Privy Council. However, its impact has already extended beyond the Channel Islands. The Ministry of Justice has announced it will review of the discount rate and in October the Government’s Actuary’s Department published revised tables that provided multipliers within the range of minus 2.0% to plus 3% when previous editions had included a range of 0% to plus 5%. This revision facilitates a downward revision of the discount rate by the Ministry of Justice and may be seen as an indication of potential movement in that direction.

If we revert to the example given above of the 10 year old boy, and reduce the discount rate to minus 1%, this would increase the multiplier to 121.7 and almost triple the value of whole of life losses.

At the time of writing the Ministry of Justice’s review continue. However a revision of the discount rate downwards would appear, in the writer’s opinion, the most likely outcome. Firms that represent claimants with significant personal injuries or indeed act on behalf of the insurance industry should be mindful of the impact a reduction of the discount rate would have on the awards to be determined in such cases.

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<th>Source: ONS</th>
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<tr>
<td>Actual Rate of Return on UK Gilts</td>
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<td>Rate of Return Net of Income Tax</td>
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<td>Less Higher Price Inflation in Guernsey over the UK</td>
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<td>Rounded</td>
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<td>Less Differential of Earnings Inflation over Price Inflation</td>
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<td><strong>APPLICABLE DISCOUNT RATE</strong></td>
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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 2012.

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 (ie 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 2012/2013 is £1050. The prescribed Compensation Fund contribution applicable to the applicant is also calculated and shown on the PCR1. For 2012/2013 the relevant full-contribution is £475 (payable by solicitors with more than six Practising Certificates since admission); the half-contribution is £237.50 (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 Practising Certificate reminder 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 email. You can fill in details of your email 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

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 2011, or those who are retiring before the end of 2011. Other exemptions are given on page 3 of the blue 2011 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 2012 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 2012 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 2011 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 2011. Have a wonderful Christmas and we look forward to seeing you all at the Society’s CPD events in 2012.
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Douglas Adams (author of Hitchhiker’s Guide to the Galaxy) once said: “I love deadlines. I like the whooshing sound they make as they fly by.”

Sadly, not all of us can have the relaxed attitude to deadlines that this late comic genius did. In the legal profession, a missed deadline or time limit can result in major problems for a client in being unable to pursue a claim and the potential for a costs award against you, plus a possible negligence claim. For all lawyers, and particularly those working in litigation, deadlines are crucial and a fact of everyday life. They can therefore, not unexpectedly, also be a tremendous source of stress.

It is a fact of life that prolonged stress can lead to clinical depression. Depression is exhibited by symptoms that include an inability to concentrate, a lack of motivation or interest in anything, sleeplessness, overwhelming apathy and a sense of hopelessness. Depressed lawyers may make it in to work, but will not open the post – may even hide it, hoping that if they ignore it, it will go away. They will shuffle papers around, may even tap at the computer for a while, but will not get any productive work done. Depression and deadlines don’t mix. If you, or a colleague, seem to be suffering from any of these symptoms – including indifference to matters which might be regarded as urgent – this is too important to be ignored. See your GP immediately.

Whilst depression can be cured, stress related depression is best avoided in the first place. If deadlines are a major contributory factor to the pressure and anxiety you face, then learning to deal with them and to manage time well can avert problems later.

• Recognise that deadlines are necessary and that they bring order and allow you to plan ahead.
• Especially if you have multiple deadlines, keep a calendar (virtual or real) with the deadlines clearly marked and put it where you can see it. You could also use this to plan your work towards these deadlines.
• Find out in advance what extensions and allowances are available, how important the deadline really is, and where possible, make a “Plan B” just in case you are unable to make the deadline despite your best efforts. Hopefully you will never need it but knowing that you do have a contingency plan could help to alleviate the stress.
• Establish exactly what needs to be accomplished by the deadline.
• Break up all that needs to be done into smaller tasks and focus on them in turn, setting “micro-deadlines” for each if this helps. Focus on these plateaus rather than the whole looming mountain, and reward yourself each time you achieve something.
• Don’t procrastinate or put everything off until the last minute – if something goes wrong or something else crops up, you won’t have time to deal with the essentials to meet the deadline.
• Don’t be afraid to ask for help, either from a colleague or a superior, or to delegate parts of the work where appropriate.
• When planning towards the deadline, build in a little extra time to allow for unexpected setbacks or things which crop up.
• Prioritise carefully, thinking about how urgent and important each task is.
• Make a task list. Be realistic when listing the tasks you need to do each day and take satisfaction in crossing off tasks as you do them.

Deadlines can cause stress, but they are a necessary part of the legal profession and good client service. Learning to deal with them and work with them is an important part of being the best lawyer you can be. If you still find that you are not managing to keep up, then LawCare’s free and confidential helpline is available to you, 365 days a year.

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Society Annual Dinner 2011

From left: Brian Speers, Senior Vice President; Simon Kelly, guest speaker; John Leckey, Senior Coroner; Imelda McMillan, President; Janet Lecky; Dame Joan Harbison CBE and Alan Hunter, Chief Executive.

From left: Seamus Delaney; Anna Nugent and John Keown.

From left: Brian Carson; Brian Roulston; Avril Browne; Karen Mercer and Philip Gilpin.

From left: Gemma Owens; Mary Napier; Mary Frances Kearney and Jason Byrne.

From left: Roisin Armstrong; Connell McBride and Patricia Cosgrove.
From left: Laura McKee; Enda Lavery and Rachel Keenan.

From left: Ross Thompson; Conor McKillop; David Black and Nicholas Nolan.

From left: Anne McCleary; Brenda Ross and Eileen McLamon.

From left: Grainne Burns; Laura Payne and Laura Davey.

From left: Niall Hargan; John Dughill and Darren Toombs.

From left: Peter O’Brien; C Comgall G McNally and Catherine Dixon.

Gordon Greenfield and Sean McGahan.

Caroline Chambers and Nicola Lowry.

From left: Deirdre Magill; Deirdre Doran and Eadaoin Ward.
Winners of the Solicitor Recognition Awards announced

The winners of the Law Society Solicitor Recognition Awards were announced at the Society’s Annual Dinner on 2 December 2011 at the Culloden Hotel. The winners were presented with their awards by the President of the Society, Imelda McMillan and Dame Joan Harbison CBE.

JUNIOR SOLICITOR OF THE YEAR AWARD
Niall Hargan from Carson McDowell Solicitors is presented with his award for Junior Solicitor of the Year from Dame Joan Harbison CBE and Imelda McMillan, President of the Society.

PRESIDENT’S AWARD
Richard Murphy from Edwards and Co receives his President’s Award from Dame Joan Harbison CBE and Imelda McMillan, President of the Society.

IN-HOUSE LEGAL OR SPECIALIST TEAM AWARD
Kainos Software is presented with its award for In-House Legal or Specialist Team of the Year from Dame Joan Harbison CBE and Imelda McMillan, President of the Society.

The Equality Commission for Northern Ireland received a special commendation for the In-House Legal or Specialist Team of the Year Award from Dame Joan Harbison CBE and Imelda McMillan, President of the Society.

Carson McDowell Solicitors received a special commendation for the In-House Legal or Specialist Team of the Year Award from Dame Joan Harbison CBE and Imelda McMillan, President of the Society.
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Supporting business & building relationships - now & in the future

In November the Society’s Chief Executive, Alan Hunter, provided the introduction at the Society’s CPD seminar on ‘Supporting business and building relationships’. The seminar, which was held at the Europa Hotel in Belfast, was organised by the Society in conjunction with the Bank of Ireland.

It provided those attending with an overview of the Northern Irish Economy, financial challenges ahead and how Bank of Ireland can support solicitors through the current economic problems.

Speaking at the seminar were Alan Bridle, Bank of Ireland UK Economist, Alan Hunter, Society Chief Executive and Michael Kidd, Head of Business Banking UK, Bank of Ireland UK.

Mediation course ends on a high note

The final Mediation Training Course for 2011 was attended by up to 30 solicitors and barristers.

The course, now in its tenth year, has provided training in advanced negotiation, dispute resolution and mediation.

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

Speaking at the final training course for the year, Brian Speers said:

“We are delighted that so many solicitors and barristers have undertaken the course this year. It reflects the growing importance of mediation within the legal community and the effectiveness of the delivery of the Society’s and SLS Publications mediation course.”
Society welcomes Chief Constable to Law Society House

Alan Hunter, Chief Executive of the Society, welcomed Matt Bagott, the Chief Constable of the Police Service for Northern Ireland to Law Society House in November. The Chief Constable had been invited by the Society to speak to members on the changing face of Policing and Justice in Northern Ireland. Those attending also had an opportunity to hear from the Chief Constable on the issue of leadership.

Speaking after the guest lecture, Alan Hunter, Chief Executive, said: “This was a real opportunity to obtain an insight from the Chief Constable on the broad PSNI view of the role of policing in society and for a frank dialogue on matters of real interest to our members.”

Practice Management Week proves to be outstanding success

Over 160 solicitors attended Practice Management Week which took place in late November and which was organised by the Practice Management Committee under the Chairmanship of Norville Connolly.

The focus of the three seminars was to provide solicitors with practical advice and information on issues such as growing your practice, identifying new business opportunities and understanding new communication mediums. The three seminars were organised in partnership with Invest NI and BBC Northern Ireland.

At the first seminar, Invest NI provided members with an overview of its role and the support it can offer to solicitors. Seminar two provided an opportunity for members to hear about the tendering process from expert and consultant, Damien Campbell. Seminar three provided members with an informative and compelling presentation from Angelina Fusco, Editor of BBC NI News and Matthew Eltringham, Head of the BBC College of Journalism on the growth of social media and its uses from the perspective of the BBC.

The Society is grateful to the BBC NI and Invest NI who offered their services for free.

The Society raised over £1,000 which will go towards the Solicitors’ Benevolent Fund. Further seminars are planned for 2012 on a wide range of issues and areas.
Law Society responds to call from friends

Thanksdfully, for an increasing number, the cancer journey will have a positive outcome but we can all readily identify with the fears and pressures which accompany a cancer diagnosis and understand the need for meaningful support in difficult times. That’s where friends come in. Not just personal friends but also Friends of the Cancer Centre, the official charity of the Northern Ireland Cancer Centre based at the Belfast City Hospital.

This year the charity itself is looking for friends. It has been selected as the official nominated charity for the Law Society of Northern Ireland and is issuing a challenge to all of us to get behind its fund raising drive.

Although the organisation is modestly sized and staffed, Friends of the Cancer Centre provides a vast array of practical help for cancer patients and their families, buying equipment, providing a vast range of patient comforts, funding vital research and even paying the salaries of some important and innovative posts. The Friends’ support network touches lives across Northern Ireland, perhaps most notably through its funding Glenview House in the City Hospital complex, which provides homely accommodation for out of town patients who need regular treatments.

Each year the work of Friends makes a positive difference to thousands of cancer patients and their families. It relies entirely on voluntary contributions, carefully administered and allocated under the direction of an expert panel. In every instance the projects and people funded by Friends are in addition to what is provided by the National Health Service.

The sad fact that cancer touches such a huge number of lives makes the work of Friends of the Cancer Centre relevant and important to us all but, as Friends’ Director, Colleen Shaw, emphasises, the charity needs more than goodwill. She says: “It seems that everyone recognises the need to fund patient comforts, care and research and values our work in those fields, but we need to turn that approval into action.

“Securing designated charity status with the Law Society of Northern Ireland is a fantastic opportunity for us to raise both profile and funds across Northern Ireland and we are extremely grateful to the organisation’s incoming President, Imelda McMillan, for her part in the selection process. We’ll be living up to that vote of confidence by working closely with Imelda and her team to help make this the best year ever for your fund raising efforts.

“We’ll never say ‘no’ to anyone who simply wants to write a generous cheque, but we’re also hoping that the legal fraternity will respond to our call for help with some creativity, putting some fun into fund raising! Each year we host some fantastic fund raising events which are perfect for a group of friends or colleagues to tackle together – from fielding a Marathon team, zip lining, abseiling, taking part in a Dragon Boat Race or a sponsored walk or just taking tea with friends. Our website is packed with great ideas! However, we believe that the legal fraternity is a creative bunch and we’re looking forward to hearing some great new ideas for fundraising schemes.

“We’re urging people to think about their favourite hobbies and the sort of things they already enjoy doing with their own friends: is there an opportunity there to raise some funds for Friends of the Cancer Centre, turning a great day into a meaningful event?

“I know that almost everyone in the Law Society will have a cancer story touching someone in their family or circle of friends – maybe even a personal experience. We’re asking that you use that experience to offer the hand of friendship to others. The charity’s staff and volunteers are only a phone call away with help and ideas at their fingertips on fundraising and organising events.”

To find out more about Friends, its work and fund raising call us now on 028 9069 9393, or visit www.friendsofthecancercentre.com.

Colleen Shaw, Friends’ Director.
Launch of Moir on Land Registration

A Guide to Land Registration Law and Practice in Northern Ireland
by Arthur H Moir LLB and Emily K Moir LLB

SLS Legal Publications is delighted to have published another major work for practitioners. We are particularly pleased that it is the fruit of a collaboration between father and daughter, and were honoured that the Lord Chief Justice, Sir Declan Morgan (who had written the Foreword) officially launched the book at an event in Queen’s University on 11 October.

This is the first comprehensive and authoritative commentary on the law and practice of Land Registration in Northern Ireland for more than twenty years. A series of legislative changes, the extension of the scheme for first registration, and the introduction of electronic processes have created the need for guidance on the law and practical advice for practitioners. A great deal of research and expertise has been brought together in one essential volume which is comprehensive and up-to-date.

It provides a much needed reference book for barristers and a practical guide for busy solicitors. Points of law are illustrated by carefully chosen references to materials, including statutes, cases, legal textbooks and articles. In addition, practical guidance, forms and precedents have been provided for virtually every imaginable application for registration to ensure that documents are properly drafted.

“This work on Land Registration will become an essential reference work for all of those involved in conveyancing” - Foreword by Sir Declan Morgan, Lord Chief Justice.

Arthur Moir is a solicitor and a former Registrar of Titles. Following his retirement as Clerk to the Northern Ireland Assembly in 2007, he now works as a part-time legal consultant and expert witness on land law matters. Emily Moir, his daughter, graduated from QUB in 2009 with joint honours in Law and Politics and is a legal and political researcher.


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Appointments

Jenny Ebbage has joined the partnership at Belfast legal firm, Edwards & Company. A graduate of University College Cardiff, the south Belfast woman has more than 20 years’ experience as a solicitor and is currently recognised by Chambers UK as the leader in the field of charity law in Northern Ireland.

In her new role, she will focus on charities, social enterprise and small business.

She has worked on major charity transactions here including the creation of Age NI, following the merger of Age Concern NI and Help the Aged. Jenny delivers training to a number of charities’ boards of trustees - advising on their duties, liabilities and responsibilities.

She covers a wide range of legal issues for third sector organisations including the impact of the new Charities Act, the formation and incorporation of charities, due diligence, social enterprise, collaborative working and all types of contracts.

She is Vice Chair of Clanmil Housing Association.

Jenny also specialises in company and commercial law and has worked with small, local organisations as well as international household names.

This area of work includes the formation of companies, the buying and selling of businesses, joint ventures, shareholder agreements, franchises, intellectual property, corporate governance advice and contracts.

Judith Corbett has been appointed Associate in Commercial Property at A&L Goodbody. In her new role she will advise A&L Goodbody clients on all commercial property matters including acquisitions, disposals and commercial leasing. Judith joined A&L Goodbody in September 2011 and has extensive experience in all aspects of commercial property law, in particular commercial property acquisitions, disposals and commercial leasing and has advised on the property aspects of a number of PFI/PPP Projects. She acts for a wide range of clients in both the public and private sector and has also gained extensive experience in advising on the property aspects of receiverships, liquidations and administrations and is currently working alongside the firm’s Business Restructuring Department in advising on a number of high profile insolvencies.

Leaving a Legacy

Please consider CONTACT when advising your clients about leaving a Legacy to charity or making a gift.

CONTACT was established in 1977 in response to a growing recognition that people have complex and diverse emotional and mental health needs which are not always met in existing support structures. We offer:

- **Lifeline Crisis Response Counselling Service**, which provides a referral route for people in crisis or despair, free face to face counselling, mentoring, befriending and complementary therapies.
- **Confidential community based counselling** for people of all ages.
- **Further Education, Colleges and Schools based counselling**
- **Specialist counselling** offering support for minority groups.

For further information on our work contact: 1st Floor Lanyon Building, North Derby Street, Belfast BT15 3HL.

TEL: 028 9074 4499
WEB: contactni.com

Lifeline - 24/7 Freephone Helpline For anyone in distress or despair

TEL: 0808 808 8000 WEB: lifelinehelpline.info
Stepping Stones is a charitable organisation based in Lisburn, County Antrim, which provides quality training, transition and employment services to young people with learning difficulties in conjunction with vocational training and work skills development through their social enterprises. Its seven key services are:

- Transitions service
- Training service
- Employment service
- Stepping Stones coffee shop
- Pink elephant cards
- Stepping Stones picture framing
- The Avenue coffee shop

The “Champions of Stepping Stones Awards” were launched in 2010 and are designed to celebrate those employers who embrace the ethos of Supported Employment. The employers awarded a Champion of Stepping Stones award are considered to be fair, considerate and socially conscious employers. These employers recognise the quality and value employing a person with a learning disability brings to the workplace.

The Champions of Stepping Stones Awards Ceremony 2011 was held on 15 November in the Civic Centre, Lisburn and was attended by some 230 guests, including Minister for Health Edwin Poots MLA and Colum Boyle, Director of Employment Services from the Department of Employment and Learning.

Christine Reid, the principal of Reid & Co Solicitors, expressed her delight at attending the ceremony and receiving an award. She said: “Working in partnership with Stepping Stones to assist young people with learning difficulties find employment has been such a rewarding and positive experience. With a little patience and creativity, employers will find that there are roles for those with a disability that can add real value to the business. I would highly recommend that employers within the legal profession give serious consideration to offering such opportunities. Joanne Murray from Stepping Stones will be delighted to assist any employer. You can contact her at joanne.murray@stepping.stones.org.uk or on telephone 028 9266 6404.”

Reid & Co Solicitors Lisburn receives Disability Award from Stepping Stones

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

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Write to us at:
21 Dublin Road, Belfast, BT2 7HB
or email:
legacy@nichs.org.uk
Alternatively ask your solicitor for our legacy leaflet.
2 August 2011 marked the sad passing of Scott McCarter, for many years a partner in the Londonderry firm of Babington & Croasdaile Solicitors. A solicitor for well over 50 years, Scott McCarter spent all of his working life with Babington & Croasdaile, having joined the firm as an office clerk in 1942 when its principal was then Mr Hume Babington. Encouraged by his mentor, Scott studied Law and became an apprentice and then a solicitor in the office and after the death of Hume Babington, was joined in the practice by Mr Emerson Babington and both he and Emerson were in partnership and ran the firm from the Castle Street office until the early 1970s when, at the height of the troubles, the building was demolished by a car bomb and the business was moved to the Limavady Road site. Scott McCarter was a solicitor of the old school. He established a clientele whom he served the whole of his working life and was rewarded with their loyalty and respect. Always unassuming, his modesty belied his complete assurance in his field. He was a conveyancer unsurpassed, a man of intelligence, common sense and integrity. He was always willing to help and give advice not only to his clients, but to colleagues. His was a quiet, gentle manner, with never a mean word to anyone or about anyone. He spent the majority of his life in Culmore just outside Derry and he had a special affinity with Culmore Parish Church and Culmore School, both of which he served in the roles of Sunday School Teacher, Parish Treasurer and Assistant in Church Services. He was also a School Governor and served on a wide number of committees attached to both institutions. He worked actively as a member of the Synod of the Church of Ireland, both locally and nationally. Scott loved music and was an active member of not only the church choir but was also enthusiastically involved in the Londonderry Amateur Operatic Society for many years and sang in many of their productions. Scott had many friends as testified by the huge turnout for his funeral in his beloved Culmore Parish Church on 5 August 2011 when, after a moving service celebrating his life, he was laid to rest at Altnagelvin Cemetery. He was a devoted husband to Margot and father to Ian and Gillian and grandfather to Alex, Patrick, Paige, Oliver and his name sake, Scott and father-in-law to Billy and Alison. He will be sorely missed by family, friends and all his colleagues both past and present at Babington & Croasdaile.
The Employment Lawyers’ Group (NI), in association with the Equality Commission for Northern Ireland, hosted a seminar on Thursday 13 October 2011 at the Inn of Court. We were delighted to welcome one of the UK’s leading authorities on discrimination law, Michael Rubenstein, as our guest speaker. Michael Rubenstein is Editor of Industrial Relations Law Reports, Publisher of Equal Opportunities Review and General Editor of Equality Law Reports.

Before a distinguished audience, which included the President of the Industrial Tribunals and the Fair Employment Tribunal and members of the judiciary, as well as employment law practitioners from both sides of the profession, he presented his talk entitled “Key Employment and Discrimination Cases for 2011 – 12: A preview.”

His presentation was based on current and forthcoming European and national employment case law and his delivery consisted of pithy sound bites of information, presented in a relaxed and entertaining manner. All delegates were provided with a summary of the relevant cases and the current edition of Equality Law Reports. Judging by the feedback received, his materials and presentation were highly relevant to local employment law practitioners and he was extremely well received.

If you would like to join the Employment Lawyers’ Group (NI), or indeed wish to renew your membership, please contact:

Orlagh O’Neill
Honorary Treasurer ELG (NI)
Carson McDowell Solicitors
Murray House
Murray Street
Belfast.

The membership fee is £15. ELG (NI) uniquely consists of both solicitors and barristers practising in the area of employment law. Through our monthly seminars, you have the opportunity to network with fellow practitioners, as well as receiving training in this dynamic area of law. Our membership stands at more than 100 and continues to grow.

The next talk in our ELG (NI) lunchtime seminar series will take place on Wednesday 18 January 2012 in the Lecture Hall of the Law Society. Heather Semple, Head of Library and Information Services at the Law Society will present “An Overview of Library Services for the Employment Lawyer”. The seminar costs £10 for members, £15 for non-members and will attract 1 CPD hour. To reserve your place, please email Kathryn.Dunlop@hscni.net

Carol McClean, Solicitor Consultant
Honorary Secretary ELG (NI)
Departmental guidance and the law

Community care legal adviser Patricia Southern explains a recent successful Law Centre (NI) judicial review application which found that a Health and Social Care Trust had acted illegally in failing to adhere to departmental guidance during its assessment of need process.

The decision in Re McClean [2011], highlights not only the significant weight given to departmental guidance by judges in hearing cases brought for judicial review but also emphasises the continued importance placed on established public law principles by the courts. The application was heard by Mr Justice McCloskey. The case citation is: McClean’s (Kathleen) Application heard by Mr Justice McCloskey. The case concerned the adequacy of social care provision made for Kathleen McClean, a 75 year old woman in significantly poor health, by the Western Health and Social Care Trust. In particular, the issue was whether the process the Trust used in reaching its decision to withdraw a domiciliary cleaning service and not to provide a night time care service was lawful. A cleaning service provided by the Trust over many years was removed from Mrs McClean’s care plan, despite there being no change and certainly no improvement in her physical needs. Mrs McClean, whose income consists mainly of state benefits, was left in a position where she had to pay for private services. This placed her under a severe financial burden. Following unsuccessful attempts to settle the matter, Law Centre (NI) issued judicial review proceedings against the Trust on her behalf.

The facts

The case concerned the adequacy of social care provision made for Kathleen McClean, a 75 year old woman in significantly poor health, by the Western Health and Social Care Trust. In particular, the issue was whether the process the Trust used in reaching its decision to withdraw a domiciliary cleaning service and not to provide a night time care service was lawful. A cleaning service provided by the Trust over many years was removed from Mrs McClean’s care plan, despite there being no change and certainly no improvement in her physical needs. Mrs McClean, whose income consists mainly of state benefits, was left in a position where she had to pay for private services. This placed her under a severe financial burden. Following unsuccessful attempts to settle the matter, Law Centre (NI) issued judicial review proceedings against the Trust on her behalf.

The Departmental guidance

To facilitate Trusts in the exercise of their statutory duties to meet need, there exists departmental guidance, designed to achieve uniform assessment criteria throughout the departmental region of Northern Ireland.

The relevant guidance for the judicial review included:

- Departmental Circular ECCU2/2008 “Regional Access Criteria for Domiciliary Care” (the Circular); and

Relevant legislation

The duties /powers to provide care services to meet eligible need arise mainly under the provisions of:

- the Health and Personal Social Services Order (NI) 1972;
- the Health and Social Care (Reform) NI Act 2009; and

Mrs McClean’s challenge was based primarily on Article 15 of the 1972 Order which states: ‘In the exercise of its functions under Section 2 (1) (b) of the 2009 Act the [Department] shall make available advice, guidance and assistance, to such extent as it considers necessary, and for that purpose shall make such arrangements and provide or secure the provision of such facilities (including the provision or arranging for the provision of residential or other accommodation, home help and laundry facilities) as it considers suitable and adequate.’

Statutory analysis

In their submissions, both parties highlighted paragraph 45 of Mr Justice McCloskey’s earlier judgement in -Re LW’s Application [2010] NI 217,(LW) (also issued by Law Centre (NI)) which contained an analysis of Article 15:

‘...in making the assessment in each individual case the authority can properly take into account factors such as available resources, the demands on its budget, the particular circumstances of the individual concerned and their families... responsibilities to other members of the population...’

The judge was of the view that these ‘material’ considerations were appropriate in terms of Article 15 and in accordance with public law principles. The passage was not challenged by either party.

In LW, by analogy with the seminal decision in R v Gloucestershire CC ex p Barry, Mr Justice McCloskey had reaffirmed the requirement of a three stage assessment of need process to identify eligible needs for social care.

He described the first two stages, as the ‘diagnostic’ and ‘determination’ stages. Here he found that a ‘discretion’ whether to provide services may arise due to ‘material considerations’ and in consequence no duty to provide services arises.

Where the process moves to stage 3 the ‘discretion’ is removed and a ‘duty’ to provide a service arises. The duty is unequivocal and is owed to the individual. To quote directly from the judgement ‘...once a decision on what the authority considers “necessary” and or “suitable and adequate” has been made, the discretion in play is exhausted......a duty of provision exists.’

The judge indicated that the material considerations were enshrined in the Circular and its inherent criteria and it is through the application of the criteria that the Trust exercises the discretionary powers enshrined in Article 15. He noted that this gives rise to a public law obligation on the part of the Trust to apply correctly and properly the provisions of the circular.

The issue

The thrust of Mrs McClean’s challenge was, firstly, that the Trust had not applied the criteria in the circular lawfully in its approach to material factors such as her financial resources and her family support and, secondly, that the Trust, in contravention of the 1999 Directive, had taken into account the fact that she was in receipt of certain disability related benefits (namely Attendance Allowance).

In examining the evidence, Mr Justice McCloskey looked at the process of assessment used by Trust staff in reaching their decision.

Finding

First ground of challenge

In the process of reaching its decision to withdraw Mrs McClean’s domiciliary cleaning service, the judge found that the Trust had acted illegally. This had resulted in the Trust categorising the applicant’s need for cleaning to be a ‘category 4’ rating ie a ‘low priority need ‘. 
As low priority, no service was put in place. On reaching its conclusion the Trust had taken into consideration two main factors - apparent support from a family member and apparent financial resources. Whilst the judge recognised that these were relevant material considerations, he held that the Trust had failed to take into consideration other relevant information raised by the Law Centre in correspondence and affidavit evidence of Mrs McClean. To act in accordance with the circular, its statutory powers and in conformity with well established public law principles, the Trust was required to thoroughly reinvestigate the issue at hand by reassessing the applicant’s need for a cleaning service. Its failure to do so gave rise to Mr Justice McCloskey’s finding of illegality.

The judge also found that, in carrying out a merely “cursory and superficial” analysis of Mrs McClean’s financial resources, the Trust was guilty of a “comparable failure in its evaluation”.

In respect of Mrs McClean’s night time care, Mr Justice McCloskey found that no procedural or methodological flaw in the Trust’s process of decision making had occurred. He did, however, recommend that a reassessment of this particular need should be carried out.

Second ground of challenge
With reference to the second ground of challenge, the judge found that whilst the circular authorised the Trust to take into account Mrs McClean’s resources, the directive qualified this by excluding from the scope of permissible consideration any disability related benefits. He found that the Trust had acted in contravention of this prohibition by failing to make a distinction between her disability related benefits and her other sources of ‘state’ income. As a result, having to fund her own cleaning service had placed a considerable burden on Mrs McClean’s limited financial resources.

The judgement is particularly important in its relevance for ensuring that statute and departmental guidance are correctly adhered to in the assessment of need process.

### New year training at Law Centre (NI)

There are still some places left on Law Centre January to March courses in the areas of social security, immigration, employment, community care and mental health law. Book now to ensure a place.

**Law Centre training carries CPD hours for solicitors, barristers and CAB advisers.**

For more details or to book a place contact noirin.hyndman@lawcentreniwest.org or visit our website www.lawcentreni.org for an online form.

### New Legal Support Project

The Law Centre is setting up a new Legal Support Project to undertake free representation at social security appeals and industrial tribunals. The project will be launched early in the New Year.

This initiative has resulted from increased demand for representation which is not being met. We also recognise the concern across the legal profession about the protracted and costly nature of cases with unrepresented litigants.

The representation will be undertaken by volunteers, trained and supported by the Legal Support Project staff. The service will be similar to the Free Representation Unit (FRU) in London which has been operating successfully for over thirty years, not least because of the widespread support it has always enjoyed from both sides of the legal profession. FRU is seen as one of the ways the profession gives something tangible back to local communities. We hope to secure a similar involvement and payback for the profession here.

We are also establishing an Advisory Group to provide guidance on developing and sustaining the project. It will form an important link to the wider legal community, with membership drawn from across the legal profession and the legal education and voluntary advice sectors.

We are looking for volunteers from a variety of legal backgrounds. Obviously, it will be of particular interest to law graduates, newly qualified lawyers wishing to gain valuable representation experience, and those wishing to refresh their skills after a break from legal practice. We are also, however, looking for experienced legal practitioners to provide some pro bono support to those volunteers. This could involve, for example, providing specialist legal advice or providing training or mentoring support to volunteers.

For further information go to www.lawcentreni.org or contact Sinead Mulhern, Head of the Legal Support Project, directly, tel: 028 9024 4401 or sinead.mulhern@lawcentreni.org

### Tribunal reform

With financial support from the Nuffield Foundation, the Law Centre commissioned and published two new reports to help inform the current discussion on reform of tribunals:

- **Structural Tribunal Reform in Northern Ireland, Proposals by Brian Thompson, School of Law, University of Liverpool**
- **Supporting Tribunal Users, Access to pre-hearing information, advice and support in Northern Ireland, by Grainne McKeever, School of Law, University of Ulster**

The reports can be downloaded from the Law Centre’s website: www.lawcentreni.org and paper copies can be purchased from the Law Centre for £4.95 and £9.95 respectively.
‘Engaging with optimism!’

The NIYSA has had a busy year realising our theme of ‘engagement.’

From an international perspective, our Association attended International Young Lawyers’ Weekend in London (see article below). The highlight of a great weekend was enjoying the company of the enigmatic Bill Robinson, President of the American Bar Association (ABA) and his delightful wife Joan, at our table at the gala dinner on the Saturday.

We had the pleasure of meeting again when myself and Lorraine were honoured and delighted to have been invited by the Law Society to attend its welcoming reception for the ABA at Hillsborough Castle. It was wonderful to meet many of the ABA delegates and they were provided with a warm welcome to our country. It was a fitting venue for this international visit and demonstrated that this jurisdiction and our Law Society can host such prestigious events.

Our Committee was invited by the Society of Young Solicitors’ of Ireland event in Dublin to mark the conclusion of the ABA Conference with a reception in their City Hall and after party in the infamous Buck Whaley’s! The American delegates were immersed in all the hospitality our jurisdictions have to offer!

I asked Bill Robinson what his impression of Northern Ireland was and the future of our profession here. He said to me “one word: optimism!” Not a word we are used to hearing at the moment but the ABA President believed that our people, our vision and our willingness to embrace change means we have much to look forward to.

This theme and a changing legal landscape was prevalent when our Association was invited to the opening of Allen & Overy’s Belfast office. Out of 100 locations...
considered, it is a credit to our jurisdiction that Belfast was selected and the Managing Partner of Allen & Overy worldwide, Wim Dejonghe, told me he was most impressed by the legal talent and people we have here in Northern Ireland.

The NIYSA Committee also met with the charismatic President of the Law Society of Australia who discussed the opportunities for young lawyers in Australia, looking for an outback experience!

We were soon back to Dublin for the SYS launch of their book “The Society of Young Solicitors of Ireland - Scholars, Youth & Success since 1965” in the magnificent House of Lords Chamber in the Bank of Ireland. It was a wonderful that a number of references to the NIYSA were made in the book (thankfully none of them libellous!)

The development of the relationship between the NIYSA & SYS fully bloomed when our Committee was invited to the SYS Autumn Conference in Athlone which was a wonderful success. It is the start of a new era of joint conferences and we hope to have a shared conference in the next year. I am proud to say that the NIYSA Committee definitely left its mark on the Conference and was at the heart of the weekend’s festivities! We are very grateful to the SYS Committee for organising such an enjoyable Conference and for making us most welcome at their event.

Our lecture series this term had been very successful with our ‘Risk Management’ lecture series held in September and November.

We are delighted to have participated in the Inaugural Attorney-General lecture series organised by the Attorney’s office in conjunction with our Association and the NI Young Bar. The series, held over two months, covered topical and relevant areas of European Convention on Human Rights law - Inquests (Article 2), bail (Article 5) and adoption (Article 8). The series concluded with a lively debate chaired by the Attorney General in the Senate Chamber in Stormont on the question - “Super Injunctions: Have the Courts got the balance right?” This was followed by a wonderful dinner in the Long Gallery.

Our Association is deeply grateful to the Attorney-General for initiating this lecture series, which we look forward to continuing next term and beyond. It brought together young barristers and solicitors, encouraging us to develop of legal research, advocacy skills and human rights awareness.

Looking forward we also have a comprehensive lecture programme for 2012 specifically for our members’ needs. Our Association is one of the key organisers of the “Northern Ireland Young Leaders’” Conference which will take place at Queen’s University, Belfast next May bringing together the NIYSA, Institute of Directors, Institute of Chartered Accountants in Ireland & Junior Chamber International. It will be a unique event bringing young professionals and business leaders together. We look forward to hosting an event in Derry and to our many other social and educational events - details of which can be found on our website or on Facebook. Please do not hesitate to get in touch with us if we can be of any assistance.

The NIYSA wish to thank immediate past President, Brian Speers for all his personal support and friendship over the past year and the Chief Executive, Alan Hunter, the Council and all the staff at the Law Society for their continued support and assistance over the past term and we look forward to working with the Society over the year ahead to contribute to the development and future of our profession.

The NIYSA look forward to 2012 and wish all our members and friends every success for the New Year. We’ve only just begun!

Conor Houston
Chair NIYSA
On the 29 September 2011 Conor Houston, Lorraine Keown, Caitriona Flannagan and Glenn Watterson represented the NIYSA in London for International Young Lawyers’ Weekend.

Things began with a wonderful drinks’ reception hosted by the London Young Lawyers’ Group in The Living Room bar at St Katherine’s docks, where delegates got the opportunity to discover who had returned to participate in the now infamous Weekend and what new attendees had arrived to enjoy this year’s spectacular.

The conference itself began in earnest on Friday morning, when, after warm welcomes from Jude Perkins, Chair of the Junior Lawyers’ Division, Lucy Scott-Moncrieff, Vice President of the Law Society of England & Wales and Amina Omar Nieto, President of the European Young Bar Association, we were treated to a very special keynote speaker in William (Bill) T Robinson III, current President of the American Bar Association. The attendance of such a prestigious individual is evidence in itself of the wonderful organisation of International Weekend and the high esteem in which it is held around the world.

Matters continued with a fun game of ‘mingle bingo’, where some enlightening stories of friends old and new were shared, although we never did find anyone who couldn’t ride a bicycle…

Our next speaker, on the topic of Alternative Business Structures, was Nicholas Green QC, immediate Past Chair of the Bar Council of England & Wales, in what was a very informative session.

Following lunch at the Law Society, our group divided for visits to the Old Bailey and Royal Courts of Justice, topped off by a visit to Temple Church in what was a wonderful afternoon steeped in history. The colourful presentation delivered by the present Master, Reverend Robin Griffith-Jones, was worth the visit alone!

Later that afternoon we separated out once again and visits to a variety of barristers’ chambers ensued. The expertise of Brick Court Chambers, Keating Chambers, One Essex Court Chambers and Serle Court Chambers were relayed to the attendees.

An exceptional drinks and canapé reception was next in the Large Pension Room at Grays Inn hosted by Nichola Higgins, Chair of the Young Barristers’ Committee of the Bar Council of England & Wales and from there guests enjoyed a late dinner and quiz in the Melton Mowbray bar in Holborn – where thankfully I had the job of asking the questions rather than trying to answer them!

Some attendees soldiered on after the Melton Mowbray, concluding matters in the small hours at a Hawaiian themed nightclub sporting grass skirts and flower chain necklaces, although I shan’t name names (Heidi Sandy, Cat Headley and the entire contingent of NIYSA who should have had more sense after a 6am flight from Belfast that morning!).

After a ‘brief’ rest, Friday night turned into Saturday morning and we started with an inspirational address from James M Durant III, immediate Past Chair of the American Bar Association (ABA) General Practice Solo and Small Firm Division, on effective leadership.
ALL the Law now available from Law Society Library

ALL the Law by Barry Valentine BL

The Library is now in charge of subscription management and distribution of this product for our members. A leading resource of legal material for the NI lawyer, this CD contains the complete text, up-to-date and as applying to Northern Ireland, of:

- Acts (of the Northern Ireland Parliament and Assembly and Westminster Acts which apply to NI in any way)
- Orders in Council
- UK Statutory Rules of particular interest
- Rules of the Court of Judicature and County Court Rules*
- all Northern Ireland case law, relevant Irish case law dating back to 1995.

*This is the only electronic resource for Rules of the Court of Judicature and the County Court Rules.

Members wishing to subscribe to this product are invited to register for an update every six or 12 months to ensure you maintain access to current legal information.

To subscribe to ALL the Law of Northern Ireland, please complete the Standing Order Form below and return to:

Law Society Library
96 Victoria Street
Belfast
BT1 3GN
www.lawsoc-ni.org

Order Form below and return to:

- I wish to subscribe to ALL the Law (start-up costs for new subscribers: £350+VAT - £420)
- I wish to receive an update every six months (£75+VAT - £90)
- I wish to receive an update every 12 months (£75+VAT - £90)

Please note the Law Society Library will issue an invoice on receipt of order.

From there a very comprehensive overview of the Bribery Act 2010 was provided by David Aaronberg QC from the Bridge Street Chambers.

A hearty lunch was served at the White Swan nearby and with great anticipation we were launched into an overview of social media and super-injunctions by the fantastic Kevin Poulter, Associate Solicitor with Bircham Dyson Bell LLP. This hot topic continued when Kevin joined in a debate with the well-travelled Jamie Low from Detroit, and a new face to the EYBA, Olivier Quesneau, from Aix en Provence - the debate dominated, somewhat questionably, by MPs and kittens!

Conference matters concluded and we all retired to prepare ourselves for the much awaited highlight of the weekend….dinner and dancing at the Mint Tower of London Hotel. The exquisite surroundings of this fabulous hotel set the backdrop for what was an awesome evening with friends. There was also an emotional and well-deserved acknowledgement to what can only be described as a ‘pillar’ of EYBA and International Weekends gone by. Annalisa Checchi has been leading the way for a number of years and her dedication and achievements were quite rightly honoured by a beautiful and thoughtful gift from her peers in the Junior Lawyers’ Division. On behalf of us all “well done Annalisa!”

However, no man (or in this case lady) is an island and praise must go to the exceptional job delivered by the organising committee for what was a brilliant conference in London. As always I was delighted to be in attendance and did not leave disappointed.

There was a great atmosphere and friendships were strengthened and created in equal measure!

Congratulations to those involved and roll on September 2012!

Lorraine Keown
Vice-President EYBA
Treasurer NIYSA
2012 promises to be a year for significant occasions. The London Olympics, the Queen’s Golden Jubilee, the Titanic centenary and the BSA ‘Learn at Lunch’ CPD programme. 24 hours’ CPD on offer during 18 events throughout the year, including half-day seminars on conveyancing, judicial review and client care/practice management. Current, comprehensive and affordable CPD – the BSA commitment to our profession.

Acknowledging the harsh and challenging times in which we continue to practise, the BSA continues to deliver value for money CPD for members and non-members alike with a high calibre of speakers who give of their time on a pro bono basis. The price per event remains at £20 for BSA members and £40 for non-members and for the half day seminars, £70 for members and £100 for non-members.

The programme begins on 19 January with a presentation by Louise Togneri of the Housing Rights’ Association. February will play host to several events, including a presentation by Paul Givan MLA and Raymond McCartney MLA, the Chair and Vice-Chair of the Committee for Justice. The first of the half day seminars in on conveyancing and is taking place on 2 February. It will include a presentation by former Council Member, Simon Murray, on recent changes in practice and a talk by Seamus Walsh from Countrywide Legal NI Ltd. On 1 March, the Attorney General for Northern Ireland, John Larkin QC, will return to deliver his second presentation since taking office. Ian Huddleston, a regular contributor at CPD events, will take the podium on 15 March and on 29 March, Mr Justice McCloskey will speak on the law and practice of bail in Northern Ireland.

After the Easter break, the schedule includes Darren McAuley’s update on ancillary relief on 26 April; the Prisoner Ombudsman for Northern Ireland, Pauline McCabe, will speak on ‘Prison, Ombudsman Investigations and the legal profession’ on 10 May; and then on 25 May Mr Justice Treacy and Dr Gordon Anthony, will present a judicial review half day seminar.

A further seven events will run from June through to December, including talks by the Charity Commissioner for Northern Ireland, Office of the Information Commissioner and Judicial Appointments Commission.

All lectures take place in the main lecture theatre at Law Society House at 1pm with tea/coffee and sandwiches available from 12.30pm onwards. By 2pm everyone leaves refreshed enlightened and at least one hour’s CPD to the good!

Bookings can be made by contacting the BSA Administrator, Suite 7, Merrion Business Centre, 56 Howard Street, Belfast or by telephone 028 9058 5974.

So make sure you leave room in your diary to participate in at least some, if not all of this year’s series and be a BSA CPD Olympian- the first (and fastest) to finish your CPD record card.

BSA ANNUAL GALA DINNER DANCE

9 June 2012
Titanic Visitor Centre

Dinner and entertainment (with a few surprises thrown in!)

Tickets are £55 per person or £500 per table of 10. (Ticket price includes a sumptuous five course menu to be served with wine per table).

7.00pm for drinks’ reception to be seated for dinner at 8pm.

Demand is anticipated to be high for tickets. We would recommend early booking to avoid disappointment!

Guests will also be able to take advantage of a room package deal at a nearby hotel and details of this shall be advertised closer to the event.

Proceeds from ticket sales will go to the Solicitors’ Benevolent Fund.

To book your tickets please contact our Administrator, Briege Williams at the address below.

Briege Williams, Belfast Solicitors’ Association, Suite 7, Merrion Business Centre, 58 Howard Street, Belfast, BT1 6PJ.

Email: info@belfast-solicitors-association.org.

Telephone: 028 9058 5974
BSA Autumn fundraiser in aid of the Northern Ireland Hospice

Our annual fundraiser has over the past years taken many forms but this year the BSA took to the stage!

Local production company, Skewiff, very kindly agreed to preview their performance of Shannon Yee’s ‘Hatch’ ahead of its run as part of the Belfast Fringe Festival.

The event took place in the Linenhall Library and guests enjoyed wine before the performance and got a chance to catch up, in the historical surroundings of the Library, before heading upstairs to the theatre space for the performance.

At first the guests really didn’t know what to expect but they soon settled in! The play was brilliantly produced by Skewiff and the performances and script were laugh out loud funny!

Drinks followed for guests with a short ballot and auction which helped to raise much needed funds for the BSA’s nominated charity, the Northern Ireland Hospice.

Our thanks go out to Mary, Emma, Monine and Kathleen from Skewiff, Shannon Yee and the staff of the Linenhall Library. And a massive thank you to our guests, who came along, laughed and enjoyed something… a little bit different, all for a great cause!

Susan Brennan
Chair 2011
The Institute of Professional Legal Studies is offering a five week course in Commercial Conveyancing.

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

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

**When:**
- Monday 16 January 2012
- Monday 23 January 2012
- Monday 30 January 2012
- Monday 6 February 2012
- Monday 13 February 2012

**Time:** 9.30am – 1.00pm

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

**Cost:** £650

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

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

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

Closing date for applications: Friday 6 January 2012

Applications will be taken on a first-come first-served basis (Places are limited to 30 people)

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

**Commercial Conveyancing Course - Booking Form**

Name: ____________________________

Firm: ____________________________

Address: ____________________________

Email Address: ____________________________

Tel. No: ____________________________ I enclose remittance of £ ____________________________
Free Confidential Shredding for Local Law Firms

**ADVERTORIAL**

Andrew Bailey, Managing Director, Bailey Waste Recycling (NI) Ltd.

Strict legislation, increasing levels of identity theft and a duty to protect the environment, ensures that all legal firms in Northern Ireland are giving serious consideration to the issue of Confidential Shredding and Data Destruction. To take the legislation factor as an example, the Data Protection Act of 1998 requires companies to dispose of sensitive information securely or face considerable fines. Law firms in particular simply cannot afford to take any chances when it comes to the secure disposal of confidential material. Thankfully a solution is at hand, and, the good news is it doesn’t need to cost a penny!

A local firm with over 70 years’ experience in the recycling and waste management business has developed a unique paper shredding offer that will allow legal firms in Northern Ireland to reduce costs, increase efficiency, ensure compliance, free up space and help the environment.

Bailey Waste Recycling (NI) Ltd (BWR), which is based in Craigavon, is offering a FREE confidential paper shredding service. Andrew Bailey, MD of BWR, explains that the reason the company is able to offer the service at no cost to customers is down to the fact that paper has a value in the global market. “Because our operational processes are so efficient, as well as the fact that we have been established in business for over 70 years and have excellent contacts throughout Ireland, the UK and the rest of the world, we are able to dispose of waste paper in both an environmentally-responsible and economically advantageous way,” says Andrew. “Just as commodities such as gold and other precious metals are currently at a premium, so is paper and the paper waste produced in offices across the country can be sold on by us as a commodity. Whilst other local companies charge for shredding waste paper, we at BWR are able to offer this service for free by supplying recycling sacks on the basis of a refundable deposit. That way, we can share the benefits of the high values for paper with our customers.

“It isn’t just high quality paper waste that can be included, bags can be filled with all kinds of paper products including junk mail, post-it notes and envelopes. As long as the bags contain nothing but paper, we will shred them in their entirety and will then recycle the material, so there is no waste at all and customers have no need to separate out different kinds of paper. Essentially, it simplifies things for our customers as they no longer need to make decisions about what might be confidential and what is not, as there is no cost implication to the volume of shredding that they carry out. We take ALL paper and guarantee that it will ALL be shredded. So, in addition to the huge benefit with regard to data security there is also no environmental guilt or economic worry as all your paper waste is shredded and recycled at no cost at all to your business.”

Each recycling bag is sealed with a tag containing a unique reference number, all waste is traceable and certificates of destruction are issued. Customers using the shredding service can be further reassured of confidentiality and security as, due to Bailey Waste’s creation of the paper ‘Shred-a-Bag’, the bags remain unopened and are shredded whole along with the documents they contain. The secure service is further guaranteed as drivers collect the sacks in unmarked vans and the full shredding process is covered by CCTV.

**TOTAL COST = £0.00**

- Re-order as and when required – no limit on the number of bags ordered
- No other added costs or hidden charges
- Full traceability and CCTV surveillance

Call **028 3834 1449** or email **admin@baileywaste.com** to find out more or to order your bags and security tags

*The full amount of £150 is refunded when all 50 bags have been filled and collected. All the bags do not have to be collected at once but the preference is to collect a minimum of 10 at a time. Bailey Waste Recycling (NI) Ltd, 1-4 Silverwood Road, Lurgan, Co Armagh, BT66 6LN Tel: 028 3834 1449 • Email: admin@baileywaste.com • Web: www.baileywaste.com*
Direct Wine Shipments - Creu Celta

Situated in Corporation Square, Direct Wine Shipments is Belfast’s “Aladdin’s Cave of Wine”. This family owned company offers a wide range of quality wines to suit every taste.

Their staff are passionate, friendly and knowledgeable about wines. They will be delighted to assist you with any wine queries including food & wine matching, recommendations for Christmas, weddings, events and parties. Their regular public and private tastings are a fun way to learn about wine.

After 50 years in the Northern Ireland wine trade, a long held ambition became a reality for the McAlindon family of Direct Wine Shipments. In 2003, they purchased a vineyard in the mountainous Catalan area of Priorat which has lead to the creation of Vinedos McAlindon e Hijos Creu Celta.

The name means “Celtic Cross” in Catalan and the symbol used for Creu Celta is inspired by the exceptional 15th Century High Cross found on Devenish Island in County Fermanagh, Northern Ireland.

The 2006 vintage of Creu Celta is currently available. This vintage offers the full expression of classic Priorat red. Rich, layered and concentrated it has pine, chocolate, cherry, plum and currant notes. This is underpinned by a typical smoky minerality from aroma to palate. The wine is fermented in both open top barrels and stainless steel tanks and made mainly from old vines Samso and Garnacha. Most vintages are aged in new and one year old French barriques. No pesticides or herbicides have been used at our vineyard in Salanques, Poboleda, Priorat.

The Creu Celta 2006 was honoured to be named as one of the top 100 Spanish Wines in the UK at the New Wave Spanish Wine Awards 2010.

What others say about Creu Celta:

“I’ve been meaning to write for ages to say congratulations on your Priorat venture. Good old Ulster restraint mixed with Celt indulgence. Keep up the good work...”

Oz Clarke

“I really congratulate you on the decision to make a serious wine in a top appellation, rather than just churning out ordinary wine somewhere boring.”

Charles Metcalfe

Direct Wine Shipments, 5-7 Corporation Square, Belfast BT1 3AJ
T: 028 9050 8000 F: 028 9050 8002
E: info@directwine.co.uk

WIN!! Win a 6 bottle case of Creu Celta 2006 from Direct Wine Shipments (RRP £119.94).

To win this fantastic prize simply answer the following question:

Where in Spain does Creu Celta come from?

To enter please email your answer and contact details to susan@directwine.co.uk putting in subject box “Writ Wine Competition”

All entries must be received by Monday 9 January 2012.
Correct entries will be put into a draw and the winner picked at random.
There is no alternative prize
ANIMALS

CAROLYN BARNES V BELFAST CITY COUNCIL
Appeal against decision in Magistrates’ Court which convicted the appellant of being a keeper of a type of dog known as the Pit Bull Terrier contrary to a. 25(2) Dogs (NI) Order 1983 as amended by the Dangerous Dogs (NI) Order 1991 and order that the appellant’s dog be destroyed. - Pit Bull terrier was a proscribed dog under the legislation. - destruction of dangerous dogs. - whether the dog, known as Lennox, should be destroyed as a result of the conviction. - whether the Court is satisfied that the dog will not be a danger to the public. - HELD that the dog is a danger to the public and appeal dismissed
COUNTY COURT
30 SEPTEMBER 2011
RODGERS HHJ

COSTS
SEAMUS TREACY QC AND FIONA DOHERTY
BL AND TREVOR SMYTH AND COMPANY
SOLICITORS V THE LORD CHANCELLOR;
SEAMUS TREACY QC AND RONAN DALY
BL AND JOHN J RICE AND COMPANY
SOLICITORS V THE LORD CHANCELLOR
Costs. - appeals brought under Criminal Appeal (NI) Act 1980 in relation to the amount of the expenses allowed to the appellants by the taxing master in relation to two criminal appeals heard by the Court of Appeal. - Master carried out a review of expenses but declined to increase any of the amounts awarded. - appeal to High Court by solicitors and counsel to confirm or vary the amount allowed. - importance and complexity of the cases. - HELD that both appeals successful and amounts uplifted accordingly
HIGH COURT
28 SEPTEMBER 2011
WEIR J

CRIMINAL LAW

R V FRANCISCO NOTORANTONIO
Renewal of application for leave to appeal against the imposition of a custody probation order of 12 years for manslaughter. - whether sentence manifestly excessive. - sentencing remarks of judge. - sentencing guidelines on manslaughter. - HELD that the sentence was not manifestly excessive or wrong in principle and appeal dismissed
COURT OF APPEAL
19 SEPTEMBER 2011
MORGAN LCJ, HIGGINS LJ

IN THE MATTER OF AN APPLICATION BY
MICHAEL MURPHY FOR JUDICIAL REVIEW
AND IN THE
Application to quash a Northern Ireland Prison Service’s calculation of the applicant’s earliest release date. - whether the applicant’s time on remand should have been taken into account. - period of detention and satisfaction of the period in which he was at large. - HELD that the period of the custodial sentence and the period during which the applicant was required to be detained by reason of being unlawfully at large has expired. - decision of Northern Ireland Prison Service quashed
HIGH COURT
12 OCTOBER 2011
MORGAN LCJ, HIGGINS LJ, TREACY J

Selected High Court and Court of Appeal Decisions October – November 2011

CONTRACT

ROBERTA ANN YOUNG V ANDREW SYDNEY HAMILTON, JAMES SAMUEL HAMILTON, MARGARET JOAN HAMILTON, DAVID RUSSELL, THOMASINA PHYLISS ALEXANDRA RUSSELL AND LORRAINE THOMPSON (FORMERLY PRACTISING AS THOMPSONS SOLICITORS)
Agreement for the purchase of a building site with outline planning permission and right of way. - dispute over right of way to laneway. - whether the defendants made a range of incomplete and negligent replies to pre-contract enquiries which amount to actionable misrepresentations in the circumstances of the case. - whether the plaintiff’s solicitor failed to make or pursue adequate enquiries about the property offered for sale and failed to warn or advise the plaintiff adequately in relation to the potential risks of purchasing the site. - whether the last defendant took sufficient steps to protect her client’s interests. - whether the fourth, fifth and sixth defendants subjected the plaintiff to a course of conduct which amounted to improper interference with her use and enjoyment of the land, harassment and nuisance. - whether the defendants are liable for any of the plaintiff’s losses. - HELD that the Hamiltons did make material misrepresentations to the plaintiff in the circumstances of the case, and that the enquiries made by her solicitor were not sufficient to discharge her duties to fully advise the plaintiff and to warn her of the risks involved in buying the site, and the plaintiff was induced to enter into the contract due to the defendant’s misrepresentations. - plaintiff required to provide a written argument setting out claim for damages
HIGH COURT
7 OCTOBER 2011
TREACY J

CRIMINAL DAMAGE

LAQUAL ALI KHAN AND MOHAMMED KHAN V SECRETARY OF STATE FOR NORTHERN IRELAND
Refusal of compensation for damage to property under the Criminal Damage (Compensation) (NI) Order 1977. - respondent concedes that the damage to the properties was unlawfully, maliciously or wantonly caused by three of more persons but disputes that those persons were unlawfully, riotously or tumultuously assembled together. - brick bandits had stripped properties owned by the defendants of brick and other assets including copper wire and sinks, leaving the property in a hazardous conditions and causing the City Council to issue an improvement notice. - properties were subsequently demolished. - whether the definition of unlawful assembly can be satisfied that the damage was as a result of an act committed maliciously by a person acting on behalf of or in connection with an unlawful association. - HELD that the appellants have proved that the damage was caused in such a say that they are entitled to compensation under the Order
COUNTY COURT
2011
SMYTH HHJ
Selected High Court and Court of Appeal Decisions October – November 2010

R V PH
Sentencing. - offences took place in a domestic violence context. - aggravating and mitigating factors. - approach to be taken where a person is before the Crown court for sentencing in a case which might have been dealt with in the Magistrates’ Court. - HELD that the original sentence need not be interfered with
COURT OF APPEAL
7 OCTOBER 2011
MORGAN LCJ, HIGGINS LJ, COGHLIN LJ

R v CHRISTOPHER STOKES, MARTIN STOKES AND EDWARD STOKES
Appeal against conviction. - appellants convicted of murder. - mobile phone cell site evidence. - whether eyewitness evidence was inconsistent and contradictory and case should have been withdrawn. - whether jury was misled or misdirected. - HELD that the safety of the conviction of one of the defendants cannot be confirmed and his appeal allowed and retrial ordered
COURT OF APPEAL
16 SEPTEMBER 2011
MORGAN LCJ, HIGGINS LJ, COGHLIN LJ

DAMAGES
CHRISTOPHER MCGAUGHEY V SUNDAY NEWSPAPERS LIMITED
Appeal from an order from trial judge remitting the appellant’s action to the County Court and thereby reversing the order of the Master who had dismissed the respondent’s application to remit the appellant’s action. - claim for damages and misuse of private information, breach of right to respect for his private and family life. - whether the assessment by the trial judge was erroneous. - HELD that the trial judge had the proper approach to the assessment of damages and no issue of complexity arose. - appeal dismissed
COURT OF APPEAL
16 SEPTEMBER 2011
MORGAN LCJ

DISCLOSURE
JAMES MCKEE V PRUDENTIAL ASSURANCE COMPANY LIMITED
Claim for damages against the defendant insurance company for loss sustained by the plaintiff by reason of the breach of a contract of insurance by the defendant arising from the non payment of a claim in respect of a break in at the plaintiff’s house and the loss of contents of his house. - application by the plaintiff for discovery of documents. - whether litigation privilege. - conditions in insurance policy. - HELD that the documents sought have litigation privilege and application for discovery dismissed
HIGH COURT
16 SEPTEMBER 2011
WEATHERUP J

EMPLOYMENT
PACE TELECOM LIMITED V ANGELA MCAULEY
Appeal from Industrial Tribunal. - respondent is a telecoms engineer who worked for a business which merged and was acquired by the appellant company. - redundancy. - date of claimant’s dismissal. - reason for claimant’s dismissal. - whether the claimant was subjected to unlawful detrimental treatment in her employment. - Tribunal held that the respondent had established discrimination on the basis of sex and had been treated less favourably. - HELD that the Tribunal was entitled to reach the conclusion that it did with regard to sex discrimination and appeal dismissed
COURT OF APPEAL
5 OCTOBER 2011
COGHLIN LJ, HART J, SIR JOHN SHEIL

FAMILY LAW
G AND D V BELFAST HEALTH AND SOCIAL SERVICES TRUST
Appeal against discharge of a wardship order. - draft Forced Marriage Protection Order made available to all parties for consideration. - whether the evidential threshold for establishing the criteria for a forced marriage had been met and whether there was adequate evidence that the children were being forced into a marriage or that there was any attempt or intention on behalf of the appellant to do so. -
whether the trial judge had exceeded his powers under the Forcéd Marriages Act and unlawfully and disproportionately interfered with a.8 ECHR rights of the appellant by placing a blanket prohibition upon any betrothals, arranged marriages or marriages freely entered into without leave of the court, placing an indefinite travel restriction without leave of the court, ordering the appellants to surrender their passports and identity cards and directing that the Order should continue on an indefinite basis. - HELD that appeal dismissed

COURT OF APPEAL
30 JUNE 2011
COGHIN LJ, HART J, SIR ANTHONY CAMPBELL

M AND M (WRONGFUL DETENTION: RETURN ORDER)
Appeal against decision of trial judge to order the return to Australia of the 3 children of the appellant and the respondent, having found at the relevant time the children were habitually resident in that country. - appellant and respondent are the parents of the children and are of Northern Irish origin and had emigrated for a time to Australia. - Hague Convention on the Civil Aspects of International Child Abduction. - whether the trial judge in holding that the respondent was guilty of detaining the children of the family in Northern Ireland, made a finding that was wholly against the weight of evidence. - whether the trial judge erred in law in holding that the detention of the children in Northern Ireland, living in a home jointly owned by the parties and in which they have resided, could be considered to be wrongful within the meaning of the Hague Convention. - whether the trial judge erred in fact and in law in holding that the children of the family were habitually resident in Australia immediately prior to any detention of the children. - whether the trial judge erred in law in holding that the facts of the case gave rise to the application of the Hague Convention. - whether the case involved issues of the wrongful removal or unlawful detention of the children and is about the breakdown of the marital relationship instead.
- HELD that the appeal must fail and the Order of the trial judge be implemented immediately

COURT OF APPEAL
14 JULY 2011
MORGAN, LCJ, HIGGINS LJ, SIR JOHN SHEIL

LANDLORD AND TENANT

SUREFAC LIMITED V MICHAEL HEANEY
Restrictive covenant. - plaintiff claims possession of lands in respect of which it is the lessee by reason of an alleged breach by the defendant of a covenant in the lease which precludes the lessee from using or permitting the use of the demised lands for the purposes of a club, place of amusement, theatre or entertainment. - defendant denies that his use of the premises is in breach of the restrictive covenant and declines to deliver up possession. - whether the fact that the car park which has had to be provided in order to comply with planning permission for the bingo and snooker club on the lands may as a result be said to be being used “for the purposes” of that club. - use of the plural “purposes”. - HELD that the defendant is not in breach of the covenant contained in the lease and is not liable to forfeiture. - plaintiff is not entitled to possession of the lands

HIGH COURT
29 SEPTEMBER 2011
WEIR J

LEGAL AID

IN THE MATTER OF AN APPLICATION BY LB FOR LEAVE TO APPLY FOR JUDICIAL REVIEW
Application for leave to bring judicial review proceedings against Legal Services Commission seeking to impugn a decision in relation to family proceedings not to fund an anger management course for the applicant. - a. 10(3) of the Legal Aid, Advice and Assistance (NI) Order providing that legal aid shall consist of representation by a solicitor and so far as necessary counsel but also includes all such assistance as is usually given by a solicitor or counsel in the steps preliminary or incidental to any proceedings. - whether the therapeutic and assessment purposes of the anger management course are so interlinked that it is impossible to facilitate the assessment purpose without carrying out the therapy. - HELD that the applicant is not entitled to legal aid for therapy and leave to apply for judicial review is refused

HIGH COURT
9 JUNE 2011
STEPHENS J

PUBLIC PROCUREMENT

HENRY BROTHERS (MAGHERAFELT) LIMITED, F B MCKEE AND COMPANY LIMITED AND DESMOND SCOTT AND PHILIP EWING TRADING AS WOODVALE CONSTRUCTION COMPANY LIMITED
Defendant commenced a competition under the restricted procedure as provided by in Public Contract Regulations 2006 for contractors to be placed on a framework agreement (primary competition stage) whereby they could then tender for individual works contracts (secondary competition stage). - consortium of builders who had not been placed on the primary competition stage commenced proceedings claiming breach of statutory duty, breach of obligations and breach of contract. - trial judge found for the plaintiffs on the issue of liability and ordered that the framework agreement be set aside as remedy for the breach. - appellant now appeals against those decisions on the grounds that the learned judge erred in finding that price was a mandatory criterion in the selection process for the most economically advantageous tender, that the respondents’ claim was not statute barred and that he had the power to set aside the framework agreement. - whether price must be a component of any award criteria. - whether the use of fee percentages constitutes a legitimate price mechanism. - whether there is a differential between a framework agreement and a contract.
- whether the application should be referred to the European Court of Justice. - HELD that appeal dismissed

COURT OF APPEAL
28 SEPTEMBER 2011
MORGAN LCJ, HIGGINS LJ, WEATHERUP J

The full text of these decisions are available on the Libero Database in the member’s section of the Law Society Website at www.lawsoc-ni.org
Agency Workers’ Regulations

Agency workers are entitled to new employment rights from 5 December 2011 when the Agency Workers’ Regulations (NI) 2011 came into operation. When on an assignment workers will get some of these rights from day one, and some others after 12 weeks in the same job.

Legislation

The Agency Workers’ Regulations (Northern Ireland) 2011 SR 350

These Regulations, which are made under section 2(2) of the European Communities Act 1972 (c.68), and Articles 17(1), (2) and (5), 55(2) of, and paragraphs 6, 7 and 14(1) of Schedule 3 to the Health and Safety at Work (Northern Ireland) Order 1978, implement in Northern Ireland Council Directive 2008/104/EC of 19th November 2008 on temporary agency work (OJ L 327, 5.12.2008, p.9). This Directive establishes a general framework for protection of temporary agency workers. The Regulations provide certain rights for temporary agency workers including in relation to basic working and employment conditions In force: 5 December 2011

http://www.nidirect.gov.uk


Guidance

Department for Employment and Learning – Guidance on the Agency Workers Regulations (NI) 2011

This guidance, published by the Department for Employment and Learning, provides an in depth look at the new Regulations. The aim of the guidance is to help agency workers, hirers of agency workers, and the recruitment sector to understand the Agency Workers Regulations (Northern Ireland) 2011, and the implications and responsibilities for all involved


NI Direct Government Services

Useful information for the worker and the employer explaining the new Regulations and


Books

Harvey on industrial relations. Looseleaf. Section A1 – Categories of Workers – The Agency Worker. Available in hard copy and online

New Books in the Library.

• Matthews, R. Health and Safety Enforcement Law and Practice 3rd ed. Oxford University Press. 2010

• Marks, D. Rowlatt on Principal and Surety. 6th ed. Sweet & Maxwell. 2011

• Sinclair on Warranties and Indemnities on Share and Asset Sales. 8th ed. Sweet & Maxwell. 2011

• Cook, D. Private Equity: Law and Practice. 4th ed. Sweet & Maxwell. 2011


• Sara, C. Boundaries and easements. 5th ed. Sweet & Maxwell. 2011.

• At a glance: 2011-2012: Essential court tables for ancillary relief. 2011. FLBA.


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Articles

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No more them and us (discusses the implications for employers)

Johnson: 2011 14 Oct NLJ 1389-1390*

Implementing the Agency Workers’ Regulations (discusses, the rights offered by the Agency Workers Regulations 2010, which aim to amend the status of temporary agency workers by way of a right to “equal treatment”) 2011: IDS Emp. L. Brief, 926, 17-27

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Agency workers: trouble ahead? (notes the practical implications for employers)

Patashnik: 2011 T.E.L.L. 16(11), 83-85

Agency Workers’ Regulations: employers’ 10 key questions answered (answers the 10 key questions likely to be posed by employers)

Charlton: 2011 Employ. L. May, 12-13

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Precedents

Terms of business relating to supply of temporary staff by an employment business (Takes into account the English Agency Workers Regulations 2010/93)

Taken from the LNB platform – Encyclopedia of Forms and Precedents Volume 14(1) (A). Available from the Library.

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Missing Wills

Re: **David Carbery**  
Originally of: 337 Cregagh Road, Belfast  
Latterly of: 12 Ballarat Street, Belfast  
Would any firm holding a Will made by the above named person please contact:  
Nesbitt Solicitors  
109 Cregagh Road  
Belfast BT6 8PZ  
Tel: 028 9045 4005  
Fax: 028 9073 8191

Re: **Patrick Grimley**  
(deceased)  
Late of: 105 Ballycullen Road, Dungannon, County Tyrone  
Date of Death: 19 July 2011  
Would any person having knowledge of the whereabouts of the Will for the above named deceased please contact:  
Lennon Toner O’Neill Solicitors  
54 English Street  
Armagh  
County Armagh BT61 7DU  
Tel: 028 3752 2022  
Fax: 028 3752 8108

Re: **John Mills**  
Late of: 28 Brussels Street, Belfast BT13 1PX  
Date of Death: 9 November 2010  
Would any person having knowledge of the whereabouts of the Will for the above named deceased please contact:  
Stuart Harper  
Holmes & Moffitt Solicitors  
289 Shankill Road  
Belfast BT13 1FT  
Tel: 028 9023 0836  
Fax: 028 9032 2530  
Email: sharper@holmof.co.uk

Re: **Geoffrey Delaney**  
Late of: 140 Crosskeys Road, Toomebridge, County Antrim BT41 3PY  
Formerly of: 108 Glendale Park, Newtownbreda, County Antrim  
Date of Death: 6 October 2011  
Would any person having knowledge of the whereabouts of a Will made by the above named deceased please contact:  
P A Duffy & Co Solicitors  
27-29 Broad Street  
Magherafelt  
Co Derry BT45 6EB  
Tel: 028 7963 3433  
Fax: 028 7930 1658  
Email: magherafelt@paduffy.com

Re: **Andrew Lovatt**  
(deceased)  
Late of: 9 Greycastle Manor, Belfast BT6 9QT  
Date of Death: 20 September 2011  
Would any person having knowledge of the whereabouts of a Will made by the above named deceased please contact:  
David Sturgess Solicitor  
3-4 Dongeall Quay  
BELFAST BT1 3EA  
Tel: 028 9031 2777  
Fax: 028 9043 4404  
Email: d.sturgess@stewartsolicitors.com

Re: **Ian Robert Spence**  
(deceased)  
Late of: 5 Whitethorn Mews, Newtownards, County Down BT23 8WU  
Formerly of: 4 Ballyharry Heights, Newtownards, County Down BT23 7GE  
Date of Death: 24 October 2011  
Would any person having knowledge of the whereabouts of a Will made by the above named deceased please contact:  
Joseph F McCollum & Co Solicitors  
52 Regent Street  
Newtownards  
County Down BT23 4LP  
Tel: 028 9181 3142  
Fax: 028 9181 2499  
Email: joe@josephmcollum.co.uk

Re: **Last Will & Testament of Kathleen Craig**  
(deceased)  
Late of: 248 Tates Avenue, Belfast  
Formerly of: 103 Benburb Street, Belfast  
Would any Solicitor having knowledge of the whereabouts of a Will executed by the above named deceased kindly contact:  
Kieran Barrett  
Haugheys Solicitors  
138 Upper Lisburn Road

Re: **Maureen Shirley Kerr**  
(deceased) (known as Shirley Kerr)  
Late of: 42 Ballynashee Road, Ballyclare BT39 9TG  
Date of Death: 26 October 2011  
Would any person having knowledge of the whereabouts of a Will made by the above named deceased please contact:  
Julie Ann Osborne Solicitor  
J W McNinch & Son Solicitors  
5 The Square  
Ballyclare BT39 9BB  
Tel: 028 9332 2217  
Fax: 028 9335 2518  
Email: jaosborne@jwmcninch.co.uk

Re: **Thomas Henry McCombe**  
(deceased)  
Late of: 59 Donaghmore Road, Dungannon, County Tyrone BT70 1HB  
Date of Death: 28 March 2011  
Would any person having knowledge of the whereabouts of any Will made by the above named deceased please contact:  
Sara Patterson  
Geo L Maclaine & Co Solicitors  
13 Lombard Street  
Belfast BT1 1RH  
Tel: 028 9024 3126  
Fax: 028 9024 8124  
Email: sara@glmacleine.co.uk

Finaghy Crossroads  
BELFAST BT10 0BE  
Tel: 028 9043 1222  
Fax: 028 9061 2511

Re: **Charles Hugh Flanagan**  
Late of: 2 Drumawill, Enniskillen, County Fermanagh BT74 5JR  
Date of Death: 20 October 2011  
Would any person having any knowledge of the whereabouts of a Will made by the above named deceased, please contact:  
John Quinn & Co Solicitors  
14 Belmore Street  
Enniskillen  
County Fermanagh BT74 6AA  
Tel: 028 6632 6008  
Fax: 028 6632 2592  
Email: johnquinn@utvinternet.com

Re: **Maureen Shirley Kerr**  
(deceased) (known as Shirley Kerr)  
Late of: 42 Ballynashee Road, Ballyclare BT39 9TG  
Date of Death: 26 October 2011  
Would any person having knowledge of the whereabouts of a Will made by the above named deceased please contact:  
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Fax: 028 9024 8124  
Email: sara@glmacleine.co.uk

Finaghy Crossroads  
BELFAST BT10 0BE  
Tel: 028 9043 1222  
Fax: 028 9061 2511
Re: Mrs Elsie Jones Ferguson  
Formerly of: 23 Strandburn Park, Belfast  
BT4 1ND  
Would any solicitor holding or having knowledge of a Will please contact:  
The Official Solicitor to the Court of the Judicature  
The Official Solicitors Office  
Royal Courts of Justice  
Chichester Street  
Belfast BT1 3JF  
Tel: 028 9072 4736  
Email: officialsolicitorsoffice@courtsni.gov.uk

Re: Gertrude Frazer (deceased)  
Formerly of: 28 Longstone Street, Lisburn  
Late of: Wood Lodge Nursing Home, 50 Mill Hill, Castlewellan BT31 9NB  
Date of Death: 12 October 2011  
Would any person having any knowledge of the whereabouts of a Will made by the above named deceased please contact:  
W G Maginess & Son  
Solicitors  
68 Bow Street  
Lisburn  
County Antrim BT28 1AL  
Tel: 028 9267 2161  
Fax: 028 9267 0997  
Email: law@wmginess.com

Re: Jonas William Fallows  
Of: 22 Meadow Way, Ballygowan  
Would any solicitor having knowledge of the whereabouts of the Will made by Jonas William Fallows please contact:  
Nesbitt Solicitors  
109 Cregagh Road  
Belfast BT6 8PZ  
Tel: 028 9045 4005  
Fax: 028 9073 8191  
Email: nesbittsolicitor@btconnect.com

Missing Title Deeds

Registered Owner: Sarah Armstrong (deceased)  
Property at: 4 Glenhill Park, Glen Road, Belfast BT11 8GB  
Date of Death: 1 December 2010  
Take notice that any person having custody of or information as to the whereabouts of the Title Deeds relating to the above mentioned property should forthwith produce said Deeds or communicate such information to the under mentioned Solicitors.  
And take further notice that unless the said Title Deeds are so produced or adequate information as to their whereabouts is so communicated within three weeks of publication of this notice, new Title Deeds may be applied for.  
Note: it is believed that the Title Deeds were held by a firm of solicitors in Belfast which has closed down within the last two to three years.  
Kevin P Hart  
Hart & Co  
Solicitors  
4th Floor  
Causeway Tower  
9 James Street South  
Belfast BT2 8DN  
Tel: 028 9032 3545  
Fax: 028 9024 5005  
Email: mail@hartandcosolicitors.com

Folio: AN114008L  
County: Antrim  
Registered Owner: PDM Enterprises Limited  
Lands of: 32 Sharman Road, Belfast  
Take notice that any persons 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 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.  
Napier & Sons  
Solicitors  
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  - Cover available to replace Representations and Warranties to enable safer and faster completions.
  - Special policy wordings approved by NAMA for relevant use.

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

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

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

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