

continued from front page

emphasise something.

I was also struck by the extent to which matters of concern to their profession were the same as issues here. The problems of funding Legal Aid in an acceptable manner featured and it was interesting to note how this was tackled in different provinces. The profession is greatly concerned at threats to legal privilege and confidentiality. At one of the main sessions the Federal Justice Minister attempted to deflate a major lobby by Canadian lawyers who opposed a portion of her proposed money laundering legislation, telling the group that their protest was a waste of time. She urged that the need to eliminate money laundering trumped their concerns regarding breach of the sacrosanct principle of solicitor/client confidentiality. With regard to real property matters and sale and purchase of land, the profession has organised itself nationwide in order to counter official and commercial attempts to dumb down the conveyancing process, and to enhance the importance of Title Insurance. Compulsory registration of title is progressively being introduced throughout Canada and difficulties similar to ours are being encountered. It is noteworthy that ADR and mediation are moving forward significantly, and are increasingly being recognised as essential elements in an overall system of justice, particularly with regard to family and government matters. Incidentally, Noel Rea, one of our members in Canada is currently Chairman of the Canadian Bar Association Standing Committee on ADR.

Two parallel conferences are held at the same time in the same venue, including a conference for Judges in Canada at all levels. Accordingly, it is good to see Judges at many of the functions and seminars, both officially and in a private capacity. The Chief Justice of the Supreme Court of Canada, the Right Honourable Beverley McLachlin, gave a key note address at the opening ceremony.

Canada is a vast country (the second largest world-wide) and lawyers from all areas regard their conference at an opportunity to be brought up to

date over wide areas of practice. Accordingly there is an intensive series of lectures and seminars extending over a three day period, with a wide range of excellent topics, such as "Mass Litigation - its aftermath", "Can Lawyers be ethical?", "Winning Advocacy Skills", "The three Rs of planning a successful firm - recruitment, revitalisation and retirement". No-one from these shores need believe that the programmes of overseas conferences would be of little relevance for them. Indeed, attending a Law Conference overseas can be an excellent way to add spice to a holiday.

The social programme was full and enjoyable, including such items as at home dinners, breakfast, late night parties, opening night festivities and receptions hosted by prominent local law firms. Unlike the ABA Conference, where they entertained visitors from all over the world, visitors in Canada tend to be from the British Isles and the Old

Commonwealth. It offers excellent networking as well as learning opportunities.

While on an international theme, may I draw your attention to the short course on European Law and Institutions, to be held in Brussels next February, with residential accommodation in Louvain at the Institute for Ireland in Europe. It is similar to the course held earlier this year and is not to be missed.

The Deputy Secretary will shortly be advertising the course. If you would like advance details please contact her.

John G Neill

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Resolving difficulties with the Land Registers

Dear Colleagues

As you are no doubt aware, the profession is experiencing major difficulties with the Land Registers. The purpose of this letter is to outline the problems and the steps that the Society has taken towards resolving them.

The Registry of Deeds: That venerable institution, which for nigh on 300 years has provided a reliable, if rather inflexible, system of establishing priorities in unregistered conveyancing, is in the throes of being 'modernised', something which should, ultimately, benefit everyone in the conveyancing business. Modernisation is, of course, an euphemism for computerisation and in the Registry of Deeds all registrations from 18th June 2001 onwards are being stored in electronic form. There is also a concurrent programme of back-capture of all registrations for the ten years prior to 18th June 2001. This is a major undertaking for the staff of both the Registry and Syntegra, the company running this Private Finance Initiative. Unfortunately, however, computerisation was introduced on an 'all duck or no dinner' basis, ie without any lead-in period in which the old and the new systems operated in parallel, thus exposing any flaws in the new system and giving both the officials entering the data and the Law Searchers the opportunity to learn how to use it. This, coupled with overloaded and inexperienced staff and insufficient hardware, has given rise to errors in the recorded data and unacceptable delays in effecting registration as a consequence of which the Law Searchers will not stand over the results of their searches.

This has been of great concern to the Society and we have sought to exert pressure, wherever possible, in order to rectify these problems. We have been successful to the extent that we have received assurances from the

registry that the error rate is to be reduced by the beefing up of their quality control, that the arrears will be cleared and the turnaround time for registrations will once more be back to three to four days and that the back-capture will be completed, all by the end of this September. The problem with the Law Searchers, on the other hand, will probably not start to resolve until Syntegra has provided them with the means of producing hard copy of the results of their searches and we understand that this may not happen until the end of October.

The Land Registry: Whilst we have a certain confidence in the assurances we have been given about the Registry of Deeds, we have, unfortunately, no such happy thoughts about the Land Registry. It is our belief that the present backlog of dealings is considerably in excess of the official figure from the Registry of just over 15,000 with a few thousand others log-jammed due to 'catch-up'. Such statistics can be misleading but the figures that are meaningful to practitioners are the actual times that it takes applications to be processed. For example, the target turnaround time for the registration of the transfer of a part folio is 100 working days or 20 weeks but the reality is probably four times that, a fact which busy practitioners are continuously having to explain to lending institutions. The Registry has given us assurances that the problems giving rise to these unconscionable delays are being addressed but that the profession must accept some of the blame due to the high error rate in applications. We do accept that our applications could and should be much better and this was included in our recent submission to the Finance and Personnel Committee of the Assembly. However, we feel that even if it was possible to achieve a zero error rate in our applications it would only make a marginal impact on the present backlog. Our principal concern is that the proposed

roll-out of the next phases of Compulsory First Registration (CFR) which affect the areas of highest density of population in the Province, ie County Antrim and Belfast, and which should happen early in 2002, coupled with the commencement of the Ground Rents Act, will make an already horrendous situation even more so. It is quite conceivable that this may cause the entire process of registered conveyancing to grind to a halt.

There is already a significant ground swell of discontent within the profession about the intolerable situation in the Land Registry and we are constantly being asked what we are doing about it. The answer is 'everything we possibly can' and this includes endless correspondence, meetings with the Registry, appearance before an Assembly Committee, a meeting which we have requested with the Minister, etc, etc. We have pleaded with everyone who will listen to put a hold on any further CFR and the implementation of the Ground Rents Act until the back-log has been reduced to an acceptable level. However, should our pleas fall on deaf ears we shall need feed-back from you, the practitioners, in order to advance your cause. We must have solid facts about the delays that you have experienced and any losses that your clients may have suffered as a result of delays. Anecdotal evidence is not sufficient - we need facts and we need them now. Please therefore inundate Mrs Sarah Witchell at the Law Society with your tales of woe by post, fax (028 9023 2606) or email (switchell@lawsoc-ni.org) as soon as possible.

Yours sincerely
John W D Pinkerton
Chairman
Non-Contentious Business Committee

Adding Value to Property the Green Way

In February 1999 the Department of the Environment and the Department for Regional Development raised the stakes in terms of standards expected in new housing environments throughout Northern Ireland. The resultant Quality Initiative has brought about sweeping changes to the way that new housing developments are planned, built and ultimately enjoyed by those living in them. Each one of these stages will inevitably involve the services of a solicitor. Solicitors acting for landowners, developers and house purchasers need to be aware of the changes.

New planning guidance means that developers must put in place landscaped open space in every new development. This may mean the construction of footpaths and cycle ways, open areas of grass or woodlands, informal play areas or areas of ground managed for wildlife. This can mean added capital expense to the developer, coupled with less income from fewer houses on the site, but is driven not only by new planning guidance but also by higher aspirations amongst property buyers. As it adds significantly to the value of property this can only be good for property developers in the long run. Most realise this and are embracing the changes.

Developers may be persuaded to invest in the landscape but who will look after the greenspace and ensure that this investment does not deteriorate? In the past some housing developments had basic landscaping put in place but no one took responsibility for its maintenance. Without a clear indication of who is responsible for caring for greenspace the result has often been neglect. Grass needs to be regularly cut, litter picked, wildlife protected and paths maintained. The Northern Ireland Greenbelt Company was set up in 1999 to do just this. It's part of the Greenbelt Group of Companies, established in Glasgow in 1992 with the aim of conserving and improving

land, primarily for public use. The Company is self-financing, requiring no public subsidy and is a non-profit distributing organisation.

Developers want to build and sell houses and move on to their next venture. They do not want to be left with a liability. Equally it is not reasonable for this responsibility to be simply passed on to residents, as some developers would wish. Co-operating with your neighbours to cut the grass in a block of apartments may be manageable but maintaining a children's play area, woodland or a nature reserve, with their inherent public liability, in an estate of 100 houses or more is beyond most residents' enthusiasm. In these cases house buyers may not even be made aware of their responsibilities when purchasing.

The Northern Ireland Greenbelt Company offers a long term and sustainable solution to this problem.

How does it work?

The Company takes ownership of all areas of land within a development that are not transferred to a house purchaser as part of their property. We own various architectural features, reservoirs, footpaths and cycle ways, nature reserves, football pitches, woodlands and children's play parks in addition to the more usual grass and shrub beds. The financing required to maintain this land is directly linked to the land ownership. The developer transfers title to the Company of all these areas together with an appropriate fee. The developer either pays a one off fee with no contribution from householders or places a covenant on the title to each house to contribute towards the cost of managing and maintaining the open areas on an annual basis. We ensure this covenant applies to successors of the original purchasers by imposing a covenant requiring each purchaser to register an inhibition on their title to the effect that no disposition of their property will be registered unless accompanied by a

certificate from the Greenbelt Company that the proprietor has complied with the terms of the covenants imposed. The Company also signs the transfers of each plot and requires the title to the development land to be registered land.

The latter mechanism is obviously more cost effective for the developer but it does mean the Greenbelt Company has to be involved in the proposal at an early stage to ensure the required covenant wording is agreed and applies to all plots on the development.

It is equally important that before buying a house, purchasers are aware of the involvement of the Company and the role that we will play in looking after their environment. Solicitors acting for prospective purchasers will need to advise their client of what this involves. Defaulting on payments is rare and is usually due to a specific problem that can generally be resolved. The option of legal action for recovery is not usually exercised, however, through the covenants imposed we always have the ability to restrict the sale of property until outstanding dues attached to that property have been paid.

The Northern Ireland Greenbelt Company Limited is not the only solution to managing greenspace. Where the local council is prepared to adopt and manage public open space then we would recommend this route. Increasingly however, councils do not want to take on this responsibility. If the area is question is of significant wildlife or landscape value then a nature conservation organisation may be prepared to adopt the land. We work closely with these organisations to manage our land where we feel this would be most appropriate.

The Northern Ireland Greenbelt Company can be contacted on telephone 028 9051 1221 or email info@greenbeltgroup.co.uk

Association of Family Solicitors for Children

Lunchtime seminar

Physical Punishment of Children

Venue: Law Society House
Date: 11 October 2001
Time: 12.30pm
Speakers: Dr Fionnuala Leddy and Tara Caul - Children's Law Centre
 Tea and coffee served from 12 noon

I wish to attend the *Physical Punishment of Children* seminar and enclose cheque for £10 made payable to AFSC

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Organisation _____

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 Secretary - Claire Doherty
 McCann & McCann Solicitors, 10 Royal Avenue, Belfast, BT1 1DB

Lunchtime seminar

Children's Rights Commissioner

Venue: Law Society House
Date: 24 October 2001
Time: 1pm
Speakers: Heather Stevens, Office of Law Reform
 Tea and coffee served from 12.30pm

I wish to attend the *Children's Rights Commissioner* seminar and enclose cheque for £10 made payable to AFSC

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BELFAST SOLICITORS



ASSOCIATION

COUNTY COURT COSTS REVIEW

The Belfast Solicitors' Association County Court Sub-Committee has recently been involved in providing a submission to the County Court Rules Committee in relation to a proposed review of County Court scale costs.

Further to a consultation document forwarded to us by the Secretariat to the County Court Rules Committee, enquiries were made in relation to statistics that may be available in relation to cases heard in court and the value of awards made.

The Association produces below a graph illustrating the percentage of Civil Bills dealt with against the value of awards made in the County Courts in Northern Ireland. There is a slight variation in the groupings on the value axis which is

simply the result of the way in which the statistics were provided to the Association. However, any affect on the overall position would be minimal.

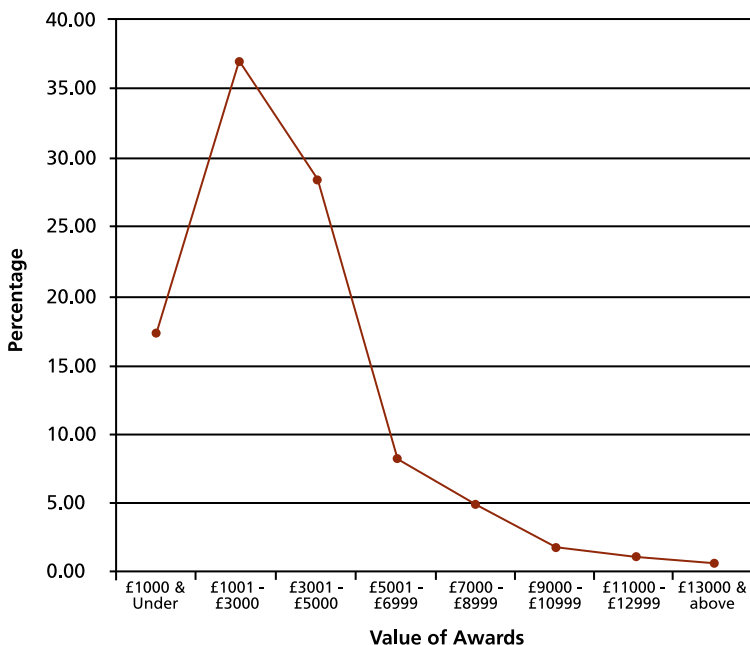
It can be seen that the majority of awards fall between £1,000 and £3,000 and therefore these cases and the associated scale fees (in relation thereto) are those which currently fund a practitioner's County Court practice. At the higher end of awards (and thereby higher scale fees) the number of cases is negligible. (There are almost no awards between £10,000 and £15,000). These statistics make disturbing reading for victims of accidents and must be of grave concern to County Court practitioners.

The Final Report of the Civil Justice Reform Group stated (at para 84) "The Group also believes that concerns regarding the future workload of the district judges are ill founded."

Members should note that last year 89.2% of awards were under £5000. Must members who have a plaintiff County Court practice now identify precisely the 10.8% of cases which will attract an award of over £5000 (year 2000 statistics,) or face the perils of the half costs rule in almost all cases?

The full text of the Association's submission can be viewed at the Association's website at www.belfast-solicitors-association.org.

Percentage of Civil Bills by Value of award against Total Civil Bills 1996 - 2000



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BSA On-Line

The BSA website can be found at www.belfast-solicitors-association.org



By Brian Doherty

ACTION ON GM RULES

The European Commission is taking 7 member states to the European Court of Justice to establish their failure to adopt EU law on genetically modified micro-organisms. These include the UK. The Directive in question provides for a risk assessment procedure involving analysis of the type of genetically modified micro-organisms and the work activity involved. The Directive should have been in force on 5 June 2000.

PHONE TAPPING CHALLENGE

In a further challenge to that to the

European Court of Human Rights, the Irish Council for Civil Liberties are claiming before a Tribunal established under the Regulation of Investigatory Powers Act, that British security services were obliged to have a warrant under the Act, which they did not have, to carry out phone tapping surveillance. The earlier action before the European Court of Human Rights, which is still pending, was with respect to breach of the right to privacy. The allegations before the tribunals arise from information in a Channel 4 documentary that telephone, fax and e-mail data between Ireland and the UK had been tapped between 1990 and 1997.

ALLEGED THREAT TO PROTECTED WILDLIFE AREAS AND LANDSCAPES

A variation on the Wicklow County Council Development Plan allowing tourist accommodation in protected wildlife areas is being challenged by An Taisce as a breach of various EC Directives, including relating to special Areas of Conservation and Birds. The allegation comes as Ireland awaits the judgement of the European Court from a European Commission infringement

proceeding for breach of the Habitats Directive.

PROCEEDINGS REGARDING NITRATE VULNERABLE ZONES

The Commission is alleging that Ireland is the only member state which has not designated any nitrate vulnerable zones and has in consequence decided to take infringement proceedings against Ireland for lack of implementation of the relevant Directive.

The Commission is also taking action against other member states, but it is alleged that Ireland's breach of the Directives requirements is the most serious.

COMPETITION ISSUE REGARDING POWER STATIONS

The European Commission is investigating whether the Electricity Supply Board should divest its stake in the new gas fired power station in Dublin.

Its joint venture is with Statoil, the Norwegian multi national.

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Law Centre (NI)

Union wins legal fight on holidays

The Working Time Regulations (Northern Ireland) Order 1998 came into operation on 23 November 1998. Under Part 11 Regulation 13, the period of leave to which a worker is entitled is three weeks in any leave year beginning on or before 23 November 1998 and four weeks in any leave year beginning on or after 23 November 1999. However, under Regulation 13 (7), this entitlement does not arise until a worker has been continuously employed for a period of thirteen weeks.

BECTU, an independent union for those working in broadcasting, film, theatre, entertainment, leisure, interactive media and allied areas, primarily in the UK, represents permanently employed, contract and freelance workers within this field. When employed, most of these workers are on short term contracts and do not generally satisfy the thirteen week qualifying condition in Regulation 13 and so do not become entitled to paid annual leave. This has resulted in millions of workers including media workers, teachers and cleaners, being denied the right to take paid leave.

Following unsuccessful legal efforts in the UK to change the law, BECTU took the case to the European Court of Justice (ECJ). The High Court of Justice of England and Wales submitted two questions for a preliminary ruling under Article 234 of the Treaty of Rome on the interpretation of Council Directive 93/104/EC of 23 November 1998 concerning certain aspects of the

organisation of working time. Basically, in light of Article 7 of the Working Time Directive, the court wanted to ascertain whether the legislation of a member state could lawfully provide that a worker's entitlement to paid annual leave would only accrue after a continuous period of employment with the same employer.

A legal opinion was published on 8 February of this year by the Advocate General to the ECJ supporting the claim that the UK government failed to implement new rules on leave entitlement. The opinion stated unequivocally that the UK government acted unlawfully when it introduced legislation to comply with the Working Time Directive in 1998. It stated that the European Working Time Directive precluded national governments from excluding groups of workers from the rights that the Directive gives them.

On 26 June 2001, the members of the ECJ accepted the opinion of the Advocate General issued in February and ruled that the UK government was in breach of European employment law in denying freelance workers and those on short term contracts the right to four weeks paid annual leave. In the ECJ's judgement, the right to paid annual leave of a minimum duration of four weeks "from which there can be no derogation, constitutes a social right conferred by the Directive on every worker as a minimum requirement necessary to ensure protection of his health and safety". Rules limiting

access to the right are liable to abuse from employers who wish to avoid obligations to their workers by using frequent short-term contracts.

The directive allows member states to set down conditions for the implementation and exercise of the right to paid annual leave but member states are "not entitled to make the existence of that right... subject to any preconditions whatsoever".

BECTU's legal case is the first of an individual trade union winning a case against the UK government at the ECJ. The union's lawyers were critical of the government for waiting until the ruling and have called for changes in the law without further delay. When government acts upon the ruling, workers can expect guaranteed paid holidays irrespective of their length of contract. The government has published a consultation document with draft amending regulations to bring the law into line with the ECJ's interpretation of the Directive, inviting comments on its proposals by 27 July 2001. The proposed regulations remove the thirteen week qualifying period and introduce instead a system for the entitlement to accrue during the first year of employment, at the rate of one-twelfth of the entitlement for each month of employment. Hopefully changes will be implemented very quickly.

Lois Biggerstaff, Law Centre (NI)

Risk Management

ADVICE

A Quick Quiz...

You receive a letter from a client, claiming that your firm has acted negligently and asking for damages. Do you:

- (a) Telephone U.I.S, notify them of a potential claim and wait for their advice?
- (b) Write to the client saying how sorry you are that your firm got it wrong and that your insurers will be settling the claim?
- (c) Send a one-line reply denying any negligence and threatening to sue the client for libel?

The claim proceeds, and your insurers ask to see your file of papers. What do you do?

- (a) Send the file in - you know it's in good order because you have strict policies about file keeping and it has been reviewed regularly.
- (b) Call for the file, which you haven't looked at so far, and spend several hours putting it in order before sending it.
- (c) Send the file in - this claim is completely unfounded and you don't see why you should spend any time looking at it.

The insurers eventually inform you that they intend to settle the claim - there are problems on liability, it's for the small sum and it would be uneconomical to defend if proceedings were issued. How do you respond?

- (a) Accept, with resignation - it's within your firm's excess, and you would rather settle it without proceedings being issued. You'll be examining the file to see what

you can learn from this experience.

- (b) Agree reluctantly - you don't want to have to go on thinking about this. Anyway, the fee earner responsible won't be getting a pay-rise this year - that will cover the excess.
- (c) Refuse. You're confident that the client hasn't got the means to bring proceedings - so what if you might have been at fault, you would like to call his bluff.

Mostly (a): You've got a good approach to claims, and a positive attitude. Your firm's existing management procedures should prevent any claims from arising, but you'll be sure to learn from any that you do receive.

Mostly (b): Perhaps you should think about investing a little more in developing procedures and policies which should reduce the risk of claims. It would save time

in the long run. A 'no blame' culture, where fee-earners are not criticised for admitting to mistakes, would also benefit your firm.

Mostly (c): There's a lot you could learn about risk management - but you've got to be risk aware first. Unless you can accept that we are all capable of making mistakes, you'll be unlikely to recognise the areas where risk can arise.

The moral: if you receive a claim, don't panic - contact your insurers, who will be able to advise you. An objective view can only help. Your insurers will have experience in dealing with claims and will discuss liability, causation and quantum. And of course, you should ask your insurers to advise you on effective approaches to risk management.

RISK MANAGEMENT

Transferred File - or hand grenade?

This month Alistair Sim considers the risks that arise when a current file is transferred from one fee earner to another

The title 'transferred file or hand grenade?' is borrowed from a commentary on risk management issues from another jurisdiction. Risk management commentaries from other parts of the world identify the transfer of work in progress from one fee earner to another in the same firm as a specific area of risk for lawyers.

The transfer of a live file creates the opportunity for a breakdown in communication, a misunderstanding, an incorrect assumption on the part of one or other or both of the fee earners resulting in something going unchecked or left unattended to, a question not asked, a document left incomplete or unrecorded.

Transferring files

When taking over responsibility for a piece of work in progress, particular care needs to be taken to avoid the temptation to make assumptions about the file which may prove to be incorrect.

You might assume, for instance, that the information about the client and the client's instructions in the file are correct in every respect; that everything you would have done at a particular stage of a piece of work will have been done; that critical dates have been properly ascertained and diaried. That may not be the case.

The circumstances in which you are taking over responsibility for the file may be such that it is dangerous to assume that matters will have been dealt with properly. The colleague may have left the firm for another job, may have moved departments or retired.

In all of these circumstances, there could be reasons why matters have not been attended to as well as they might prior to your taking over the file. The colleague's mind may have been on other matters for some time prior to leaving/handing over the file. The colleague may have been under pressure to finalise as much work as possible prior

to leaving and that pressure may not have been conducive to attention to detail.

Perhaps the colleague has gone off ill, in which case his work may have been suffering from a lack of concentration in the days before taking sick leave. The colleague may have been anxious about a more serious medical condition.

Perhaps you have been passed the file as someone experienced in a specialist area of work by a colleague who recognised that the work was outwith his or her experience. Depending on the stage at which the file was passed on, a certain amount of work may have been done already.

In all of these circumstances more than a cursory file review is appropriate. The file needs to be read thoroughly to ensure that everything done to date is correct; that nothing has been omitted and that none of the crucial facts has been misunderstood or mis-recorded.

If it is practicable, review the file while the colleague who has been dealing with it is still in the office and available to discuss and clarify any areas of doubt.

Whatever the circumstances in which someone is handing over the conduct of a piece of work, that fee earner should be encouraged, with the reassurance that there will be no recriminations over honest mistakes, to identify any problem of which the fee earner is aware. The same goes for someone leaving the firm. They should be encouraged to make a disclosure about any file which they consider could present a potential problem. This is in everyone's best interest.

Remember to tell the client whenever there has been a change of responsible fee earner. If this is a case where you have been passed the file to deal with a specialist matter, make sure you agree with your colleague who is communicating with the client and who is keeping track of time limits and deadlines.

Example:

A partner was retiring on account of ill

health and his varied workload was transferred to the remaining partners according to their particular area of expertise. The litigation partner took over the small number of files involving contentious matters, one of them being a personal injuries claim for a client who had been involved in a road accident. The retiring partner had produced what appeared to be a comprehensive handover note and this indicated that the claim would become time barred on a date which was about a year and a month hence.

The other files called for more immediate action and they received priority attention. When, a month or so later, this particular file was actioned and a letter sent to the relevant insurers, it emerged that the claim had just recently prescribed. The information on the file, in the diary system, in the retiring partner's briefing note was all incorrect, out by a year.

Had the client provided incorrect information? Apparently not. How had the error occurred then? Impossible to say whether the retiring partner's error was the result of the illness which prompted his early retirement or just one of those slips ups that can afflict any of us from time to time. Whatever caused it, the outcome was precisely the same.

How to avoid a recurrence?

The partner who had taken over the file resolved that, in future, when taking over a litigation file for a colleague, he would always undertake a careful review of the essential elements of the case to verify, among other things, that the prescription date had been correctly identified and diaried with appropriate countdown reminders. The experience prompted him to go further and to adopt a standard procedure of having a colleague verify his own assessment of the prescriptive date in all his litigation cases.

Risk management points

The fee earner taking over responsibility for a file should read it thoroughly and ensure

- that the terms of engagement

agreed with the client are properly understood, any areas of doubt being clarified as soon as possible

- that everything undertaken to the date of transfer is correct and that critical dates have been verified and diaried properly
- Encourage fee earners who are leaving to identify problem or 'skeleton' files without fear of recrimination

Consider whether it may be appropriate in certain circumstances to conduct a thorough audit of all the departing fee earner's files to identify any potential problems and deal with the, ideally while the fee earner is still in the office.

Transfers between departments/offices
Problems can also arise as a result of poor communications between different departments or different offices.

In larger practices, files may be transferred between different specialist departments. The conveyancing department may become involved in a corporate transaction, the litigation department may become involved in a conveyancing transaction etc. There is potential in these situations for ineffective communication to result in incorrect assumptions being made and for errors and omissions to result.

Risk management points

Ideally, the instructions from one department to another should be as thorough as if the firm were contracting the work out to another practice. It is suggested that there ought to be a standard form of instructions which should include:

- Inventory of all documents being transferred and request for confirmation of receipt
- Explanation of the current position and what requires to be done next
- Indication of timescales and time limits and request for confirmation that critical dates have been noted, agreed and diaried with appropriate countdown reminders
- Agreement about who will be responsible for the work on the file and who will be taking instructions from and reporting to the client - and who will be advising the client of all these arrangements
- Discussion concerning fresh terms of engagement or amendment of the terms of engagement initially agreed with the client
- Notification to other interested departments of the transfer of the file

Again, it is important that the recipient department verifies the crucial dates and other essential points and does not make assumptions that the transferring department's assessment of these matters will be correct in all respects.

The recipient department should check what has been said to the client that could have raised the client's expectations as regards service or result/outcome. It may be appropriate to correct the client's expectations if they have been raised unrealistically.

The information in this page is (a) intended to provide guidance on

matters of practical risk management and not on issues of law and (b) is necessarily of a generalised nature. It is not specific to any practice or to any individual and should not be relied on as stating the correct legal position.

Alistair Sim is Associate Director in the Professional Liabilities Division at Marsh UK Ltd (email: Alistair.j.sim@marsh.com).

This article, which appeared in an earlier publication in the Journal of the Law Society of Scotland, has been reproduced with the kind permission of the Law Society of Scotland.

Time for change

Many solicitors admit to being strangely drawn to this column. But after reading it and thinking 'that nearly happened to me', how many actually change the way they work?

The important point is not to develop a macabre interest in other people's misfortunes but to learn from their mistakes. The aim should be to take steps to avoid falling into the same traps.

Sadly these warnings are not always heeded. Solicitors are making the same old mistakes time and again.

Here are some common examples:

- The final document, be it a lease, will, witness statement or commercial agreement, does not reflect the client's instructions;
- Cheques are drawn for incorrect amounts, in favour of the wrong person, or sent to the wrong address;
- Time limits are not identified or are simply over-looked;
- Files are sat on, clients' affairs are not progressed, resulting in delay, loss and anger;
- Important facts or information are not communicated to the client, preventing the client from making an informed decision - 'Had I been told that, I would never have bought the property';
- The client is not correctly identified. (Watch out for this in corporate and commercial matters);
- No steps are taken to define what the solicitor will or will not be doing for the client, and no retainer letter is sent;
- No record is kept of advice given to a client. the client then denies every having received the correct advice, and says that if he had he would have acted differently;
- Staff, including partners, are not supervised properly and are left to their own devices. This results in the 'rain maker' or maverick (often left alone because he or she 'brings in the money') racking up claims and acting as the 'flaky end of respectability';
- Work is not delegated in a structured manner, but is dumped on other members of staff, normally junior fee earners. This often results in junior staff being given unrealistic workloads and matters outside their expertise. When something goes wrong it is of course 'their fault' and the problem is 'solved' by sacking them;
- Solicitors take on matters which they do not have the resources or expertise to handle. In addition they fail to keep abreast of case law, statutes or regulations that have a fundamental impact on the area of law that they practice;
- A complete lack of organisation within the firm, caused by an absence of systems and procedures. This results in lost files, deeds, wills, and documents. How much time do you and your staff waste looking for such items?

All of these scenarios have caused, and continue to cause, claims. So if you recognise the, you need to do more than thank your lucky stars that you haven't had a claim. You need to take action, now.

Report on Children's Law Centre Conference Bringing Rights Home for Children

10th May 2001, Belfast

On 10th May 2001 the conference entitled Bringing Rights Home for Children took place in the elegant surroundings of Malone House in Belfast. The conference was organised by the Children's Law Centre in association with the Guardian ad Litem Agency and the Association of Family Solicitors for Children.

The purpose of the conference was to examine the impact for children and young peoples rights of the Human Rights Act 1998 and the United Nations Convention and Rights of the Child. The conference also examined the potential to bring children's rights home through the creation of a Bill of Rights for Northern Ireland and the establishment of a Children's Commissioner.

The speakers were professionals from various professional disciplines and included members of the judiciary, lawyers, academics, policy makers and the Norwegian Children's Ombudsman. The delegates attending the conference consisted of lawyers, social workers, guardians ad Litem and representatives from various organisations involved in the promotion of children's rights. Once again professionals from various backgrounds were united in the quest to progress further their information and understanding of the future development of rights for children and the significance of the multidisciplinary approach was reinforced.

The conference was opened by the Minister of Education, Mr Martin McGuinness, who spoke generally about the proposals for the future

development of children's rights in Northern Ireland. In his role as Minister of Education, Mr McGuinness made particular reference to the government's ongoing concern about the inadequacies within the present system of assessment of our 11 year olds in their transfer from primary to secondary level education. He also welcomed the proposed establishment of a Children's Rights Commissioner within Northern Ireland and the development of a children's strategy as future means of safeguarding the rights and interests of our children and young people.

Mr Justice Gillen welcomed the delegates to the conference and there then followed presentations from a variety of speakers outlining the present position in relation to children's rights in various areas. The speakers also made recommendations as to how the current status of children's rights may be improved in the not too distant future.

Dr Ursula Kilkelly, lecturer in law at the University College of Cork and a well known speaker to all family lawyers, began by providing a broad overview of the impact of the Human Rights Act and UN Convention on the Rights of the Child for children in court proceedings. She made reference to the relevant legislative provisions and commented on very recent case law coming before European Court. The audience were reminded that the Human Rights Legislation provides us with opportunities to take steps to improve the rights of our children within the Northern Irish Legal System.

Following a short break for coffee

the morning proceeded with a presentation from Ms Laura Lundy, senior lecturer at Queens University, Belfast School of Law, on the child's right to education. Ms Lundy highlighted some of the ongoing problems currently experienced by children within the educational system by recounting to the audience specific instances of some of the dreadful experiences suffered by individual children. The horror of the impact on the individual child of such experiences brought home to the delegates the need for more proactive intervention to be taken in areas such as bullying and the alleviation of the ongoing difficulties experienced by children suffering from learning difficulties. It is clear that policies need to be implemented to tackle such problems as a matter of urgency.

The audience was subjected to a brief talk from the writer on "Children's Rights in Family Law". Hopefully without boring the delegates too much I sought in particular to highlight the need for an urgent review of the current Children Order to allow for the representation of children in private law proceedings.

Moving on quickly! There then followed a talk from Tara Caul of the Children's Law Centre. Ms Caul spoke about child protection - children in care. Ms Caul identified a number of areas where gaps lie in relation to children's rights in the context of going into and leaving care including: the lack of provision of mental health services. The requirement for the establishment of a needs led approach to the provision of suitable residential accommodation for children in care, and the need for review of the current legislation to enable a

child or young person to have access to the court for the purpose of challenging any review of the care plan. Ms Caul also commented on the recent document issued by the Department of Health and Social Services and Public Safety entitled "Proposals for Children Leaving Care Bill". Finally, and probably most importantly, the need for adequate funding for proper services was re-inforced by the speaker.

The morning came to a close with a paper from Dr Ursula Kilkelly, setting out the effect of both the European Convention of Human Rights and the United Nations Convention on the Rights of the Child on children and young people within the justice system. Dr Kilkelly reminded the audience that the Conventions do more than proscribe a certain treatment of children in conflict with the law. She referred to examples of good practice contained within the Convention such as the Beijing Rules, the Riyaaah Guidelines and UN Rules for the protection of Juveniles Deprived of their liberty which afford the opportunity to the Courts to apply a dynamic approach to the whole issue of juvenile justice.

A break for lunch allowed the delegates the opportunity, not only for welcome replenishment, but also to consider more fully some of the issues raised by the speakers during the course of the morning.

After lunch the audience returned to the conference where the afternoon proceeded with an examination of the potential impact on children's rights by the introduction of a Children's Rights Commissioner and the establishment of a Bill of Rights.

Ms Heather Stevens, head of the Human Rights Unit - Office of First Minister and Deputy First Minister discussed plans afoot for the introduction of a Children's Commissioner for Northern Ireland. Ms Stevens spoke of the Minister's announcement on 29th January 2001 and the key features

to be considered in the setting up of a Commissioner for Children in Northern Ireland. She spoke of the government's intention to engage in a wide ranging consultation process with the publication in August 2001 of a consultation paper for public consideration. Ms Stevens stated that at the expiration of the consultation period draft legislation would be presented to the Assembly with a view to the appointment of a Commissioner by Spring 2002. It was also the government's intention to engage in public consultation regarding the implementation of a strategy for children in Northern Ireland in early 2002. The consultation document is now available for consideration by the public. Already it has promoted a great deal of debate among many professionals working with or on behalf of children.

Ms Paddy Kelly, the Director of The Children's Law Centre spoke of the introduction of a Bill of Rights in Northern Ireland. Ms Kelly spoke on behalf of the Children and Young People's Working Group, a group set up by the Northern Ireland Human Rights Commission to assist in providing ideas about possible rights relating specifically to children that may be contained within a Bill of Rights. Ms Kelly made some useful suggestions and of particular relevance to lawyers was the proposal that children as well as adults should have the right to legal representation in cases involving decisions that affect them. She also suggested that the age of criminal responsibility be brought in line with other countries - that is the age of 14 and not 10 which is the position at the present time in Northern Ireland. There is evidently need for the creation of Bill of Rights within our jurisdiction and it is important that within the Bill specific rights are accorded to children and young people to ensure that their particular interests are adequately safeguarded.

The day ended with a

presentation from the keynote speaker for the afternoon, Mr Trond Waage, the Norwegian Children's Ombudsman. The audience was enlivened by the Ombudsman's vitality and humour and it was clear not only through the content of his discussion but also by his form of delivery that he was dedicated to the promotion of children's rights. Mr Waage highlighted the importance of constant communication with children. It was the view of the Ombudsman the Commissioner needs to be flexible, innovative, holistic and futuristic and must be proactive in his/her role. Mr Waage also described the need for openness and the opportunity to be available to the Commissioner to have the freedom and independence to do what is required to fulfil his/her role. I would have enjoyed the opportunity to have discussed further with the Ombudsman the ways in which his office has developed since its implementation in 1981. Unfortunately Mr Waage was whisked off to speak with his most important audience - a group of children.

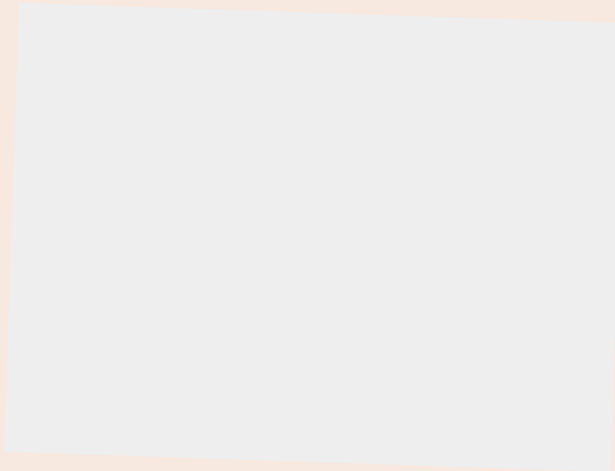
The conference was both informative and enjoyable. It generated new and innovative ideas for possible future challenges within the legal system to improve the rights of all children and young persons in their access to justice before the Northern Ireland Courts. It is now incumbent upon us to take these ideas forward with a view not only to eliminating the current deficiencies and inadequacies within our legal system in protecting children's rights but also to becoming proactive in seeking at all times in our practice as lawyers to improve the legal status of our future generation.

Karen Fox

Solicitors' cash flow problems

While holidaying in the USA recently, David Ramsey of John G. H. Wilson & Co. took this photograph.

Mr Ramsey was grieved by the level of resentment directed towards our profession during a shopping trip to a local supermarket, where he spotted a warning to all customers!



Law Society Notice

To cover costs, it is necessary to increase the price of Enduring Powers of Attorney Forms and Personal Asset Logs.

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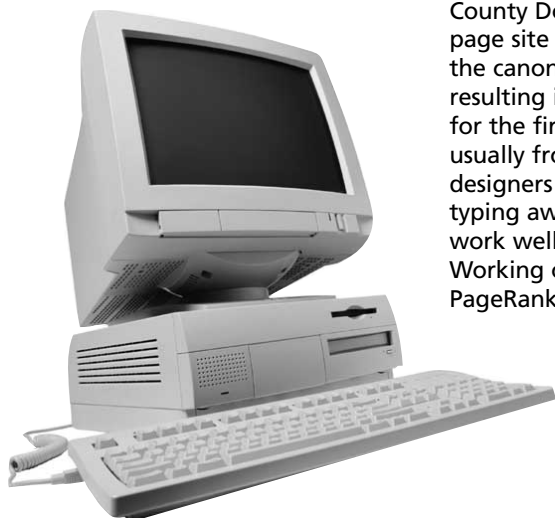


WEB WATCH

While many would consider that there is little to choose between the leading Internet Service Providers such as AOL, Demon and Freeserve the same cannot be said of search engines. The battle used to be between Altavista, Excite, and Yahoo (strictly speaking a directory not a search engine). Now, Google appears to be everyone's favourite and it looks destined to remain at the top spot for a good while to come.

Google indexes over 1,610,476,000 web pages and has this uncanny ability to find exactly what you're looking for on the web. It is a highly sophisticated search engine using a Page Rank system to produce top results.

According to Google PageRank relies on the uniquely democratic nature of the web by using its vast link structure as an indicator of an individual page's value. In essence, Google interprets a link from page A to page B as a vote, by page A, for page B. But, Google looks at more than the sheer volume of votes, or links a page receives; it also analyzes the page that casts the vote. Votes cast by pages that are themselves "important" weigh more heavily and help to make other pages "important."



Important, high-quality sites receive a higher PageRank, which Google remembers each time it conducts a search. Of course, important pages mean nothing to you if they don't match your query. So, Google combines PageRank with sophisticated text-matching techniques to find pages that are both important and relevant to your search. Google goes far beyond the number of times a term appears on a page and examines all aspects of the page's content (and the content of the pages linking to it) to determine if it's a good match for your query.

Users of the search engine this month who type in the words "law firms Fermanagh" or "law firms Monaghan" are likely to come across one and the same web site from Morgan McManus Solicitors (www.borderbizlaw.com/). This is the first firm with a web site in either county and it's an impressive addition to the on-line legal community. It makes the point well that business and the Internet transcends borders and contains enough quality content to ensure repeat visitors. This includes a Legal News section and an on-line law dictionary. Also impressive is the site from Adrian Travers

(www.adriantravers.ulsterbiz.com) in County Down. This is a simple one page site which observes many of the canons of good web design resulting in a fine on-line presence for the firm. Animated gifs are usually frowned upon by many web designers but the secretary furiously typing away on the site seems to work well. But what is she doing? Working on a conveyance, putting PageRank to the test or simply enjoying herself in a chat room? Answers on an email please...

barry-phillips@hotmail.com

Obituary

Patrick Desmond (Des Smith)

Des Smith was admitted in 1984 following an apprenticeship with Thomas McKeever Solicitor. He died suddenly, albeit after a long illness, on 27th August 2001. A native of County Cavan, he came to the law as a mature student, having worked in the public service in England. Upon qualifying, he practised for a short time in Northern Ireland before returning to England to be employed as a local Government solicitor.

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ECHR JUDGEMENTS: ARTICLE 2 CONVENTION RIGHTS

On 4th May 2001, the European Court of Human Rights handed down judgements in four ground-breaking right to life cases. In this article Paul Mageean of the Committee on the Administration of Justice sets out an analysis of the legal implications.

Jordan v UK concerned the death of Pearse Jordan, an unarmed IRA member, who was killed by an RUC officer on 25 November 1992. Kelly v UK involved the killing of nine men by the SAS at Loughgall RUC station on 5th May 1987. Eight of the men were IRA members; one was an uninvolved civilian. Shanaghan v UK concerned allegations of police collusion in the UFF killing of Patrick Shanaghan on 12th August 1991. McKerr v UK involved the killing of Gervaise McKerr, an unarmed IRA member, by RUC officers on 11th November 1982.

In each of these cases, the European Court of Human Rights unanimously held that the government had violated the applicant's right to life under Article 2 in failing to carry out effective official investigations into the killings.

The judgements will have significant implications for lawyers in Northern Ireland advising on cases involving controversial killings, either at the hands of the police/army or in other suspicious circumstances. It is also likely that the European decisions will lead to changes in policy, practice, and law in relation to police investigations, prosecutorial decisions, and the inquest system.

The Police investigation

In all four cases, the European court found that the police investigations had not been sufficiently independent. The RUC officers investigating the deaths lacked the necessary independence from the members of the security forces involved (or implicated) in the killings. The Court made clear that an independent investigation "means not only a lack of hierarchical or institutional connection but also a practical independence."

The Director of Public Prosecutions

In Jordan, Kelly and Shanaghan, the European Court made clear that the DPP's failure to give reasons for his decision not to prosecute the police officers involved (or implicated) had undermined the independence of and confidence in the legal process. In these cases, the Court described the incidents concerned as "crying out for an explanation." The Court then emphasised the importance of "a reasoned decision available to reassure a concerned public that the rule of law has been respected."

The Inquest System

The European Court also identified a series of deficiencies in the inquest system in Northern Ireland. The Court found that:

(1) the Coroner's inability to control members of the police and army in killings meant that there could be no satisfactory assessment of their reliability or credibility;

(2) The failure to allow for verdicts or findings meant that inquests could play no effective role in the prosecution of potential criminal offences;

(3) long delays had violated the applicant's Article 2 rights; and

(4) the failure to provide the victim's family with copies of witness statements before the inquest was a serious flaw in the procedure.

In Shanaghan, the Court also focused on the issue of collusion by the police. The Court explained that the Coroner had prevented Mr. Shanaghan's family from submitting evidence on collusion, and that "serious legitimate concerns of the family and the public were therefore not addressed by the inquest proceedings."

Conclusion

The applicants were awarded £10,000 in compensation for the government's failure to carry out an effective, official investigation into their family member's death. The judgements became final and binding on 4 August 2001, following the government's decision not to appeal.

Solicitors letters sent to HM Prison Maghaberry

Due to the large volume of solicitors' letters received at this establishment, it has proved quite difficult to keep a record of them all.

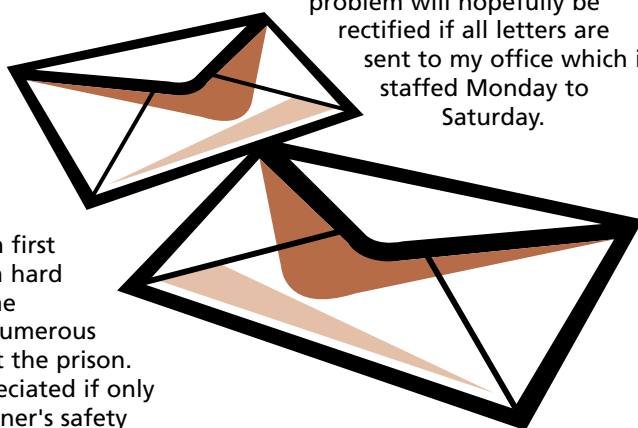
In order for us to make our system more efficient it would be appreciated if all solicitors' letters could be forwarded to myself at:

Valerie Hayes
General Office
HM Prison Maghaberry
17 Old Road
Ballinderry Upper
Lisburn
BT28 2NF

Quite a few solicitors fax their letters to the prison first and then follow it with a hard copy. This can cause some confusion, as there are numerous fax machines throughout the prison. It would be greatly appreciated if only letters relating to a prisoner's safety

are faxed to the following number: 028 92 611756 for urgent attention.

We have a policy at the prison where we try to answer a solicitor's query within 5 working days of receiving it. This has proved quite difficult as the letters may lie on certain desks if staff are on holiday, sick leave etc. This problem will hopefully be rectified if all letters are sent to my office which is staffed Monday to Saturday.



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FASCINATING RHYTHM: ABA CONFERENCE REPORT

Summer time (and the learning is easy). The Annual Conference of the American Bar Association was held in Chicago from 3rd to 8th August and was attended on behalf of the Society by President John Neill and Chief Executive, John Bailie.

First impressions? A Conference on an almost overwhelming scale. Current membership of the ABA is around 410,000. The six conference days were packed with business comprising a total of 165 seminars. Second impressions were of the enormous diversity of interests within the profession in the USA. The topics ranged from the practical (The Lawyer's Techno-Survival Guide) through local or specialised interests (California's Electric Restructuring Experience) to more familiar themes (New Initiatives to Combat International Laundering). Programmes dealing with the role and impact of women in the law, the uses of Alternative Dispute Resolution, and 'lifestyle management' were all prominent.

The third, and perhaps the most enduring impression was the efficiency and energy with which the Conference programme was organised and delivered. Taking care of business is obviously a big part of the American Way, reflected emphatically in the professional culture of lawyers.

During the Conference this year two events of special interest and significance to solicitors in Northern Ireland took place. The first was a reception organised and hosted by the IDB (NI) - reported on separately elsewhere in this edition.

The second was a dignified ceremony to mark the ABA Rule of Law Award to our colleague Mrs Rosemary Nelson. This event was sponsored by the International Section of the ABA on the evening of 6th August. The citation was delivered by the Chairman of the International Section, Dan Magraw. He explained the importance of the award, made only occasionally

by the ABA to recognise an exceptional contribution to the upholding of the rule of law and human rights. Responding Ed Lynch expressed on behalf of the Nelson family their gratitude to the ABA for the award and spoke movingly of the circumstances surrounding Rosemary Nelson's murder. The President also was honoured to address briefly the gathering of distinguished international guests. He did so expressing appreciation of the ABA and the Award, referring also to the personal tragedy of Rosemary's untimely death, and the sense of shock and sympathy which news of her death had created in Northern Ireland and internationally. He paid tribute to the work of Rosemary and her colleagues in the criminal defence fraternity in particular, and also to all those members of the legal profession who had contributed so significantly to maintaining the rule of law in Northern Ireland, often at great personal cost. The ceremony was a moving and fitting tribute to Rosemary Nelson, at once respectful, sombre and quietly impressive in its affirmation of the solidarity of all lawyers, irrespective of background or cultural context, in the core principles of their profession.

Apart from the award ceremony three other events will stand out as memorable highlights of a week well spent. The Margaret Brent Awards in which the achievements of five eminent American women lawyers was recognised. Each of the five was remarkable and delivered acceptance speeches which were powerful and inspiring to the whole audience, irrespective of gender. Also an extraordinary dinner in the eclectic surroundings of the Lion House at Chicago Zoo, notable mainly for the fact that even the most accomplished advocates had to defer to the speech-interrupting roar of the bigger, fatter cats. And also the formal opening ceremony, held in the home auditorium of the Chicago Symphony Orchestra, at which the President of

the ABA, Martha Barnett spoke of the self-respect lawyers should have for the contribution they can make to society and the principles for which they stand.

On the final evening, some excellent entertainment was provided by a young singer-pianist. Apart from a brilliant improvisation (on the theme of Popeye the Sailor man), his American repertoire comprised pieces, principally by George Gershwin. These pieces, in their sophistication, creativity, complexity, diversity, energy and love of life somehow captured the essence of the ABA experience, and serve to make more stark the death and destruction visited on our American friends and colleagues just one month later - when the music stopped.

Winter Fuel Payments

An article entitled Winter Fuel Payments and the EC, featured in the Law Centre's magazine Frontline 41 (Summer 2001), may have been misleading in as much as it stated that payability was gender related. While the law in force at the time the case in question was decided meant that payments could be made to women aged over 60 and men aged over 65, this is no longer the case.

Following the decision of the European Court of Justice in case C-382/98, R v Secretary of State for Social Security ex p. Taylor (ECJ December 16, 1999), the age for eligibility has been equalised at 60 for both sexes. Men may need to make a retrospective claim for the winters of 1997/1998, 1998/1999 and 1999/2000 if they were aged between 60 and 65 at the time.

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The basics of HTML and web design

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THURSDAY 29 NOVEMBER
(10 CPD points)

Legal Resources on the Internet

Introduction to searching on the Net
Specific legal search tools.
Examples of legal resources available.

Venue: Room 3.11 in the Peter Froggart Centre Q.U.B.

Time: 5.30 pm

Cost: Members £15 for each seminar or £30 for all three

Non-members £20 for each seminar or £40 for all three

Booking: Caroline 0117-923-7393

NORTHERN IRELAND COURT SERVICE

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Telephone Number
Name and Address of Deputy Coroner
Telephone Number

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Henry Roger McKibbin, CBE, ERD, LLB deceased

Harry McKibbin died on 3rd September 2001 aged 86, deeply mourned by all who knew him. He had enjoyed a long, varied and fulfilling life.

Harry was educated at the Royal Belfast Academical Institution, where he learned his rugby, playing for four years on its 1st XV, captaining it in the Schools' Cup winning year of 1934, in which year he was head boy of the School. He proceeded to Queen's University where he graduated LLB in 1938 and then became apprenticed to the late John A Adrain. His apprenticeship was interrupted by the outbreak of World War II; he joined the 8th Belfast Regiment of the Royal Artillery, served in France with the British Expeditionary Force, was evacuated from Dunkirk, served in Burma and was promoted a Major. On demobilisation he completed his apprenticeship with Mr Adrain in 1947 and in 1948 he became a partner in the long-established firm of S & R

Crymble, with which he remained a partner until its dissolution in 1980, when he and Harry Junior (now a Resident Magistrate) practised together until 1998 when failing health forced retirement.

Harry was a deeply religious man who throughout his professional life practised his beliefs and was highly esteemed by his peers and his clients for his integrity, knowledge and the assiduous manner in which he conducted his practice.

Harry was internationally known for his magnificent services to the game of rugby, first as a player and later as a respected administrator. On leaving school, he played as a centre for Queen's University, making his debut for Ireland in 1938, when on the strength of one cap against Wales, he was selected for the British Lions' tour of South Africa captained by the late Sammy Walker. He played in all three test matches of

that tour (being by many astute observers deemed the finest of the British players) and for Ireland three Home Internationals in 1939, by which time his reputation as a magnificent centre was firmly established and but for the War, he would certainly have won many more caps. On demobilisation he played for Instonians until retiring from the game.

His administrative services to rugby were legion - President of the Queen's University Rugby Club, and Irish Selector for 3 years, the Irish representative on the International Board for 20 years, President of the Ulster Branch in 1962/63 and President of the Irish Rugby Football Union in its centenary year, 1974/75. All these legendary services to the game were happily - and justly - recognised when in 1975 Her Majesty the Queen awarded him the honour of a CBE.

Above all, Harry was a dedicated family man and the sympathy of all who knew him is extended to his devoted wife Sheila, his children Harry, Deborah, Roger and Alastair and his 11 grandchildren.

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NORTHERN IRELAND OFFICE - CRIMINAL JUSTICE POLICY BRANCH

Consultation Paper on the Review of Part 1 of the Sex Offenders Act 1997

The copy of the above paper is available in the Society's Library.

The Criminal Law Committee will not be responding to the consultation document at this stage but will respond to legislative proposals in due course.

If any individual members wish to respond, please note that the response date is 19th October 2001.

S. R. 2001 No. 290

Legal Aid and Advice

The Legal Advice and Assistance (Amendment No. 3) Regulations (Northern Ireland) 2001

These Regulations extend assistance by way of representation, under Article 5 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981, to life sentence prisoners at hearings before the Life Sentence Review Commissioners.

The Regulations came into operation 1st September 2001

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PRACTICE NOTE

Adjournments in the Queen's Bench Summons Court

In future the Masters will only permit summonses to be adjourned for a minimum period of four weeks, unless good reason is given justifying adjournment for a shorter period. Examples of good reason justifying shorter adjournments include:-

1. The action has been listed for trial
2. The summons is being adjourned to fix a date and time for a special hearing
3. The action is to be reviewed before the Queen's Bench Judge who has specifically directed, or is likely to expect, that interlocutory matters will have been advanced or completed prior to the review date
4. There is a particular urgency with respect to the relief sought
5. Counsel requires an opportunity to consider a recent response such as Replies to a Notice for Particulars, Answers to Interrogatories or a replying affidavit before finally disposing of the summons

Adjournment to identify opposing counsel will not be considered a good reason for a short adjournment, as that matter ought to have been clarified before the hearing date.

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Debt Management Unit has responsibility for the recovery of Social Security debt from estates.

Any enquiries should be made to:

Rodney Moore or
Molly Wilson

Debt Management Unit
(Recovery from Estates)
Room D3,
Castle Buildings,
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Tel - 028 9052 2392
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The administration of the charity is small and compact and the trustees are careful to ensure that its cost is minimal. As a result donors and testators can be assured that the substantial benefit of their gifts and bequests will go directly to advance the causes of the charity.

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

(Registered Charity No. XN52409)

Missing Certificates

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John F. McEvoy & Company
Solicitors
8 Church Place
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Missing Will

RE: Paul McKibben Deceased
Late of 8 Abbot Close, Newtownards.

Would any person having knowledge of the whereabouts of the Will of the above named Deceased please contact:
Joseph F McCollum & Company
Solicitors,
52 Regent Street, Newtownards,
County Down, BT23 4PL.

Tel: 028 9181 3142
Fax: 028 9181 2499

RE: Jane McClements Deceased late of
Edgewater Nursing Home,
Donaghadee.

Would any person having knowledge of the whereabouts of the Will of the above named deceased please contact
Joseph F McCollum & Company
Solicitors of 52 Regent Street,
Newtownards, County Down.

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Samuel Cumming & Son
Solicitor
39 Linnenhall Street
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BT43 5AJ

RE: Mr. Alan Mitchell, Deceased
Late of 76 Primity Crescent,
Newbuildings
Londonderry

Deceased: 8th June 2001

Would any solicitor who is aware of a Will made by the above named deceased, please contact J B Stelfox & Company Solicitors of 1 Columba, Terrace, Limavady Road, Waterside, Londonderry (DX 3063 NR Londonderry 1)

Tel: 028 71 348855
Fax: 028 71 348817

RE: Mr William CARSON deceased late
of 42 Cesnor Park, Carrickfergus, Co.
Antrim
Date of Death 2nd February 2001.

Would any person having knowledge of the whereabouts of a Will of the above named person, please contact
McMillan Ervine, Solicitors,
31 Main Street, Saintfield, County
Down, BT24 7AB
Telephone: 028 9751 9082

General Notice

RE: John Cushinan Esq QC
Deceased

Died 28 August 2001
Would any solicitors from whom the late John Cushinan QC held ongoing instructions or from whom fees were outstanding please contact the under noted as soon as possible.

Michael Wilson
Elliott Duffy Garrett
Solicitors
Royston House
34 Upper Queen Street
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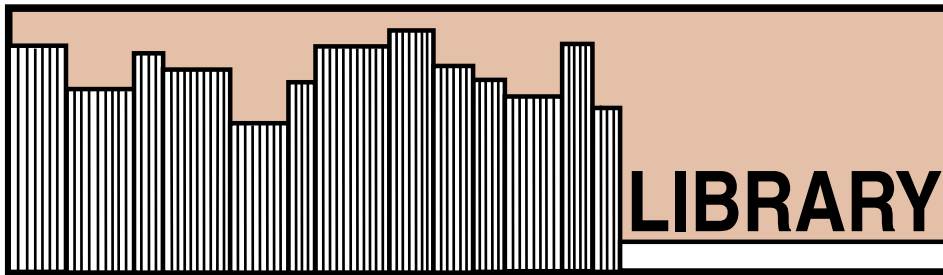
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CEDR [Centre for Effective Dispute Resolution]

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Adjudication.co.uk

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Delia Venables' Legal Resources for lawyers

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- 1) Wareham: Tolley's Value Added Tax 2001-02. 2nd ed. Tolley. 2001
- 2) Morgan and Stedman on computer contracts. 6th ed. Sweet & Maxwell. 2001
- 3) Lasok: Law and institutions of the European Union. 7th ed. Butterworths. 2001
- 4) Hershman & McFarlane Children Act handbook. Jordan. 2001



ATTENTION ALL CHILDREN ORDER PANEL SOLICITORS

Please note that the deadline for return of questionnaires on delays in Children Order proceedings has been extended. If you have not completed the questionnaire you still have time to do so and your responses will be welcome.

**Copy deadline for October
Monday 15th October 2001**

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