

THE WRIT

THE E-ZINE OF THE LAW SOCIETY
OF NORTHERN IRELAND

ISSUE 241 Summer 2023



THE
LAW SOCIETY
OF NORTHERN IRELAND

100
YEARS



THIS ISSUE

Society awarded
Diversity Mark
Accreditation



Family Mediation

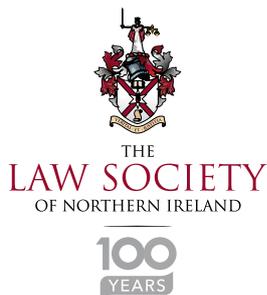
Some of the benefits of the family mediation process

Professional Indemnity

The 10 most common complaints against solicitors

AI Frontiersman

What the AI tool Chat GPT could mean for the legal sector



PUBLISHERS

The Law Society of Northern Ireland
Law Society House
96 Victoria Street
BELFAST BT1 3GN
Tel: 028 9023 1614
E-mail: writ@lawsoc-ni.org
Website: www.lawsoc-ni.org

EDITORIAL TEAM

David A Lavery CB, Chief Executive
Alison Grundle
Peter O'Brien
Paul O'Connor
Derval McFetridge
Elizabeth Dowling

DESIGN

SHO Communications Consultants

DISCLAIMER

The Law Society of Northern Ireland and its agents accept no responsibility for the accuracy of contributed articles or statements appearing in this magazine and any view or opinions expressed are not necessarily those of the Law Society's Council, save where otherwise indicated. No responsibility for loss or distress occasioned to any person acting or refraining from acting as a result of the material in this publication can be accepted by the authors, contributors, editor or publisher. The editor reserves the right to make publishing decisions on any advertisement or editorial article submitted to this magazine and to refuse publication or to edit any advertisement or editorial material as seems appropriate to the editor. The Law Society of Northern Ireland and its agents do not endorse any goods or services advertised, nor any claims or representations made in any advertisement in this magazine. No part of this publication may be reproduced without the written permission of the copyholder and publisher, application for which should be made to the publisher.

© Law Society of Northern Ireland 2023

www.lawsoc-ni.org

Writ readers can access back issues of the magazine as far back as October / December 2000 at www.lawsoc-ni.org - follow Publications link

Contents

- 03** Chief Executive's Foreword
- 04** Society awarded Diversity Mark accreditation
- 06** Progress on the delivery of the Society's Diversity and Equality Action Plan
- 09** Developments in Judicial appointments
- 10** Benefits of the Family Mediation process
- 12** Update on the Licensing and Registration of Clubs (Amendment) Act (Northern Ireland) 2021
- 14** Latest AML developments
- 16** Professional Indemnity - the 10 most common claims against solicitors in Northern Ireland
- 18** Brian Speers reflects on his term as President of the Commonwealth Lawyers Association
- 21** In Brief - recent events in the Law Society calendar
- 26** AI Frontiersman: A Short View on Chat GPT
- 27** Access to Justice visits Northern Ireland
- 28** Statutory Employment Rights payments increased
- 30** Norville Connolly - a lawyer's view from the frontline
- 32** Law Society hosts first Legal Women networking event
- 33** Law Society (NI) Financial Advice - Considering Retirement?
- 34** LawCare - Are you a procrastinator?
- 36** PILS - The public interest path to career fulfilment
- 37** Citi marks 15 years on Belfast
- 38** Law around the world
- 39** LSNI information services - Using the Internet for legal research - proceed with caution!-
- 40** From the Courts - Abstracts of recent case law
- 43** EFDNI sponsored walk



A Profession that reflects our community in all its diversity.

Welcome to this Summer Edition of The Writ magazine.

President Brian Archer was proud to receive, on behalf of the Society, the Diversity Charter Mark. Since undertaking the Inclusivity and Diversity survey in 2022 we have focused on developing a profession that reflects the society we all live in. This award is public recognition of the Society's commitment to advancing diversity and inclusion to benefit all.

Diversity and inclusivity was only one of a wide range of topics the President discussed with Members as he visited all fifteen Local Associations recently. This annual tour has become a fixture on the Presidential calendar and is one of the most enjoyable engagements the President undertakes. It also provides the Society with valuable insights into the day-to-day working lives of Members across the profession.

This issue of the magazine is itself a showcase of the diverse relationships, engagements and very serious work Society Members undertake. It includes articles from matters of core interest to solicitors - such as public interest litigation and access to justice - to the continuing need to be mindful of our mental wellbeing at work. Key updates across a wide area of law are provided, including the 'Best Practice Guidance' the Society has produced to assist Members involved in making applications to the Historical Institutional Abuse Redress Board.

On an international note, our Treasurer, Brian Speers, reflects on his fascinating experiences as President of the Commonwealth Lawyers Association and past Society President Norville Connolly writes about his time working for Integrity Watch.

We celebrate more of our past Presidents' achievements as Rory McShane marks 50 years in practice and Judge Tom Burgess is recognised by Belfast Solicitors' Association with a well-deserved Lifetime Achievement Award.

David A. Lavery CB

Society awarded Diversity Mark Accreditation



The Law Society of Northern Ireland became a Diversity Mark Charter Signatory in September 2022 which marked a public commitment to advancing diversity and inclusion within the organisation and the wider solicitor profession in Northern Ireland. The Society identified three gender diversity targets on which it aimed to deliver progress within 12 months. This led to the Society successfully obtaining the Bronze Diversity Charter Mark in March 2023 in recognition of its commitment to diversity, equality and inclusion.



Brian Archer, President being presented with the Diversity Award by Nuala Murphy, Director of Diversity Mark.

The Bronze Diversity Mark is awarded to organisations who show commitment to addressing gender diversity, following an independent panel assessment. The 'mark of progress' publicly declares that an organisation has reached the required standard of commitment to advancing diversity and inclusion to benefit all.

Brian Archer, President of the Society, commenting on the accreditation said:

"I welcome this award, recognising as it does, the Law Society's work on diversity, equality, and inclusion. During my term as President, I have made it my focus to ensure the profession is open and accessible to all. Securing the Diversity Mark accreditation demonstrates the Society's ongoing commitment to tackling issues facing the profession."

Nuala Murphy, Director of Diversity Mark, said:

"Huge congratulations to all the team at Law Society of Northern Ireland on being awarded the Bronze Diversity Mark Accreditation. This is a robust achievement and Diversity Mark is thrilled that LSNI is continuing to commit to progress. Our Independent Assessment Panel noted the intention to use their undoubted position, profile and influence to promote the diversity and inclusion agenda within the wider solicitor profession."

In the remainder of this article, Nuala Murphy, Director of Diversity Mark highlights the far-reaching benefits of workplace diversity and inclusion, noting that whether we choose to realise it or not, diversity and inclusion affects every single person working in the legal profession.

In the past when people in Northern Ireland spoke of diversity and inclusion, they were generally speaking in terms of division in the workplace related to religious belief – and at that, only two religions: Protestant and Catholic. However, society has moved on and so has the legal world.

Diversity and inclusion (D&I) extends well beyond religion to include gender, ethnicity, disability, age, sexual orientation and social inclusion. And now that the majority of employees want to work for a company or organisation that values diversity, equity and inclusion, legal firms need to live those values in order to attract and retain the best talent. In short, D&I has become a business imperative.

The Law Society is to be commended on the value it has placed on equality in the profession and the sterling work already undertaken in commissioning its first ever Diversity and Equality Survey. Published towards the end of last year, the survey revealed that whilst progress has been made, there is much work still to be done. While the profession is now majority female, this is not reflected in leadership roles and minority groups are currently underrepresented at a senior level too.

As part of its overarching Action Plan and commitment to improving diversity within the profession, the Society has joined Diversity Mark and has recently obtained accreditation. Targeting core issues of gender equality and increasing access to the profession are central to their objectives and I'm delighted to support the team at the Law Society with insights, best practice and peer support as it commits to this journey.

As a registered charity, we have been offering independent diversity and inclusion accreditation for businesses since 2017. Launched by the social enterprise Women in Business after years of grassroots development and backing from a panel of expert individuals across the UK and Ireland, Diversity Mark helps businesses and organisations of all sizes on their journey to bronze, silver and gold accreditation.

Representing over 200,000 employees in companies across NI and the rest of the UK and Ireland including a number of organisations in the legal sector who are really getting this right*; we have become

“...This is a robust achievement and Diversity Mark is thrilled that LSNI is continuing to commit to progress. Our Independent Assessment Panel noted the intention to use their undoubted position, profile and influence to promote the diversity and inclusion agenda within the wider solicitor profession”

the leading authority in diversity in the UK and Ireland with our accreditation now a sought after and trusted badge of honour. The fact that Diversity Mark's signatories doubled last year and look set to do the same this year, bears testimony to the rising number of businesses that now recognise the value of investing in diversity.

Above and beyond attracting and retaining talent, it is well documented that having a diverse workforce can unlock greater innovation within a company, driving its performance and success. Research by McKinsey found that companies in the top quantile for gender diversity on executive teams were 25% more likely to experience above average profitability than their peers.

Diversity and inclusion is no longer just the right thing to do in an equitable workplace, it is a business priority few can afford to ignore. From simple things like attracting the best talent from a wider pool of candidates, to increasing profitability and enabling everyone to feel ace and empowered to thrive.

Females in private practice

There is evidence of a mid-career migration of female solicitors out of private practice into other areas of legal employment and, indeed, out of the legal sector entirely. Research has found that the decision to migrate or leave the profession entirely is based on one or more factors that include, lack of maternity and return-to-work support, lack of flexible working and other support for those with young children, lack of reward, and preferential treatment of male counterparts, including promotion opportunities.

In seeking accreditation, the Law Society has demonstrated to the profession and the wider world that it recognises the need to address these issues and others. It is important to note that accreditation is not a tick box exercise; it can and does effect real change. Organisations within the IT sector, for example, in the two years since they received Diversity Mark accreditation, increased their female workforce by 27%, and their senior management positions by 30%. We look forward to seeing similar change in the legal sector in coming years. I encourage all firms to consider committing to progress and starting their journey with Diversity Mark today.

Diversity Mark has been meeting with the newly established D&I Working Groups and providing resources, advice, information and insights as well as helping establish SMART goals using a tried and tested framework - goals that are designed to help the Society make real progress quickly, taking small steps that make a big difference.

In taking these first vital steps – the Society has set out on a journey that, with buy-in from top to bottom, will ensure a truly diverse and equal solicitor profession that is inclusive, measurable and stands up to scrutiny.

To learn more about the work of Diversity Mark and their accreditation process, please click [here](#).

**Nuala Murphy ,
Director Diversity Mark**



*** Accredited Organisations in the Legal Sector**

**Baker McKenzie
Pinsent Masons
A&L Goodbody
Carson McDowell
Cleaver Fulton Rankin
Bar Library NI
Mills Selig
Ogletree Deakins
Tughans**

Progress on the Delivery of the Society's Diversity and Equality Action Plan



Nuala McMahon,
Senior Policy Officer,
Law Society of Northern
Ireland

Background

The awarding of the Bronze Diversity Mark Accreditation recognises the recent commitments and progress which have been made by the Society in relation to diversity, equality, and inclusion within the solicitor profession in Northern Ireland.

In late 2021, the Society, under the leadership of the Human Rights and Equality Group, carried out its first ever Diversity and Equality Survey of the solicitor profession in Northern Ireland. Results of the survey were analysed during the Society's Centenary year, which marked an appropriate juncture to reflect on the progress that had been made within the profession over the past 100 years and to look forward to set the foundations for the next 100 years and beyond for current and future Members.

The findings of the survey were presented to and considered by the Society's Council, which identified two key areas as initial priorities:

- Improving the experience of women in the solicitor profession
- Improving access to the profession for under-represented groups

Following the identification of the above priority areas, two Working Groups were established to consider the issues highlighted, identify themes, and develop actions to address the issues. The Working Groups included members of the Society's Council, the then Human Rights and Equality Group, the Future of the Profession and Education Committees, Society staff and external bodies. The Groups took advice from relevant experts including the Equality Commission for Northern Ireland, Diversity Mark, and the NI Judicial Appointments Commission.

The Society published its 'Diversity and Equality Study of the Northern Ireland Solicitor Profession' at its Centenary Conference in September 2022, along with its corresponding Action Plan, a copy of which can be found [here](#).

The Action Plan aims to target the core issues of gender equality and increasing access to the profession, and it sets out a series of planned actions across different themes.

Update on progress

The Society is pleased to announce that several actions have already been delivered on to date, and good progress has been made across a variety of other areas.

The first key theme within the Action Plan related to outreach and engagement. The Society recognised the need to increase awareness of the solicitor profession as a desirable and open career choice for individuals from diverse backgrounds and is committed to working with local schools and universities to deliver on this.

New Careers Bulletin

In March 2023, a new careers bulletin was launched which aims to provide local schools and students with information on how to become a solicitor in Northern Ireland.

The bulletin includes an overview of the solicitor's profession, the role and function of solicitors, as well as practical information on how to train, qualify and become a solicitor.

Darren Patterson, Head of Professional Development at the Society, commenting on the launch of the bulletin said:

"The Law Society is delighted to launch the new careers bulletin which we believe will be an important resource for schools, careers teachers, students and those interested in becoming a solicitor in Northern Ireland"

Society President, Brian Archer, said:

"If you have a passion for the law, want to contribute to the justice system and feel that you have something to offer then I would encourage you to become a solicitor and make a real difference in your community and beyond. The careers bulletin will help you on that journey"

The bulletin was sent to school careers departments and can be accessed on the Society's website [here](#).

Engagement with schools and local universities

Engagement has been undertaken with secondary schools and local universities to promote the career of solicitor.

In February 2023, guest lectures were provided by Janice Spence (Donaldson McConnell & Co Ltd), Brian Cole (Diamond Heron) and Darren Patterson (LSNI) at Queen's University School of Law as part of a lecture series where external speakers speak to first-year undergraduate students about future career opportunities. The purpose is to expose students to careers in law, in different types of law firms. Contributions delivered by representatives from the Society focused on careers within smaller legal firms and high street practices.

In March 2023, representatives from the Society attended the Causeway Business Education Partnership Annual Careers Event at The Diamond, Ulster University Coleraine. Over 1,000 pupils from local schools attended, and pupils had the opportunity to hear about the career of solicitor.



Key issues raised during panel discussion.

Engagement continues with local universities to promote work experience opportunities for undergraduate students in private practice. Plans are also underway to hold a legal careers event later in the year, and schools from which relatively few pupils enter the profession will be invited to attend.

Mentoring Programme

As part of outreach and engagement commitments, the Society recognised the need to promote role models and mentors from a diverse range of backgrounds and experiences and committed to relaunching its Mentoring Programme.

The Society's Mentoring Programme, which is now in its 10th year, provides a valuable opportunity for solicitors to gain knowledge, insights and guidance from dedicated and experienced colleagues within the profession. Solicitors can apply to the programme regardless of their career stage for the purpose of career and/or business development. Applicants are paired with an appropriate mentor (based on their professional profile and mentoring requirements) who will meet with them throughout the year to help them reach their goals. In addition, the Society organises mentoring events where participants can build contacts and expand their professional networks.

As the Society's signature professional development scheme, the Mentoring Programme is well-placed to support the delivery of the Council's objectives on diversity and inclusion, specifically around the

issues of gender disparity and access to the profession. The programme enables female practitioners to be paired with one another if they so wish, with mentees and mentors discussing challenges and working together to set goals and plans of action. These interactions are supported by in-person peer-to-peer networking events and talks by guest speakers. Participants also benefit from a suite of online resources provided by our delivery partner, Advance Coaching, including tailored strategies for female career development and leadership.

Likewise, the programme facilitates the transition of newly-qualified solicitors into legal practice, providing them with a dedicated point of contact, specific resources and support from a network of experienced colleagues. This kind of wraparound support can help those new to the profession - especially those for whom access to the profession may have been difficult - to navigate the challenges of their first few years in practice.

Female Leaders Programme

The success of the Mentoring scheme has provided a template for the development of the Society's new Female Leaders Programme, which is being designed in response to the persistent low number of female solicitors at Partner and Director level in law firms.



Recent research revealed evidence of a migration of females out of private practice into other areas of legal employment and out of the legal sector entirely.

The new programme will offer comprehensive support to female practitioners who aspire to move into the senior ranks of the profession, including dedicated mentoring opportunities with senior female solicitors and representatives from the wider legal and business communities, targeted CPD courses on topics that are aligned to the leadership theme, and networking events with prominent guest speakers from various sectors. Plans are on track for the launch of the first Female Leaders Programme in summer 2023.

Research project on female leavers from private practice and/or the profession entirely

Recent research revealed evidence of a migration of females out of private practice into other areas of legal employment and out of the legal sector entirely.

As part of the Action Plan, the Society committed to carrying out in-depth qualitative research with females to gain a better understanding of why they left or moved to a different area, and to ascertain what might have encouraged them to stay or re-enter in the future.

During March to May 2023, a series of roundtable workshops were held across Northern Ireland with females who have left private practice and moved to roles within the public or third sector, and those who have left the profession entirely. A total of 60 females attended the events to discuss their experiences on a range of issues including, for example, working arrangements and culture, career advancement and financial reward, support around maternity leave and other periods of absence, and caring responsibilities. Views were also sought on ideas for improvement to support females within the profession and those who may be considering returning to the profession.

Findings from the sessions are currently being analysed and a report will be published later in the year along with recommendations to address the issues raised.

Diversity and Equality Events

To achieve real change, buy-in is needed from all within the profession, and discussing issues is an important starting point to increase awareness and share ideas and best practice. Therefore, the Society is committed to delivering a series of events to discuss the equality and diversity agenda.

In March 2023, an Introduction and Overview CPD session was held, which was the first of a series of planned events throughout 2023 and beyond, focusing on diversity and equality issues within the solicitor profession. The event was introduced and chaired by Maria McCloskey, Director of PILS and Chair of the former Human Rights and Equality Group. Roisin Kelly from the Equality Commission for Northern Ireland provided an overview of relevant employment and discrimination legislation in place and shared useful tips on how to create an inclusive workplace. The final contribution was delivered by Nuala Murphy, Director of Diversity Mark, who spoke about the benefits of workplace diversity and inclusion. A recording of the event can be accessed [here](#).

To achieve real change, buy-in is needed from all within the profession, and discussing issues is an important starting point to increase awareness and share ideas and best practice

In May 2023, an Industry Peer Event was held at Law Society House in association with Diversity Mark, which focused on the benefits of diversity, equality, and inclusion in the legal profession. The event was opened by Nuala Murphy, Director of Diversity Mark, and Brigid Napier, the Society's Senior Vice President. Following opening remarks, Brigid was joined on a panel by Andrea McLroy-Rose, Partner at Pinsent Masons and Diversity Mark Board Member, and Emma McIlveen, Barrister and member of the Diversity Mark Independent Assessment Panel. Attendees were provided with the opportunity to ask panellists about their opinions and advice on a variety of diversity and inclusion matters and were able to network with others to discuss ideas and initiatives. A key message arising from the discussions was that no matter how small the firm or the level of resources available, everyone has the potential to develop ideas that can bring about positive change for all.

Initiatives to overcome financial barriers

Commitments were also made within the Diversity and Equality Action Plan to consider how financial barriers can be overcome to ensure the profession is open and accessible to all.

There has been engagement with sister Law Societies on schemes in their respective jurisdictions to share learning and best practice. Plans are underway to introduce financial initiatives, for example, a Centenary Bursary Scheme is being designed to implement funding for one trainee solicitor in 2023, with oversight from the Education Committee. The development of a traineeship grant/funding scheme for small and/or rural practices for the 2023 trainee intake is also being considered.

Furthermore, some initial desk-based research has been undertaken in respect of gender pay gap issues within the profession

and matters around this will be considered by both the Human Rights and Equality and Education Committees in the coming months.

Equality and Diversity Resources

The Society recognises the importance of promoting and implementing diversity and equality within the workplace and wider solicitor profession, and the need to provide support materials to assist Members with this.

An online Diversity and Equality toolkit was soft launched at the end of November 2022. The online toolkit, which can be accessed [here](#), includes signposting to external sources which contains best practice guidance across a range of diversity and equality related areas such as gender, socio-economic background, disability, ethnicity, sexual orientation etc.

The online toolkit also includes the following model policies and procedures which were developed in conjunction with the Equality Commission for Northern Ireland:

- Equal Opportunities
- Grievance & Harassment & Bullying
- Handling Requests for Flexible Working
- Recruitment and Selection

The above model template policies aim to support organisations, large and small, in improving their practices and performance around diversity and equality. Plans are being developed to hold events later in the year to provide practical support on how the policies can be adapted to suit the needs of Members.

Conclusion

Good progress has been made to date in starting to address the issues and challenges highlighted within the Diversity & Equality Study. Work will continue throughout 2023 and beyond to deliver the remaining actions and to build upon the initiatives already commenced.

It is recognised that the actions taken to date do not tackle all issues related to diversity and equality, and that much work remains to be done to ensure that the solicitor profession in Northern Ireland is truly diverse and equal, and open and accessible to all. The Society remains committed to working towards this goal, which will have benefits for the profession, the clients served by solicitors and the wider public.

Developments in Judicial Appointments



Andrew Miller, Head of Assessment Transformation and Quality, NIJAC

Andrew Millar outlines recent changes made at the The Northern Ireland Judicial Appointments Commission, the role the Law Society has played, and future opportunities.

The most significant change has been the recent introduction of a Judicial Profile and the use of a Person Specification to outline the abilities sought in prospective judicial office holders.

Central to making changes was consultation with the Law Society and Bar Council. NIJAC is most appreciative of the contribution of the Society, through its President Mr Brian Archer and Senior Vice-President Mrs Brigid Napier, Council members, practising Solicitors and the Society's Executive Team. **This level of engagement proved enlightening and invaluable in the development of the new Judicial Profile.**

Judicial Profile

The Judicial Profile is an overall framework which provides a picture of what is required of those to be appointed to judicial office. It has two overarching areas:

- 1. Skills & Attributes**, which includes the criteria Knowledge & Expertise, Intellectual Capacity and Exercising Judgment, and;
- 2. Behaviours & Effectiveness**, which includes the criteria Collaborating Effectively,

Communicating Effectively and Managing Effectively.

Person Specification

The Person Specification is based on the wider Judicial Profile but uses only those criteria which apply to the specific judicial office.

For example, the recent Deputy Statutory Officer scheme did not use 'Managing Effectively'. This was because analysis of the role identified that it was not substantively present.

This ability to mould the criteria to the specific needs of each office leads to the creation of a Person Specification for each judicial office.

What this means for applicants

The bespoke Person Specification should focus applicants on the demands of the role. This may increase the need for applicants to research the role and present their best evidence showing how they meet the Skills & Attributes and Behaviours & Effectiveness identified in the Person Specification. That increased readiness will lead to better prepared and more effective applications.

Guidance provided by the Commission

The range of information available is extensive but we would particularly recommend you seek out information in respect of the new Judicial Profile and Person Specification through this link - [The New Judicial Profile](#). Here you will find a downloadable guide, infographic and information videos.

General information on how the process works is available through this link - [The Selection Process](#).

Additional information on other opportunities such as the Judicial Shadowing Scheme can be accessed here - [Before you Apply](#)

Appointments to the Commission

NIJAC has recently welcomed the renewal of appointment of the Law Society's nominee, Mr Michael Robinson, as a NIJAC Commissioner. NIJAC is also pleased that Mr Bernard Brady KC has been appointed to his first term as a NIJAC Legal Commissioner. **NIJAC looks forward to working closely with both Legal Commissioners, and their respective representative bodies, in the coming years.**

Michael has recently spoken extensively on the subject of Judicial Appointments and in

particular how they operate in Northern Ireland, at the Commonwealth Law Conference in Goa in March 2023.

Michael remarks that *"...having worked with NIJAC from 2006 both as a Law Society direct representative and laterally as a Judicial Appointments Commissioner, I have seen considerable changes in the selection of members of the Judiciary. There have been great leaps forward from the "tap on the shoulder" days of old.*

NIJAC is a welcoming organisation which continuously monitors and strives to improve access to judicial appointment, blind to background but open to merit. At all stages its ambition is to welcome applicants and put in place a process which ensures that appointment is on merit and helps those applying to achieve their very best. The most recent changes in respect of the Profile are designed precisely to further that aim."

Forthcoming Opportunities

NIJAC expects to launch recruitment schemes for County Court Judges, fee-paid Employment Judges for the Industrial Tribunals and the Fair Employment Tribunal, and will also be seeking Legally Qualified Members for the Appeal Tribunals. These schemes have are expected to launch between September 2023 and March 2024. [Forthcoming Opportunities](#)

Other Work

Over the course of the next year NIJAC will be reviewing other processes. Most significantly for potential applicants will be our reviews of shortlisting and feedback. NIJAC will continue to consult and we look forward to working with the Law Society and its Members, and other legal professionals to ensure our work continues to be well informed and evidence based.

Anyone interested in seeking a judicial appointment, or even those with a casual interest in how the system operates, are encouraged to visit our website at nijac.gov.uk.



NIJAC

*Northern Ireland Judicial
Appointments Commission*



Joan Davis, Director of Family Mediation NI, describes the family mediation process and some of the benefits it can bring.

Background

Family Mediation NI (FMNI) is a registered charity which provides mediation services directly to families in dispute including separated parents, children and intergenerational family groups. FMNI provides information and training to other professionals and accepts self-referrers and referrals from a range of sources within the voluntary, community, statutory and private sectors. FMNI is the only College of Mediators-approved trainer of family mediators in NI and delivers its unique services through a team of professional mediators in venues across Northern Ireland and online. FMNI has delivered services across NI for 22 years and developed this unique specialism within the third sector.

Department of Health Contracted Service

FMNI is contracted via procurement with the Department of Health (since 2009) to deliver to separated parents with children under 18 and not in the court system, a free, early intervention service, of up to four 90 minute sessions, so that they may choose to negotiate their own future family arrangements, therefore negating the need for court entry and achieving the best outcomes for their children.

Benefits from engaging with the mediation process provided by FMNI

- For children - Improved relationships with parents, emotional wellbeing through a reduction in stress and anxiety and a break in the cycle of destructive conflict into adulthood.
- For parents - Increased co-parenting ability through developing conflict management and communication skills, ability to manage the upset of separation and enable agreement about practical matters, and a reduction in anxiety throughout the



Joan Davis, Director of Family Mediation Northern Ireland

separation process.

- For society - Reduction in the likelihood of Adverse Childhood Experiences (ACEs) therefore alleviating the demand on other public services, increased recognition of family mediation as cost effective, and an increased positive impact on community wellbeing by building individual and family resilience.

Referral pathways and assessment

94% of parents self-refer to the service and legal representatives and social workers regularly contact FMNI on behalf of their clients. They are provided with information and asked to encourage their client to contact our office. For formal referrals made from Family Proceedings Court for legal aid/self-funded mediation, a court referral form is required as per our 'Court Referral Policy'. The move to on-line mediation during the pandemic has reduced any waiting list.

When a prospective client contacts FMNI they will receive a phone call from a mediator, usually within 7-10 working days, to arrange an appointment for the one-to-one Information & Assessment Meeting (IAM). This is a one-hour meeting, in person in a neutral venue or via Zoom. The purpose of this initial meeting is to ensure the parent receives full information on the process and has an opportunity to ask questions or discuss any concerns and to enable the mediator to carry out screening and assessment as to whether the mediation process is right for that parent and their circumstances. A full assessment cannot be made until the mediator has met with each participant, and it is incumbent upon each participant to contact FMNI themselves. When both parents are invested in the process and are taking individual responsibility, they are likely to focus on the needs of their child and reach agreements.

During the IAM, the mediator explains the facilitative mediation model and process, the voluntary and confidential nature of the service, that parents will be the decision makers by focusing on the needs of their children, that any discussions and agreements are without prejudice, and the range of outcomes that could be expected. Parents are also signposted to various resources and are encouraged to become "mediation ready".

Mediation cannot be mandatory; it will bear fruit only if both parents are ready and willing to engage. Mediation is not an easy option – it requires parents to be ready emotionally and timing has to be right for both. It is a practical process that requires a future focused approach. There are many reasons why mediation may not be offered; sometimes, one parent might be ready but the other is still emotionally conflicted and may not be able to make important decisions; sometimes end of relationship counselling or therapy may be more helpful; sometimes it may be apparent that a parent is not willing to move from a fixed position to negotiate with the other parent.

The process

As pre-mediation communication is often acrimonious, parents agree ground rules with the mediator. A child focused agenda is set by parents. The mediator facilitates negotiation between the parents rather than making recommendations or imposing decisions, encouraging parents to reach their own voluntary solutions through exploration of potential outcomes. The mediator's focus will be on children's practical needs and emotional wellbeing. Parents are encouraged to consider their children's perspectives on proposals and are asked to trial agreements between sessions. The ongoing progress is monitored and assessed throughout the process.

In some cases, following appropriate assessment and discussion with both parents, we may offer 'Child Inclusive Mediation' (CIM). CIM is delivered by specialist mediators trained in this area. This is not to be confused with the service delivered by Court Children's Officers. The child consultant does not make recommendations but, with a child's consent, communicates the child's opinions to the parents.

Children are reassured by their parents' willingness to give them a "voice" in the process. While parents have responsibility for decision making, it is helpful for children to

have their views and feelings considered in decisions affecting them.

Several outcomes are possible from mediation. At the end of an average of four sessions, a Co-parenting Plan or full Mediated Agreement is produced which sets out the agreements made. This agreement is not legally binding but can be formalised through solicitors if both parents wish it. If mediation is terminated prematurely by a participant or the mediator, a Summary of Agreements will be forwarded to each parent. If mediation is directed by the court, an 'Outcome Summary' will be provided to the Court.

The underpinning theory is that agreements reached by participants will have longevity as they have been reality tested and trialed by the participants between sessions. The participants have ownership of the process and the outcomes.

Principles of mediation

There are a number of key principles underpinning the mediation process:

- 1) Mediation is **voluntary** – nobody can be forced to enter mediation. A participant can end the mediation at any stage without giving reasons. This principle can often cause confusion or irritation, where one participant does not understand why the other has withdrawn and seeks to know why, but it is an inherent part of the process and allows participants to be in control of their own decision making.
- 2) Mediators are **neutral and impartial** – the mediator does not take sides in the process or support one participant's interests or views over the others. Their role is to help the participants have conversations around the issues they want to discuss and to stay neutral as to the outcome of any joint decisions made. Being impartial means being free from favoritism, bias or prejudice and this principle provides for the opportunity for participants to own the content and the outcome of the mediation.
- 3) Mediation is **confidential** – the contents of any conversations (either in an individual meeting or in a joint session) are kept private and not discussed outside the process. This gives participants a chance to speak freely and openly to try to negotiate and reach joint decisions about their children. There are two exceptions

- when a safeguarding issue is raised, or criminal behaviour is alleged.

Maintaining confidentiality in the process allows the participants to raise issues without worrying that what they say could be used against them outside the mediation.

- 4) Mediation is **self-determined** – the mediator does not make the decisions about children. The role of the mediator is to manage the process, assist participants to generate options and ensure the future/child focus maintains momentum at each session. It is up to the participants (with the support of the mediator) to work out the future and how they are both going to manage their separation and ensure that their children's best interests are foremost in the plans being made.

Training Provider

FMNI's own bespoke Foundation Training Programme (FTP) has been approved by the College of Mediators since 2010. It is delivered annually to those who meet the entry criteria. Becoming a family mediator is a lifelong learning process beginning with FTP, followed by a minimum of ten hours of supervised practice, working towards accreditation by building a portfolio of casework. Trainees are supported to develop their practice via access to professional supervision and CPD. Some may be offered a Service Level Agreement with FMNI, others may complete the FTP for personal development and bring new skills into their workplace.

Professional supervision

Under the professional standards of the family mediation regulatory bodies in the UK and Ireland, family mediators are required to meet with their Professional Practice Consultants at least quarterly for the purposes of accountability, development and support. Referred to as 'supervision', it is not related to the performance of the mediator. Simply put, it acts as a useful method of ensuring that high standards of practice and service delivery are maintained and that the resilience and wellbeing of mediators are addressed. All mediators, including supervisors, are required to meet this standard. For a role that demands "the hide of a rhinoceros, the wisdom of Solomon and the patience of Job", a built-in system of on-going consultation is an excellent way of achieving this.

FMNI collaborates with other family support services to ensure that families are with the right service at the right time. Family mediation is not ADR, but rather is a specialist service available for families in dispute. We continue to point to the Gillen Review of Civil and Family Law (2017) and his recommendation that family mediation be offered to more separating parents and their children at the earliest opportunity to achieve the best outcomes for children. Clients will appreciate their solicitor signposting a non-acrimonious approach and mediation will free-up solicitors to use their legal expertise to deal with legal issues. 92% of those parents who fully engaged with the process indicated in evaluation that they would recommend FMNI to others.

Please contact us if you wish to discuss any aspect of our service 028 90243265 and www.familymediationni.org.uk to check out our blogs, FAQs and Podcasts.



Joan Davis (right) with Naomi Long and former Chairperson of Family Mediation NI, Emer Boyle (left).

The Licensing and Registration of Clubs (Amendment) Act (Northern Ireland) 2021 All provisions now in operation



Ann McMahon,
Head Of Practice &
Procedure, Law Society
of Northern Ireland

Members will be aware that the Licensing and Registration of Clubs (Amendment) Act (Northern Ireland) 2021 ('the Act') became law on 26th August 2021. The Act amends both the Licensing (Northern Ireland) Order 1996 ('the Licensing Order') and the Registration of Clubs (Northern Ireland) Order 1996. The changes made by the Act came into effect in phases and all parts are now in operation.

Sales by local producers

Section 10 of the Act which came into effect on 6th April 2022 allows a local producer to apply for a licence to sell intoxicating liquor on an off-sales basis. This section adds new Articles 52B, C and D to the Licensing Order and sets out specific conditions which apply to a local producer's licence in different scenarios:

- **If a local producer sells intoxicating liquor on their own premises:** Article 52B allows a local producer of intoxicating liquor to apply for a licence to sell their own products, from their own premises, for consumption off the premises. *Only intoxicating liquor produced on the premises may be sold.* A sample may be provided for consumption on the premises as part of a tour of the premises, provided no charge is made for the sample separate to the charge for the tour. The sample amounts can be found in the Schedule to the Sample Regulations - <https://www.legislation.gov.uk/nisr/2022/78/contents/made>.

The licence-holder must display at all times a notice detailing the conditions of the licence held. The notice can be found in Schedule 1 of the Notice Regulations - <https://www.legislation.gov.uk/nisr/2022/85/contents/made>.

- **If a local producer sells intoxicating liquor on other licensed premises:** Article 52C allows a local producer of intoxicating liquor to sell their own products (produced on their own production premises), for consumption off the premises, in certain other licensed premises (including premises licensed under an occasional licence). The licence-holder must display at all times a notice detailing the conditions of the licence held at the point of sale. The notice can be found in Schedule 2 of the Notice Regulations (see link above).

- **If a local producer sells intoxicating liquor on unlicensed premises:** Article 52D allows a local producer of intoxicating liquor to sell their own products, (produced on their own production premises), for consumption off the premises, at a place which is not licensed for the sale of intoxicating liquor in any way. Local producers may provide samples at the event and the quantity of sample may be found in the Schedule of the Sample Regulations (see link above). The licence-holder must display at all times a notice detailing the conditions of the licence held at the point of sale. The notice can be found in Schedule 3 of the Notice Regulations - <https://www.legislation.gov.uk/nisr/2022/85/contents/made>.

Sales in tap rooms

A single provision came into effect on 1st June 2022 relating to licensed local producers being able to apply to the courts to allow sales for consumption on the premises (tap rooms) in certain circumstances (Section 11 Local producer's premises: suitability for on-sales).

Section 11 of the Act added new Articles 52E and F to the Licensing Order and set out specific conditions which apply to a local producer's licence in relation to tap rooms.

If a local producer is granted a liquor licence, they can make an application to the court for a Suitability Order under Article 52E of the Licensing Order that a specific part of their premises be used for the sale and consumption of intoxicating liquor in the premises. If successful, they can make a further application to the court under Article 52F of the Licensing Order for authorisation to sell their intoxicating liquor for consumption in that part of the premises on specific dates.

The licence-holder must display a notice in the part of the premises to which an Article 52E applies, at all times when an authorisation under Article 52F is in force, detailing the

conditions under which intoxicating liquor may be sold and consumed.

The notice can be found in the Schedule of the On-Sales Regulations - <https://www.legislation.gov.uk/nisr/2022/154/contents/made>

Further changes

In relation to changes to the Licensing Order, affecting licensed premises, the following sections of the Act came into operation on 1st October 2022:

Section 18 -

Prohibition on self-service and sales by vending machines

Section 19 -

Restrictions on off-sales drinks promotions in supermarkets etc.

Section 25 -

Code of Practice

The following section of the Act became operative on 6th April 2023:

Section 20 - Prohibition of loyalty schemes

Planned and Interim Court Fees for Licensing applications

The Northern Ireland Courts and Tribunals Service has provided a table outlining the interim licensing court fees position. If you have any questions regarding fees, you should contact your local court office. Below is a link to the NICTS website which provides details on the fees for the new types of applications -

<https://www.justice-ni.gov.uk/sites/default/files/publications/justice/interim-licensing-court-fees-september-2022.pdf>

Guide to the 2021 Act

A guide to the Licensing and Registration of Clubs (Amendment) Act (Northern Ireland) 2021 is available on the Department for Communities website and may be accessed by using this link: [The Licensing and Registration of Clubs \(Amendment\) Act \(Northern Ireland\) 2021 Guide \(communities-ni.gov.uk\)](#) and the Act itself may be found by using this link: <https://www.legislation.gov.uk/nia/2021/7/contents/enacted>



Review of Northern Ireland licensing system

Members practising in this area may be interested to know that the University of Stirling is carrying out an Independent Review of the Northern Ireland Licensing System. As part of the Review a Stakeholder Reference Group has been established to provide constructive advice, intelligence and local knowledge to support the work of the research team who are delivering the Review. The role of the Reference Group is purely advisory, and the solicitor profession is represented. Further information will be shared with colleagues when available.



AML UPDATE



Brian Carson, Head of AML Policy

Brian Carson reflects on latest AML developments.

1. Updated Legal Sector Affinity Group (LSAG) AML Guidance for the Legal Sector

In March 2023 LSAG published its updated HM Treasury-approved Anti-Money Laundering (AML) Guidance for the Legal Sector 2023 (the updated LSAG Guidance).

The updated LSAG Guidance is available to Members by logging into the Members' Services section of the Society's website [here](#).

Background

LSAG comprises all the legal sector professional body AML/CTF supervisory authorities, including the Society, named in the [Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017](#) (the MLRs).

Aims

The LSAG Guidance has two over-arching goals:

- Firstly, it intends to provide practical information for legal practices in scope of the MLRs to aid their compliance and to effectively protect against money laundering and terrorist financing risks; and
- Secondly, it aims to communicate supervisors' expectations for those they supervise.

Status

The updated LSAG Guidance has been approved by HM Treasury. This means that in accordance

with the relevant provisions of the Proceeds of Crime Act 2002, the Terrorism Act 2000 and the MLRs, the court is required to consider compliance with the updated LSAG Guidance in assessing whether a person committed an offence or took all reasonable steps and exercised all due diligence to avoid committing the offence.

Key Changes

The updated LSAG Guidance takes into account amendments to the MLRs including those arising from the [Money Laundering and Terrorist Financing \(Amendment\) \(No.2\) Regulations 2022](#) (the 2022 Amendment Regulations). The changes include:

- Guidance on the new requirement to carry out proliferation financing risk assessments.
- Changes to the duty to report discrepancies to company registries - from 1st April 2023.

2. Proliferation Financing Risk Assessment

Following the coming into force of the 2022 Amendment Regulations, firms within the scope of the MLRs must now also take appropriate steps to identify and assess the risks of proliferation financing to which their businesses are subject.

Proliferation financing is defined by the 2022 Amendment Regulations as meaning:

"The act of providing funds or financial services for use, in whole or in part, in the manufacture, acquisition, development, export, trans-shipment, brokering, transport, transfer, stockpiling of, or otherwise in connection with the possession or use of, chemical, biological, radiological or nuclear weapons, including the provision of funds or financial services in connection with the means of delivery of such weapons and other CBRN-related goods and technology, in contravention of a relevant financial sanctions obligation."

In carrying out this proliferation financing (PF) risk assessment, the firm must take into account:

- Information in the HM Treasury National Risk Assessment of Proliferation Financing; and
- Risk factors including factors relating to the firm's clients; the countries or geographic areas in which it operates; its products or services; its transactions and its delivery channels.

In deciding what steps are appropriate, the firm must take into account the size and nature of its business. The firm must also keep an up-to-date record in writing of all the steps it has taken, and provide the risk assessment, the information on which it is based and written records to its supervisor on request.

The current HM Treasury National Risk Assessment of Proliferation Finance is available at:

<https://www.gov.uk/government/publications/national-risk-assessment-of-proliferation-financing>

It is possible for a firm to satisfy this separate requirement to have a PF risk assessment by including it either as part of the firm's existing practice-wide money laundering and terrorist financing risk assessment or as a standalone document.

The 2022 Amendment Regulations also require a firm to establish and maintain written policies, controls and procedures to mitigate and manage effectively any risks of proliferation financing identified in its PF risk assessment.

The updated LSAG Guidance addresses the new requirements regarding proliferation financing and the PF risk assessment in Section 5.3.1; includes guidance on how to assess proliferation financing risk in Section 5.4.1; and includes an additional list of proliferation financing risk factors in Section 18.10.

The updated LSAG Guidance lists some of the service areas at heightened risk of exposure to proliferation financing as including:

- Trade finance
- Commercial contracts
- Manufacturing particularly in relation to "dual-use" goods
- Commodities - particularly mined metals and chemicals
- Shipping/maritime
- Military/defence
- Aviation

The updated LSAG Guidance also flags relevant jurisdictions when considering geographic risk, including Iran, North Korea, Syria and Russia.

It is important to remember that the requirements regarding the written PF risk assessment are mandatory in the 2022 Amendment Regulations. Therefore, even if the risks of proliferation financing may be assessed as low by a firm, it is not possible to take a

risk-based decision to not comply with those requirements.

3. Reporting of Discrepancies on Registers

The 2022 Amendment Regulations also introduce amendments to the existing requirements on firms to report discrepancies in registers. These amendments are addressed in Section 12.6 of the updated LSAG Guidance.

The amendments include extending the applicable registers so that before establishing a business relationship with a:

- Company (registered or unregistered as defined in the Unregistered Companies Regulations 2009(1));
- Limited Liability Partnership;
- Scottish Partnership;
- A trust which is required to register with HMRC's trust registry; or
- An overseas entity that needs to register due to ownership of UK real property,

a firm must collect an excerpt of the register which contains full details of any information specified in paragraph (1A) of Regulation 30A, which is held on the register at that time, or must establish from its inspection of the register that there is no such information held on the register at that time.

The information specified in paragraph (1A) is information relating to beneficial owners of the client or, where a registered overseas entity, information relating to registrable beneficial owners specified under Schedule 1 to the [Economic Crime \(Transparency and Enforcement\) Act 2022](#).

A firm must now also collect an excerpt of the register when taking measures to fulfil its duties under the MLRs to carry out client due diligence and ongoing monitoring of a business relationship (including enhanced CDD and enhanced ongoing monitoring) after the business relationship has been established.

If the firm finds a material discrepancy between information relating to the beneficial ownership of the entity which it collects as above, and information which becomes available to it whilst carrying out its duties under the MLRs (such as during its onboarding process), the discrepancy must be reported to Companies House (R30A(3)).

The amendments also clarify that only 'material' discrepancies (as defined) are reportable. Schedule 3AZA to the MLRs now provides that a

material discrepancy is one which satisfies the condition in paragraph 2, including one which is in a form listed in paragraph 3.

The condition in paragraph 2 is that the discrepancy "by its nature and having regard to all the circumstances, may reasonably be considered:

- To be linked to money laundering or terrorist financing; or
- To conceal details of the business of the customer".

Discrepancies listed in the paragraph 3 of the said Schedule are in the form of:

- A difference in name;
- An incorrect entry for nature of control;
- An incorrect entry for date of birth;
- An incorrect entry for nationality;
- An incorrect entry for correspondence address;
- A missing entry for a person of significant control or a registrable beneficial owner;
- An incorrect entry for the date the individual became a registrable person.

Section 12.6 of the updated LSAG Guidance provides further assistance for Members regarding the application of the responsibility to report, the timing of reporting and documenting of decision-making regarding reporting.

Further information regarding the duty to report is available at <https://www.gov.uk/guidance/report-a-discrepancy-about-a-beneficial-owner-on-the-psc-register-by-an-obliged-entity#when-to-make-a-discrepancy-report>

Further assistance in these areas is available to members via the Society's AML CPD events. A recording of the April 2023 AML Session 1: Key Areas of Compliance & the updated LSAG Guidance can be purchased [here](#).

A further AML CPD Session 2 is scheduled to take place on 25th October 2023.

4. The Economic Crime Levy

The Economic Crime Levy (ECL) is a new annual tax charge that will affect all entities, including solicitor firms, that are supervised under the MLRs and whose UK Revenue exceeds £10.2 million per year.

The ECL was introduced by the [Finance Act 2022](#) and associated [Economic Crime \(Anti-Money Laundering\) Levy Regulations 2022](#).

The ECL will be paid as an annual fixed fee. This ECL fee will be determined by the band in which an MLR-supervised entity sits, based on its UK revenue in the accounting period ending in the previous financial year. It will be payable in September following the end of each financial year.

Entities with UK revenue of £10.2 million to £36 million in the relevant accounting period will pay an ECL fee of £10,000.

The ECL will first be charged on entities that are regulated at any point during the financial year from 1st April 2022 to 31st March 2023, with the first payments for the ECL fee for the 2022-2023 financial year to be made in September 2023.

Firms supervised by the Society under the MLRs whose UK Revenue exceeds £10.2 million per year will therefore need to:

- Register **with HMRC** for the ECL,
- Submit a return **to HMRC**, and
- Pay a fee **to HMRC** every year

Firms whose UK Revenue does not exceed £10.2 million per year will not have any ECL liability and are not required to register with HMRC.

Further information regarding the ECL can be found at [Get ready for the Economic Crime Levy](#).

Should you have any queries arising from the above, please do not hesitate to contact the Society's Professional Conduct Department at Regulation@lawsoc-ni.org .





Jonathan Stockton,
Insurance Claims
Consultant to the
Law Society

Professional Indemnity – the 10 most common claims against solicitors in Northern Ireland

Jonathan Stockton discusses the most common claims against solicitors and the recurring themes.

1. CONVEYANCING

Conveyancing has traditionally accounted for around 40% of claims against solicitors. Conveyancing claims are still so prevalent that they deserve their own top five:

- (1) A recurring theme is deduction of good and marketable title. Often mapping issues can cause an issue particularly in identifying that legal title can be deduced in relation to the entirety of the property to be purchased/mortgaged and that the map/deed accords with such title.
- (2) Failure to make all reasonable enquiries to establish if services are provided by mains services and, if not, ensure that all relevant easements re: access, septic tanks, soakaways, water supply and consent to discharge are in place. Issues in respect of clarifying easements over land, sightlines and sewerage connections remain common issues.
- (3) Issues around planning permission if a solicitor has held out to give planning advice can give rise to potential claims.

- (4) Issues can also arise where the vendor had purported to transfer land that was not within their right/ownership to do so.
- (5) Failure to advise parties to seek independent legal advice when transferring land or property can give rise to claims.

The solution/defences - It is vital that retainer letters are airtight in terms of what exactly the solicitor specified their duties were, and moreover, what they were not. For example, a solicitor specifies that they are not a mapping expert and that they will not give mapping advice and responsibility, for this is their client's responsibility.

2. LIMITATION

Again, no surprises at number two, but unfortunately, limitation claims are still a big problem. Limitation claims carry a double excess under the Master Policy and so can have a considerable financial impact on firms.

These claims arise where the relevant limitation period is outside the normal

personal injury, tort or breach of contract periods. For example, maritime personal injury claims must be submitted within two years, not three years (as for a normal personal injury claim). It is also worth noting that personal injury claims in the Republic of Ireland have a two-year limitation period.

Other examples include failure to serve proceedings within the primary limitation period or within the period of validity. There have been a number of instances where solicitors have served proceedings outside the 12-month validity period. Applications to extend validity of the Writ are seldom acceded to by the Master. Sometimes it is possible to issue fresh proceedings within the remaining limitation period but if the claim is statute-barred, that leaves the solicitor extremely vulnerable. Insurers are dealing with a number of these claims presently. They often arise due to failure by the solicitor who had conduct of the matter to set and monitor the relevant diary dates.

The solution - a good diary system - both personal and professional - to ensure that if there is a change of solicitor that the date is not overlooked - a 'second pair of eyes' system.

3. CYBER

Cyber-attacks are becoming more and more sophisticated. The Law Society's "Call, Check and Confirm" procedure provides solicitors with a mechanism to try to mitigate against the risk of cyber-attacks. Notwithstanding this, solicitors and their staff should remain vigilant in relation to this risk to ensure that their processes are not only rigorous in relation to the transfer of funds but also familiar and well known to all staff. This may help to identify potential scams and training should be undertaken regularly.

Mitigation? always use the Society's Call, Check and Confirm procedures and ensure that office procedures are well known to all staff and strongly adhered to. It is essential that all personnel engaged in making transfers are well versed in the Call, Check and Confirm procedure and that there is all-firm training on the topic. It is not sufficient that just the fee earning staff have this training.

4. EMPLOYMENT LAW

Claims arise where it is alleged the insured failed to enter an ET1 Form within the stipulated timeframe. If the defence to be maintained is that the client's instructions were being sought and not received, the solicitor's file would need to prove that they set out the deadline date to the client, and that every reasonable step was taken to contact the client.

It is possible to apply to amend the ET1 form so it would make sense to ensure it is lodged in time and consider afterwards whether the content needs amendment.

The solution - submit ET1 forms in time and amend later, and a good diary system, the 'second pair of eyes' system.

5. LACK OF CLARITY IN TERMS OF SETTLEMENT

Arguments over terms of settlement can arise where there is ambiguity or if, on reflection, one of the parties later wants to extract a better deal. It is crucial that the solicitor has clear authority to agree any terms. If proposed settlement terms have been discussed, there needs to be a detailed clear file note.

All advice on the merits of a case should be documented in a clear attendance

note. Ideally, written advice should be provided on the merits and drawbacks of the settlement so that there can be no argument that the client wasn't advised as to risks.

Where counsel has been retained, counsel should also be asked to provide full written advice covering the precise settlement terms, for example, what was agreed on precisely what basis? Does the settlement include fees? Does it include VAT on fees?

The solution - a need for certainty, assume nothing. Obtain clear and unambiguous authority, produce a detailed and clear written file note and written advice to the client, and obtain counsel's written advice on exact settlement terms.

6. OWN INTEREST CONFLICT

This is often interconnected with claims regarding breach of confidentiality. Reputationally-speaking, such claims can be damaging and can lead to all manner of injunctive proceedings and significant costs. Problems can arise where solicitors fail to advise their client to obtain independent legal advice on issues that could be an own interest conflict.

7. 'DABBLING'

Times are hard and solicitors understandably do not like to turn away work. Claims can arise where a solicitor does not understand the area of work and gets in over their head, for example, if a solicitor informs their client that they had achieved the requisite order of the court when in fact they hadn't. In a sole practitioner situation, the Master Policy may not respond due to the dishonesty element.

8. BREACH OF UNDERTAKINGS

Various claims arise under this heading including those whereby the insured was not in a position to or had no control or ability to fulfil the undertaking. The courts still take a dim view of this regardless of whether it was a 'never to be'. These claims also attract a double excess under the Master Policy.

9. PROBATE

Claims arising out of the drafting of Wills are on the increase. Issues include: failure to work efficiently to ensure that the Will was prepared in a timely fashion (the most significant being failure to draft before the proposed testator dies), failure to carry out the instructions of the testator, errors or ambiguity in drafting, overpayment or failure to identify beneficiaries.

10. MISCELLANEOUS CAUSES OF CLAIMS

- (1) Failure to report developments in cases to clients or to correctly understand clients' instructions.
- (2) Failure to report issues to clients as they arise or upon receipt of client instructions.
- (3) Failure to manage clients' expectations. Unrealistic expectations can lead to a client suing their solicitor because they feel they have not got what they deserved.
- (4) Failure to serve break clauses in leases or option agreements within relevant time limits is an issue which can produce significant claims.
- (5) Basic errors such as getting dates wrong in contracts can produce very large claims.

Sincere thanks to Catriona McCorry, Partner DAC Beachcroft and Hugh McGrattan, Partner Carson McDowell LLP for their assistance in compiling this article.

Who should I contact for free advice?

Jonathan Stockton LL.B (Hons), FCILA is an independent Insurance Claims Consultant who has been appointed by the Law Society of Northern Ireland and is accessible to all Members. He can provide guidance and reassurance in claims matters, from initial notification of a claim (or potential claim) and throughout the entire claims process. Contact Jonathan Stockton on 07593 291912 or at PII@lawsoc-ni.org for free guidance and help.

Brian Speers reflects on his term as President of the Commonwealth Lawyers Association



Brian Speers, President, Commonwealth Lawyers Association 2019-2023

In April 2019, in Livingstone, Zambia, I was elected President of the Commonwealth Lawyers Association (CLA). My two-year term was extended until February 2023 when a new President was appointed.

I would like to share some reflections about my term of office.

The CLA is a members' organisation comprising practitioners from the 56 countries who are members of the Commonwealth of Nations. Mostly memberships are through the Law Societies or Bar Councils in each jurisdiction. Following constitutional reform in May 2021 every member state including Hong Kong and Zimbabwe (no longer members of the Commonwealth) became eligible to have a seat on Council. The CLA is arranged into four regional Hubs and each Hub has a Vice President. Meetings now involve over 50 participants and are facilitated by video technology. The Council meets quarterly, and an Executive Committee appointed by Council meets monthly. The President chairs meetings of the Council and ExCo.

Last year the Council approved the formation of five committees of practitioner interest – Human Rights, Technology, Commercial,

Dispute Resolution, and Climate and Environment. These committees have started to do great work and aim to partner with similar committees in each jurisdiction. A Family Law Committee and a Committee for Government Lawyers will be formed next.

So, one abiding memory is of participating in regular and frequent Zoom meetings - sometimes several in a week, and sometimes late at night or before dawn to accommodate time differences!

Throughout my term there have been numerous webinars on topics of interest - from the Privy Council to the death penalty, to human rights and media freedom. These were all important opportunities to share knowledge and to learn.

Some webinars were to show solidarity to colleagues in jurisdictions where lawyers were threatened or arrested for simply doing their job. It was humbling to see how much those jurisdictions valued support from an international organisation. That support was further provided by issuing statements on matters of concern - about lawyers arrested in Zambia and Sri Lanka, or interference with the independence of the Judiciary in Kiribati, or concern about an overreach of the Executive in the UK.

Each statement required research, consultation with our Council member in that jurisdiction and with the relevant Hub Vice President - time-consuming but rewarding.

There is only so much that can be achieved from my desk in front of a screen in Belfast! Some highlights of my term in office have included attendance at significant events. The Commonwealth Day Service in Westminster Abbey is a fascinating experience where members of the Royal Family and government mingle with representatives of the Commonwealth. Westminster Abbey is also the location for the annual Opening of the Legal Year (OLY) Service in England and Wales when the Law Society of England and Wales, and the Bar Council arrange an international guest programme which I have attended. In October 2022, I was given the singular honour of speaking on behalf of the international guests at a dinner in Middle Temple attended,



Brian Speers with Baroness Patricia Scotland, Secretary General The Commonwealth at CHOGM, Rwanda.

among many other notable colleagues, by the Presidents of the IBA and the American Bar Association.

The CLA during my tenure developed and strengthened its relationship with the Commonwealth Secretariat - in particular the Peace and Governance Directorate. Despite the pandemic and related travel restrictions the Commonwealth Law Conference was held in Nassau, the Bahamas, in September 2021. 25 countries were represented and the Secretary General of the Commonwealth Secretariat, Her Excellency, Baroness Patricia Scotland KC, gave a keynote address. The LSNI President, and Chief Executive and the Chief Justice contributed to the sessions and established valuable links and connections.

The CLA was asked to arrange a side event at the Commonwealth Heads of Government Meeting (CHOGM) in Kigali, Rwanda in June 2022. I chaired a discussion on Access to Justice in which the Chief Justice of Rwanda spoke. I also spoke at the Peoples Forum and to Foreign Ministers about freedom of expression, hoping to encourage the adoption of the Commonwealth Principles on freedom of expression and the role of media in good

governance (the Media Principles) which the CLA took a lead role in drafting. At the Commonwealth Law Ministers Meeting (CLMM) in Mauritius in November 2022, I was asked to present these Media Principles to the Law Ministers who unanimously approved them for adoption at the next CHOGM. It was most rewarding to have been a part of the journey whereby policy is made in a 56-members Commonwealth. In that Law Ministers meeting I also presented a paper on the Singapore Mediation Convention, having first raised the need for a mediation strategy for the Commonwealth at the previous CLMM in Colombo, Sri Lanka in November 2019.

The pandemic of course interfered with travel during 2020 and most of 2021. However, over the years I have enjoyed attending in person at a number of events - the Annual Conference of the Law Society of Kenya, the Convocation of the Law Society of Ontario, the Bar Council of Malaysia, as a speaker at the Commonwealth Parliamentary Association meeting in Kampala, and taking part in meetings with the Law Council of Australia in Melbourne and at an ADR Conference in Fiji.

Perhaps the most profound memory is of visits to Africa. In Zambia at the Livingstone Conference when I was elected CLA President, I walked into the opening ceremony flanked by Zambian soldiers, among the platform party with the then President of Zambia, President Lungu. The LSNI and delegates contributed to a fundraising effort to build a classroom for orphaned children at a school established

by a UK charity (the Zambezi Sunrise Trust). Baroness Scotland opened the classroom, and the joy and energy of that occasion is a really treasured memory – as is a speedboat trip up the Zambezi swerving to avoid the hippos with the Chief Justice and the Lord Justice Clerk of Scotland on board! In Livingstone I was pleased to present the Child Marriage Report of the CLA on which I had worked – this issue will continue to receive my attention as Past President.

They say that whether east or west, home is best and for me the enduring highlight has been the Commonwealth Mediation Conference in Law Society House, Belfast in May 2022. The Master of the Rolls, Sir Geoffrey Vos, gave a far-reaching address on the evolution of civil justice by integrating court, arbitration and mediation. George Lim of the Singapore International Mediation Centre impressed with how Singapore has evolved a global centre of excellence for mediation and hosted the signing ceremony for the UN Singapore Mediation Convention. Our own mediators from Law Society Mediation Service made noteworthy contributions in a wonderful friendly and inspiring event attended by colleagues from Ghana, Nigeria, India, Trinidad, Barbados, the Bahamas, and all parts of the UK (not forgetting to mention Ireland and Afghanistan!).

The Law Society of Northern Ireland has provided very welcome support to me in my role as CLA President and, I believe, in turn has enhanced and projected its reputation and



Brian Speers with Tass Liveris President Law Council of Australia at the ADR Conference in Fiji organised by Law Asia and South Pacific Lawyers Association.

the reputation of solicitors in Northern Ireland across the Commonwealth.

A measure of the influence of and respect for the solicitor profession in Northern Ireland was demonstrated at the Commonwealth Law Conference in Goa, India in March 2023 – my swansong as CLA President. Immediately prior to the opening of the Conference the LSNI President contributed to the inaugural Bar Leaders Programme at which the Goa Declaration on the independence of the legal profession and the judiciary was approved.



Commonwealth Mediation Conference, Belfast 2022.

The Secretary General again provided the opening keynote address on the 20th anniversary of the adoption of the Latimer House Principles. The Senior Vice President and Chief Executive spoke as did the former Chief Justice Sir Declan Morgan who chaired a plenary session on independence of the Judiciary which included contributions from the Chief Justice of Malaysia and a Judge of the Supreme Court of India. The Attorney General for Northern Ireland spoke on legal drafting,

LSNI Past President Mr Justice Huddleston contributed to a discussion on legal education and Michael Robinson, the Law Society nominee to the NI Judicial Appointments Commission, spoke on the hugely important matter of judicial appointments. The Goa Conference attracted delegates from 52 countries and provided the opportunity to meet colleagues and share experiences against the common background of respect for the rule of law and a desire to uphold



Brian Speers attending Commonwealth Heads of Government Meeting in Kigali, Rwanda.



Welcome Reception in Goa for the 23rd Commonwealth Law Conference March 2023. Pictured are the Hon. Marlene Forte Minister of Constitution and Legal Affairs Jamaica, Brian Speers, President CLA, Jean Dyer, Anguilla President Eastern Caribbean bar, Mark Stephens CLA Vice President Europe and Sneha Aurora Chair Commonwealth Human Rights Institution.



Brian Speers attending the Law Society of Kenya Annual Conference, with Maria Mbeneka VP and Mercy Wembua Secretary General LSK.

the independence of the practising legal profession. The welcome reception on the rooftop of the Taj Hotel adorned with vibrant orange marigolds was a vivid experience as was the Gala dinner on the lawns of the Grand Hyatt bedecked in colours to celebrate Holi.

In the past four years I have realised the strength of the bond between lawyers from mostly common law jurisdictions with shared language and values. Friendships and the opportunity to learn and to share knowledge are an excellent way of contributing to our great legal profession.

I thank my partners in CMG Cunningham Dickey for their support and again thank the Law Society of Northern Ireland. While after four years I will miss the almost daily activity of my role as CLA President, I can now focus on contributing in the Commonwealth to matters relating to my areas of enduring and special interest - mediation, legal profession regulation and professional education and development. I have been proud to have assisted the CLA to evolve positively in the past four years. It has been my honour and pleasure to have served as CLA President.

In Brief

The 2023 Annual Conference for Children Order Panel members took place at Assembly Buildings, Fisherwick Place, Belfast on Tuesday 13 June 2023 and focussed on 'Trauma Informed Practice'.



The event was opened by the Right Honourable Dame Siobhan Keegan, Lady Chief Justice of Northern Ireland and chaired by Fiona Donnelly, Chair of the Children Order Panel Board.

Delegates heard from WAVE Trauma and the Scottish Trauma-Aware Lawyers Team who delivered skills on how to be trauma responsive in relation to clients and also how to identify vicarious trauma in professional life.



President Brian Archer with the Right Honourable Dame Siobhan Keegan, Lady Chief Justice, Janice Spence, Chair of the Family Law Committee and Fiona Donnelly, Chair of the Children Order Panel Board.



The President was delighted to welcome Norman Shannon, solicitor to Law Society house in late June to mark his 70th birthday and to celebrate his many years of dedicated service to clients and to the Court. He was joined by friends and family of Mr Shannon.



In June 2023, the President, Brian Archer attended QUB Honorary Graduates Ceremony at which the Lady Chief Justice, Dame Siobhan Keegan was awarded an honorary doctorate.



The President represented the Society at the IBA Mid-Year International Bar Association held in Helsinki, Finland in May 2023. Pictured with Sheila Webster, President of Law Society of Scotland and Maura Derivan, President of the Law Society of Ireland.

President's Charity

include YOUTH

benefits from Law Society Legal Walk/ Run 2023



On Friday 12th May over 200 people came together to take part in the Society's annual 5K Legal Walk/Run in aid of the President's nominated charity - Include Youth.

Participants from all parts of the legal profession, including solicitors, barristers, Judiciary, and support staff, set off from outside the High Court in Belfast for their 5K walk/run to the Titanic Centre and back again. Thankfully the sun shone for the whole afternoon, and the celebrations continued afterwards with a well-deserved burger followed by a raffle in the evening.

Brian Archer, Society President, thanked all the participants who took part and said: *"It was an amazing sight to see so many people coming together for such an important cause and it truly showed how much can be achieved when*

we work together towards a common goal. A special word of thanks goes to Harbinson Mulholland for their sponsorship contribution towards the event."

Paddy Mooney, Director of Include Youth commented: *"On behalf of Include Youth, I would like to thank everyone who participated in the event. It was a great success with an amazing atmosphere. I am very grateful - the amount raised will help Include Youth provide vital services for young people with care experience."*

An incredible £4,400 was raised from the event which will go directly to help Include Youth to provide vital services for the young people they work with. Include Youth are extremely grateful and know this will make such a huge difference in the lives of young people.



Include Youth representatives.



Brian Archer, President of the Law Society and Siobhan Keegan, Lady Chief Justice.



Event participants.



Judiciary Visit to Law Society House

The President recently welcomed to Law Society House visiting Judges from the Irish Supreme Court, Court of Appeal and High Court along with the Director of Public Prosecutions in Zambia and members of his office who were guests of Irish Rule of Law International.



Society welcomes the Executive Secretary of the Law Society of Zimbabwe to Belfast

The Society's President, Brian Archer and Chief Executive, David A. Lavery CB were delighted to welcome Edward Mapara, Executive Secretary of the Law Society of Zimbabwe to Belfast. Over the period of a fortnight, Mr Mapara met with the Law Society of Ireland and Northern Ireland regarding best practice in respect of their representation and regulatory roles.



Pro Bono Choir Summer Concert

The annual Pro Bono Choir summer concert was held on 7th June 2023 in Parliament Buildings, Stormont. Guests enjoyed an evening of story and song in support of Include Youth and the National Autistic Society Northern Ireland. The event was attended by Law Society President Brian Archer.



From left: Brian Archer, President of the Law Society, Moira Smyth KC, Chair of the Bar Council, Dame Siobhan Keegan, Lady Chief Justice, and David Mulholland, Chief Executive of the Bar of Northern Ireland.



BSA Anniversary Dinner

Belfast City Hall was the venue for the Belfast Solicitors' Association 80th Anniversary Gala Ball on 10th June. Chair, Sarah Wilson, commented on how far the Association has come in promoting the welfare and interests of the legal profession, but that much work is yet to be done, particularly in the areas of equality and diversity.

In her keynote speech, Dame Brenda King reflected upon the 80 years of the Association remarking it was particularly special to her as she is the first solicitor to be appointed Attorney General.

A number of presentations were made to mark the occasion. Tom Burgess, Chairman of the BSA in 1978, and the first solicitor in Northern Ireland to become a County Court judge, received the 'BSA Lifetime Achievement Award' sponsored by the Law Society of Northern Ireland. Brigid Napier, Director at Napier Solicitors and current Law Society Senior Vice President, received the 'BSA Inspirational Woman Award', sponsored by Stewart Title. Owen Beattie, Managing Director at Owen Beattie & Co Solicitors, received the 'BSA Rising Star Award' which was sponsored by NI Young Solicitors Association. Susan Martin, President of the Dublin Solicitors Bar Association, gifted a loving cup fashioned in Dublin silver and symbolising the relationship between the two associations.

City of Belfast Youth Orchestra provided the entertainment and a total of £1,702 was raised for the charity 'Employers for Disability, Northern Ireland'.



Brian Archer, President with Sarah Wilson, Chair of the BSA.

Historical Institutional Abuse Redress Procedure Guidance

The Law Society of Northern Ireland is pleased to launch a 'Best Practice Guidance' document to assist Members involved in making applications on behalf of clients to the Historical Institutional Abuse Redress Board.

In developing the Guidance, we worked collaboratively with several stakeholders, including the Commissioner for Survivors of Institutional Childhood Abuse, the Redress Board and Owen Beattie & Co. Solicitors, and we would like to thank them for their valuable contributions.

We would encourage all Members involved in making applications to the HIA Redress Board to avail of the practical information and guidance contained within the document to assist with adopting a trauma-informed, victim/survivor

approach throughout the entirety of the process.

Commenting on the launch of the Guidance, Fiona Ryan, Commissioner for Survivors of Institutional Childhood Abuse, said:

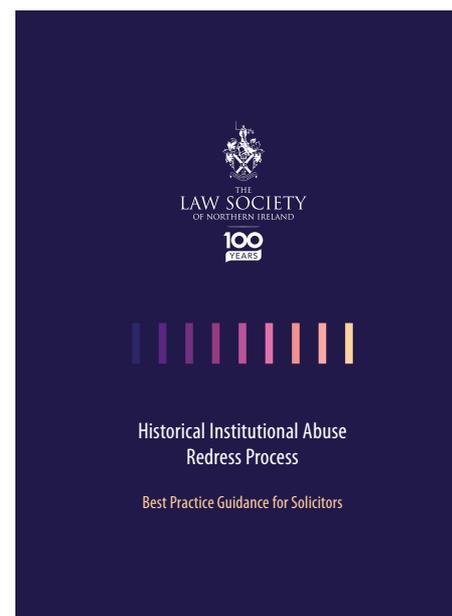
"I welcome the Law Society's publication of new Historical Institutional Abuse Redress Process Best Practice Guidance for solicitors. It represents an important step forward for victims and survivors who choose to apply for financial compensation redress, and for the solicitors who advise them. I am glad that the new best practice guidance will help to ensure that solicitors are equipped to follow a trauma-informed, victim focused approach and will keep the best interests of victims and survivors at the centre of the redress process".

The Guidance can be accessed from the Members' area on the Law Society website at the following link:

<https://www.lawsoc-ni.org/historical-institutional-abuse>

The Guidance was officially launched by Brian Archer, President of the Law Society, at a CPD event, which included presentations from:

- Mr Justice Huddleston, HIA Redress Board



- Fiona Ryan, Commissioner for Survivors of Institutional Childhood Abuse
- Nicola Nugent, Victims and Survivors Service
- Paul Gallagher, WAVE
- Owen Beattie, Owen Beattie & Co Solicitors

The webinar can be accessed from the following link: <https://www.lawsoc-ni.org/hia-redress-scheme-guidance-and-best-practice>

Former Law Society President marks 50 years in practice



The Law Society of Northern Ireland has congratulated local solicitor Rory McShane for 50 years in practice.

A former President, Treasurer and Council Member of the Law Society, Rory set up McShanes in 1973 in Newry, providing legal services and support to clients across Northern Ireland.

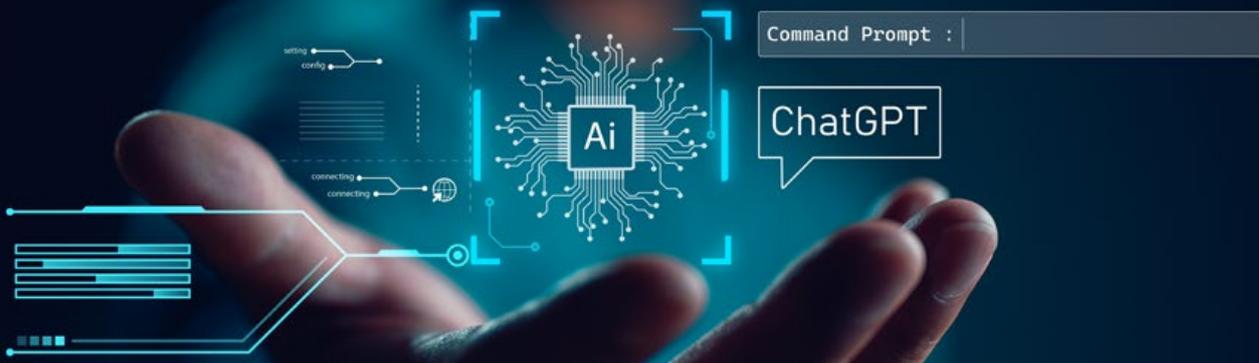
Since then, he has grown the family-run practice in size and services embracing the needs and demands of clients in ever-changing times.

Commenting on his 50 years in practice the President of the Law Society of Northern Ireland, Brian Archer, said;

"On behalf of the solicitor profession I wish to congratulate Rory McShane for reaching the important milestone of 50 years in practice.

As an established and well-known family law practice, McShanes epitomises the commitment of local solicitors to supporting the needs of the community in providing the best in legal services and advice.

I would like to pay tribute to Rory who has shown great dedication and commitment to the solicitor profession throughout his career serving on the Council of the Society and giving his time to showcase the solicitor profession at home and abroad."



Jordan Hanna,
Associate, Arthur Cox LLP

What the AI tool Chat GPT could mean for the legal sector

Ladies and gentlemen, hold onto your gavels and briefcases because we're about to embark on a wild ride through the strange and surreal world of legal work with the help of ChatGPT. This is not your typical law firm, oh no. This is a place where artificial intelligence meets the justice system and the lines between reality and technology blur into a kaleidoscope of possibilities.

Picture this: a bustling law office where lawyers and ChatGPT work hand in hand, tapping away at their keyboards in a feverish frenzy. The lawyers are like cowboys in the Wild West, riding their trusty AI steeds into the unknown depths of the legal system, searching for answers to the toughest questions. And ChatGPT? Well, it's like a magical genie that grants their wishes with lightning-fast speed and unparalleled accuracy.

That was the product of my prompting ChatGPT to "write me an introduction to an article about the use of ChatGPT in legal work in the style of Hunter S Thompson". I chose Thompson because his style is unique and obvious, and, for those of you who haven't read any of his work, it's done a really good job. It also speaks highly of itself, although more nuanced answers were given when I

AI Frontiersman: A Short View on Chat GPT

repeated the prompt a few more times with different journalists. Nevertheless, my slight suspiciousness at its own self-aggrandising is a good example of the interplay between the introduction of AI Language Tools to legal work, and the care that must be taken when doing so.

To lay my cards on the table, I feel that use of ChatGPT is inevitable. When writing this article, I experimented and asked it to draft me a contract for a litigation settlement. In a matter of seconds, I had a 'fill in the blanks' precedent which included *entire agreement*, *confidentiality* and *governing jurisdiction clauses*. It was by no means something you would present to your client, but it was enough of a precedent that meant you could get on with the protein of the work. In other experiments I've had ChatGPT perform research, draft emails on my behalf (and in my style), read judgments and summarise them - all with varying degrees of success but with results that were pleasantly surprising and which showed me that ChatGPT, when appropriately modified for legal use, will be simply too useful and efficient to ignore. The value to clients will mean that the economy will demand its use.

This brings us to the often-expressed fear that ChatGPT or other AI tools will replace solicitors entirely. The reality is that this is unlikely and the danger of mindless ChatGPT use is exactly why a solicitor's input will always be needed. There is a plethora of issues with using it, for example, the fact that the conversations you have with ChatGPT are shared with the company who make it, which calls confidentiality issues into question. Furthermore, it generates its answers to research by (in very simple terms) 'reading the internet', so its information requires

verification. The precedent contract example discussed above still requires the input of a legal advisor. In its current form there is no way that ChatGPT can consider all the unique human complexities that need to be taken into account in any case and Chat GPT, while extremely helpful, cannot be relied upon without human scrutiny.

That absence of that human touch is exactly why solicitors should not fear embracing this tool. I can ask ChatGPT to give me a prediction as to the outcome of a case, provide me with the research needed to evidence that, write me emails making those arguments and draft me a precedent settlement agreement, but it does not 'know' anything. It can 'read', and regurgitate from its various online sources, but it doesn't know the colleague you are negotiating with and how they tend to be more willing to settle after lunch on a Friday... It cannot strategise, and ultimately it therefore cannot replace solicitors. It will simply change the way we work.

The way in which it will do so is yet to be discovered, however. Until the software which makes it available for use in law firms in a commercial sense becomes available, we won't know exactly what the role of the solicitor will look like in a post-ChatGPT world. All indicators seem to point to the fact that it will remove a lot of the more routine work and will save huge amounts of time while doing so, leaving the 'intangible' aspect of the solicitor's role to take precedence. One can foresee a great deal more time spent advocating, negotiating, and acting as an agent for our clients, giving precedent to the so called 'soft skills', but clearly the need for accurate drafting, informed research and concise advice-giving will all still be needed for the responsible use of this new technology.

Access to Justice visits Northern Ireland



Claire Carter, Chief Executive, Access to Justice

In this article Clare Carter discusses her recent visit to Belfast.

Last month I visited Belfast (for the first time, I'm ashamed to admit!). As a UK-wide funder, The Access to Justice Foundation is keen to ensure we are being as impactful as possible in Northern Ireland, and we know that we need to learn from the experts on the ground the best way to do that.

For those who don't know us, The Access to Justice Foundation is a grant-making charity founded and led by the legal profession to increase the availability of social welfare legal advice to the people who need it the most. We are a fundraising foundation, meaning we raise all the money that we subsequently distribute in grants. You can find out more about us on our website - [Home - The Access To Justice Foundation \(atjf.org.uk\)](#)

We raise funds through support from law firms, including donations of residual client balances. In England and Wales, we are also the recipient of funds derived from pro bono costs orders. Hopefully these will be introduced in Scotland within the next year and then in Northern Ireland. We also run a series of fundraising events - see more details at [Events - The Access To Justice Foundation \(atjf.org.uk\)](#) - and work with other trusts and foundations and government departments to increase access to justice.

In Northern Ireland over the last couple of years we have made grants to a range of legal advice charities including Law Centre Northern Ireland, Children's Law Centre, Housing Rights and Advice NI. But we recognise that there is much more to do. Meeting frontline agencies in Belfast recently really made this point hit home, people are really struggling with the impact of the cost-of-living crisis and advice charities are struggling to meet rising demand given the lack of sustainable and adequate core costs funding. Both public sector agencies and frontline advice charities confirmed there were particular issues for people seeking to access specialist immigration advice. The consequences of Brexit of course have exacerbated this.

I was struck by the opportunities for collaboration across Northern Ireland. There are clearly lots of strong working relationships and better access to policymakers than in other parts of the UK. But like everywhere, access to justice struggles to get the funding recognition it needs. We're keen to work with partners in Northern Ireland to address this. We're still working out what we can mostly usefully do.

Ursula O'Hare, Director of Law Centre NI who hosted the visit added:

The Access to Justice Foundation was one of the principal architects of the Community Justice Fund which, during the Covid-19 pandemic, supported the not-for-profit advice sector to sustain their vital services and it was great to finally be able to welcome Clare to Belfast. At the Law Centre, we keep a watchful eye on how the access to justice landscape develops in Britain. Clare's visit was an important opportunity to learn more about what makes a positive difference as well to understand the impact of policy and legislative change that has limited access to justice for people in need of legal help. We look forward to working with others on the introduction of pro bono costs in NI and to be part of the efforts to widen access to justice in Northern Ireland. Later this year, we hope to bring together a range of key stakeholders to share their insights on access to justice.

For the not-for-profit advice sector, the support of foundations like the Access to Justice Foundation has never been more important. Public sector funding pressures look set to continue to bite down on the sector and this support is key to the long-term sustainability of this part of the advice eco-system in Northern Ireland.

We're looking forward to the next visit already...



THE
ACCESS
TO JUSTICE
FOUNDATION

Statutory Employment Rights payments increased

The Employment Rights (Increase of Limits) Order (NI) 2023 (S.R. 2023 No. 36) revises, from 6 April 2023, the limits applying to certain awards of industrial tribunals, the Fair Employment Tribunal or Labour Relations Agency statutory arbitration, and other amounts payable under employment legislation, as specified in the Schedule to the Order - see Table below for further details.

Under Article 33(2) of the Employment Relations (NI) Order 1999 (“the 1999 Order”), if the Retail Prices Index (RPI) for September of a year is higher (or lower) than the Index for the previous September, the Department is required to change the limits, by Order, by the amount of the increase or decrease (rounded as specified in Article 33(3) of the 1999 Order as amended). The increases made by this Order reflect the increase in the RPI of 12.6% from September 2021 to September 2022.

The increases apply where the event giving rise to the entitlement to compensation or other payments occurs on or after 6 April 2023. Article 2 of the Order revokes the Employment Rights (Increase of Limits) Order (Northern Ireland) 2022 (S.R. 2022 No. 135) (“the 2022 Order”). Article 4 of the Order preserves the sums previously in operation under the 2022 Order in relation to cases where the relevant event was before 6 April 2023.

Amendments contained within the Enterprise and Regulatory Reform Act 2013 made limits applicable in Great Britain subject to increase on a fixed date (6 April annually) and a different method of rounding. Corresponding amendments in respect of Northern Ireland, contained within section 22 of the Employment Act (Northern Ireland) 2016 (“the 2016 Act”), were commenced in 2018. Consequently, limits in Northern Ireland have diverged slightly from those applicable in GB. Section 22 of the 2016 Act also contains an amending provision that will allow this divergence to be addressed, if there is agreement to do so, in the future.

Relevant statutory provision	Subject of provision	Old Limit	New Limit
Article 40(6) of the 1995 Order	Minimum amount of compensation where individual expelled from trade union in contravention of Article 38 of the 1995 Order and not re-admitted to the union by the date of application to the tribunal.	£10,840	£12,206
Article 23(1) of the 1996 Order	Maximum amount of “a week’s pay” for the purpose of calculating a redundancy payment or various awards, including the basic or additional award of compensation for unfair dismissal.	£594	£669
Article 63(1) of the 1996 Order	Limit on amount of guarantee payment payable to an employee in respect of any day.	£31.00	£35.00
Article 77E(3) of the 1996 Order	Amount of award for unlawful inducement relating to trade union membership or activities, or for unlawful inducement relating to collective bargaining.	£4,780	£5,382
Article 154(1) of the 1996 Order	Minimum amount of basic award of compensation where dismissal is unfair by virtue of Article 132(1)(a) and (b), 132A(1)(d)(2), 133(1), 134 or 136(1) of the 1996 Order.	£7,228	£8,139
Article 158(1) of the 1996 Order	Limit on amount of compensatory award for unfair dismissal.	£94,063	£105,915
Article 231(1)(a) and (b) of the 1996 Order	Limit on amount in respect of any one week payable to an employee in respect of a debt to which Part XIV of the 1996 Order applies and which is referable to a period of time.	£594	£669

Law Society Movie Night

MY COUSIN VINNY

Save
the Date

in aid of Include Youth

THE LAW SOCIETY
OF NORTHERN IRELAND



100
YEARS

Where: Crumlin Road Gaol
(53-55 Crumlin Road,
Belfast BT14 6ST)

Date: Thursday 7 September, 2023

Time: Gaol Tour: 6:30pm to 7:30pm
Movie start: 8:00pm to 10pm
Depart by: 10:30pm

Cost: £30 and includes:
Tour of the Jail
Private screening of My Cousin Vinny
Popcorn

Click here to
reserve your place

All proceeds in aid of
**include
YOUTH**

A lawyer's view from the frontline



Norville Connolly, Irish Rule of Law International

In this article former Law Society President, Norville Connolly, tells us about his life after leaving private practice.

What is your background in the law?

I was a partner in Fisher Mullan Solicitors Newry from 1978 to 2012. I was President of the Law Society in 2010 and in 2018 I was elected as Vice-Chair elect of the International Bar Association's Bar Issues Commission (BIC) which is the IBA's worldwide Bars and Law Societies' representative body. I was also a member of the IBA's Human Rights Council from 2012 to 2018. In 2018 I accepted a position as Deputy Executive Director of Integrity

Watch Afghanistan, the main anti-corruption, transparency and governance organisation in Afghanistan. I worked and lived in Afghanistan from 2018 until 2020. From 2020 to 2022 I held the same position but worked remotely, mainly from Ireland but also from Turkey and Canada.

I am also the representative of the Law Society of Northern Ireland to Irish Rule of Law International, (an NGO run by the Law Society of Ireland, the Law Society of Northern Ireland and the Bars of Ireland and Northern Ireland). It provides pro bono legal help in various parts of the world, particularly Africa. It has a permanent office with eight lawyers in Malawi working mostly with arranging prison courts for unrepresented prisoners.

What was your role in Integrity Watch?

Integrity Watch is a very well-known anti-corruption organisation in Afghanistan. Until August 2021 when the Taliban took over, we employed about 120 direct staff, many consultants and many hundreds of volunteers. I was the only non-Afghan in the organisation. After the Taliban takeover the work became much more restricted. Integrity Watch now has about 50 direct staff.

What did the work in Integrity Watch involve?

I worked very closely with the Executive Director, Sayed Ikram Afzali, a highly talented and passionate man. My work responsibilities were very wide indeed and ranged from organisational oversight and planning,

strategy, research oversight, contracts and documentation to working closely with our international board and donors, particularly with our core donor embassies which were Sweden, Norway and the US. We carried out a very large amount of work, from grassroots level all the way up to monitoring of central government. The latter work greatly decreased after the Taliban takeover, but the organisation continues to explore opportunities.

How did your work differ from previous roles you have undertaken?

It was completely different. The life of a practising lawyer is mainly about dealing with the issues of individual clients whether they be corporate or individuals. In my role in Integrity Watch there were no clients but instead it was running an organisation which is committed to reducing corruption and increasing transparency and accountability in a country which had been so seriously challenged by these issues for so long. Afghanistan, then, was near the bottom of Transparency International's corruption perception index of countries and so the challenges were great and varied.

What were the positives and negatives of the role?

The positives were working so closely in an international setting with our wonderful Afghan staff, particularly the Executive Director, for nearly four years. It was very rewarding to help in a small way to make such a passionate and good organisation run a little better.





Norville Connolly (left) and Mohamad Tahir Zaheer, then Governor of Bamyan Province Afghanistan.

Both inside work and outside, it was really interesting to meet so many great people.

The negatives were definitely the constant security challenges and risks. I didn't live in a compound but in a small guesthouse in Kabul city centre, used mainly by the international media. It was not possible to walk on the street but regularly to offset cabin fever I did go out by car to a select few restaurants and houses, but it always felt like running the gauntlet. The house itself, whilst challenging to stay in, was in other ways always fascinating, particularly at the dinner table in the evening with various media and other characters coming in and out to stay and work for a few days. It was a little crazy at times but never boring.

What did you hope to achieve?

I always wanted to work internationally and in a humanitarian setting, so it was satisfying to be doing this. Also, it was good to bring legal skills and experience to an organisation like Integrity Watch to hopefully help it to function just a little better.

How did your experience as a solicitor in Northern Ireland help?

I cannot emphasise strongly enough how the training and experience of working as a solicitor helped me in my work. Undoubtedly the experience of being on the Law Society Council also greatly helped. The years practising as a solicitor, having to see issues

clearly and making judgement calls has been immeasurably useful. Solicitors have these skills in great abundance, and they are important and transferable to work positions outside law, both nationally and internationally. It is not always easy to change over but with dedication and drive it can be done.

What are you doing now?

With great sadness I left Integrity Watch in April 2022. I wanted to work in the field and that was not possible in Afghanistan. I remain as an adviser to Integrity Watch and retain close links. It is in my DNA now. In April 2022 I joined Irish Rule of Law International on a volunteer basis and at present I am Country Director for Zambia and Tanzania. In Zambia our work is concerned with improving how the Economic & Financial Crimes Court functions and helping to establish a prison courts system to bring access to justice to the huge number of unrepresented accused prisoners. In Tanzania our work includes improving justice systems in relation to child sex abuse crimes.

Irish Rule of Law International will be holding another information meeting in Law Society House quite soon. All interested in finding out more about its work or who are interested in working or volunteering are most welcome to attend.

Further details about this meeting will be published in E-nformer. Enquiries about any aspect of IRLI's work can be obtained from Anne-Marie Blaney IRLI's Northern Ireland IRLI Program Lawyer at amblaney@irishruleoflaw.ie or nconnolly@irishruleoflaw.ie.



IRISH RULE OF LAW
 INTERNATIONAL



Law Society hosts First **Legal Women** Networking event

The Law Society was pleased to host the first Legal Women magazine event in Northern Ireland. Taking place at the beginning of June, over 100 women registered to attend the launch event. The audience heard from three solicitors at varying points of their career and had a policy update by the Law Society. The event was sponsored by Caldwell & Robinson and Donaghey & Chance. For information on future events, please contact Karen O'Leary at Caldwell & Robinson (k.oleary@caldwellrobinson.com) or Eileen Donaghey at Donaghey & Chance (eileen@eileen-donaghey-marketing.co.uk).



Niamh Harkin, Claire McEleney, Jade O'Kane, Joanna Burns.



Karen O'Leary and Nuala McMahon.



Emma McCloskey, Jade O'Kane, Julie Huddleston, Nuala McMahon.



Eileen Donaghy, Julie Huddleston, Emma McCloskey, Coral Hill, Karen O'Leary, Jade O'Kane, Nuala McMahon.



Aoife McColgan, Niamh Harkin, Karen O'Leary, Joanna Burns, Claire McEleney, Jade O'Kane.



Law Society (NI) Financial Advice

Considering retirement?

For all those people getting closer to their chosen retirement date, the following are some vital tips about how best to get your plans in order (although they apply equally to anyone looking to plan for their retirement!):

- 1 Make sure you have a record of all your previous pension plans or work scheme memberships. If not, contact the pension tracing service to find out details of old pensions online or by calling 0800 731 0193. There is an estimated £26 billion of 'lost' pension money in the system (Pension Policy Institute data).
- 2 Get a state pension forecast to check if you are on track for a full state pension, and, if not, what you might need to do to maximise your potential pension.
- 3 While you may already be aware that you can access your personal pension at age 55, you should check the age at which you can access any other schemes you may have been a member of, as this can vary widely.
- 4 You should find out the current value of all 'defined contribution' or 'money purchase' plans and also the level of benefits from any 'defined benefit' arrangements that you may have been lucky enough to have been a member of.
- 5 Check whether there are any guarantees within older personal plans such as guaranteed or deferred annuities.
- 6 Think about how much income you are likely to need in retirement, and at what ages this might change so that you can plan towards this - this income may come from different sources such as cash reserves, ISAs, other unwrapped investments or other income such as property or trust income. Above all, don't underestimate how much you might need to cover all monthly expenses; whether basic living costs or fun or 'luxury' monies.
- 7 You must consider the tax efficiency of your overall plans and portfolio and how you should take income from these various sources, so as to best complement your overall tax position in terms of income tax, capital gains tax and Inheritance Tax.
- 8 Consider whether you should be thinking of drawing down income from your plans while keeping them invested or using your fund to buy an annualised guaranteed income for life. There are pros and cons to each method and advice is absolutely crucial in this decision.
- 9 Examine how your plans are currently invested to ensure the funds are suitable for you in a risk sense. One often doesn't realise how much risk is inherent in their existing portfolio. If your fund is invested in a workplace pension, the default fund may not be the best place for your money to sit. Furthermore, a 'lifestyling' strategy may have 'de-risked' your pot too early and could actually be doing more harm than good.
- 10 Above all, please think about contacting a professional and suitably qualified pensions adviser who can help with all the above questions and also build a personal financial plan for life to ensure you live your best and most comfortable life in retirement!

If you need some advice or help in this area, or would like to consider getting a review of your pension, or are seeking advice on your retirement planning, please do not hesitate to contact Colin Watson at colin.watson@lsnifa.com

A pension is a long-term investment not normally accessible until 55 (57 from April 2028). The fund value may fluctuate and can go down, which would have an impact on the level of pension benefits available. Past performance is not a reliable indicator of future results. The tax implications of pension withdrawals will be based on your individual circumstances. Thresholds, percentage rates and tax legislation may change in subsequent Finance Acts. The FCA do not regulate tax planning.

Are you a procrastinator?



Elizabeth Rimmer,
Chief Executive, Lawcare

Many of us will be familiar with procrastinating - putting off or avoiding a task that needs to be done. It often seems as if the more we have to do, the more we procrastinate. There are two types of procrastination: active and passive.

Active procrastinators work better under pressure, they may choose to leave a task until it's right down to the wire because they thrive on adrenaline.

Passive procrastinators do so to the detriment of their performance. According to a 2013 study procrastination has nothing to do with poor time management or laziness, it occurs because of our inability to manage negative emotion surrounding a task, either due to an aversion to the task itself or because of the feelings the task provokes - "I can't write this, I don't know enough about it, my boss will criticise me." These thoughts then make us procrastinate further.

Procrastination is closely linked to perfectionism, low self-esteem, fear of failure, or fear of moving forward in our lives. Often procrastination is a red flag that we are finding it hard to cope - it can be a symptom of an underlying issue such as stress, anxiety or depression.

So, if you are a procrastinator what can you do? Here are some tips.

Practice self-compassion

Be kind to yourself, and don't beat yourself up for procrastinating. Just accept that you do it. Try and write down some positive things about yourself, perhaps something nice a colleague said to you, or think about a previous time when you completed a similar task and it went ok.

Make a list

Start by making a list of everything you have to do. Break big tasks into smaller manageable chunks so they don't feel overwhelming and set realistic deadlines for each task.

Block out time and remove distractions

Estimate how long certain tasks will take and block out time in your calendar to complete them. Work out what times of the day suit you to complete certain tasks; for example, if you're a morning person you might be better at drafting a document first thing and want to save admin tasks for the afternoon. If possible, turn off your phone and email

notifications during these times so you don't get distracted. You can also block your access to social media on your phone during certain times of day.

Make a start

It's easy to say just do it - but sometimes exactly what you need to do is just make a start on something. It doesn't have to be perfect.

Build in rewards

It's important to build in rest time or reward yourself for meeting deadlines. Perhaps make a deal with yourself that you'll get a coffee after you've completed a certain task, or you'll go for a walk after clearing your inbox. Short breaks and time away from your desk improve your energy and focus.

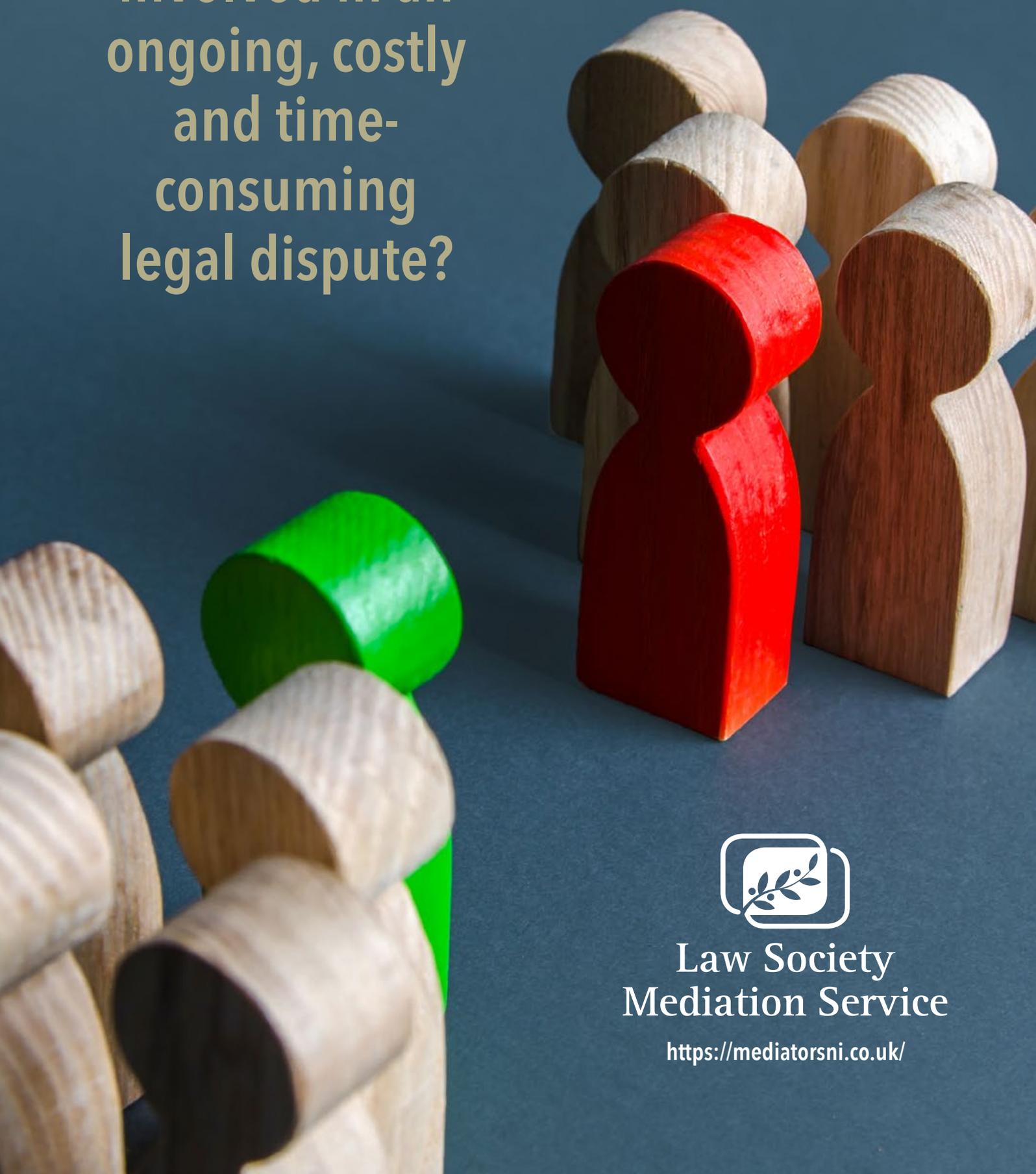
Seek help

If your procrastination is starting to become unmanageable call LawCare for support on 0800 279 6888, email support@lawcare.org.uk, or visit www.lawcare.org.uk. LawCare offer free, independent and confidential support to anyone in the UK legal community. All calls, chats and emails are responded to by trained staff and volunteers who have first-hand experience of working in the law.

LawCare
Supporting the Legal Community



Are you
involved in an
ongoing, costly
and time-
consuming
legal dispute?



Law Society
Mediation Service

<https://mediatorsni.co.uk/>

The public interest path to career fulfilment



In this article Maria McCloskey, Director of PILS (Public Interest Litigation Support) Project talks about the work of PILS and how it supports members.

Think back to when you were 16 or 17 years old. (For some of us it will be a bit of a stretch but, trust me, it can be done!) Do you remember why you applied to study law? What was it that set you on the path to where you are now?

For me it was a bit of an obsession with Ally McBeal coupled with a sense of wanting to use some of the English language and debating skills I'd started to develop to do something 'good'. Somewhere along the line though, the reality struck me: if I was involved in one ground-breaking legal case in my career, I'd be lucky.

After 14 years in private practice, just a few weeks before the first COVID-19 lockdown, I took the leap into the third sector. Deciding to follow my passion for human rights law was undoubtedly the most difficult decision I've taken in my career to date. However, for the first time, I felt like I was moving towards those early career ambitions.

For the past year, I've been Director of a Belfast-based non-profit organisation called The PILS Project, PILS standing for Public Interest Litigation Support. We support our members, made up of solicitor firms and non-governmental organisations, in several ways:

- **Financial support:** our unique, ring-fenced litigation fund through which we provide indemnities to cover adverse costs, and pay for court fees, expert reports and miscellaneous expenses, such as printing or travel costs. While we expect that legal representation be provided on a pro bono basis, PILS also considers applications

for support with professional fees in exceptional circumstances.

- **Legal support:** advice and/or representation from PILS' own solicitor. Also, Pro bono legal opinions and/or representation in court - provided via the PILS Pro Bono Register, - a directory of over 100 lawyers, solicitors, barristers and legal academics, providing their services free of charge.
- **Specialist help:** bespoke research projects, events or training seminars for PILS members.

The optimism I had as a teenager - of justice being served and rights being protected, with some guidance from a skilful lawyer - might have been different had I known about the scale and volume of rights rollbacks that we are currently witnessing.

From the Judicial Review & Courts Act and Nationality & Borders Act of 2022, to this year's Legacy and Illegal Migration Bills, the road ahead for human rights looks bleak. While plans to scrap the Human Rights Act appear to have been shelved, I and many others fear that it is going to be a case of "death by a thousand cuts". The Illegal Migration Bill (coupled with the narrative that surrounds it) means that refugees are the first of the minority groups whose rights are to be decimated. Who's next? At the risk of sounding like a "lefty activist lawyer", I dare say it will be victims of the Troubles, environmental protesters, and workers/trade union members.

Against this backdrop, public interest litigation is now a vital tool in our legal arsenal. Cuts to the justice budget coupled with the 'cost of

living' crisis mean that firms are struggling to bring the legal challenges that are necessary to protect human rights guarantees. Many people do not have the means to access the legal advice and representation that they need. From a public interest standpoint, it is not always effective for firms to fight each and every potential case engaging a particular issue. All these factors mean that it is more important than ever to think strategically and act collectively.

Supporting legal challenges that result in positive changes in the law and ensure that the most vulnerable and marginalised can access their legal rights is the essence of The PILS Project.

As I write this article, PILS is currently working alongside local firms who are challenging UK immigration rules; climate organisers highlighting the dangers of fossil fuel infrastructure; and in a test case, fighting a long-running and dangerous air quality failing that could potentially impact every single person living in Northern Ireland.

In 2019, 10 years after the establishment of PILS, we produced a report detailing our impact on the legal landscape. As we approach our 15-year anniversary in 2024, we know that our growing membership along with their clients and service users need our support more than ever. We want you to be part of our ongoing journey.

For further information about PILS' services, to become a member (so that your firm can apply for support) or to be added to our Pro Bono Register:

- Email: maria@pilsni.org
- Visit: pilsni.org/work-with-us/for-solicitors/



Maria (left) with colleagues Hilary Perry, Membership Coordinator; and Emma Cassidy, Senior Engagement Lead.



Citi marks 15 years in Belfast



Lauren McCoy, General Counsel, Citi

Citi in Belfast recently celebrated 15 years of its in-house legal team, the largest of its type in Northern Ireland. General Counsel Lauren McCoy discusses the evolution of Citi's Belfast Global Legal Office and its approach to providing challenging roles which allow Citi's lawyers to constantly develop when they live locally and work globally.

"Established in 2007, 2022 marked the 15th anniversary of Citi's Legal Department in Belfast. As Citi's largest legal department in Europe, the Middle East and Africa (EMEA), the 200-strong team in Belfast is an integral part of the global Citi Legal function, providing legal advice and support to key business areas through contract negotiation, product advisory, transaction facilitation, project execution, corporate governance, and regulatory expertise. In addition to these core responsibilities, the Belfast Legal Department also instructs, liaises with and works closely with external counsel, many of which are globally recognised magic circle law firms," said Lauren.

The Belfast Legal Department is made up of a number of separate legal teams focusing on supporting the full range of Citi's core global businesses. These teams include those working within Citi's Institutional Clients Group (ICG) areas (Markets, Services and Banking), Cross Enterprise Legal (IP and Regulatory Advisory), Personal Banking & Wealth Management, Company Secretarial, Global Legal Solutions and, last but not least, a Sanctions and Litigation Support Team. Commenting on the Belfast Legal Department, Stephen Bartlett, Citi's EMEA Regional General Counsel, stated *"The quality of the people and the service provided by Citi's Belfast Legal Department is recognised throughout Citi's global network and by Citi's multinational*

clients alike. This success is down to the execution of a clear strategy and a relentless focus on attracting, training and developing motivated, talented people. We look forward to further enhancing our Belfast office over the next 15 years!"

Whilst the majority of the solicitors working for Citi are qualified to practise under English law, the company has long had a pathway for Northern Irish qualified solicitors to join the team and retrain into banking and corporate law practice areas. A number of private practice solicitors have entered Citi's Legal Department over the years, taking advantage of the stability and growth opportunities offered by working for one of the world's largest global investment banks. As Northern Ireland "leavers" who have established careers in England and further afield consider their options for moving home, Citi has also welcomed back solicitors who are seeking career options with a continued ability to work internationally via Citi's global team, an approach that Citi refers to as 'living locally, working globally.'

"Just as Citi has challenged the perception of finance and banking professionals over recent years by creating non-traditional pathways to enter the profession, the company has opened doors to a new type of legal career for a wide range of applicants here in Northern Ireland over the last 15 years," comments Lauren on the company's approach for ensuring a diverse, resilient, and highly talented workforce. Lauren added, *"We are now at a level of maturity where we have more advisory and senior roles being advertised in Belfast. We already have over 750 qualified solicitors working within the department, many of whom we have trained ourselves. We are very proud of our ability to develop and retain talent with three out of four of Citi's legal directors in Belfast having been with the organisation from Day 1. We believe this showcases how Citi is not only a great place to work due to our commitment to ensuring our people unleash their full potential but also the abundant development opportunities that we have to enable job growth through high quality legal work."*

Ensuring a plentiful pipeline of talent into the team, Citi Legal has made a significant financial investment to provide professional legal training to their Belfast staff as a means of recognition and to enable further

progression. The company has qualified 42 solicitors (of which 88% still work in Citi) and a further nine staff on the pathway toward qualification through the new SQE model. The legal team also fosters up-and-coming talent through the employment of four legal placement students per year from Ulster University and Queen's University Belfast's law programmes.

As growth for the legal team continues Lauren adds, *"During the pandemic the legal team saw a 20% increase in our headcount. This growth shows no sign of slowing as we recruit for new types of roles, and future opportunities within our in-house legal team can often seem limitless, with no obvious cap on where our growth can take us, provided we continue to find the talent to fill the roles."* Currently Citi Belfast advertises a wide range of new job opportunities.

The Belfast Legal 15 Year Anniversary events were held over 26th – 28th July 2022. There were fantastic events showcasing the history, value, and talent of the department. Citi Belfast Legal's Employee Engagement Committee went over and above to organise the events, especially the charity gala dinner which helped to raise a phenomenal £16,000 for our charity of the year, The Welcome Organisation, and was attended by Allen & Overy, Clifford Chance, Linklaters and PWC.

During the Keynote event with David Livingstone (Citi's EMEA CEO) on 26th July, our Belfast Legal 15 Year Anniversary Video was premiered. Citi's reputation in Belfast is one of an employer which values and champions diversity within its workforce. In addition to employing 40 different nationalities across Citi Belfast, 47% of leadership roles across the site are held by women. Commenting on the diversity of the local team and the emphasis on inclusivity, engagement and empowerment, Lauren said, *"Our team also benefits from five active inclusion networks including Women, Pride, Families Matter, Disability and Multi-cultural. Our people are the key to our success and amid the challenges of the pandemic we have succeeded in growing the number of functions within Legal, including our Company Secretarial team and our ICG Cross Product Initiatives Team."*

To explore the full range of legal roles available at Citi Belfast visit jobs.citi.com.

Law around the world

[CLA Support Death Penalty Abolition Advocacy in Ghana by John McKendrick KC - News - CLA \(commonwealthlawyers.com\)](#)

Jurisdiction: Ghana

The CLA wholeheartedly continues to work towards the proper universal protection of human rights which demands abolition of the death penalty in 56 jurisdictions including Ghana.

[Law firms Allen & Overy and Shearman & Sterling plan to merge in \\$3.4bn deal | Services sector | The Guardian](#)

Jurisdiction: England and Wales

The merger of Allen & Overy and Shearman & Sterling, which is subject to a vote of partners at both firms, will create one of the world's largest legal practices with combined revenues of \$3.4bn and about 3,900 lawyers across 49 offices.

[Human rights: Kenya's Supreme Court judgment should be applauded | Opinion | Law Gazette](#)

Jurisdiction: Kenya

The Kenyan Supreme Court has ruled that it would be unconstitutional to limit the right to freedom of association on the basis of sexual orientation. The applicant, a Kenyan gay man, was denied registration of his organisation set up to advocate for LGBT human rights. The Supreme Court correctly found that limiting the right to freedom of association in this way would "conflict with the principles of human dignity, inclusiveness, equality, human rights and non-discrimination."

[Connecticut 'witches' exonerated four centuries later](#)

Jurisdiction: USA

The US state of Connecticut has exonerated 12 people convicted of witchcraft in the 17th century. The convictions and subsequent executions have been recognised as a "miscarriage of justice" following a campaign led by the CT Witch Trial Exoneration Project.

[Lawyer led astray by ChatGPT apologises to court](#)

Jurisdiction: USA

A US lawyer has apologised to the court after the citation of several non-existent cases which were generated by the AI tool ChatGPT. In an "unprecedented" move, the court received a submission including a number of bogus citations and decisions after the lawyer used Chat GPT to source caselaw for a personal injury case.

[Ugandan president signs anti-LGBTQ+ law with death penalty for same-sex acts](#)

Jurisdiction: Uganda

What has been described as the "world's harshest anti-LGBTQ+ bill" has been passed by the President of Uganda. The bill will allow for the death penalty for certain same-sex acts while others will face life or lengthy prison sentences. The UK government is "appalled" by the move, while the US President has said that Washington is considering sanctions and restricted entry to the US for people accused of being involved in human rights abuses.



Using the Internet for legal research – proceed with caution!



**“Google can bring you back 100,000 answers.
A librarian can bring you back the right one.”**

Neil Gaiman

How many times have you sat in front of your computer and instead of consulting a textbook or legal database have “googled” your legal research? Most of us search by subject terms and although this brings back numerous results, not all of them are authoritative. Users should search the Internet with caution.

- The Internet is **unreliable**. As the sites are constantly changing, what you find today, you might not find tomorrow.
- The Internet is **unauthoritative**. Always check author/authorising credentials, currency and check jurisdiction.
- The Internet is **unpoliceable**. It has a vast number of sites with no legal editorial input and information that still needs to be interpreted.
- The Internet is **not quality checked**.

Although search engines such as Google™ have a simple and enticing front-end, users need to have a precise search strategy if they are to be successful as they may not cover the best quality of sources and may provide results which are misleading or inaccurate. Perhaps the best advice is never to depend solely on the Internet for legal research – compare your results with a subscription based online service and you will be surprised how different the information can be. It’s a risk to rely on free information and can prove costly to a law firm.

The Law Society Library and Information Service subscribes to numerous online databases to help answer your enquiries. Online databases are authoritative tools which provide access to reported cases, journals, precedents, legislation and commentary. These are quality-assured and trusted resources that are selected and assessed by subject specialists and lawyers. So, whilst you might think of the Internet as a library full of resources at your fingertips, you have your own professional Library with librarians at your service at the Law Society to carry out all your legal research. We accept enquiries by phone or email. Or if you are in Belfast, call into the Library to see our extensive collection.

If you are interested in learning more about legal resources and conducting legal research, why not consider signing up for the Compact Research Course run by the Library? Further details are available from [CPD Training | The Law Society of Northern Ireland \(lawsoc-ni.org\)](https://www.lawsoc-ni.org).

If you are looking for particular information or documents please contact:

- **Update / change your contact details with the Society -**
records@lawsoc-ni.org
- **PC issues or rebates -**
records@lawsoc-ni.org
- **Member issues/questions -**
enquiry@lawsoc-ni.org
- **CPD -**
cpd@lawsoc-ni.org
- **Education -**
admissions@lawsoc-ni.org
- **Conveyancing -**
claire.mcnamee@lawsoc-ni.org
- **Library -**
library@lawsoc-ni.org
- **Missing wills or deeds / sell your practice -**
media@lawsoc-ni.org
- **E-former / e-zine issues -**
paul.oconnor@lawsoc-ni.org



From the Courts - abstracts of recent case law

Below please find headnotes and links to the full text of selected judgments from the High Court and Court of Appeal.

Please note that these headnotes are for guidance only.

ASYLUM

In the matter of an application by JR2488 for leave to apply for judicial review and in the matter of decisions of the Secretary of State for the Home Department

Applicant is an asylum seeker. - granted anonymity for protection if she is to return to her state of origin. - challenge of illegality due to delay in making statutorily mandated payments of essential monies and living expenses. - whether breach of her Convention rights under Arts. 3 & 8 ECHR. - whether there was a period during which she had been deprived of monies. - applicant has received all payments. - whether case is of general public importance to asylum seekers. - HELD THAT leave to apply for judicial review is declined. - However order made that claim of applicant that she was wrongly deprived of asylum support for a period of 59 days to continue as if begun by writ

Scofield, J
15 March 2023
[2023] NIKB 28

COMMERCIAL LAW

In the matter of an application by Palmer Agencies Limited for judicial review

Applicant is an importer and distributor of Halloween and party products. - procedure in relation to the importation of goods into Northern Ireland in the post-Brexit environment. - classification of toys. - consignment of goods imported by applicant from USA was subject to a custom hold as it failed to meet proper standards. - whether goods shipped from America were compliant with toy safety regulations. - whether classification of goods as toys is correct. - whether items were designed for use or intended for use by children under the age of fourteen years. - no right to be heard. - no right of appeal. - HELD THAT the decision of the

respondent to subject all the goods to detention is quashed.
Humphreys, J
23 March 2023
[2023] NIKB 35

DEFAMATION

Robin Swann, Department of Health v George Ivan Morrison
Appeals brought by Sir Van Morrison against orders for Judge-only trials in two defamation cases. - right to jury trial on request is removed by virtue of Defamation (NI) Act 2022 s. 7. - whether Judge was correct in ordering Judge-only trials as the actions were interlinked. - special reason. - actions relate to Covid-19 pandemic and the differing views about Mr Swann's response in terms of restrictions on the public. - whether Judge misdirected himself to the effect that s.62 of the Judicature (NI) Act 1978 allowed him to aggregate the facts and issues in

order to find a special reason. - consideration of interpretive and substantive issues. - reference to *Stokes* [2016 NICA 60]. - special reasons must go beyond the ordinary, common or usual. - HELD THAT Judge had erred in aggregating the facts and issues in the two cases and appeal succeeds on Ground 1. - two orders made by the Judge of 29 June 2022 will be rescinded and parties can consider whether to make an application under Order 33 of the Rules.
Keegan, LCJ
28 March 2023
[2023] NICA 19

ELDER LAW

Belfast Health and Social Care Trust v KL (the patient) and ML and the Official Solicitor
Patient KL was formally assessed, and it was determined by reason of mental disorder/mental impairment

lacked capacity to decide on his current and future place of residence and care needs and had an onset of Alzheimer's. - KL had been in a nursing home but was removed by his daughter in August 2020 to reside with her at her residence where he had remained. - BHST assumed responsibility for KL from September 2020. - BHST expressed concerns regarding KL's safety and level of care. - application for declaratory relief. - no current package of care in place. - breakdown in family relationships. - whether KL should be moved to same nursing home as his wife. - HELD THAT declaratory order allowed, and KL should be transferred to a nursing home for long-term residential care.

Rooney, J
14 February 2023
[2023] NIFam 3

ENVIRONMENTAL PROTECTION

In the matter of an application by Alan McKeown for leave to apply for judicial review and in the matter of a decision of the Department of Agriculture, Environment and Rural Affairs
Applicant owns a trout hatchery which he believes has suffered from pollution caused by a sand-washing business located further downstream. - financial loss. - sand-washing business had previously been prosecuted but there is ongoing pollution. - whether Northern Ireland Environment Agency (NIEA) has failed to take sufficient steps to identify and apprehend the polluter. - whether NIEA has failed in its duty to promote the conservation of water resources and promote the cleanliness of the waterways. - HELD THAT the applicant had not met the threshold for leave and does not have an arguable case with a reasonable prospect of success. - case dismissed.

McBride, J
3 March 2023
[2023] NIKB 30

LEGAL PROCEDURE

In the matter of an application by Risteard O'Murchu for leave to apply for judicial review

Appellant sought to challenge Regulations that were made by Department of Health (DOH). - Regulations to introduce provisions requiring Covid status certification in various settings which were deemed high risk. - whether Covid certification scheme is substantively and/or procedurally unlawful. - consideration of scientific evidence and benefits of scheme. - whether there was scientific justification for the introduction of the measures. - interference with appellant's Article 8 rights. - HELD THAT appeal is rejected. - Regulations were in accordance with the law and were proportionate and justifiable.

Treacy, LJ
16 May 2023
[2023] NICA 28

MEDICAL LAW

In the matter of applications by Danielle O'Neill and Michael McHugh for leave to apply for judicial review and in the matter of a decision of the Medical Practitioner's Tribunal Service of the GMC of 1 October 2021

Applicants were both patients of Dr Michael Watt and consider themselves victims of malpractice. - both were recalled following an investigation of Dr Watt's neurology clinical practice. - both patients challenged the lawfulness of the decision-making which led to Dr Watt being granted voluntary erasure (VE) from the medical register by the GMC. - Dr Watt had applied 3 times for a VE and was granted an erasure on 1 October 2021 by private hearing - Dr Watt's name was erased from the Medical Register. - as a result, no public hearing examining the care of patients has ever taken place. - VE prevents investigations of

any allegations. - consideration of jurisdiction. - HELD THAT leave granted as VE was unlawful, ultra vires and of no force or effect.

McAlinden, J
17 April 2023
[2023] NIKB 46

PLANNING LAW

Gordon Duff v Causeway Coast and Glens Borough Council and Alex McDonald

Appeal against an order made by Mr Justice Scoffield to dismiss the application for leave to apply for judicial review. - whether Judge was correct to refuse leave to apply for judicial review as appellant did not have standing to bring the review. - planning permission had been granted for an infill dwelling to another individual. - applicant committed to protection of the environment. - challenged environmental harm. - whether appellant is a person aggrieved. - HELD THAT the Judge did not strike the correct balance between the competing interests and did not pay sufficient regard to the aspects of the case. - appeal is allowed.

Keegan, LCJ
21 April 2023
[2023] NICA 22

PRISONER RIGHTS

In the matter of an application by Jude Bell for judicial review and in the matter of a decision by the Probation Board for Northern Ireland

Applicant sought to challenge decisions of the Probation Board. - imposition of a curfew and refusal to allow applicant to spend Christmas period at his father's address. - applicant had been sentenced for the offence of common assault to a combination of 100 hours community service order and a three-year probation order with a number of additional requirements. - there was no curfew requirement. - whether

respondent has power to impose a curfew requirement. - whether curfew allows for the applicant to be adequately monitored. - whether applicant had consented to the order. - HELD THAT a curfew can only be imposed by order of a court. - no declaration is required as the sentence is now under appeal.

Colton, J
2 May 2023
[2023] NIKB 55

REAL PROPERTY

Brent Larmour v Joan Larmour

Whether court has discretion under the Partition Acts to refuse to make either an order for sale or partition in lieu of sale in respect of jointly-owned property. - Joan Larmour is the mother of Brent Larmour. - she is retired, in receipt of benefits and has lived in the property since 1991. - she lacks capacity to make decisions. - mother and son purchased the property under the Right to Buy scheme in 2002 with a 25 year interest only mortgage. - relationship is estranged. - whether there are special circumstances regarding sale of property. - Joan Larmour has a diagnosis of dementia and has a lack of care plan to move. - whether financial hardship for Brent Larmour if property cannot be sold. - HELD that property to be placed on the market for sale with conditions as listed in judgement. - controller and social workers of Joan Larmour should obtain a court order to exclude Brent Larmour from the property to stop further harassment.

McBride, J
26 April 2023
[2023] NICH 4

ROAD TRAFFIC

In the matter of an application by Gerard Houston for judicial review

Applicant pleaded guilty to drinking with excess alcohol. - whether applicant is required to sit his driving test again after his period of disqualification. - special reasons for not disqualifying applicant. - applicant disqualified for 28 days. - whether disqualification is obligatory and so applicant must sit his driving test. - whether endorsement is obligatory. - HELD THAT regardless of the reduced period of 28 days, the applicant must resit his driving test. - however, in the interim he may apply for a provisional licence.

O'Hara, J
27 April 2023
[2023] NIKB 52

SENTENCING LAW

R v Fionnghuale Perry

Sentencing remarks. - defendant had been found guilty of collecting or making a record of information likely to be useful to a terrorist. - defendant had a previous criminal record in 1976 and was convicted of membership of a proscribed organisation, possession of a firearm and hijacking. - applicant now suffers from multiple sclerosis (MS). - whether suspended sentence rather than immediate custody. - consideration of *Morgan and others v Ministry of Justice* [2023] UKSC 14. - HELD THAT defendant sentenced to five years in jail reduced to four years in light of MS. - notification requirements triggered as specified in Counter-Terrorism Act 2008.

O'Hara, J
17 May 2023
[2023] NICC 12

R v Andrew Maxwell

Appeal against sentence imposed following guilty pleas to 37 counts relating to the making and distribution of indecent images of children, attempting to cause a child to watch a sexual act as well as possession of prohibited images. - sentence imposed was 20 months' imprisonment made up of 10 months in custody and 10 months on licence. - consideration of mitigating factors. - appellant had a clear record and a strong work record and certificate of exemplary service in the army. - appellant had mental health issues and used alcohol and drugs as a coping mechanism. - appellant accepted responsibility and was remorseful. - whether he was entitled to the maximum reduction of sentence as he pleaded guilty and expressed remorse.

- consideration of aggravating factors. - mitigating factors. - consideration of delay. - HELD THAT the sentence imposed is not manifestly excessive and appeal is dismissed.

Keegan, LCJ
31 March 2023
[2023] NICA 21

R v Alan Gingles

Respondent pleaded not guilty to the murder of grandmother. - pleaded guilty to manslaughter on the grounds of diminished responsibility. - respondent lived with grandmother and claimed that prior to killing her he had heard voices and had been seeing zombies. - grandmother subjected to a serious blunt force assault. - respondent suffers from a mental disorder and at time of offence was psychotic and out of touch with reality. - whether respondent is considered dangerous. - if dangerous whether a life sentence is appropriate. - whether significant risk to public. - HELD THAT a tariff of 5 years is appropriate with an indeterminate custodial sentence.

Smyth, HHJ
15 March 2023
[2023] NICC 12

R v Sharyar Ali

Respondent sentenced to life imprisonment with a tariff of 13 years imprisonment and after a plea of guilty. - whether as maintained by PPS the tariff is unduly lenient. - nature of a reference. - reference procedure does not provide the prosecution with a general right of appeal against sentence. - victim was a 11-month-old child who was murdered by respondent while in his care. - respondent was in a relationship with child's mother but was not the biological father. - medical evidence was directly in contradiction of the respondent's accounts. - child had been subjected to a forceful assault causing a range of injuries. - whether judge did not afford sufficient weight to aggravating factors. - whether judge afforded too much weight to mitigating factors. - whether reduction of 3 years for the guilty plea was too generous. - Rooney hearing. - murder tariffs. - aggravating and mitigating factors. - HELD THAT respondent's tariff to be increased to 16 years after which he will be eligible for release on life licence.

Keegan, LCJ
5 April 2023
[2023] NICA 20

SEXUAL OFFENCES

R v Robert Beggs

Prosecution appeal from a terminating ruling. - Judge determined that that the evidence was so unconvincing against the defendant, his conviction of the offences would be unsafe. - admissibility of hearsay evidence. - Beggs was charged with rape, sexual assault and indecent assault. - complainant was the sister-in-law of defendant who had Down's Syndrome and learning disabilities and is now deceased. - complainant made disclosures of sexual abuse to the staff of the care home she resided in before her death. - achieving best evidence interview (ABE) took place. - whether there were inconsistencies in the accounts. - whether complainant had communication difficulties. - whether supportive medical or forensic evidence available. - lack of clarity about nature of sexual acts. - whether complainant possessed sophistication to manufacture an account. - consideration of *Riat*. - whether conclusion reached by Judge was a reasonable one. - HELD THAT appeal is dismissed.

Keegan, LCJ
28 April 2023
[2023] NICA 24

TERRORISM

In the matter of an application by Anthony Lancaster, Sharon Rafferty and Anthony McDonnell for judicial review and on the matter of decisions of the Police Service of NI and the Secretary of State for the Home Department

Applicants are registered terrorist offenders required to provide police with a range of personal details and information with details of planned travel outside UK. - introduction of enhanced requirement to notify of any intention to travel since April 2019. - compatibility with the applicants' Convention rights relating to free movement and data protection law. - definition of "prescribed information". - requirement to provide financial information. - consideration of travel to Republic of Ireland. - foreign travel notification requirements. - whether amended requirements are necessary for the purposes of public protection. - HELD THAT the requirements are lawful and there is no lack of clarity in the requirements. - applications dismissed.

Scoffield, J
17 February 2023
[2023] NIKB 12

SPONSORED WALK

Slieve Donard

efdni
employers for disability



When?

16th September 2023 at 10am



Where?

Bloody Bridge Car Park, 67 Ballagh Rd, Newcastle



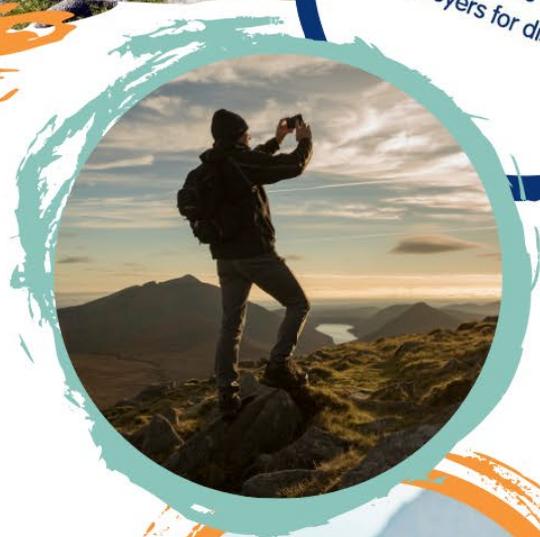
Why?

In aid of efdni



How?

For a sponsorship form or more information, email:
micky@kevinwinters.com or
eimear.cathcart@mtb-law.co.uk



Please wear appropriate footwear and pack a light lunch



For Bookings:

Telephone:
028 9622 7437

Email:
meetingspace@lawsoc-ni.org

Website:
themeetingspaceni.co.uk

The Meeting Space

At Law Society House