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OF NORTHERN IRELAND

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THE
LAW SOCIETY
OF NORTHERN IRELAND

100
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THE RISK ISSUE

Professional Conduct

A Risk Management Approach

Risk vs Resilience

Benchmarking Cyber Security
in the Legal Sector

Hybrid Working

Friend or Foe when it
comes to Risk?



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Contents

- 03** Foreword
- 04** Guest Editorial - Rowan White
- 06** A Risk Management approach to Professional Conduct
- 08** Leaning into Technology to improve our Understanding of its Risks
- 09** Phishing Attacks: Forewarned is Forearmed
- 10** Cyber Essentials Funded Programme supporting Cyber Security In The Legal Sector
- 13** Risk vs Resilience – Benchmarking Cyber Security in the Legal Sector
- 14** Risk Awareness Month
- 15** The Top Five Risks to Avoid in Financial Planning
- 16** People in Organisations: Managing this Unique and Complex Risk
- 18** Nurturing Wellbeing in our Practices
- 20** Hybrid Working: Friend or Foe when it comes to Risk?
- 22** Building Resilience to Navigate Risks in Everyday Life
- 23** A Checklist for setting up a Support Group for Men
- 24** All Change at the Children's Court Guardian Agency
- 26** Mediation – some recent History and a Seismic Change? Is Mandatory Mediation on the Cards?
- 30** The Northern Ireland Medico-Legal Society calls for New Members
- 31** Society partners with the Institute of Legal Finance & Management
- 32** Solicitors' Benevolent Association: Still Working to Support Members of the Profession
- 34** Growing Professional Development to meet Member Needs
- 36** Council Dinner 2023
- 39** President's Message on Legacy Conference
- 40** Law around the World
- 41** Changes to Capital Gains Tax on Separation and Divorce
- 42** Advocacy for All: A Voice for Vulnerable Clients
- 43** Public Prosecution Service - Code for Prosecutors
- 44** From the Courts - Abstracts of recent Case Law



Foreword

Welcome to the autumn edition of The Writ. For those of you who don't know me – I'm Alison Grundle, Head of Member Services and going forward I'll be taking the helm at The Writ.

For this issue we have created a themed issue for the first time. 'The Risk Issue' is a response to the growing awareness that risk presents itself in many and varied ways in both our professional and personal lives and, whilst risk can't be avoided, active management is the best way to reduce its impact and to protect ourselves.

I am grateful to Rowan White, past President and Chair of the Professional Liability Committee who has taken on the role of guest editor. I'm also grateful to our Members and to colleagues in other organisations who have contributed articles.

Most of these contributors also supported another first, 'Risk Awareness Month'. A series of events that took place during September, providing practical advice and guidance on a range of topics from supervision of home working to cybercrime. All of these events were recorded and are available via the Society's website.

Communication has changed this century in ways we could not have predicted. As the mechanisms available to us increase, the Society is also changing how it engages with Members. Social Media channels, e-communications and podcasts are now becoming the norm. These are all positive changes as it means Members can now choose the medium they want at a time that suits them.

That said, the need to interact with each other has never been more important and we are always keen to hear from readers of this magazine. For some of you The Writ may be the key way in which you keep up to date with the Society and hear news of other Members and past colleagues. If you have ideas on topics you would like us to cover, would like to contribute an article or share news and views, then please get in touch at writ@lawsoc-ni.org

I hope you enjoy this issue.

A Grundle

THE
WRIT



Rowan White,
Chair of the
Professional Liability
Committee

Guest Editor

I am honoured to be invited to guest edit this first themed edition of *The Writ* magazine. I am also delighted that the chosen theme is Risk Awareness.

This issue is timely as we approach professional indemnity insurance renewal again. I am very pleased to report a substantial reduction in the cost of the premium for the coming year. This indicates that the professional indemnity insurance market is finally beginning to soften after several years of very difficult market conditions (largely the combined result of the Grenfell Tower tragedy and a tougher regulatory regime introduced by the Lloyds' Regulator). Nevertheless, this year's premium reduction was only achieved following protracted negotiations with the insurers by our brokers WTW/ABL Ltd., for which we are grateful.

The insurance market is highly volatile and reactive to global events far beyond our control. However, outside of the macro factors that inevitably impact the premium year on year, our own ability to manage risk and maintain a low level of claims is the most significant factor in determining the premium costs.

It is for this reason that we focus so heavily on the need for Members to actively identify and manage risk within their practices. September saw the Society's first ever Risk Awareness Month in which we ran a series of events across a wide range of topics from Hybrid Working and Nurturing Wellbeing to Managing Cyber-Risks and Practising Law in the Post-Pandemic World. If you weren't able to listen in at the time, all of the events were recorded and are available to listen to again.

This special issue of *The Writ* also focuses on these issues. Members of the profession and expert practitioners who have authored the articles share their knowledge and experience and offer both a comprehensive perspective and also a realistic approach to the subject of risk.

A growing area of risk comes from the threat of cybercrime, with the legal profession continuing to be specifically targeted by criminals. In April, the Society hosted an informative, if sobering, seminar on this topic. A member of the National Cyber Security Centre (NCSC) provided an overview of the geopolitical forces that now threaten our Members in Northern Ireland, while local

cyber firms gave an update on the changing nature of threats and how to combat them.

The Society remains deeply concerned about cybercrime and is pleased that local cyber firms Vertical Structure and Nihon Cyber Defence have developed a suite of products and services to protect Members and their clients against attack. These solutions are suitable for firms of all sizes but have been developed, and competitively costed, with small practices in mind. The Society continues to recommend that members protect themselves with standalone cyber insurance.

We live in a world that is increasingly fast-paced and unpredictable. A world in which risk and our need for protection from risk are both growing. As solicitors, we spend a great deal of our professional lives engaged in risk management, actively trying to protect our clients from the consequences of hazards that may or may not happen at some unspecified point in the future - some of which may be anticipated and others that simply cannot be predicted.

We also work within a regulated profession that rightly requires us to observe the highest standards around our own work but also to provide additional protection from money laundering, cybercrime etc.

It can be easy to become overwhelmed with anxiety but it is important to remember what we know from our training - that life is unpredictable and laden with risk and there is only so far any of us can go trying to protect against it.

One of the most important things any of us can do is to look after ourselves and our own mental wellbeing. LawCare provides excellent support for all of us and Elizabeth Rimmer, CEO, writes on this topic, offering wise but practical advice. Her comments on "catastrophic thinking" and on limiting exposure to news and social media are just two issues which particularly resonate with me at present, but I am sure colleagues will benefit greatly if they pay heed to all her very helpful tips.

I hope you enjoy the articles in this edition and find them informative and useful. Without question, risk is a weighty topic to have embarked upon but the importance for Members cannot be overstated and we will continue to offer support and information on this area.



Wellbeing

resilience

SECURITY

Insurance

STRESS

Theft

Phishing

DATA
BREACH

SCAM



Brian Carson,
Head of AML Policy,
Law Society of Northern
Ireland

A Risk Management Approach to Professional Conduct

In June this year BBC News reported on “Northern Ireland’s biggest ever tax fraud case”. According to the [report](#) a Belfast gang created a “false audit trail” with the purpose of ensuring construction clients could avoid tax and VAT amounting to a total of £5m. The scam involved creating 16 “bogus companies” to avoid tax, with the fraudsters using 56 associated bank accounts to commit the offences. During its investigation, HMRC kept the gang under surveillance and used secret recording techniques, including filming the gang’s meetings and cash drop-offs and cash withdrawals.

Ultimately, two people, including a partner in a local accountancy firm, were jailed for four years. In addition, 25 accomplices received suspended terms. The accomplices ranged in age from 31 to 71 years old and most of them came from addresses across Northern Ireland.

While the first use of secret recording techniques by HMRC in Northern Ireland was noteworthy for the media, for the Society and its Members the case should serve as a timely example of the real and present risks of criminals seeking to use services to make the proceeds of crime appear legitimate.

The risks of money laundering or terrorist financing are not far removed or confined to multimillion property transactions involving overseas oligarchs. Are your practice-wide and client/matter risk assessments and resulting AML policies, controls and procedures sufficiently robust to prevent your firm’s services inadvertently being used to make illicit funds appear legitimate? What if your firm had been contacted by any of the individuals involved in the above?

A risk-based approach is embedded in UK legislation and AML best practice. Firms are required to identify and assess the risks of money laundering and terrorist financing to which their businesses are subject and to target their resources to put in place controls to mitigate and manage those risks which are highest.

The Society continues to support its Members to set their own risk management strategies, help them recognise and assess risk and assist them to put in place effective risk mitigations.

The Society, principally through the Professional Conduct Department, adopts a risk-based approach to its supervision. This enables the Society to allocate resources to areas with higher risk and to use its resources more effectively, while considering the likelihood of unwanted outcomes.

Simply put, the Society’s Risk-Based Approach involves:

- Considering each firm and the specific legal services they provide. Are there areas or services of higher risk being undertaken compared to others?
- Identifying and assessing Inherent Risk around those services;

- Considering the risk mitigation measures firms have in place via the Society’s monitoring activities and inspections;

- Conducting the Society’s own Risk Assessment, informed by:

- The Society’s sector-specific knowledge and judgment;
- Obtaining information from firms such as through the AML/CTF Annual Return;
- Cross-departmental intelligence sharing informed by regulatory actions, monitoring inspections, Solicitors’ Disciplinary Tribunal (SDT) findings and complaint referrals;
- The knowledge and experience of the Society’s officers and staff.
- External and internal information shared;
- The UK’s **National Risk Assessment of Money Laundering and Terrorist Financing 2020** (available [here](#)) and material published by other relevant bodies.

The Society’s own risk assessment is undertaken on a sector-wide basis and through individual risk profiles developed for each of the relevant firms in its sector as defined in the Money Laundering Regulations 2017. The assignment of a risk profile is a fluid exercise which is an ongoing process of review. The Society holds an annual risk overview exercise, quarterly risk review meetings and bi-monthly regulatory review meetings which also inform the risk review process.

Having undertaken their mandatory risk assessment, firms must establish and maintain policies, controls and procedures to mitigate and manage effectively the risks identified. Similarly, for the Society effective controls and mitigations derive from its risk-based approach. These include, for example, establishing the policy whereby any new firms will receive inspections in relation to all relevant aspects of their professional conduct – namely supervisory activity to cover compliance with Accounts, Home Charter and AML/CTF matters within 12 months of their establishment.

The Society deploys a number of supervisory tools including desk-based reviews and onsite inspections, accompanying pre-visit questionnaires, information returns and scrutiny of annual independent statutory accountants' reports. The outcome of the Society's supervisory activity is reported onwards to the Professional Conduct Committee.

The Society also seeks to support Members by:

- Applying effective, proportionate and dissuasive enforcement measures;
- Issuing warning letters to drive improvement;
- Issuing guidance and regulatory notices;
- Publishing its AML/CTF Sector Risk Assessment (available [here](#)) and Supervisor's Annual Report – AML (available [here](#));
- Contributing to the HM Treasury approved, Legal Sector Affinity Group AML Guidance for the Legal Sector and making same available to Members ([here](#));
- Targeted CPD Training events, with recordings remaining available to Members afterwards;
- Producing target resources to assist Members with their compliance such as the Society's AML Aide-Memoire (available [here](#)).

The Society's risk-based approach also includes the identification and monitoring of areas of emerging risk/trends. The Society has previously reported on areas of emerging risk including:

- Financial sanctions
- Brexit
- Cryptocurrency
- Cybersecurity
- Sham litigation

Regarding trends, the Society was concerned to note that in the last reporting period (6th April 2022 to 5th April 2023) 53% of non-compliant cases identified by the Society concerned both client due diligence and source of funds checks. A further 37% arose solely in connection with source of funds checks.

Common forms of non-compliance in these areas included:

- Identity checks and checks on source of funds/wealth not fully understood or carried out.
- Accepting funds to complete transactions without making or documenting the requisite checks on the source of funds/wealth re same.
- Checks made but not documented/recorded on files and only divulged on further enquiry during inspection.

While the risk-based approach is embedded in the Money Laundering Regulations 2017, there are circumstances in which a risk-based approach cannot be applied, or the scope of its application may be limited.

For example, the Money Laundering Regulations 2017 require a relevant person to take appropriate steps to identify and assess the risks of money laundering and terrorist financing to which their business is subject; the person cannot take a risk-based decision to not comply with this requirement.

Similarly, the Money Laundering Regulations 2017 require the application of client due diligence measures in certain circumstances and the duty to keep records including a copy of any document and information obtained by the relevant person to satisfy those client due diligence requirements.

Non-compliance with client due diligence and record-keeping requirements will remain an area of focus for the Society. However, as the risks associated with the above reported case highlight, it is suggested that regulatory compliance should not be the sole factor in firms adopting a risk-based approach.

The Professional Conduct Department is available to assist firms who are unsure of any aspect associated with compliance or queries that may arise.

Call, Check and Confirm leaflet

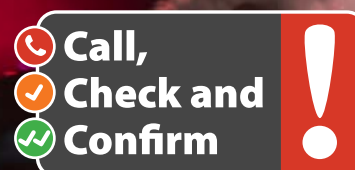
The Society is reminding all solicitor firms to ensure that they issue the 'Call, Check and Confirm' leaflet to their clients.

Reports since the start of 2023 reflect an increase in conveyancing scams targeting clients.

The leaflet has proven to be a useful support tool to solicitor firms by providing those involved in buying a house with clear guidance on how to avoid scammers stealing their deposit money.

A digital version of the leaflet is available to download from <https://www.lawsoc-ni.org/new-call-check-and-confirm-leaflet-launched>

Conveyancing Scams





Leaning into Technology to improve our Understanding of its Risks

Mark Taggart,
Partner, DFW Law

It is impossible to identify, let alone discuss, in one short article all of technology's potential impacts on our work, but there can be no doubt they will be significant.

Taking the example of AI, Goldman Sachs estimated that 44% of legal tasks are capable of automation. There are already specialist legal AI solutions for client on-boarding, billing, client communications, time tracking, drafting, predicting litigation outcomes, negotiation, and even some which produce advice and correspondence in certain types of case. Don't assume that this is futuristic or irrelevant to us. Simpson J for example was recently faced with a personal litigant who had based submissions on ChatGPT, all of which were dismissed. ChatGPT launched in November 2022. By January 2023 it had 100 million regular monthly users, and 200 million by April. Our clients already have access to AI. When it comes to social media, a survey last year found that residents of Belfast and Newry are the UK's most regular users of social media, so we're not lagging behind in tech literacy.

Our task, then, is to demonstrate the value of a human lawyer who understands and can harness these tools, while managing the commercial, reputational, regulatory and legal risks they may bring. Here are a few such issues to consider.

Social Media

Most of us will have at least one form of social media account and will be familiar with the need to distinguish between personal and professional accounts and posts, and the potential reputational risk for the individual

solicitor and their employer if inappropriate content is posted.

We should be aware of the risk of a duty of care arising if our interactions on these platforms move from simply posting comment to engaging in conversations with other users. Solicitors should also be aware of the risk that content could be regarded as advertising and fall foul of Regulations 4 or 5 of the Solicitors (Advertising, Public Relations and Marketing) Practice Regulations 1997 (as amended), which aim to guard the profession's reputation.

In recent years lawyers have found themselves in regulatory hot water for breaches of similar regulations. For example:

1. An English solicitor was fined and rebuked for "inappropriate and puerile" messages including ending a post about attempted murder with two emojis depicting crying with laughter, and for breaching confidence;
2. The California State Bar dealt with a case involving an attorney posting about his success in court and asking, "Who wants to be next?"; and
3. An English lawyer got in trouble for posting about a "difficult client" who could be identified by cross-referencing public court lists to the time of the post.

These are regulatory matters, but the prohibitions also reflect the solicitor's duty of confidentiality, which could give rise to a claim, if breached.

AI

As with all tools, users of AI need to understand what it is, and what it can and cannot do. ChatGPT, for example, can find information and produce content, but it does not have the critical thinking ability needed to be a successful lawyer so may deliver output

based on flawed data which may be unsuitable for the case at hand.

A US attorney learned this the hard way earlier this year, when he was fined for making submissions based on inaccurate ChatGPT responses. It told him - then reassured him - that certain authorities were real. They weren't and the result was a \$5,000 fine and global notoriety.

Aside from the obvious professional risks associated with reliance on output generated by AI that is not checked by a qualified lawyer, there is one other area of particular risk: data protection. If you enter data into an AI system, you might not be able to predict how that data will be used. Client data should never be entered, but even an anonymised factual summary could, in due course, be combined with other data scraped from the internet to produce a set of data which breaches a client's confidence, or causes embarrassment, and so the AI's tool's terms of service should be checked, and the appropriate opt-outs selected. Where the AI tool uses our input data for learning it may not be possible to comply with a client request for erasure under Article 17 GDPR. Clients should therefore be informed of the intended use of their data and give express consent.

As the early adopters forge ahead with these technological assistants, the rest of us should at least develop an understanding of how they are impacting the legal marketplace. We should not transform teething problems into terrors. These tools and their further iterations will likely become commonplace in the not-too-distant future, and provided we and our clients know how to optimise their use for appropriate tasks, we may find that they can be valuable aids to our work, and may even, when looked at in the round, mitigate some of our professional risks.



Sam Kinkaid,
Detective Constable,
Regional Cyber
Protection Officer,
Cyber Crime Centre, PSNI

Phishing Attacks: Forewarned is Forearmed

Phishing is a well-known means for cyber criminals to attack people and organisations and has recently become even more sophisticated. Let's consider some of the common ways such attacks occur and how businesses can protect themselves and their staff.

A supposed foreign prince offering you a large sum of money in exchange for banking details, an unexpected win on the lottery you don't recall entering, or perhaps a password reset request purporting to come from your email provider?

Phishing remains the most likely method by which an organisation will fall victim to a cybercrime, be that ransomware or email compromise. This is not because staff lack a general awareness of the dangers posed by phishing or fail to think before they click, but rather that like in any good business, actors in this field are constantly adapting to changing practices in the workplace and new technologies deployed by email service platforms and managed service providers. From the attacker's point of view, one change

that has increased the likelihood of a phishing email succeeding has been the move towards the use of a compromised email account as the starting-point for a campaign - a simple change, but one that ensures recipients receive an email from someone they have previously interacted with.

This type of campaign was recently observed impacting organisations across Northern Ireland and started with the use of a compromised business email account to send out phishing emails to 5000+ unique contacts. Working with members of the local IT community, over the next four weeks, the Cyber Crime Centre identified and contacted over 20 local businesses - including legal firms - who confirmed they had suffered a compromised email account resulting in attackers using their unauthorised access to phish contacts.

While at first the campaign appeared focussed on compromising accounts and potentially the data they contain before hopping to new victims, a review of reported fraud cases over the summer months identified a number of compromised accounts had not been used for phishing, but used to facilitate the redirection of payments, a crime type referred to as mandate fraud or invoice redirect.

A common feature shared by most incidents identified in this campaign was the lack of two step verification (2SV) as a means of frustrating unauthorised access by third parties in possession of a compromised password. Lack of 2SV and the silence that often follows a compromised account are two reasons why this type of campaign succeeds and can be hard to frustrate.

Steps to consider

In order to mitigate the risk posed by phishing, and email account compromise in particular, businesses should focus on:

- Making it difficult for attackers to reach your users;
- Helping users identify and report suspected phishing emails;
- Protecting your organisations from the effects of undetected phishing emails; and
- Responding quickly to incidents.

Where available, this is a process that should involve your managed service provider (MSP).

For more information on phishing and how to protect your business, please visit: www.ncsc.gov.uk/guidance/phishing

National Cyber Security Centre (NCSC) Cyber Essentials

Cyber Essentials is a government backed scheme referred to by the Information Commissioner's Office (ICO) and others that provides a set of basic technical controls that can be implemented to guard against common cyber threats. UK legal firms with less than 50 employees who provide legal aid services can currently benefit from funding aimed at securing Cyber Essentials Plus certification.

For more information contact cyberprotect@psni.police.uk



Police Service
of Northern Ireland





Cyber Essentials Funded Programme supporting Cyber Security In The Legal Sector

Lorraine McCaffrey,
Head of the Northern Ireland Cyber Security Centre

The Northern Ireland Cyber Security Centre (NICSC), which works to “make Northern Ireland cyber safe, secure and resilient”, is allocating funding to enable local organisations that offer legal aid services to improve their ability to defend against cyberattacks. The National Cyber Security Centre (NCSC) UK-wide Cyber Essentials programme is a government-backed scheme which aims to help protect organisations against a whole range of the most common cyberattacks.

Why should I get Cyber Essentials?

Cyberattacks come in many shapes and sizes, but the majority are very basic in nature, carried out by relatively unskilled individuals. They are the digital equivalent of a thief trying your door to see if it is unlocked.

Recent statistics from the Cyber Breaches Survey 2023 showed that 32% of small organisations experienced a cyberattack in the past 12 months. 79% of those organisations identified that they had received phishing attacks in the past 12 months, demonstrating that having good cyber security practices has never been more important.

There are a number of reasons why you should get Cyber Essentials, including:

- The ability to reassure customers that you are working to secure your IT against cyberattack;
- The possibility of attracting new business with the promise you have cyber security measures in place;

- The ability to have a clear picture of your organisation’s cyber security level; and
- Compliance with Government contractual obligations which require Cyber Essentials certification.

How do I get certified and how do I know if I am ready for Cyber Essentials?

NCSC has developed a free online tool called the Cyber Essentials Readiness Tool. The process of working through the questions will tell you about your current level of cyber security and how you need to improve in order to certify to Cyber Essentials. On completion, you will be directed towards appropriate guidance and presented with a tailored action plan and detailed guidance for your next steps towards certification.

Free Funded Cyber Essentials Programme

All organisations that operate online face a threat from cyberattack but some organisations have increased risk. This might be because they hold sensitive information about the people they work with, or they are perceived as an easy target by cybercriminals. For those sectors most at risk, the NCSC has launched a Funded Cyber Essentials Programme. This scheme - supported locally by the NICSC - aims to provide vulnerable organisations with help to implement baseline security controls to prevent the most common types of cyberattack.

How does the scheme work?

The programme will offer practical support from an Accredited Advisor to help your organisation achieve Cyber Essentials Plus. Please note, this does not include the cost of any additional software or hardware identified by the Advisor that is required to achieve Cyber Essential Plus.

Qualifying organisations will receive around 20 hours of remote support with an Advisor. This time will be spent identifying and implementing improvements that are right for the size and needs of the organisation

and supporting you in implementing the five Cyber Essentials technical controls. This will be followed by a hands-on technical verification that the controls have been put in place.

If it is not possible for the organisation to achieve Cyber Essentials Plus, the Advisor will help to implement as many of the technical controls as possible and give the organisation a clear list of the additional actions they need to undertake in order to become compliant.

Who is eligible and how do I apply?

To qualify for this scheme, organisations must either be:

- **A micro of small business (1-49 employees) that offers legal aid services;** or
- A micro of small charity (1-49 employees) that has a core purpose of providing support to victims of domestic violence.

In addition, organisations must:

- Not have previously participated in the NCSC Funded Cyber Essentials Programme;
- Not currently hold Cyber Essentials Plus certification;
- Not have been awarded Cyber Essentials Plus certification since May 2022;
- Not currently be in the process of applying for Cyber Essentials Plus certification.

Please scan the QR code to access the Cyber Code Essentials Readiness Tool.



Further details and how to apply can be found on the NICSC website:

<https://www.nicybersecuritycentre.gov.uk/cyber-essentials-funded-programme-2023-2024>

FUNDED CYBER ESSENTIALS PROGRAMME



WHAT IS CYBER ESSENTIALS?

It is a government backed certification scheme that will help small organisations protect themselves against a whole range of the most common cyber attacks.

HOW THE FUNDED CYBER ESSENTIALS PROGRAMME WORKS

Qualifying organisations will receive around 20 hours of remote support with an Advisor to achieve Cyber Essentials Plus Certification. This time will be spent identifying and implementing improvements that are right for the size and needs of the organisation and supporting them in implementing the 5 Cyber Essentials technical controls. This will be followed by a hands-on technical verification that the controls have been put in place.

WHY SHOULD YOU GET CYBER ESSENTIALS?

- ✓ Reassure customers/clients that you are working to secure your IT against cyber attack
- ✓ Attract new business with the promise you have cyber security measures in place
- ✓ You have a clear picture of your organisation's cyber security level
- ✓ Some Government contracts require Cyber Essentials certification

ELIGIBILITY AND HOW TO APPLY?

- a micro or small business (1 to 49 employees) that offers legal aid services
- a micro or small charity (1 to 49 employees, excluding volunteers) that processes personal data, as defined under GDPR
- a micro or small organisation (1 to 49 employees) that provides work supporting either Artificial intelligence (AI) or Quantum technologies or Engineering Biology or Semiconductors

Scan the QR code below for more information on how to apply



info@nicbersecuritycentre.gov.uk

www.nicybersecuritycentre.gov.uk





CYBER ESSENTIALS FUNDED PROGRAMME

32%

of businesses experienced a breach or
cyber attack in the last 12 months*

Cyber Essentials certification indicates that your organisation takes a proactive stance against malicious cyber attacks. In addition, it offers a mechanism to demonstrate to customers, investors, insurers and others that you have taken the minimum yet essential precautions to protect your organisation against cyber threats.

WHAT ARE THE BENEFITS?



Improve your
security process



Build trust with
customers



Bid for
government
contracts



Be on a trusted
register of
suppliers



Strengthen your
supply chain



Dave Henderson, Business Growth Manager, Vertical Structure

With an estimated £43.9 billion of revenue generated across the UK legal sector, it's quickly becoming an attractive market for cybercriminals seeking to exploit common gaps in cyber security.

In a recent Solicitors Regulation Authority (SRA) survey (available [here](#)), 75% (30) of law firms surveyed reported that they had previously been a target of a cyberattack. Furthermore, 76% of these affected firms reported a combined theft of more than £4m of client funds. Although not all these firms affected by a cyberattack experienced financial loss as a result, the reputational impact can be long-lasting and more difficult to recover from.

The threat to the legal sector continues to grow, driven in part by a shift in strategy by cybercriminals. Malicious actors are diverting their efforts away from multinational organisations that possess advanced cyber security capabilities to smaller entities with security gaps that are significantly easier to exploit. The sensitivity of the data held by law firms, combined with access to significant pots of client funds, present an appetising market for criminal entities.

In any industry, cyber security can be a difficult metric to measure. So, as a law firm, how can you accurately benchmark risk vs resilience?

Identifying risk doesn't need to be a negative experience. In fact, it can be turned into a positive driver in your law firm and something that helps to build trust among your clients.

It all begins with continual investment, and not just in a financial sense. This investment can come in many shapes and forms, with one of the most important being cyber awareness.

Risk vs Resilience – Benchmarking Cyber Security in the Legal Sector

It goes without saying that the more awareness you possess, the better you can mitigate against falling victim to cyber threats. But where do you start?

Culture

Cultural change is one of the most effective methods of building awareness across an organisation. It also happens to be free. Given that most data breaches involve an element of human error, building a cyberculture within teams should be a priority in your journey to becoming more aware as an organisation. This doesn't mean training every member of your team to become a cyber security expert, it simply means opening regular and transparent dialogue about the real threats to your business and the potential impact in the event you are compromised.

For example, talk to staff about the phishing emails you receive as a company, make them aware of their existence and that they are indeed malicious. Add cyber security as a topic in your board and team meetings and discuss the challenges as a group. Talk about the potential scenarios and how you would respond should you be subject to a ransomware demand. Activities such as these will help you advocate healthy cyber security practices within your team and build awareness as a by-product.

However, cultural change isn't enough on its own. It's important to implement further proactive measures that help build awareness and physical security for your data and funds. The following measures are great practices for law firms seeking to benchmark their cyber security and build upon it.

Staff Training

How can you protect against threats if you don't know where or what they are? Regular cyber training for your staff offers a glimpse of your business through the eyes of a bad actor. It not only builds awareness but also demonstrates industry best practices for mitigating threats.

It's a quick and effective manner to allow your staff to bring their new knowledge back into your workplace and identify weaknesses within your existing security.

Cyber Clinics

One-to-one sessions with seasoned security consultants are an incredibly efficient method to identify the most critical gaps in your security. They act as a gap analysis tool to highlight and prioritise areas for improvement, including the risk they present to your organisation.

Cyber Essentials and Cyber Essentials Plus

The National Cyber Security Centre (NCSC's) initiative to help UK businesses improve their cyber security has been a hugely successful scheme, particularly for law firms in Northern Ireland. As a certification, it not only conducts a gap analysis but requires you to meet the minimum security as outlined in the standard. This not only gives you peace of mind knowing that you're protected against the most common forms of cyberattack, but also demonstrates to your customers the measures you're taking to safeguard their data and funds.

Summary

On benchmarking cyber risk in the law sector, Simon Whittaker, CEO at Vertical Structure, said:

"Performing regular activities that help identify gaps in your security is an incredibly powerful way to measure your overall cyber security posture. It's not about picking out what's going terribly wrong and apportioning blame, but more about finding where your benchmark is and how to improve on it. Doing this regularly allows businesses to adopt positive cultural change, continually improve, and match the rapidly changing threats we see every day."

Introducing the measures discussed above across your business will ensure that any security weaknesses are identified and addressed and will offer peace of mind, reassurance to your clients, and compliance with industry best practice standards.

For further information please contact Vertical Structure at hello@verticalstructure.com or call us on 028 9099 5777.



RISK AWARENESS MONTH

In September the Society in partnership with WTW/ABL launched Risk Awareness Month which included a series of free podcasts on issues of importance in relation to the risks facing local solicitors. The podcasts are available for download and include:

Effectively Managing the Risks of Hybrid Working [click here](#)

Dr Joanne Cracknell, Director, WTW and Stephen Gowdy, King & Gowdy

Nurturing Wellbeing in our Practices [click here](#)

Catriona McCorry, Partner, DAC Beachcroft (N.Ireland) LLP and Dr Joanne Cracknell, Director, WTW

Support resources

www.nhs.uk/every-mind-matters/urgent-support/

<https://www.lawcare.org.uk>

https://www.mcgill.ca/counselling/files/counselling/anxiety_moodjuice_self_help_guide.pdf

<https://www.ibanet.org/document?id=IBA-report-Mental-Wellbeing-in-the-Legal-Profession-A-Global-Study>

Cyber Risks facing the legal sector [click here](#)

Joanne Cracknell, Director, WTW and

Sam Kinkaid, Detective Constable, Regional Cyber Protection Officer, Cyber Crime Centre, PSNI

Support resources

NCCS Cyber Threat Report: UK Legal Sector published June 2023

https://www.ncsc.gov.uk/files/Cyber-Threat-Report_UK-Legal-Sector.pdf

Cyber Essentials <https://www.ncsc.gov.uk/cyberessentials/overview>

NCSC Exercise in a Box <https://exerciseinbox.service.ncsc.gov.uk/>

NCSC Using Passwords <https://www.ncsc.gov.uk/files/Using-passwords-protect-devices-data-infographic.pdf>

NCSC Top Tips for Staying Secure Online

<https://www.ncsc.gov.uk/collection/top-tips-for-staying-secure-online/activate-2-step-verification-on-your-email>

NCSC's Early Warning Service - free service to organisations to inform them of threats against their network

<https://www.earlywarning.service.ncsc.gov.uk/>

ICO Enforcement Action v a Law Firm

<https://ico.org.uk/action-weve-taken/enforcement/swinburne-snowball-and-jackson/>

Cyber Essentials Readiness Tool

<https://www.ncsc.gov.uk/files/What%20is%20the%20Cyber%20Essentials%20Readiness%20Tool.pdf>

Panel Discussion:

Managing the risks and challenges of practicing law in a post pandemic environment

Part 1 - <https://vimeo.com/865598739/57a69529b7>

Part 2 - <https://vimeo.com/865599995/3a28881c3f>

Managing risk: Current claims and complaints trends

Part 1 - <https://vimeo.com/868616040/d3ff9ed746>

Part 2 - <https://vimeo.com/868615153/5a760c61fd>



John Baxter, Law Society (NI) Financial Advice Ltd

Law Society (NI) Financial Advice Ltd works with solicitors to develop robust and tailored financial plans. John Baxter highlights the top five risks they have encountered when working with clients.

Contingency planning

When constructing a financial plan for our clients, our starting point is to protect the life you have before progressing to the more enjoyable topic of creating the financial future you desire. Your (and your dependants') standard of living is determined by your financial ability to pay for it. This means the impact of accidents, deaths and serious illness must be factored into your financial planning to protect you and your loved ones.

- 1. Not protecting your income** – If you had a machine that you went to each month to collect vouchers that would pay your bills, you'd make sure it was insured so you had cover if it stopped working. Well, you are that machine! You can protect yourself against being absent due to illness or accident by taking out an income protection plan. Solicitors are one of the lowest risk roles for income protection and this is reflected in the price. You can also extend the period before it pays out to further reduce the cost.
- 2. Life cover not in trust** – Most solicitors recognise the importance of protecting debts such as mortgages or protecting their family against their untimely death. One of the most surprising things is these policies are rarely written under trust. Insurance

The Top Five Risks to Avoid in Financial Planning

companies regularly produce figures that show that only around 6% of policies are written in trust. If it isn't in trust, there are three likelihoods:

- There is likely to be a delay before it is paid out;
- There could be ambiguity over who gets the money;
- And, arguably worst, HMRC may take 40% of the payout!

Putting a plan in trust is usually free using a trust provided by your insurer.

- 3. Not considering Critical Illness Cover** – Depending on your age, you are six or seven times more likely to suffer a critical illness (cancer, heart attack, stroke etc) before you retire than you are to die. This means it is more expensive than life cover alone but that's because you are more likely to claim!

The 'risk' you'll live a long healthy life!

Contingency risks are the obvious financial planning ones, and we will all know colleagues who have had their careers cut short or who have been taken from us prematurely. However, many more make it to retirement.

As a solicitor you progress through your career exchanging your 'human capital' (your hard work, blood, sweat, tears, knowledge etc) for 'invested capital'. You are building your monetary wealth for the period when you achieve financial independence. This is the period of your life when you are working out of desire not necessity. This doesn't mean you have to retire. On the contrary, often when we show clients that they can afford to retire they end up continuing to work and enjoying it more because the stress and anxiety of thinking they HAVE to work to pay the bills is taken away. So, risk number 4 is not having a plan.

- 4. Not having a financial plan** – This is a lot simpler than it sounds due to the software available. You start by thinking about when you'd like to stop working and how much you'd like to spend. This lets a financial planner work out how much you'll need. You then plug in the savings and pension arrangements you have. This will show

whether you are on target or not. If you are, a planner will help keep you on target and if you aren't, they'll devise strategies to get you on target, assuming your expectations are realistic!

- 5. Wasting wealth unnecessarily** – Solicitors can reduce the time it takes to achieve their financial independence by minimising the amount of wealth wasted during planning. Here are some things to be aware of:

- Your workplace pension is likely to have several investment funds you can choose from. Have you made a deliberate choice or are you languishing in the default fund?
- Spousal exemptions are very poorly utilised. If you are selling assets such as property two sets of capitals gains allowances are better than one. If your spouse pays tax at a lower threshold than you consider moving savings into their name.
- Don't stop paying pensions just because you've retired, especially if you have savings.
- Cliff edge tax thresholds: Solicitors earning between £100,000 and £125,000 are effectively paying 60% tax on this band. Earning just over £50,000 affects child benefit. Pension contributions can be hugely beneficial in tackling these issues.
- I don't necessarily subscribe to the "Cash is King" theory but it is now much more interesting. With 4% available on instant access accounts and 6% on one-year accounts (for individuals and companies) don't let your hard-earned cash languish in accounts paying paltry amounts.

Law Society (NI) Financial Advice Ltd was set up by solicitors to serve the financial needs of solicitors, their families and their clients. If you'd like to discuss anything in this article or any other wealth matter please call 028 9023 0696 or email info@lsnifa.com



Law Society (NI)
Financial Advice



Fiona Dowds,
Head of People
and Organisational
Development, LSNI

People in Organisations: Managing this Unique and Complex Risk

People come in all shapes and sizes: different backgrounds, different skillsets, different aspirations and different expectations. That's what makes managing people one of the most challenging aspects of running a business.

Ideally, we want to move from the traditional "Personnel management" to the evolving "Talent Development" approach, with the purpose of sustainability and focus on driving competencies and organisational development. This will ensure that the corporate mindset is switched to investing, adopting, and committing to a proactive approach that allows an organisation to build a solid strategy to manage human capital risks.

Policies, procedures, and related training are specific controls or plans that are put in place to mitigate risks or avoid them altogether. The aim is to educate the employee on the operational boundaries of your organisation and in doing so to reduce the amount of risk you are exposing yourself to. The use of policies within your risk management strategy is to provide guidance regarding the management of risk to support the achievement of corporate objectives, protect staff and business assets and ensure financial sustainability.

One of the most effective ways to reduce risk and prevent costly mistakes is to train employees on how to identify, assess, and respond to various scenarios. Recent headlines on the loss of protected data in the workplace, the inappropriate behaviour of staff, and the reputational damage to a business through the misuse of a social media platform all illustrate the need for robust policies and effective training - particularly as we live in a "claim culture" driven world.

The Labour Relations Agency for example has developed resources that include an "Employment Document Toolkit" (available [here](#)). This will help you build documents, policies, and procedures for your own organisation.

The Equality Commission also has "Model Policies" (available [here](#)) which are a good starting-point from which to develop a number of key employment policies and procedures. These will help to demonstrate your commitment and provide clear guidance to your managers and employees as to how you wish and expect them to behave. The Society is committed to helping the solicitor profession become employers of choice, by discharging their duties under employment legislation and achieving best practice.

We are developing a suite of policy templates that will be available to Members in the near future and we are working in partnership with Legal Island to offer discounted eLearning training courses to Members and practice support staff.

These eLearning training courses have been designed to enable solicitors and their staff to access training on a diverse range of key topic areas in an accessible format and at a time that suits the needs of the firm.

Popular course topics include:

- GDPR Training
- Cyber Security in the Workplace
- Social Media in the Workplace
- Diversity & Inclusion - The Importance of Conscious Inclusion
- Employee Wellbeing Toolkit
- Workplace Bullying

Members receive a reduced rate on all eLearning by Legal Island when booked for all staff. For more information and to register for a free demo on behalf of your organisation please visit:

<https://www.legal-island.com/elearning-partners/the-law-society-of-northern-ireland-elearning-training-partnership/>

Legal Island's eLearning courses are CPD certified to enable your staff to gain the points they need to enhance their personal skills throughout their careers. Below is a list of all available eLearning courses:

Compliance Courses:

- + Diversity and Inclusion
- + Unconscious Bias
- + Cyber Security
- + Protecting Data when Hybrid Working
- + Workplace Bullying
- + Whistleblowing Awareness
- + Health and Safety
- + Social Media in the Workplace
- + ESG in the Workplace
- + GDPR Training

Wellbeing Courses:

- + Mental Health and Wellbeing
- + Coping with Fatigue
- + Managing Stress
- + Building Resilience
- + Menopause
- + Musculoskeletal (MSK)
- + Suicide Awareness
- + Protecting Yourself when Home Working
- + Bereavement Awareness

Management Team Courses:

- + Managing and Motivating Remote Workers
- + Managing your Team's Mental Health and Wellbeing
- + Managing Performance
- + Dealing with Difficult People
- + Tackling Sensitive Conversations
- + Recruitment in the Modern Workplace

You're in Good Company:



The implementation of eLearning offered easily accessible training for all employees, without having to commute. The interface is extremely user-friendly, and the reporting features enable us to obtain measurable results with ease.



Gillian Loughran

Operations and People Management Director, Sixt



The comprehensive and easily accessible eLearning courses from Legal Island enabled our organisation to deliver consistent and standardised training across the company. This uniformity enhanced operational efficiency and boosts our employee productivity, as staff members have a clear understanding of policies, procedures, and best practices in various compliance topic areas.



Sarah Ryan

HR Officer, Greyhound Racing Ireland





Catriona McCorry,
Partner, DAC Beachcroft

Catriona McCorry is a partner in DAC Beachcroft's professional and commercial risk department. In her article she discusses the importance of employee wellbeing through effective supervision and provides some tips and suggestions for all practices placing wellbeing at the forefront of their core values and priorities.

Nurturing Wellbeing in our Practices

For solicitors to lead and advise our clients through their own challenges, feel a sense of belonging in our respective firms, and grow our businesses, we must embrace **balance**. A word we hear every day. However, this isn't just about how we juggle our work and home lives. It's also about how we look after ourselves and each other.

Most solicitors are likely to say they work well under pressure. However, when pressure gets too much, it can start to affect performance and consequently, this can have an adverse impact on a person's mental health. I came across a disturbing [article](#) in the Law Society of England & Wales Gazette first published in April 2021 which stated that a study (available [here](#)) conducted by the International Bar Association revealed that one in ten lawyers worldwide aged under 30 experience suicidal thoughts as a result of their work and that half of lawyers under this age have experienced depression. The findings revealed that female participants in the survey were struggling with wellbeing more than men and that younger respondents were more inclined towards negative responses than their older colleagues. Food for thought indeed....

How we tackle this will of course come down to individual firm values but there are three core aspects of wellbeing in a solicitor's practice, summarised as follows:

1. **Support**
We need to give our colleagues the support they need to make their wellbeing a priority. This needs to involve a 'whole person' approach to employee wellbeing which encompasses physical, financial, social and mental health. Signposting colleagues and encouraging them to sign up to LawCare seminars on financial health is just one example of this wider approach.
2. **Education and supervision**
Effective supervision of those delivering legal services plays a vital role in delivering good outcomes for our clients as well as for our colleagues and employees. Clear communication and feedback are essential to empowering junior solicitors and staff to successfully handle their roles

and responsibilities. Hybrid working is here to stay, and effective supervision stands as a cornerstone to wellbeing.

This is not without its challenges as sometimes the boundaries between work and personal life blur in this post-pandemic hybrid era. Some solicitors may be hesitant to virtually share their struggles with their team leaders but we must lead by example, encourage openness and share our own experiences. Regular one on one meetings, whether virtual or in person, are an essential part of any hybrid supervision strategy. This provides a forum to discuss workloads, progress and concerns. It extends beyond task-oriented discussions and includes charting clear career trajectories and identifying skill enhancement pathways. This ultimately leads to heightened job satisfaction and higher talent retention rates.

3. **Culture**
Creating the right culture and environment for our employees is absolutely crucial. With so much talk in the media and focus on mental health, we really should be actively taking steps to tackle the stigma that is still associated around mental health. Creating the right culture within law firms where mistakes can be openly discussed without fear of reprisal is essential for staff retention, staff morale and for the long-term success and productivity of our firms.

What can we implement in our own firms to help create a healthy culture and promote and protect our colleagues' and indeed, our own, wellbeing?

Some of the suggestions below are activities that local firms - including my own - are already offering and they do not take a huge amount of effort or cost to arrange or engage in:

- (i) Weekly exercise classes over lunchtime - yoga, dance or Zumba are some examples. They can be a great way to fit in time to exercise but also to build rapport with your colleagues and have fun.
- (ii) Fortnightly lunches where everyone in the office comes along and has

an opportunity to catch up. Some firms offer “lunch and learns” which cover relevant health topics or even an opportunity for some in-house CPD.

- (iii) Explore your firm’s ‘people data’ – this holds some powerful insights into the health and wellbeing of your employees. Seek feedback and conduct analysis to ascertain if certain teams are disengaged, which teams have highest levels of employee satisfaction and use same to make effective change or enhancements to ensure everyone’s health and wellbeing needs are being considered.
- (iv) Designate trained office mental health first aiders who can be approached in a safe environment to discuss any issues or concerns and to spot early signs of struggle in colleagues. They are there to confidentially listen, support and signpost those in need to the resources they require.

In conclusion, effective supervision, when approached with a focus on wellbeing, can transform our solicitor’s practices into environments where legal professionals flourish, both professionally and personally.

Some useful sources

[Mental Health and the Legal Profession, May 2022](#)

[Total Wellness - ‘9 Simple Ways to Improve Employee Wellbeing’, Seraine Page, August 2022](#)

[‘14 Simple Ways to support health and wellbeing in the workplace’- Natural HR, July 2020](#)

www.nhs.uk/every-mind-matters/urgent-support/

<https://www.lawcare.org.uk>





Hybrid working: Friend or Foe when it comes to Risk?



Stephen Gowdy, King and Gowdy Solicitors

Stephen Gowdy of King and Gowdy Solicitors considers the concept of hybrid working from a risk management point of view.

The Covid-19 pandemic meant that businesses had to look at other ways of providing services to their customers and clients. Foremost was the concept of working from home which has now evolved to hybrid working.

Some of the benefits of hybrid working have been higher productivity, more efficient use of time, control over working hours and location and an improved work-life balance.

However, there are some disadvantages to hybrid working such as the lack of face-to-face interaction with colleagues, over-reliance on technology or issues with technology, and difficulty differentiating between work and home life.

The question of risk management also needs to be considered, particularly the question of whether hybrid working increases the risk to which solicitors may be exposed as a result of their working practices.

This article considers three main risks of hybrid working and assesses whether they bring with them increased risk of negligence.

The first is that of **accessibility**, whether to clients or other members of the legal profession. The second is the lack of **collegiality** as between members of the firm. The third is exceptionally important for the future of the profession, and relates to

how trainees and junior solicitors can **best be trained** when their interaction with the partners and experienced solicitors, who are best placed to teach them, may be limited due to hybrid working.

Accessibility

Some clients may struggle with the concept of hybrid working. For example, those solicitors whose practice is directed to “private clients” will have encountered a client who is worried or does not fully understand their transaction. Communication to those clients by email is only half an answer. What the client really wants is to be able to talk to, or, better still, meet with their solicitor to get the reassurance which they seek.

It is the inherent responsibility of hybrid workers to ensure that they are organised and that their diary is kept up to date so that clients and colleagues know when they are available. When hybrid working, it is vital that solicitors are readily available to their clients and solicitors on the other side of transactions.

Collegiality

The second issue where hybrid working is challenging is collegiality. Those of us who have had the benefit of practising within partnerships can only too well relate to cases where the progress and disposal of the case has been assisted by the discussions which we have had with colleagues who have experience in cases which may be similar, and their input to the case can very often be invaluable; or where we consult text books or cases together to tease out what the legal position may be. Hybrid working could and can impede these sorts of consultations and collegiality with colleagues. We can recall cases where we have discussed matters with our colleagues which has assisted with taking a balanced view of the

appropriate advice to be given to a client. The adverse effect of hybrid working on collegiality may limit bonding with colleagues over a coffee or lunch break or reduce immediate access to colleagues to ask a quick question, especially when the exigencies of the matter require an immediate response. It is arguable that the lack of collegiality may result in a greater risk of wrong advice being given to clients, or advice that has not been fully considered which may then be challenged and become the subject of litigation.

Training

Hybrid working can impact the level of training and supervision provided to trainee and junior solicitors. They may be denied the ready access to those who have more experience. Furthermore, the training which they receive may not be of the standard necessary to ensure that the solicitors of the future are fully equipped and have the necessary experience to appropriately deal with the myriad of problems which come before solicitors. It is impossible to overstress the importance of this. Trainees and junior solicitors who do not have the benefit of free and easy access to all the solicitors in a practice whose areas of expertise differ, and at a time when they need that access, are at a serious disadvantage in their training for their future in the profession. However, if access to colleagues is well structured and organised, then hybrid working can offer trainees and junior solicitors the training they need and deserve to enable them to engage properly in the profession in which they seek to serve.

There is still much to learn from hybrid working and we are in the early stages of this working practice to definitively draw conclusions about the inherent risks but what we have established to date is the importance of effectively managing accessibility, collegiality and training.

PROFESSIONAL INDEMNITY INSURANCE

Master Policy Brokers ABL/WTW with
Members of the Panel Solicitors



From left: Caitriona McCorry, Partner DAC Beachcroft (N. Ireland) (Panelist); Sean McGahan, Partner and Location Head - Claims Solutions Group, DAC Beachcroft (N. Ireland) LLP; Simon Hunter, Claims Advocate, ABL Group (Panelist); Tim Cockram, Senior Associate, Carson McDowell ; Dr Joanne Cracknell Director - Risk Global FINEX, WTW; Mark Taggart, Partner, Dispute Resolution, DWF (Northern Ireland) LLP (Panelist); Shauna Graham, Managing Director, ABL Group; Hugh McGrattan, Partner Carson McDowell (Panelist), Stephen Gowdy, Partner King and Gowdy (Panelist).

wtw

ABL GROUP

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THE LAW SOCIETY
OF NORTHERN IRELAND



100
YEARS



Elizabeth Rimmer,
Chief Executive, LawCare

World Mental Health Day was celebrated on 10th October, so it is a good time to focus on our mental health and think how we can build up resilience to any challenges we may face. Elizabeth Rimmer, CEO of LawCare, outlines some tips for dealing with uncertainty.

Legal culture is generally risk averse; we value certainty. Lawyers are not natural risk-takers and can find it tough to manage the daily risks inherent in our work and lives. Our day jobs often involve working out the worst-case scenario in a situation and identifying the steps needed to mitigate the risks of that happening, so we can advise our clients accordingly. We are expected to be and like to be in control, and when we feel out of control, we latch on to control by 'catastrophic thinking' - trying to predict the worst possible outcomes and believing those will happen. We ruminate on the things we think will go wrong. We can't avoid the vulnerabilities that surround us and being comfortable with the unknown can push us outside our comfort zone.

When things go according to plan we feel in control, but when we hit an unexpected bump in the road, it can leave us feeling anxious and stressed. We are surrounded by uncertainty - the longer-term consequences of the pandemic, the changing workplace, the current financial and political climate, etc. Accepting that there will be uncertainty can help us focus on what we can control.

We each react differently to uncertainty, which is influenced by a range of factors such as our psychological make-up, our previous experiences of and approaches to risk, our physiological responses to stress, and the culture we were brought up in or work in.

We can't avoid the unexpected but here are some tips to help build your resilience in uncertain times:

Building Resilience to Navigate Risks in Everyday Life

- **Be kind to yourself** – some people are better at managing uncertainty than others so don't beat yourself up if your tolerance for unpredictability is lower than someone else's. Remind yourself that it may take time for the stressful situation to resolve and try to be patient with yourself in the meantime.
- **Reflect on past successes** – you will have overcome stressful situations and events in the past and survived. Reflect on what you learnt from the experience, what you did then that was helpful and what you might do differently this time.
- **Develop new skills** – when things are feeling calm, try things outside your comfort zone such as public speaking or standing up to a difficult colleague. Taking risks helps you develop the confidence and skills to handle the unexpected.
- **Check in with your emotions** – give yourself the space to acknowledge and experience your feelings in response to uncertainty. Ask yourself, "How do I feel?", or "Why am I so worried?" Don't assume that just because you feel a certain way it must be true, feelings are a reaction to our thoughts.
- **Limit your exposure to the news and social media** – when we are feeling anxious about something, it can be hard to look away, and we may compulsively check the news and social media, but this only keeps us wound up. Try to limit your check-ins and avoid the news at vulnerable times such as just before bed.
- **Avoid dwelling on things you can't control** – it is common when faced with uncertainty to immediately imagine the worst-case scenario. Rather than ruminating, try to write down irrational thoughts and then for each worst-case scenario, ask yourself a positive question such as "What if it all works out?", or "What if I get the outcome I want?"
- **Talk to yourself as you would a friend** - if a friend came to you with this concern, what would you say to them? Imagining your situation from the outside can provide perspective and new approaches.
- **Connect with others** – seek support from those you trust, reach out to friends, colleagues, and family, and share how you are feeling. Social support can really help.
- **Control what you can** – focus on the things that are within your control even if it's as simple as planning your meals for the week or getting your clothes laid out the night before a busy day. Establishing routines can give us comforting structure.
- **Ask for help** – if you are having trouble coping with uncertainty, contact LawCare, we can help.

LawCare is the mental wellbeing charity for the legal profession offering free, confidential, emotional support, peer support, and resources to those working in the law. If you need support call us on 0800 279 6888, email support@lawcare.org.uk or go to www.lawcare.org.uk.



✓ ✓ ✓ ✓ A Checklist for setting up a Support Group for Men

Are you thinking of setting up a mental health support group for men in the legal sector but need some ideas about how to start? LawCare recently ran a webinar, and these are some of the ideas shared during this session.

Who should be involved and what could your group look like?

Start off by asking yourself some questions about what you want to achieve. How often would you like to meet and what size of group would work for the sessions you have in mind? If you know others who have an interest in mental health and providing a safe space for men to talk why not have a chat with them to work on some ideas together.

Also think about why you want to set up the group: have you been through something yourself and what do you wish had been available for you? Use your own experiences to help shape your group.

Consider setting up a group away from your firm or organisation. Having an independent setting may encourage men to speak up and be reassured that they can do so freely and without worry.

Let people know about your group

Social media, particularly LinkedIn, could be a great way to promote your new group. Ask your friends and colleagues to like and share your posts.

You could also ask legal organisations within your catchment area/jurisdiction to share your posts or include invites in their emails and newsletters. Don't forget to let LawCare know your plans so that we can advertise too.

Once your group has started, encourage attendees to invite their friends and connections to come along to future sessions.

Creating a safe space

Recognise that men need a space to talk but may never have found somewhere that they feel comfortable doing this before; understand that this may take time.

Set out some rules for your group at the outset so you can start to build trust. You could reassure attendees that nothing will be recorded, and that stories shared will not be repeated outside the group.

Invite people to share their experiences – if you can be open about your own experiences,

it may help others to say how they are really feeling (especially at the start).

Picking a theme or a topic for a session

For your first session you might like to ask attendees to discuss their mental health and how it fluctuates. What difficulties have they faced in opening up about their mental health? What struggles have they encountered or what are they currently facing?

Follow up sessions could build on ideas from a previous session; maybe there is a topic that keeps coming up or seems to really resonate within the group.

Session structure

Consider whether an online group would work for you – it may make it easier for men to attend as there is no travel time and no geographical boundaries. It can also make the group accessible to more people.

Get started with some introductions and invite people who are happy to speak to introduce themselves. It can also be a good idea to prepare a few questions to get the conversation started on your chosen theme.

You can read more about [support groups for men](#), and listen to a recording of the webinar, on the LawCare website.

LawCare
Supporting the Legal Community





Dawn Shaw OBE, Chief Executive, Children's Court Guardian Agency for Northern Ireland

The Children's Court Guardian Agency for Northern Ireland celebrates its history, new name, transformation and a new five-year strategy.

The Northern Ireland Guardian Ad Litem Agency (NIGALA), an arm's length body (ALB) of the Department of Health, was established on 4th November 1996, reaching a 25-year milestone in November 2021.

In 2023 the Agency has undergone a number of significant changes.

With the commencement of the implementation of the Adoption and Children Act (2022), the Children's Court Guardian Agency for Northern Ireland (Establishment and Constitution) Order (Northern Ireland) 2023 came into force on 6th March 2023. This changed the name of the Agency from the Northern Ireland Guardian Ad Litem Agency to the Children's Court Guardian Agency for Northern Ireland. Guardians Ad Litem will now be known as Children's Court Guardians.

The Agency had been based at Centre House in Belfast since its inception but in March this year moved to new premises in James House in Cromac Avenue on the old Gasworks site. The new five-year strategy has just been finalised with its core theme of transformation with a new logo and branding.

The function of the Children's Court Guardian Agency is to safeguard and promote the interests of children and young people whose welfare is being considered in public law and adoption court proceedings, by providing independent social work advice and ensuring the effective representation of the views of these children and young people. When a child or young person becomes subject to court proceedings to determine his or her best interests, the guardian must work to assist the court in making a fully informed

All Change at the Children's Court Guardian Agency



decision about the future life of that child or young person.

The Agency is accountable to the Children's Court Guardian Board. During the 27-year history there have been five Chairs: Her Honour Judge Philpott QC (deceased), Mary Connolly, Jim Currie MBE (deceased), Bernard Mitchell and Gemma Loughran, the current chair, who took up her role in 2020.

The first Chief Executive was Ronnie Williamson who led the agency for 17 years. On his retirement Patricia Nicholl was appointed. She was succeeded in 2015 by Peter Reynolds who retired in April 2021 when the current Chief Executive, Dawn Shaw OBE, was appointed.

Some of the original staff, who started with the Agency in 1996, remain in post today demonstrating their long-term commitment to supporting the lives of vulnerable children and young people.

The timeline of key events for the Agency to mark the first 25 years is outlined opposite.

In recent years, family life has been adversely affected by many developments including the Covid 19 pandemic, the rise in mental health issues and the economic pressures which are causing escalating increases in the cost of living. There has been a 30% increase in the numbers of children coming into care over the last 10 years and it is unlikely that the challenges to family life will ease in the future. The Children's Court Guardian Agency will continue to play its part in promoting the best interests of children and young people whose family life is under consideration by the courts and in being an independent voice for these children and young people.


Looking to the Future

The core work of the Agency is delivered by qualified and experienced social workers supported by a team of administrative and corporate staff, led by a small senior leadership team. The Children's Court Guardian Agency Board, which comprises five members from a range of backgrounds including social work, finance, corporate governance and law, provides strategic leadership, oversight of governance and accountability for the work. The Agency is ultimately accountable to the Department of Health and to the Minister of Health.


Adapting to the future to ensure we provide the best service possible for the children, young people and families with whom we work is a core aim of the Agency. As part of HSC, the Agency cannot escape the funding restrictions across the public sector and we will seek to ensure that we are delivering the best service possible in the most efficient and effective way. This will require transformation in the way we work, and such transformation is a key theme for the Agency in the new five-year strategy.

Three strategic drivers were identified through a process of staff engagement and review over the last two years. They are: Improvement, Data, and Culture, and each of these will drive transformation in the key work areas of the Agency. The objectives are set out under the four key work areas which cover the main areas of the work of the Agency: children and young people, our staff, the systems we use and our ability to influence children and young people's policy and practice. The details of the Children's Court Guardian Agency Strategic Plan 2023-2028 can be accessed via the website <https://nigala.hscni.net>

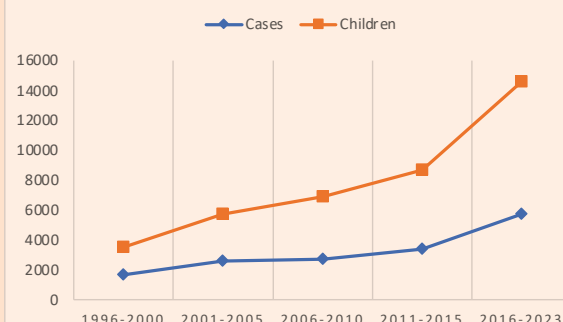
Over the past 27 years, representation has been provided in

 **16,000+ cases**

Involving

 **23,000+ children**

CASE REQUESTS / NUMBER OF CHILDREN



NIGALA

NI Guardian Ad Litem Agency

*A voice for Children and Young People
in Family Courts*

Celebrating 25 Years

First NIGALA Board:



(Seated) Her Honour Judge Philpott QC (Chair)
Mr Ronnie Williamson (Executive Director)
(Standing) Mr Jack Corr and Dr Colette McAuley

1996 -
2000

- 1996 Agency inception 4th November.
- 1997 Official Opening 20th July.
- 1998 First Conference entitled 'Care & Contact Planning'.
- 1999 Official Opening of North West office in L/Derry on 5th March.
New Chair - Ms Mary Connolly
- 2000 Discussions to establish an information network with the Family Courts.



'Exploring Significant Harm'

2001 -
2005

- 2001 Conference entitled 'Exploring Significant Harm'
Official Opening of the office in Armagh in November.
- 2002 Conference entitled 'Children (NI) Order 1995 – Fit for Purpose?'
- 2003 New Chair - Mr Jim Currie MBE
- 2004 DHSSPS Inspection of the Agency
- 2005 Revised Guide to Case Management in Public Law Proceedings



Presentation of
Bronze Investors in People (IIP) Award

2006 -
2010

- 2006 Multidisciplinary seminar entitled 'Children's Participation in the Court Process'
Awarded Investors in People Award (IIP)
- 2007 COAC's Best Practice Guidance training
- 2008 Introduction of the Guardian Case Information System (GCIS)
- 2009 Awarded the Bronze Investors In People (IIP) Award
- 2010 Awarded second place in the 'Transformation of Services' category in the
National Government Computing Awards



'Children in Family Proceedings - Who's Listening?'

2011 -
2015

- 2011 New Chair - Mr Bernard Mitchell
- 2012 Conference entitled 'Children in Family Proceedings – Who's Listening?'
- 2013 Re-Accreditation of Investors in People (IIP) Bronze Award
New Chief Executive - Ms Patricia Nicholl
- 2014 Stakeholder events entitled 'Care Proceedings in NI – A Snapshot Study' and
'Tackling Delay and Working Together'
- 2015 New Acting Chief Executive - Mr Peter Reynolds



The Inter-Agency Childcare & Legal Issues Group
'Seminar entitled 'Post Adoption Contact -
Managing Perspectives'

2016-
2020

- 2016 Establishment of the Young Persons Forum
NIGALA Celebrated its 20th Anniversary
New Chief Executive - Mr Peter Reynolds
- 2017 Memorial coffee morning for Mr Jim Currie & Her Honour Judge Philpott QC
Conference entitled '21 Years of Representing Children and Young People –
What Have We Learned and What Can We Do Better?'
Establishment of the Inter Agency Childcare and Legal Issues Group
- 2018 Awarded the Investors in People IIP Silver Award
- 2019 NIGALA hosted a Five Nations Gathering with Children First (Scotland),
CAFCASS Cymru (Wales), Barnardo's DCYA (South of Ireland), CAFCASS England
- 2020 Conference entitled 'Are We Listening?'
New Chair - Mrs Gemma Loughran

Mrs Gemma Loughran
Chair



Ms Dawn Shaw OBE
Chief Executive



2021-
2023

- 2021 New Chief Executive - Ms Dawn Shaw OBE
Awarded the *Co-Production Award* for participation work with young people
at the Regional Social Work Awards. Mr Peter Reynolds (past Chief Executive)
was also awarded the *LifeTime Achievement Award*.
- 2022 Re-Accreditation of Investors in People (IIP) Silver Award
- 2023 Moved premises from Centre House Belfast to James House Belfast
NIGALA becomes **Children's Court Guardian Agency for Northern Ireland**

MEDIATION – Some Recent History and a Seismic Change? Is Mandatory Mediation on the Cards?



Brian Speers,
Solicitor, Mediator,
CMG Cunningham Dickey,
Belfast

Mediation is not new. In many societies people with grievances or disputes turn to elders or wise colleagues to resolve disputes. For me mediation started 30 years ago. The Law Society invited the Centre for Effective Dispute Resolution (CEDR) to give a talk on something which was then “new-fangled”. Having conducted litigation in the courts I was weary of the vagaries and uncertainties of litigation and the frustration of complying with the court processes. It seemed to me then that there was a superior way of dealing with the disputes of my clients. I was immediately convinced that mediation was that superior way.

In or around 1993 mediation had not really taken off anywhere in the UK but it was reasonably well established in Australia and the US. In 1995 I attended mediation and conflict resolution training in Fordham University, New York and my interest has continued ever since.

In December 2001 a claim was brought by a Mr Frank Cowl who was seeking to judicially review a decision of Plymouth City Council to close the nursing home in which Mr Cowl was a resident.¹ There had been no effort made to resolve the dispute by using mediation and the Court observed that:

“Even in disputes between public authorities and the members of the public for whom they are responsible insufficient attention is paid to the paramount importance of avoiding litigation whenever this is possible. Both sides must by now be acutely conscious of the contribution ADR can make to resolving disputes in a manner which both meets the needs of the parties and the public and saves time, expense and stress”.

The court went on to say that *“today sufficient should be known about Alternative Dispute Resolution to make the failure to adopt it in particular where public money is involved quite indefensible”.*

In April 2002 the case of *Dunnett v Railtrack*² was decided. Mrs Dunnett’s horses had strayed onto an inadequately fenced section of railway line and were killed. Mrs Dunnett sued Railtrack. The company had a good legal defence and won their case. They did not, as would usually be the case, recover costs. The court had suggested using ADR but Railtrack did not agree.

The Court said, *“it is hoped that any publicity given to this part of the judgment will draw attention of lawyers to the possibility that if they turned down the chance of ADR they may have to face uncomfortable cost consequences”.*

In a third case around the same time, a solicitor, Mr Hurst, embarked on (unwise) litigation against his legal representatives in an action against his former partners. There were many stages and appeals.³ Mr Hurst’s solicitor Mr Leeming was adamant that his advice and representation of Mr Hurst was not in any way negligent as Mr Hurst claimed. He refused to mediate, and the Court said: *“ADR is at the heart of today’s civil justice system and if any unjustified failure to give proper attention to the opportunities afforded by mediation there must be as anticipated a real possibility that adverse consequences may be attracted”.*

These three cases showed how ADR was part of the civil justice system and considered how a failure to use it might attract adverse costs consequences. Not everyone at that time

was content. In the case of *Corenso (UK) Ltd v The Burnden Group Plc*⁴ the Court observed, in very different language to the three cases mentioned above, that *“it is possible that a failure to engage in the mediation process may have adverse cost consequences for a successful party. It is not by any means inevitable”.*

This tension between those advocating mediation and those sceptical was resolved in the seminal case of *Halsey*. This was decided in 2004. Lord Dyson gave the leading judgment. In this case Mrs Halsey claimed against the Health Trust, alleging damages arising from the death of her husband which she alleged had occurred as a result of a negligent medical treatment.

Her representatives, no doubt encouraged by such cases as *Dunnett* and *Cowl*, repeatedly requested that the Defendant Health Trust engage in mediation. It refused. The Court of Appeal decided that an unreasonable refusal to mediate would result in costs sanctions and went on to elaborate about what might amount to an unreasonable refusal. These so-called “Halsey criteria” include: the nature of the dispute, the cost of the mediation, delays in organising a mediation, the strength of the merits of the case and whether there was any reasonable prospect of success in a mediation. Most importantly, the court concluded that its role was to encourage parties to mediate and not to compel, although it acknowledged that encouragement could be robust. The court was concerned that forcing people to mediate interfered with their right to a trial.

Although not everyone agreed with *Halsey*, it was regularly followed, and parties then became used to the receipt of invitations to mediate, and advisors became used to advising clients that an unreasonable refusal might be adverse to them in recovering costs should they succeed.

¹ *R (Cowl and Others) v Plymouth City Council* [2001] EWCA Civ 1935

² *Dunnett v Railtrack plc* [2002] EWCA Civ 303.

³ *Hurst v Leeming* [2001] EWHC 1051 (Ch)

⁴ *Corenso (UK) Limited v The Burnden Group Plc* [2003] EWHC 1805.

Ten years after the decision in *Halsey*, Lord Dyson was invited to attend the first Commonwealth Mediation Conference in Belfast. In his significant address⁵ he maintained that although *Halsey* was controversial it was still correct. Lord Dyson believed that there were three main propositions to be derived from *Halsey*. Firstly, mediation is important and should be used in many cases but it is not a universal panacea; secondly, parties should not be compelled to mediate; and thirdly, adverse costs Orders are an appropriate means of encouraging parties to use mediation. His emphasis on parties being encouraged but not compelled was a view which he held very firmly. In his address he said: “*should parties ever be compelled to mediate even if they really do not even want to do so? On this point I remain of the same view as I expressed in Halsey; that truly unwilling parties should never be compelled to mediate. Cajole yes, encourage yes, but compel no.*”

This view, that compelling people to mediate was inappropriate and may even deprive people of their rights to a trial, has been the prevailing view ever since *Halsey* was decided in 2004. While on the 10th anniversary of the *Halsey* decision, in the first Commonwealth Mediation Conference, Lord Dyson conceded that mediation may not after all offend against a party's right to a trial (influenced no doubt by the *Rosalba Alassini* case in Europe⁶), he remained robustly of the view that mediation was to be encouraged but not compelled. Indeed, he said: “*It is not the role of the law to force compromise upon people who do not want it by forcing them to engage in a mediation process. Parties who have a strong case and who seek vindication rather than compromise should not be denied their day in court.*”

In June 2021 the Civil Justice Council, having been asked by the Master of the Rolls to consider the position, published a significant report⁷ which concluded that compulsory mediation was not unlawful or inappropriate. It effectively considered that *Halsey* in this regard was incorrect. Sir Geoffrey Vos, the Master of the Rolls, in his keynote speech at the second Commonwealth Mediation Conference in Belfast in May 2022, spoke of the need to integrate different dispute resolution approaches in the civil justice system. He thought that mediation, arbitration and litigation all had a part to play in a civil justice system. The emphasis was not on the process but should be on the resolution of the dispute in the most appropriate manner.

It seemed to me while listening to the Master of the Rolls that mediation had come a long way since the mid 1990s when my interest first started. The second most senior Judge in England and Wales was acknowledging the integral part mediation played in civil justice and how mediation was normalised rather than being “new-fangled” as it had been 30 years earlier.

What is particularly interesting is how the debate about compulsory mediation has progressed. Two significant matters have occurred recently.

The first is that in England and Wales small claims under £10,000 are to be the subject of compulsory mediation.⁸ This echoes the Gillen Civil Justice Review in Northern Ireland⁹ which also recommended that mediation in Small Claims Court proceedings should be made mandatory.

However, potentially more significant than any statutory mandating of mediation for

lower value cases is the case of *Churchill v Merthyr Tydfil County Borough Council*¹⁰ (*Churchill*). It is interesting how some important cases involve mundane factual circumstances. In this case Mr Churchill sued his Council because his property had been invaded by Japanese Knotweed, the source of which was adjoining Council lands. The Council maintained that litigation was disproportionately expensive, and that Mr Churchill should have been required to avail of the Council's dispute resolution process.

The issue rapidly became of interest to mediation organisations and practitioners and at the end of June 2023 permissions were granted for interveners in this dispute to be able to address the Court of Appeal which will consider the matter in the coming weeks. The case is being heralded as a test of the *Halsey* observation that mediation should be encouraged but not compelled. It is in fact anticipated that the Court might decide that the *Halsey* era has come to an end. The UK's squeamishness about making mediation mandatory may be ended.

The *Churchill* case could indeed become significant for the evolution of civil justice in the UK and how disputes are approached.

30 years on from my initial discussion in Law Society House in Belfast, civil justice and its approach to disputes has indeed come a long way. This has implications for the training of lawyers, and the education of current practitioners to be aware of the opportunities for mediation. The increasing likelihood of an obligation to mediate is significant. Practitioners need to be equipped to advise clients about mediation.

The *Churchill* case in the Court of Appeal will be observed with great interest.



⁵ Halsey 10 years on – the decision revisited Lord Dyson MR Commonwealth Mediation Conference, Belfast 9 May 2014

⁶ *Rosalba Alassini and Others v. Telecom Italia SpA and Others* [2010] EUECJ C-320/08.

⁷ Civil Justice Council Compulsory ADT June 2021

⁸ Gov.Uk Press release New justice reforms to free up vital court capacity 25th July 2023

⁹ Review of Civil and Family Justice in Northern Ireland September 2017

¹⁰ *Churchill v Merthyr Tydfil County Borough Council* CA-2022-001778.



President represents Society at American Bar Association Meeting

In August, the President, Brian Archer attended the 2023 American Bar Association Annual Meeting in Denver, Colorado. The President was representing the Society at the meeting, which provided an important platform to connect and network with international lawyers on issues of global importance.

Law Society shows support for Belfast Pride Parade 2023

Solicitors joined the Society's President, Brian Archer on Saturday 29th July 2023 in participating in the Belfast Pride Parade a celebration of the LGBT+ community in Northern Ireland.

Commenting on the Parade which took place in Belfast City Centre the Society's President said: *"I was privileged to lead the Society's participation in this year's Belfast Pride Parade and delighted that so many solicitors, their families and friends joined us in supporting equality and diversity within the legal profession and our community".*



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ANNUAL DINNER

Thursday 7th December 2023
Culloden Estate and Spa at 7:30pm

Tickets: £75
(plus VAT per person)

Places are limited and will be allocated on a first come first served basis.

Newly Qualified Solicitors or trainees soon to be admitted to the Roll of Solicitors who are eligible for a complimentary ticket will be contacted separately.

**Closing Date for receipt of registration and payment:
Friday 10th November 2023**

For any enquiries about this event please contact:
Aoife.mcquillan@lawsoc-ni.org

To register
and purchase a
Single Ticket
Cost £75+VAT
please click
here

To register
and purchase a
**Table for 10
Ticket**
Cost £700+VAT
please click
here

An envelope collection will be made on the
night for the President's Chosen Charity



THE **LAW SOCIETY**
OF NORTHERN IRELAND



100
YEARS





The Northern Ireland Medico-Legal Society is inviting members of the legal and medical profession to join and to help continue and grow valuable links between the two professions.

Over the years, the Society has provided a much-needed platform for mutual study and exchange of ideas between the medical and legal professions.

Founded in 1976 by Dr Elizabeth (Betty) McClatchey, Sir Ian Fraser and Sir John Biggart, the Society has included distinguished members including Thomasena McKinney who was the first Honorary Treasurer and later the first female President of the Law Society of Northern Ireland.

Back then the Society's meetings were held at Queen's University, Belfast, with an initial membership of 100 plus attending the annual guest lectures and dinner.

The Society membership and purpose has grown since then with a continuing focus on its key principles which include:

- To encourage the study, improve the practice and promote advancement of medico-legal knowledge.
- To hold meetings and to publish such material as may further the interests of the Society.
- To do such things as may widen, improve, and develop the education and knowledge

of those concerned in the pursuit of medico-legal matters.

- To engage with sister Societies to learn and share best practices.

Who are the Committee of the Northern Ireland Medico-Legal Society?

The following currently serve on the Committee:

- President - Richard Wallace (succeeding Dame Siobhan Keegan)
- Mr Justice Adrian Colton (incoming President)
- Hon Treasurer - Avril Robb
- Hon Secretary - Rachel Best BL

Ordinary Committee Members:

- Robert McMillen
- Helen Harbinson
- Judge Órla Murray
- Emma McIlveen BL
- Deborah Hayes
- Brendan Fogarty
- Gavin McAlinden

With the new legal term now approaching the Committee are looking to grow the membership of the Society.

How do you become a member?

To become a member of the Northern Ireland Medico-Legal Society you need to:

1. Be a member of the legal or medical profession.
2. Complete an application form and pay a yearly membership subscription.

What are the benefits of becoming a member?

The benefits of membership include:

1. Attendance at informative CPD lectures on topics of interest to legal and medical practitioners.
2. Invitations to the collegiate and social events which allow members to build professional relationships with colleagues.

CPD Lecture series

Following a pause caused by the Covid-19 pandemic, the Society's CPD lecture season and meetings have resumed. The following are the key dates for 2023-2024, all of which will be bookable through Eventbrite.

- 21st November 2023
- 16th January 2024
- 20th February 2024

Further details and how to book will be issued over the coming months in the E-nformer and Writ magazine.

If you are interested in becoming a member or have any questions about the Society, please do not hesitate to contact:
info@nimedicolegalsociety.co.uk

Society partners with the Institute of Legal Finance & Management

The Society has partnered with the Institute of Legal Finance & Management (ILFM) to bring professional support and accredited training to finance and support staff working within local solicitor firms, for the first time.

Legal finance is a dynamic area within legal practice that has changed beyond recognition in recent years. The role has expanded into new areas of AML compliance, risk management and defence against cybercrime. However, Members report difficulty in finding and retaining qualified and experienced staff.

Recognising this, Head of Member Services at the Society, Alison Grundle, said *"We are delighted to launch the new partnership with ILFM which will offer local solicitor firms the opportunity to provide dedicated professional development to their support staff. We spent many months in discussions with ILFM, exploring the specific needs of the profession here and what they could bring. We are confident of their commitment to delivering the highest standards for the profession in Northern Ireland and we look forward to a long relationship with this excellent professional body."*

Tim Kidd, Chief Executive at the ILFM, said *"I am absolutely thrilled to be able to offer the ILFM's Membership support to the many legal finance and law firm support professionals in Northern Ireland, with our extensive knowledge hub, online training, virtual branch meetings and further events. We are a proud professional institute that offers qualifications in legal finance to complement the work of the lawyers adhering to the regulatory framework."*

Laura McCullough, Head of Professional Conduct at the Society, stressed the importance of the partnership saying,

"It provides an invaluable opportunity to all solicitor firms and their staff in developing skills, updating knowledge and helping to reduce the risk of non-compliance."

ILFM started as a small Membership organisation in 1978 purely to support legal bookkeepers and is now the only UK professional body providing recognised professional qualifications, training, knowledge, support, and information for anyone working in legal finance and in legal practice management. Its Members include legal cashiers/bookkeepers, accounts managers, practice managers and sole practitioners.

However, Karen Edwards, Head of Professional Development at ILFM, explains that *"Being part of ILFM goes beyond learning and continuing professional development, it's also a community in which Members can support each other, ask questions and gain advice."*

Karen and her colleagues have already been working with the Professional Conduct Department in the Society to ensure the ILFM portfolio contains training focusing on the Solicitors Accounts Regulations 2014 and their application within practice.

ILFM training is suitable for firms of all sizes, from sole practitioners and small firms to the largest multi-practice firms. An introductory Membership fee of £100 (+VAT) is available to those based in Northern Ireland. Freelance Members are welcome as well as those employed within practice firms.

Current training is listed below. Each event lasts one to three hours and all are CPD-accredited:

- Anti-Money Laundering (AML)
- COFA Masterclass
- Residual Balances

- Disbursements and Recharges
- VAT for Legal Accounting
- Legal Practice Management - Strategy, Leadership & Finance
- Legal Practice Management - People, Client Care & Risk
- *Solicitors Accounts Regulations (specific to Northern Ireland law firms)*
- *Fundamental of Legal Bookkeeping (specific to Northern Ireland law firms)*

In addition to training, the ILFM produces newsletters and the Legal Abacus Members' publication. Virtual Member Meetings take place regularly and whilst these are open and relevant to all Members, a Northern Ireland Member event will be scheduled soon. Elaine Pasini, Head of Communications, is responsible for these and she is also planning a series of specific webinars with expert speakers who have specialisms in Northern Ireland (e.g. in the banking sector, insurance, AML etc).

In the meantime, here is a list of the ILFM Members' free (or heavily discounted) events that are available:

- Virtual Member Meetings (free to Members - monthly for an hour - dates and times change from month to month).
- Lunch & Learn Webinars (free to Members - midmonth, midweek and midday, to dodge the Friday afternoon conveyancing rush).
- Autumn Virtual Conference (every November we hold an online conference that is free to all our Members).
- Law Firm Management Forums (free to Members - dotted around the UK - currently England and Wales but we are really looking forward to running our forums in Northern Ireland soon!).
- Spring Conference in-person (heavily discounted rates for Members).



The Institute of
Legal Finance
& Management





Still Working to Support Members of the Profession

The Solicitors' Benevolent Association exists for the benefit of all members of the solicitor's profession and their families, widows and children and is completely funded by voluntary donations from fellow solicitors throughout the island of Ireland.



John Guerin,
Partner, Clyde and Co.

Background

The Solicitors' Benevolent Association had its origin in the year 1863, when, to perpetuate the memory of the late Mr Richard Meade, a fund was collected to found a memorial which subsequently became known as the Meade Benevolent Association for the relief

of members of the solicitor's profession, their wives and families.

Subsequently, on 11th June 1864, it was resolved to extend the scheme and the name was altered to that of the Solicitors' Benevolent Association Ireland. At that time, it adopted a more professional designation of an Association, and its objectives were:

1. To relieve such poor and necessitous members as may be incapacitated for business through bodily or mental infirmity, or other inevitable calamity and their wives and families,
2. To relieve the poor and necessitous widows and families of deceased members,
3. And in special cases to afford relief to parents or collateral relatives of deceased members and to render the pecuniary assistance to the widows and families of deceased attorneys, solicitors and prompters who were not members at that time of their death.

In 1865 - the first full year of operation - the Association distributed the sum of £80.00, and last year the figure had grown to almost €900,000.

The Solicitors' Benevolent Association is an all-Ireland body which provides relief, aid and advice to members of the Association and current or former members of the solicitor's profession in Ireland and to their dependents whose life circumstances may have brought them into material need for any reason. Dependents include spouses, partners and children and in special circumstances the Directors may at their discretion include other related persons as Dependents.

Applications for assistance are considered by the Board who may decide to provide financial assistance in the form of monthly payments or occasional grants, and, in some cases, the Board may provide such financial assistance by way of a loan.

The Association's main income derives from annual voluntary subscriptions paid by members of the solicitor's profession in both



The SBA met in Law Society House, Belfast on 11th September 2023.

the Republic of Ireland and Northern Ireland, and incomes are also derived from donations, legacies, repayments of grants and fund-raising activities.

In the past year the Association paid out almost €900,000 in grants to 79 people, with beneficiaries ranging in age from 27 to 102 years old. In addition to those directly in receipt of grants, 21 of them had children under 18 years of age or in full-time education and the total number of children indirectly assisted was 58.

The Association is made up of 24 Directors from all over Ireland, both North and South. The Directors provide their services on a voluntary basis and review cases on a monthly basis and, indeed, often have personal contact with those in receipt of grants.

Applications

Applicants are asked for a statement of their monthly income and expenditure together with a statement of their assets and liabilities. Entitlement to state benefits is taken into account when deciding on applications. The level of grant is decided on an individual person's circumstances and grants may be in the form of a regular monthly payment or a single payment. Since 2000, the Association has also made grants on a loan basis where there were assets which may be realised later, and the Association has been repaid almost €300,000.

Applicants often state when making an application that they never envisaged having to apply for assistance but under the rules of the Association assistance may be given to those in need who are members of the Association or former members of

the solicitor's profession in Ireland and their immediate dependents. Accordingly, the Association would encourage solicitors, whether practising or retired, to pay the annual voluntary subscription in the knowledge that they are helping their colleagues and their dependents who have fallen on hard times for whatever reason and in the unforeseen event that they may need to call on the Association in the future on their own behalf or that of their families.

Here are some of the situations where the Association has provided assistance. Names have been changed to protect the identity of individuals.

1. Brian was a sole practitioner. In recent times the practice had become unviable, and he was no longer able to support his family and the Association stepped in.
2. Maria was widowed at the age of 45 when her husband who was a solicitor died suddenly and she was unable to support her children who were in college and required financial assistance until the children were in gainful employment.
3. Joan was working for a large firm until she was diagnosed with a serious illness and had to resign from her employment. She returned to live with her parents who were not in a position to support her.
4. Vincent was a partner in a practice and was forced to retire when he was diagnosed with a long-term illness.

Donations

It is anticipated that there will be increasing demands on the Association's funds due to the effects of inflation and the increase in cost-of-living expenses. To cover these greater demands additional subscriptions will be more than welcome as will legacies and the proceeds of any fundraising events.

We would encourage solicitor bodies throughout Northern Ireland to donate funds raised from CPD courses and other functions to the Solicitors' Benevolent Association.

Further information can also be obtained from the Association's website

www.solicitorsbenevolentassociation.com

or from any of the Northern Irish Directors listed below:

Colin Haddick

Caroline Boston

John Guerin

NOTICE - SBA AGM

Notice is hereby given that the 159th Annual General Meeting of the Solicitors' Benevolent Association will be held at the Law Society, Blackhall Place, Dublin 7, on Wednesday 8 November 2023 at 12.30pm to consider the Directors' Report and Financial Statements for the year ending 30th November 2022, elect directors and deal with other matters appropriate to a General Meeting. A copy of the Directors' Report and Financial Statements can be viewed on the Association's website www.solicitorsbenevolentassociation.com.



Growing Professional Development to meet Member Needs



Dr Andrew Godden,
Professional Development
and Training Lead, Law
Society of Northern Ireland

The Society's CPD team continues to provide Members with a broad selection of quality learning content. Recent highlights include the reboot of our Member-to-Member Mentoring Programme, a variety of highly informative online legal webinars and our range of flagship conferences.

Continuing Professional Development

The CPD team has been delivering a complete programme of CPD events this year, covering a host of practice areas including criminal law, commercial law, family law, professional practice and many others. In line with Member feedback on accessibility, most content is delivered online by subject matter experts, although the team continues to deliver in-person events, such as the popular Children's Order Panel Conference in June, to facilitate

networking and knowledge transfer across the profession. Plans are also underway to adopt a vibrant new digital learning platform, which will reshape the way that we deliver our CPD content and provide Members with even more flexibility, variety and ease of use.

Mentoring Programme

January 2023 saw the launch of the Society's Mentoring Programme, which for 10 years has provided Members with tailored career development support and networking opportunities. Throughout the year, 17 mentees have benefitted from the advice of experienced mentors from within the profession, who have worked with them to enhance their expertise, competencies and professional profile. In June, mentees and mentors came together for an event at Law Society House, facilitated by our partners at Advance Coaching. Participants were able to make valuable contacts as they took part in group activities on the theme of 'Influencing Skills'. The day was a great success and set a high standard for the next in-person event, which is due to take place in December.

Review of CPD Programme

As the representative body for the solicitors' profession in Northern Ireland, it is vital that our

learning and development service is shaped by the needs of our Members and remains in line with industry best practice. To that end, the team launched a comprehensive review of the CPD programme in August, examining everything from our existing content to current delivery methods.

A key component of the review was a series of Member focus groups which engaged solicitors from across private practice, public sector organisations and in-house roles, to gather feedback and views on how the Society's CPD programme can be improved. This has enabled the CPD team to gather empirical evidence and glean important insights into current trends and challenges affecting practitioners.

This feedback is already helping us to create new CPD content that is relevant to more practice areas and aligned more closely with each stage of career progression, from newly-qualified solicitors to those in leadership positions. It will also provide a key reference point in the construction of our new digital delivery system over the next 12 months. Members will be informed as new options are added to the CPD programme and will be notified when the new system goes live. Support will also be made available to help Members make the most of the platform's new features.

INTRODUCTORY OFFER TO MEMBERS OF
THE LAW SOCIETY OF NORTHERN IRELAND

Save time and keep abreast of the legal changes in Northern Ireland

**Access market-leading legal
content from just £100 a month***

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THE
LAW SOCIETY
OF NORTHERN IRELAND

100
YEARS

COUNCIL DINNER 2023

Members of the legal profession, Judiciary and invited guests were among those attending the Society's Council Dinner which was held at the Culloden Estate and Spa on 21st September 2023.

Those attending had the opportunity to hear speeches from the President of the Society, Brian Archer, and Angela McGowan, CBI Director for Northern Ireland.

In his keynote address the President reflected on the absence of a Northern Ireland government saying:

"The lack of government is cause for growing alarm because quite simply society needs democratic accountability and decisions need to be taken, the longer and more frequently we are without an Executive the more public services fall into crisis, our key infrastructure crumbles, and the economy struggles.

From the perspective of the legal profession, so many areas have been neglected for so many years now, that we have reached the point where the stability of the whole system is threatened.

We urgently need a government to address these inherent problems. Decisions are made by people who are in the room".

Commenting further, the President said:

"Last year the Society commissioned research into the health of the legal economy in

Northern Ireland and in particular the solicitor profession.

The legal economy in Northern Ireland is a success story. The work of solicitors alone generates around £460m in gross value added to the Northern Ireland economy and supports well in excess of 6000 jobs.

The total value of the legal sector is closer to £800m and many more thousands of jobs.

Belfast is now home to more international legal firms than anywhere else in the UK outside of the City of London.

But when you break down the legal economy into its component parts, we see that it is a

much more complex picture than we might imagine.

Solicitors in private practice make up just over half of the economic value. Currently there are approximately 3,000 practising solicitors in 450 firms/ across 65 locations.

However, the majority of these are micro-practices and although these firms are distributed across Northern Ireland the reality is that the profession is becoming increasingly Belfast-centric with geographical distribution of firms in the west of the province becoming decidedly patchy.

Why does this matter? Firstly, because we are at risk of losing the network of small



From left: Sir Declan Morgan, The Right Honourable Dame Siobhan Keegan, Lady Chief Justice of Northern Ireland, Brian Archer, President, Law Society of Northern Ireland.



Angela McGowan, CBI Director for Northern Ireland.



Brian Archer, President of the Law Society of Northern Ireland.

community solicitor practices and once gone, they are gone forever. Fermanagh, for example, currently has only 16 solicitor firms in the entire county.

This points to an impending access to justice crisis whereby a local solicitor simply won't be available to act for clients who want to buy a house, write a will or need representation in court- who will perform these services?

The access to justice issue is further compounded for the poorest and most vulnerable in society because it is these practices which are the backbone of our Legal Aid provision.

The Legal Aid system has been undermined for many years through erosion of budget, delays in payment, and curtailing of eligibility.

By April 2024, it is anticipated that the backlog of completed but unpaid Legal Aid work will have reached £35m and as I stand here tonight there is no budget from which to pay for this. This is an intolerable situation and if urgent action is not taken, solicitors like myself will no longer be able to provide this service to the most vulnerable in our community.

What is needed is a root and branch review of Legal Aid – not a sticking plaster but a fundamental review of the whole system which is not pre-determined by cost but identifies the problems faced by the public and legal practitioners before the Civil and Criminal Courts and brings a wholistic approach which can deliver a justice system which protects both defendants and victims”.



From left: Ciaran Moynagh, Olivia O’Kane, Órla Murray.



From left: Colin Gowdy, Alan Hewitt, Brian Archer, Alastair Rankin.



Culloden Estate and Spa, venue for the Law Society of Northern Ireland Council Dinner.



From left: David A Lavery CB, CEO of the Law Society of Northern Ireland, Angela McGowan, Brian Archer.



Maura Derivan, President of the Law Society of Ireland, Brian Archer, Norville Connolly.



From left: Rowan White, The Right Honourable Dame Siobhan Keegan, Lady Chief Justice of Northern Ireland, Brian Archer, Darren Tombs, Junior Vice-President of the Law Society.



Ross White, Young Solicitors Association.



From left: John Bailie, Brian Archer, Simon Chambers, Colin Haddick.

President's Message on Legacy Conference

Colleagues will be aware that the Society recently took the decision to postpone our Annual Conference. I wanted to take this opportunity to explain in more detail the factors behind that decision and the thinking behind convening a conference on the topic of the recently passed legacy legislation.

The established convention is that the President, in consultation with colleagues, determines the theme for the Society's Annual Conference and this year I chose to focus on the Rule of Law. In my view, we have unfortunately experienced a serious erosion in respect for the Rule of Law over recent years. This has manifested in escalating and dangerous remarks from politicians and the media towards lawyers and the Judiciary – something which the Law Society has vociferously challenged. It is also apparent in the growing disdain for human rights in the legislature with laws such as the Illegal Migration Act, the Public Order Act and – most controversially – the Northern Ireland Troubles (Legacy and Reconciliation) Act.

Therefore, a conference on the Rule of Law could not shy away from the legacy legislation – something which the Society has very publicly opposed, from the time the proposals first emerged as a Command Paper and throughout the Bill's passage through Parliament. To be clear, the Society remains opposed to the Act and considers that measures it brings forward, including the prohibition on civil cases emanating from the conflict and the ending of legacy inquests, are attacks on the Rule of Law.

However, we are now faced with the situation where – despite almost complete opposition from all sectors of society here – the Act has

entered into statute and will be implemented. The legal profession, which can be proud of its efforts to support victims and survivors of the Troubles in seeking truth and accountability, must now consider what the next steps are. No doubt this will include consideration of all available avenues to challenge this Act through courts, both domestic and international.

Consider also the role of the legal profession throughout the Troubles, working to uphold the Rule of Law, often in dangerous circumstances. During the Troubles there were 12 deaths resulting from attacks on lawyers and members of the Judiciary. There were also many other unsuccessful attacks against the legal profession, including an attempt to murder the Lord Chief Justice. It is small wonder that this new law has provoked such a strong reaction from our profession.

The role of lawyers in this space has changed dramatically as we have gone from attempting to uphold the law in a conflict situation to helping victims and survivors who were bereaved, injured or otherwise affected by the Troubles seek truth and accountability. Through coronial inquests, legal challenges, civil cases and other routes, the legal profession has been a critical support to victims and survivors whether they are seeking information, justice or just some measure of closure. This important role and these avenues for justice are regrettably being closed down by the Legacy Act.

It was in this context that I believed it was right and appropriate for the Law Society to take the opportunity at our Annual Conference to consider this vitally important issue. The core purpose of the event would have been to educate and inform our Members – Northern Ireland's solicitor profession – about the

important change in the law enacted by this legislation. This would have included a range of speakers including Sir Declan Morgan, former Lord Chief Justice and the Chief Commissioner of the Independent Commission on Reconciliation and Information Retrieval – the new body established by the Act. I know that this caused concern with some colleagues but I felt it was important for the legal profession to hear directly from Sir Declan on the plans for implementation of the new body. Of course, it would also have offered the chance for those attending the conference to ask questions and challenge the approach as set out. Great care had been taken to provide balance in the programme which also included victims' representatives and practitioners who – like the Law Society – are firmly opposed to the new legislation and would no doubt have spoken of their plans to challenge it.

However, as the date of the conference approached, some victims' representative groups contacted the Law Society requesting the cancellation of the conference and we also became aware of plans to hold a public protest at the venue – with potentially very large numbers in attendance. The Society's Members also came under direct pressure to boycott the event. This put our Members in the unenviable and potentially untenable position of being in conflict with those they represent.

It became apparent that these issues, combined with the increased uncertainty arising from the legal challenges now before the Courts, meant that the event as originally envisaged could not take place, hence we took the decision to postpone. I firmly believe we need to make space to debate difficult but important legal issues including legacy and I hope we have the chance to consider the topic at a more opportune time in the future.

Law around the World

EU report condemns Chinese 'dismantling' of Hong Kong freedoms

Jurisdiction: Hong Kong

A new EU report has condemned the loss of freedoms in Hong Kong, two years on from the imposition of the National Security Law. China is accused of "dismantling" the principle of "one country, two systems" and eroding the autonomy the region had. A representative of the EU has described the law as being used "to stifle dissent and pluralism and the exercise of human rights and fundamental freedoms in Hong Kong".

Joe Manchin vows 'unrelenting fight' against US climate law he helped pass

Jurisdiction: USA

The senator has accused the Biden administration of implementing the Inflation Reduction Act as a "radical climate agenda", rather than the law as it had been passed last year (August 2022). Manchin's remarks have been condemned by environmentalist groups, a few of whom have made reference to the recent deadly fires in Hawaii.

Germany refuses man's extradition to the UK over jail concerns

Jurisdiction: Germany

A German court has refused to extradite an Albanian man accused of drug trafficking and money laundering to the UK over concerns about the state of the British prison system. One solicitor described the move as "an embarrassment for the UK", while the Ministry of Justice stated that more was being done to improve prison conditions and safety.

Intellectual property for fashion goods in Italy

Jurisdiction: Italy

This article considers in depth distribution and agency agreements, intellectual property, supply chains and competition law with a focus on the legal fashion market in Italy.

First Tongan District Court judge sworn in to family jurisdiction in Auckland

Jurisdiction: New Zealand

In a historic event, Tania Sharkey was sworn in as the first Tongan District Court judge in the family jurisdiction of the Manukau District Court in Auckland, describing the move as her "dream".

ABA forms task force to study impact of artificial intelligence on the legal profession

Jurisdiction: USA

American Bar Association President Mary L. Smith has announced the creation of the ABA Task Force on Law and Artificial Intelligence (AI) to examine the impact of AI on law practice and the ethical implications for lawyers.



Changes to Capital Gains Tax on Separation and Divorce

The Spring Budget brought in a few surprises to everyone with the removal of the Pension Lifetime Allowance capturing the main headlines.

However, changes introduced make Capital Gains Tax (CGT) rules fairer for spouses and civil partners who are in the process of separating by allowing additional time to transfer assets between themselves.

Currently the transfers are made on a no gain/no loss basis in any tax year in which they are living together. The gains or losses from the transfer are deferred until the asset is disposed of by the receiving spouse or civil partner and treated as having acquired the asset at the same original cost as the transferring spouse or civil partner.

This tax year time limit gives an unrealistic timescale for separating couples to come to an agreement as to how, firstly, assets are to be split and then, secondly, make the actual

transfers. Currently, if the transactions are not carried out within the same tax year, then the transfers are treated as normal disposals for CGT purposes.

It is proposed that separating couples be given up to three years after the year they stop living together in which to make no gain/no loss transfers of assets and unlimited time if the assets are the subject of a formal divorce agreement.

The new rules will apply to disposals which take place on or after the 06 April 2023. Depending on circumstances, the date of disposal could be:

- The date of the transfer, or
- If the transfer takes place following a court order recording the divorce settlement, it'll be the date of the court order – unless that precedes the date of the Final Order, in which case the date of the Final Order is the effective date.

This can be illustrated with the example below:

A married couple separated in June 2021. As part of their split of assets the wife agrees to transfer her share of their holiday home to her husband. Providing the transfer occurred in the 2021/22 tax year then under the no gain/no loss rule it wouldn't be subject to any CGT.

However, if the transfer occurs in the following tax year, then it will be subject to normal CGT rules i.e. – the wife's gain would be 50% of the market value less 50% of the purchase costs.

If the transfer took place on or after 06 April 2023 but within three years of the date of separation, then no CGT will be payable under the new extended no gain/no loss rule.

There are also more generous provisions for those individuals who have maintained a financial interest in their former family home following separation.

This can only be seen as a positive move allowing separating couples more breathing space to agree how assets are to be split and avoiding a potential tax liability.

If you feel you or any clients could benefit from our expertise in any areas of divorce financial planning, please email neil.linton@lsnifa.com

The FCA do not regulate tax planning.

Source – Nucleus Tech Talk June 2023



Law Society (NI)
Financial Advice

Does the Society have your Correct Contact Details?

Can you spare a minute to check your details are up-to-date with the Society? It's important that the Society, as the regulatory and representative body, has the correct details for each solicitor and firm.

So, while you are having a coffee at your desk why not check your details on the [online directory](#) available on our website. As outside agencies use our directory to verify solicitors/firms' contact details and members of the public access it to search for a solicitor, it's important that we keep it up to date.

If a **solicitor** has changed jobs or firm, taken a career break, maternity leave or left employment, or if a **firm** has changed address, telephone number or email, please let the Society know.

To update details please download and complete this form available from the Members' Section of the website or email records@lawsoc-ni.org

If you have any Member queries, please feel free to contact us using the emails provided below and a member of staff will get back to you.

- 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 - policy@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

Advocacy for all: A Voice for Vulnerable Clients

Inspire, an all-island charity which offers support to people with mental health issues, autism and addictions, discusses its "Advocacy for All" service.

Advocacy for All supports people who are over 18 with mild/moderate mental health needs to allow them to have their voice heard. The main focus of the service is to provide clients with the extra support they may need when facing issues or life events that are impacting their mental health.

When dealing with mental ill health, communication can be a huge barrier, leading to the client feeling disempowered. Having a mental health advocate can help to reduce and challenge those barriers by supporting the client to navigate and engage with services that can support their mental health.

Advocacy for All works with the client to access appropriate services and be that extra layer of support during the court process. Each of our advocates have received mental health training which enables them to support clients with many different levels of mental health issues or concerns.

"This service has opened up my life and showed me that my opinion and experiences

matter, (it) gave me support, clarity and guidance during a really tough time."

How does it work?

Advocacy for All Project Coordinator, Charly McIlroy, explains how the service works and how it can help:

"Within the Advocacy for all service, we will meet with the client, by phone or in person to understand the level of support needed, and then provide signposting to organisations or aiding with any communication barriers. We empower our clients to have their voice heard, by supporting them to become more confident in speaking up for themselves in relation to their mental health. We also provide opportunities to engage with training to develop self-advocacy skills, in an OCN level two self-advocacy course".

The advocacy service is available to anyone in Northern Ireland, aged 18 and older, who is feeling worried, stressed or anxious, or

is having issues with their mental health in general or with addiction.

"The support and feeling listened to and supported in dealing with appointments and other meetings helped me to get out of the darkest place I have ever been in. [The Advocate] listened to me, helped me to come up with solutions and accompanied me to the appointments that I was very anxious about. Best service ever."

For further information or to contact the service, contact us on

Freephone number 0808 189 0036, chat to the team online at www.inspirewellbeing.org, or send an email to hello@inspirewellbeing.org

The service is available Monday to Friday from 10:00 am to 4:00 pm.

Referrals or enquires can also be made to Charly McIlroy at c.mcilroy@inspirewellbeing.org.

**ADVOCACY
FOR ALL**



The right support, at the right time

Getting the right support isn't always easy, especially when problems are affecting your mental health. We support people over 18 with mild/moderate mental health issues to find the right support and have their voice heard

Get in touch with our team today!
For people over 18 and living in Northern Ireland.
Freephone - 0808 189 0036

Use our webchat - www.inspirewellbeing.org
Email - hello@inspirewellbeing.org

Our phonelines and webchat are open from 10:00 am to 4:00 pm Monday to Friday.



Public Prosecution Service - Code for Prosecutors

Dr Richard Scullion, Head of Policy and Information for the Public Prosecution Service, outlines a number of recent changes to the Service's Code for Prosecutors

The Public Prosecution Service (PPS) has published an updated version of the Code for Prosecutors. This latest edition of the Code, which came into force on 4th May 2023, replaces the previous version published in July 2016.

The Code for Prosecutors is issued by the Director of Public Prosecutions under Section 37 of the 2002 Justice Act. It sets out guidelines on the general principles to be applied in determining in any case whether criminal proceedings should be brought, what charges should be preferred and how prosecutions should be conducted. It also sets out the standards of conduct to be expected from prosecutors, including external counsel instructed on behalf of the Director. As such, the Code provides the overarching framework for every case we deal with, and so it is essential that it evolves to reflect the changing issues prosecutors must consider.

By revising the Code, we are taking a practical step to support prosecutors with their duties. In reviewing the document and the key principles to be followed, we are also taking an important step in ensuring that defendants, victims and the wider public can have confidence in the criminal justice system.

Key revisions to the Code

The main revisions to the Code include:

- Amendments to the Public Interest Test considerations for and against prosecution.
- Additional information has been provided in respect of the use of alternatives to

prosecution, including the 'step down' periods for diversionary disposals.

- The procedures for the giving of reasons to victims have been set out in more depth.
- There is greater detail in respect of the Director's powers under section 31(4) of the 2002 Justice Act to take over the conduct of a private prosecution. A number of criteria are set out as a guide to the circumstances where a decision may be taken to either continue the prosecution or to discontinue or stop it.

Revisions to the review process

A number of changes have also been made to the procedures involved in reviewing a decision not to prosecute. This includes a new time limit for the submission of a request for review which has reduced from three months to one month. This amendment was made following a benchmarking exercise with the Crown Prosecution Service (CPS) in England and Wales. Under the CPS guidance, the recommended time limit for a request is *10 working days*. The CPS guidance states as follows:

A request for a review should ordinarily be made within 10 working days of the date of the decision letter. Requests may be submitted after 10 working days, although a delay may impact negatively on the outcome of the decision-making process.

Given the PPS's previous three month time limit, a reduction to 10 days was not considered to be reasonable, and a decision was taken to set the limit at one month.

Whilst the time limit has reduced, we will of course consider any review requests received outside the one month period where there are exceptional circumstances.

In more serious cases (for example, sexual offences), where detailed reasons are given by the prosecutor, the requirement to seek a review within one month will only run from the date of receipt of the detailed reasons letter.

The change in the time limit has been reflected in the guidance available on the PPS

"...the Code provides the overarching framework for every case we deal with, and so it is essential that it evolves to reflect the changing issues prosecutors must consider"

website. The correspondence issued on foot of a no prosecution decision has also been updated to ensure that victims are clear as to the revised requirement.

A target of eight weeks will now apply to the completion of reviews and the communication of the decision in writing to the victim. In cases where it is not possible to provide a decision within this timeframe, for instance, in more complex cases, we will notify the victim accordingly.

Complaint handling arrangements

The PPS's complaint handling arrangements are unchanged. A complaint can still be made up to six months from the date of the incident in question. The matter should then be investigated within 30 working days. Where it is not possible to complete the investigation, and provide a response within that timeframe, we will write to the complainant to provide an update.

Guidance in respect of our complaint procedures, including the role of the Independent Assessor of Complaints, is available on the PPS website.

Please contact us at info@ppsni.gov.uk if you have any queries regarding the revised Code or any aspect of our review and complaint procedures. The updated Code is available on the PPS website. A summary document, highlighting the various amendments, has also been provided for ease of reference.



**Public
Prosecution
Service**

Independent
Fair
Effective

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 Huaqin Huang for leave to apply for judicial review](#)

Applicant is a Chinese national who claimed asylum in 2016 claiming that she was at risk of political persecution in China. - respondent rejected all claims of asylum. - whether respondent failed to properly apply the relevant Immigration Rules. - failure to engage with Borders Citizenship and Immigration Act 2009 s.55. - consideration of welfare of applicant's child. - whether child would be denied free education and medical care if returned to China. - HELD THAT leave for judicial review is dismissed. - However, it seems inevitable that the seven year threshold has passed in respect of her son and applicant is entitled to lodge a further submission seeking reconsideration
*Kings Bench Division
Colton, J
11th July 2023*

[In the matter of an application under the Extradition Act 2003 between Paul Torac and Czech Republic](#)

Challenge to decision of December 2022 which ordered appellant's surrender to the Czech Republic of which he is a national, pursuant to two European Arrest Warrants. - causing bodily harm, disorderly conduct and criminal damage. - appellant has settled immigration status and lives with his partner,

child and family members in Northern Ireland. - extradition. - whether both warrants were defective and invalid. - sentence calculation. - seriousness threshold. - HELD THAT application for leave to appeal is refused.
*Divisional Division
McCloskey, LJ
28th June 2023*

COSTS

[In the matter of an application by Deborah Stevenson, Catherine Donnelly, Scott McCutcheon, Nicola McMullan, Sarah Gray and Patrick McMahon for leave to apply for judicial review](#)

Ruling on costs. - applicants are current and/or prospective parents of pupils at Methodist College, Preparatory Department, Downey House. - proceedings triggered by a proposal to close Downey House and to continue preparatory provision on the Fullerton House site only. - application was resolved. - applicants contended they were entitled to legal costs. - inter-partes order in relation to costs at a leave stage. - applicants successful in their challenge and should be awarded costs. - HELD that the proposed respondent engaged expeditiously with the issues raised by the applicants and it was not necessary to have a leave hearing. - therefore no order of costs in relation to costs between the parties.
*Kings Bench Division
Colton, J
18th July 2023*

CRIMINAL LAW

[R v Thomas Rainey](#)

Defendant was arraigned in November 2022 on the single count of murder of Katrina Rainey, his wife. - pleaded not guilty but accepted responsibility for killing her whilst awaiting a psychiatric report. - defendant was rearraigned and pleaded guilty to murder on 12th May 2023. - decision as to minimum number of years which the defendant must serve in jail before release is considered. - defendant had thrown liquid over his wife and set her alight. - wife had been in her car at the time as she had been on her way to work and had her seatbelt on. - wife suffered severe burns over her body but was able to record a statement with police at the scene as officer had body worn video. - prior to her death, Katrina Rainey had instructed solicitors to issue divorce papers. - defendant had not engaged with the solicitors - defendant feared the sale of the family farm. - defendant suffered from depression. - defendant had no previous history of violence. - consideration of victim impact statements. - mitigating factors. - HELD THAT defendant is sentenced to 18 years.
*Crown Court
O'Hara, J
5th July 2023*

HEALTH & SOCIAL CARE

[In the matter of an application by Robin McMinnis and the Commissioner for Older People for NI for judicial review and in the matter of decisions of Belfast Health and Social Care Trust and the Department of Health](#)

Application known as continuing healthcare (CHC). - challenge of decision to introduce a new policy in relation to CHC in 2021. - definition of health care and social care. - whether services should be charged for. - introduction of single eligibility criteria. - funding of accommodation costs in a nursing or residential care home no longer an option. - Mr McMinnis, a 72 year old man with MS, challenges decision of Belfast Trust to refuse his application for CHC under the 2010 policy and to charge him for his care and/or to seek a refund of the cost of his care. - resident in the Somme Nursing Home. - absence of guidance. - Commissioner for Older People of the opinion that care should not be charged for. - eligibility and methodology criteria. - procedural fairness. - HELD THAT the Trust must reconsider the decision regarding Mr McMinnis. - HELD ALSO that the decision of the Department to adopt the 2021 policy is quashed. - failure to provide proper guidance to Mr McMinnis is unlawful.
*Kings Bench Division
Scofield, J
30th June 2023*

IMMIGRATION**In the matter of an application by Filippo Sangermano for leave to apply for judicial review**

Refusal to revoke a deportation order. - applicant, born in Italy had been adopted as a child and lived in USA and UK. - became the subject of a care order whilst in UK. - convicted of a series of criminal offences between 1987 and 2017. - liable to deportation because of his continued criminal offending. - deported to Italy in June 2019 and tried to illegally enter UK in November 2019. - currently a sentenced prisoner in Maghaberry following a domestic assault on his partner. - applicant has little knowledge or understanding of Italian language and requests the deportation order to be revoked. - whether applicant is a British citizen. - whether he was the subject of a convention adoption. - whether entitled to an "out of country" appeal. - Article 8 ECHR. - whether deportation order was an unlawful interference with those rights. - HELD THAT application is out of time and there is no good reason to extend time. - applicant is not a British citizen. - leave to apply for judicial review is refused.

*Kings Bench Division
Colton, J
14th July 2023*

MEDICAL LAW**The General Medical Council v Dr Mary Anne McCloskey**

Respondent is a doctor registered with the GMC. - application to extend an interim order of suspension. - respondent opposes application to extend. - respondent challenges the validity of the interim suspension. - whether there had been a breach of civil procedure rules. - respondent had expressed her views regarding the coronavirus vaccine via video referring to the injections as "experimental genetic therapy" and the "media hype" surrounding the vaccine. - consideration of fitness to

practice. - respondent view may have real impact on patient safety. - whether respondent had provided inaccurate information relating to death rates of people who had received the vaccine. - appropriateness and propriety of Dr McCloskey's conduct contacting Tribunal members. - HELD THAT interim order is extended to 20th March 2024.

*Kings Bench Division
Rooney, J
30th June 2023*

MENTAL HEALTH**A Health and Social Care Trust v JU**

Trust seeks an order to deprive the defendant of her liberty. - deprivation of liberty order (DOL). - defendant is a lady in her seventies who resides under a guardianship in a private nursing home. - she is married but estranged from her husband and has occasional contact with her two children. - she has long-standing mental health problems and has attempted suicide on a few occasions. - Trust considers an order to deprive her of her liberty is necessary to ensure her safe management should her condition deteriorate. - Article 2 ECHR duty. - whether inherent jurisdiction of the court is available. - JU is capacious, receiving and taking appropriate medication, settled and compliant in the nursing home. - HELD THAT due to the latter the court should not restrict the liberty of JU as long as she retains her capacity. - application dismissed.

*Family Division
McFarland, J
7th August 2023*

POLICE**In the matter of an application by Gary Best for judicial review**

Applicant is a serving police officer. - applicant applied for retirement on the grounds of permanent disablement, ill health retirement (IHR) on 17 September 2019. - applicant became aware of serious allegations against him

on 24 September 2019. - criminal investigation - suspension from duty. - criminal proceedings ended with a verdict of not guilty as no evidence was offered. - respondent refused applicant permission to retire. - ability of a suspended officer to avoid disciplinary proceedings by retiring. - consideration of Police Service of Northern Ireland Regulations 2005 r.14. - HELD THAT refusal by respondent to allow applicant to retire was unlawful. *Kings Bench Division
Simpson, J
29th June 2023*

PROCEEDS OF CRIME**National Crime Agency v Aidan (Aiden) Grew and Nuala Grew No. 1**

Application for an Unexplained Wealth Order (UWO) against both defendants. - defendants reside outside jurisdiction but property of interest is in Northern Ireland. - summons served in Republic of Ireland by appointment with first defendant at Monaghan Garda Station. - application to set aside service of Originating Summons. - whether service outside of the jurisdiction was complied with. - HELD THAT application to set aside the service of summons is hereby refused.

*Kings Bench Division
Rooney, J
19th June 2023*

SENTENCING**R v David Christopher Gill, Lesley Ann Dodds, William Gill, Andrew Leslie, Jonathan Richard Leslie Montgomery**

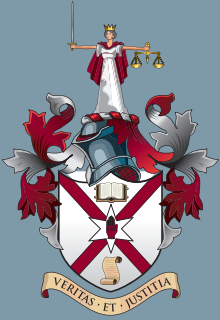
Five defendants in court arising from an incident on 30 May 2019 when Mr William (Pat) McCormick was assaulted and sustained injuries which led to his death. - defendants had pleaded not guilty in 2021. - prior to trial in May 2022, first, third and fifth defendants pleaded guilty to offences of murder and withholding information, followed by second and fourth defendant in November 2022 who

pleaded guilty to manslaughter and withholding information. - Lesley Dodds was the fiancée of David Gill. - Dodds had been in a relationship with the deceased. - no weapon was used in the assault, but David Gill accepts that he died as a result of injuries caused by him. - Gill did not expect Mr McCormick to die. - Gill returned the following day, moved the body which was found in a quarry six weeks later in a wheelie bin. - aggravating and mitigating factors. - appropriate tariff. - victim impact statements. - HELD THAT David Gill is sentenced to life imprisonment with tariff fixed at 16 years, Lesley Dodds is sentenced to 5.5 years, 33 months custodial and 33 months supervision on licence, William Gill sentenced to 1 year suspended for 2 years, Andrew Leslie sentenced to 15 months suspended for 2 years and Jonathan Montgomery sentenced to 15 months suspended for 2 years. *Crown Court
22nd June 2023
Schofield, J*

SEXUAL OFFENCES**R v Paul Dunleavy**

Leave to appeal against conviction and sentence. - applicant, now aged 87, was convicted of 13 counts relating to sexual abuse of five male students at two primary schools of which he was either a teacher or principal. - whether trial judge had erred in declining to discharge the jury following a defence application. - whether trial judge erred by permitting the jury to begin their deliberations on the afternoon of 23 December 2022 and by issuing a majority direction on same day. - HELD THAT the sentence was neither manifestly excessive nor wrong in principle and leave to appeal is dismissed.

*Court of Appeal
Treacy, LJ
8th June 2023*



THE LAW CLUB

The Law Club at Law Society House in Belfast.

Situated on the fourth floor, it offers a contemporary and inviting location to have a free tea/coffee and a catch up with friends, a place to reflect or work.

With a stylish design, spacious seating areas, IT supported consultation rooms and open to all members from 9am - 5pm (Monday to Friday) the Law Club offers a unique membership experience.

Please visit The Law Club and see for yourself what's on offer.

