

# THE WRIT

THE LAW SOCIETY  
OF NORTHERN IRELAND



THE JOURNAL OF THE LAW SOCIETY  
OF NORTHERN IRELAND

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## THIS ISSUE

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welcomes its  
new President



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### **The Office of the Immigration Services Commissioner**

Everything you need to know  
about the OISC



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#### Are your contact details correct?

Members are reminded that under the Solicitors' Practice Regulations 1987 (Regulation 23 (c) - (e)) you are obliged to inform the Society if there are any changes in your employment status or contact details.

If your employment status or contact details have changed please email: [records@lawsoc-ni.org](mailto:records@lawsoc-ni.org) providing the required information as soon as possible

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## Law Society welcomes new President, Eileen Ewing

A native of Oxford, Ms Ewing is an experienced family law solicitor who has been in practice in Belfast for more than 30 years.

Commenting, the new President said: "I'm honoured to accept the Office of President of the Law Society of Northern Ireland and I am eagerly anticipating my new role.

"Having served as a Council member of the Law Society since 2009, I fully understand the important role the Society plays in regulating and representing the interests of solicitors and clients as well as the invaluable contribution the solicitor profession makes to the local community and business throughout Northern Ireland.

"As I take up my Presidency I do so during a period of great change and uncertainty not least regarding the impact of Brexit.

"As President of the Law Society, my priority will be to ensure that the Law Society of Northern Ireland remains at the very forefront of justice issues in Northern Ireland working on behalf of our members and in the public interest.

"I will continue to promote the legal services which our members offer and in particular to local businesses who will require legal advice. "I remain fully committed to continuing the work of the Law Society in building a more inclusive, open and diverse solicitor profession reflective of the needs of clients and responsive to an ever-changing legal landscape".

The new President will be supported by Ian Huddleston, Senior Vice President, Suzanne Rice, Junior Vice President and Alan Hunter, Chief Executive of the Law Society of Northern Ireland.

Her chosen Presidential charity for the year is Barnardo's.



*The new Presidential Team: Alan Hunter, Chief Executive; Eileen Ewing, President; Ian Huddleston, Senior Vice President and Suzanne Rice, Junior Vice President.*

## View from the President

As the Law Society of Northern Ireland's new President, it is my intention to provide members with an overview of the ongoing work of the Society throughout my term in office.

I recognise the significant challenges which lie ahead for all of us and their potential impact on our businesses and our clients.

These challenges include the uncertainty surrounding Brexit, the implementation of the new GDPR Regulation, the Gillen Review, proposed cuts in fees for family law work and reduced budgets - all of which present challenges for the future.

At a more local level I am only too aware that for many colleagues, their firms and indeed their clients times remain very tough.

As a practising solicitor myself I fully understand the issues and the ever-changing legal landscape and the changing client base who demand more often for less.

In response, the Society remains fully committed to ensuring that these issues of importance will be considered and the Society will continue to be responsive when appropriate to addressing issues of concern and meeting the challenges ahead.

As I have previously indicated there are a number of overarching challenges and priorities which the Society is currently responding to.

### Brexit

I can report that on the issue of Brexit the Society continues to engage and make representations at the highest levels locally, in Westminster and in Brussels.

The Society's Chief Executive, Alan Hunter, Helena Raulus, the Head of the Law Society's Brussels office and myself recently attended a series of meetings in Brussels where we raised



**Law Society's President & Chief Executive hold Brexit meetings**

The President, Eileen Ewing, Helena Raulus, the Head of the Society's Brussel's Office and the Society's Chief Executive, Alan Hunter, attended a series of meetings in Brussels where they raised members' issues regarding new relationships post-Brexit.

members' issues regarding new relationships post Brexit.

Over the coming months the Society through the Presidential and Chief Executive Team will be holding key meetings with decision makers and top officials as part of the Society's ongoing Brexit strategy.

**Governance Review**

Another important focus of attention is the Governance Review of the Society which is both necessary and timely.

It is important that the Society undertakes the Review at this time to ensure that the Society is fit for purpose and responsive to the needs of its membership. This work is ongoing

and progressing under the direction of the Society's Chief Executive.

**Cyber Crime**

Members will be aware of the increase in communications and training around Cyber Crime and scam preventions.

All reports indicate that the issues surrounding cyber-crime and scams remain an ever-increasing threat to the viability of solicitor practices throughout the United Kingdom and Ireland.

The sophistication, frequency and aggressive nature of cyber attacks mean that members and firms need to be aware, trained, prepared and responsive to the attacks.

Members are reminded that it is important to report cyber attacks to the PSNI, Action Fraud, Willis Towers Watson and most importantly to the Society so that the information on cyber attacks can be shared amongst the profession.

**Immigration Practitioners' Group Launched**

I am delighted to report on the launch of the Immigration Practitioners' Group at Law Society House.

The new group, which has been set up by the Law Society of Northern Ireland, will be a forum for immigration practitioners to share information and to enhance training, by organising seminars and courses, in this ever-evolving and complex area of law. Central to the aims of the group is finding new and better ways in which solicitors can engage with and support members of the community in Northern Ireland who may be from another country and who may not speak English as a first language.

The launch of the new group marks the continuation of the Law Society of Northern Ireland's ongoing work in raising awareness of issues around diversity, equality and human rights.

**GDPR**

Work is ongoing in putting in place training and support to ensure members are fully aware and prepared for the implementation of GDPR in May 2018.

All our Society Committees continue to focus their work on progressing and responding to those issues of interest and concern to members.

It is my intention in my next communication to provide members with an overview of the ongoing work of some of our Committees.

Throughout my Presidency I will be communicating and engaging with members more regularly.

**Eileen Ewing**  
President



# The General Data Protection Regulation (GDPR) - an overview

The General Data Protection Regulation (GDPR) regulates and protects the processing of personal information. It will be enforced from 25 May 2018. It outlines new data protection laws and principles that expand on the privacy rights granted to individuals by the 1995 Data Directive which led to the Data Protection Act 1998 (the 1998 Act).

The GDPR ensures that businesses are transparent about the personal data they handle and have a legitimate purpose for using it. It will therefore impact upon your policies and procedures surrounding the handing of personal data for both clients and employees and upon your business's contracts with other data controllers and processors.

The GDPR aims to enhance and consolidate data protection laws for all individuals across the EU. It will continue to apply whatever the outcome of the Brexit Referendum.

Below is a summary of some of the key changes and requirements it will bring into effect:

## Data Protection Officer

It requires that organisations involved in regular and systematic monitoring of data on a large scale, or processing sensitive personal data, are obliged to employ a Data Protection Officer (DPO). The DPO is required to deal with all data protection queries, to keep internal records, to ensure the organization complies with privacy laws, and to report any data breach to the Information Commissioner's Office (ICO).

The Law Society of England & Wales has recently issued Guidance on the appointment of DPOs. It is their view that while most law firms will not be required to appoint a DPO, they recommend that practices consider voluntary designation. This Guidance is downloadable from <https://www.lawsociety.org.uk/Support-services/Practice-management/GDPR-preparation/appointing-a-dpo/>

## Personal Data / Special Category Data

The GDPR has a broader definition of personal data than contained in the 1998 Act. It



includes cookie IDs and IP addresses if these are used in conjunction with other information you hold to identify an individual.

Sensitive Personal Data under the 1998 Act is now known as Special Category Data. The definition is expanded to include genetic and biometric data.

Interestingly criminal convictions are not covered by the GDPR. These are provided for by the Law & Police Directive which is being introduced to UK law via the 2018 Data Protection Bill which is currently going through the Westminster Parliament. It is understood that exactly the same regime will apply as that relating to Special Category Data.

## Rights for individuals

The GDPR provides expanded rights for individuals. Data subjects will have the right:

- to be informed
- of access within one month and in most cases without a fee being charged
- to rectification
- to restrict processing
- to object:
- on automated decision making/ profiling
- of portability of data
- to erasure of their personal data

## Lawful basis for processing personal data

The processing of personal data under the GDPR is only lawful on condition that certain criteria are met (see article 6).

- Consent
- Performance of a contract
- Compliance with a legal obligation
- Vital interests
- Public interest
- Legitimate interests (not for public authorities though)

As these processing conditions have slightly changed since the 1998 Act, you should therefore review the changes to ensure that your firm can use one of the conditions before processing the data you hold on clients and your staff eg consent is now unlikely to be valid in an employer/employee relationship.

## Breach notification

Under the GDPR, firms are required to report data breaches to the ICO if it will "result in a risk for the rights and freedoms of individuals". The breach notice must be done within 72 hours of first having become aware of the problem. If there is a high risk of harm, you must notify any affected data subject as soon as possible.

## Fines for breach of GDPR

All organizations that are not in compliance with the new data protection changes risk facing heavy fines. Based on the seriousness of the breach, organizations can face penalties up to €20 million or 4% of annual global turnover. The fine is a slightly lower (2%) for less severe infringements.

## Accountability

A higher level of accountability is placed on data controllers to show compliance with the GDPR. It requires organizations to implement appropriate policies, protect personal data by using security protocols, conduct privacy impact assessments, and keep detailed records on data activities. The GDPR also places strict control on where personal data is stored and how it is used. Firms will also wish to evidence staff training which they have undertaken.

## Further information

For further assistance on how to prepare for the GDPR, please see the GDPR section in the Members' Section of the Society's website - [www.lawsoc-ni.org](http://www.lawsoc-ni.org) - in particular the Guidance referred to there published by the ICO on *Preparing for GDPR - 12 steps to take*.

A focus on the GDPR is also the main element in this year's Compulsory Risk Management Series.

Whilst the EU Tradata CPD events - *Ready Steady GDPR - The Complete 'How to' Guide to getting GDPR ready* are fully subscribed, further events are being planned - details to be advertised in E-nformer.

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## The Oversight of Professional Body Anti-Money Laundering and Counter-Terrorist Financing Supervision Regulations 2017 ("the OPBAS Regulations")

### Members are reminded that the above noted OPBAS Regulations came into force on 18 January 2018.

The principle effect of these regulations is to provide the newly created Office for Professional Body Anti-Money Laundering Supervision (OPBAS) with a statutory function to oversee professional body supervisors, of which the Society is one, to ensure that supervisors comply with the requirements imposed on them by the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 ("the 2017 MLRs"). OPBAS is a separate office housed within the Financial Conduct Authority (FCA).

As members are already aware from previous communications from the Society, the 2017 MLRs impose on the Society (in common with the other professional body supervisors listed in the 2017 MLRs for their respective sectors) clear supervisory duties and obligations as the specified supervisory authority for solicitors in this jurisdiction as "relevant persons" to whom the 2017 MLRs apply. These increased supervisory duties and obligations are not limited to monitoring members' compliance with their own greater obligations under the 2017 MLRs but include, for example, requiring the Society,

- To identify and assess the international and domestic risks of money laundering and terrorist financing to which its own sector is subject;
- To obtain and collect increased regulatory information both from members and internally as may be required by HM Treasury, HMRC, OPBAS or other agencies under the 2017 MLRs;
- To consider revised processes in relation to approvals and adopt new processes on behalf of other parties as may be required by HM Treasury, HMRC, OPBAS or other agencies under the 2017 MLRs;

The OPBAS Regulations now impose further requirements on the Society.



The Society, therefore, takes this opportunity to remind and emphasise to members that the 2017 MLRs:

- are a statutory instrument, transposing the EU Fourth Money Laundering Directive into UK legislation, which in turn was adopted in response to money laundering and terrorist financing risks identified at a supra-national level.
- impose statutory requirements on all members in relation to those services that they provide which are subject to the 2017 MLRs. It is each member's responsibility to ensure that they comply with those requirements.
- separately impose statutory requirements on the Society as the supervisory authority specified in the 2017 MLRs of the solicitors' branch of the legal profession in Northern Ireland.
- impose further statutory requirements on both members and on the Society including in relation to particular services provided, for example, by trust or company service providers (TCSPs) and in relation to ownership and management restrictions. Further details of these will follow.

The OPBAS Regulations and creation of OPBAS are the culmination of a series of

consultation processes issued by government (through HM Treasury) since April 2016, aiming to address some of the risks identified in the 2015 and 2017 UK national risk assessments of money laundering and terrorist financing, to include those arising from the large number of professional body supervisors across the UK accountancy and legal sectors.

More information can be found by clicking on the following link to the government's response to its Anti-money Laundering Supervisory Review Consultation:

<https://www.gov.uk/government/consultations/anti-money-laundering-supervisory-review>.

The OPBAS Regulations are available at: <http://www.legislation.gov.uk/uksi/2017/1301/contents/made>

The Society has engaged throughout and responded to the various consultation processes both directly and nationally, through the Legal Sector Affinity Group and the Anti-Money Laundering Supervisors' Forum of which the Society is a member. Representations that were made are reflected in the final OPBAS Regulations.

The Society fully supports the government's aim for the AML/CTF regime to make the UK's financial system a hostile environment for illicit finance and looks forward to working with OPBAS towards this objective.



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## JOINT MEMORANDUM ON IMPROVING COMMUNICATIONS BETWEEN THE PROFESSIONS



Buying, selling, completing - making the conveyancing process easier for consumers

The Law Society of Northern Ireland, the Royal Institution of Chartered Surveyors (NI) and the National Association of Estate Agents (NI) have agreed the following in the interests of facilitating the smooth operation of the residential property market in Northern Ireland and the related necessary formal contractual and financial arrangements between Vendors and Purchasers and their Lenders:

### SELLING AGENT

1. When a Selling Agent receives instructions from a Vendor they should immediately inform the Vendor's Solicitor and provide a copy of the brochure as soon as possible. This should not be left until the property is sale agreed. The Selling Agent should suggest that the Vendor should liaise with the Vendor's Solicitor and give instructions to immediately begin the process of requisitioning title deeds from the Vendor's lender (if appropriate).
2. If the Vendor or Purchaser do not have a Solicitor, they should be advised by the Selling Agent to appoint one as soon as possible.
3. Once the property is agreed for sale, the Selling Agent should send the sales advice note to both the Vendor's Solicitor and the Purchaser's Solicitor as soon as possible with a target completion indicated of approximately between 6 and 8 weeks later (if appropriate).
4. If the Selling Agent is to be paid by the Vendor's Solicitor from the net sale proceeds, the Selling Agent should capture this in their Terms and Conditions and supply confirmation to the Vendor's Solicitor that agent's fees are to be paid from the net proceeds of sale (subject to unforeseen expenses) and a form of authority for payment signed by the Vendor should

5. The Selling Agent should include details of the ground rent, the nature of the title (i.e. freehold or leasehold) and any service charge details, if known, as soon as possible.
6. The Selling Agent should advise the Vendor to procure Gas Safety Certificates (for each separate device) as soon as possible. The Selling Agent should also provide the EPC to the Vendor's Solicitor as soon as possible.
7. It is the responsibility of the Purchaser to secure finance to purchase the property. The Selling Agent should liaise with the Purchaser to ensure that finance is being arranged and provide access to the property to an independent valuer for the valuation for lending purposes.
8. It is at the Purchaser's discretion as to whether they choose to have an independent survey carried out. If they choose to have this done the Selling Agent should advise the Vendor and the Vendor's Solicitor and then provide access to the property for the Purchaser's Surveyor.
9. The Selling Agent should not, under any circumstances, take a deposit from the Purchaser other than a reservation fee of up to a maximum of £500 for a site in a new-build development.
10. The Selling Agent should at an early stage seek confirmation from the Vendor as to the status of any Planning Permission or Building Control approvals that may be outstanding for any alterations or extensions carried out to a property or any statutory Consent to Discharge approvals that are required. The Selling Agent should use their knowledge and experience to identify any potential issues to the Vendor.
3. The Purchaser's Surveyor will consider whether there is any current and potential future flood risk and they will consider topography, proximity to water courses and refer to maps including Flood Maps NI (if appropriate to do so).
4. For alterations or extensions, the Purchaser's Surveyor is required to check if there are any material defects but nothing further beyond that is required. If there have been works carried out, the Purchaser's Surveyor should state what those works are and how old they are likely to be.

### VENDOR'S SOLICITOR

1. At the point of instruction, the Vendor's Solicitor should seek the Vendor's approval to requisition the title deeds so that they are available to dispatch to the Purchaser's Solicitor as soon as the sale is agreed.
2. The Vendor's Solicitor is to send the contract and title deeds to the Purchaser's Solicitor as soon as possible.
3. The Vendor's Solicitor should send the Fixtures and Fittings List to the Vendor as soon as possible after the sale is agreed and request that the Vendor complete it as soon as possible.
4. Replies to Pre-Contract Enquiries should be completed and Property Certificates and searches should be requisitioned promptly by the Vendor's Solicitor after instructions are received (notwithstanding the fact they expire after 3 or 6 months).
5. The Vendor's Solicitor should add to their Terms and Conditions:

"We will discharge your Selling Agent's fee and outgoings from the net proceeds of the sale, if available, in accordance with the Terms and Conditions provided by the Selling Agent".

The Vendor's Solicitor should seek to obtain the consent of the Vendor to discharge the Selling Agent's fee and outgoings from the net proceeds of the

sale, if available, in accordance with any Terms and Conditions provided by the Selling Agent.

6. For works less than 10 years old and which would require a Building Control Regularisation Certificate, the Vendor's Solicitor should request that the Vendor obtain the Certificate as soon as possible. The same request should be copied to the Selling Agent so that they can assist in procuring the Certificate.
7. The Vendor's Solicitor should keep the Selling Agent reasonably advised as to the progress in the sale.
8. The Vendor's Solicitor should seek to identify a target completion date with the Purchaser's Solicitor of approximately 6 to 8 weeks (or such other period as may be reasonable in the circumstances of the transaction) after the sale is agreed. As soon as the contract is accepted by the Vendor, the Vendor's Solicitor shall notify all parties to enable a reasonable time period for all parties to deal with their practical moving house arrangements.

### PURCHASER'S SOLICITOR

1. Title and any other enquiries should be made by the Purchaser's Solicitor as soon as possible after the contract and title deeds are received from the Vendor's Solicitor.
2. Where appropriate the Purchaser's Solicitor should encourage the Purchaser to obtain a Home Buyers Report.
3. The Purchaser's Solicitor should advise the Purchaser that a mortgage valuation is for the benefit of the lender and not the Purchaser.
4. The Purchaser's Solicitor should make the Purchaser aware that the lender sometimes does not pass on a copy of the mortgage valuation to the Purchaser's Solicitor.
5. For Building Control Regularisations, the Purchaser's Solicitor should discuss with the Purchaser whether any Regularisation Certificates are required and if so he should notify the Vendor's Solicitor as early as possible.

### PURCHASER'S SURVEYOR

1. The Purchaser should be encouraged to obtain a survey of an appropriate type as early as possible.
2. If the Purchaser obtains a Home Buyers Report, the Purchaser's Surveyor should recommend to the Purchaser that the Report be shared with the Purchaser's Solicitor as soon as possible.

## How will Mediation develop as part of our Civil Justice System?



Collectively the abbreviation ADR covers a number of processes. Whilst there is little or no statistical data, it is incontrovertible that in the last ten years there has been a marked increase in the use of one particular ADR process that is now familiarly known as mediation. This increase has manifested itself, particularly but not exclusively, in commercial cases. The growth is explained in part by robust judicial encouragement fortified by the introduction of a number of new Protocols and Practice Directions. These betray some clear fingerprints of what might be called the “the better parts” of the Woolf reforms. It is also significant that the use of mediation is a now settled part of the policy of departments of government. This flows from the Attorney General’s pledge of 2002 and a plethora of management reports urging departments to insert mediation clauses in supplier contracts and, where possible to seek to avoid litigation through the use of ADR. Mediation also fits in well with a long standing cross-party ambition to reduce the costs of both legal proceedings and the spiraling overheads for the administration of justice.

There can be no doubt that the rate of growth in mediations accelerated after the property and banking crisis of 2007. Significantly, in an increasing number of cases the demand for early mediation, has been client driven and has arisen before the issue of proceedings. Given the recommendations of the civil justice review undertaken by Lord Justice Gillen mediation is set to be further and firmly embedded in our civil justice system

Whilst all of this represents a very significant change in our legal landscape, it does not mean that the familiar process of litigation is in some way doomed, redundant or unnecessary. Lawyers will always have work in the temples of justice! There are, and always will be, cases which, for one reason or another simply require a Court to impose an adjudication upon those in dispute. But the changing landscape makes it necessary for

all practitioners to recognise the new facts of life - litigation and an adversarial trial are now viewed as the weapons of last resort and an unreasonable refusal to consider mediation carries an increased risk of some adverse costs order under Order 62 rule 10 or otherwise.

In this brave new world, legal practitioners must be in a position to offer specific advice about the practical dynamics and consequences of processing disputes to a conclusion. They must know of the availability of choices ranging from consensual negotiated settlement through the necessarily formal procedures required to access a binding adjudication albeit, with, perhaps one or more levels of appeal.

Quite apart from the increase in the client driven demand for information on mediation opportunities, it is strongly arguable that it is the **duty** of practitioners to actively engage with clients to consider all of the options, both before the issue of any proceedings and as a case proceeds towards trial. Support for this proposition is to be found in the dicta of Dyson LJ<sup>1</sup> in the Court of Appeal in England case **Halsey-v-Milton Keynes Health Authority<sup>2</sup> (2004)**

The “A” of the abbreviation ADR formerly stood for ALTERNATIVE and, in the past, many legal practitioners viewed, and perhaps scorned, mediation as some sort of an inferior second fiddle to what was seen as the lead process of litigation. In multiple cases our Judges have remarked that an increasing number of academic and practitioner commentators have now agreed that the “A” should represent APPROPRIATE and that it is for the parties, with their representatives, to look at methods (plural) to find the best way of finding a resolution for their particular dispute. All of this, of course, ties in with the overriding obligations set out in Order 1 Rule 1 A of the Rules of the Court of Judicature. Consideration of mediation is no longer alternative, it is a requirement which arises at all stages of dispute.

With the exception of the The Cross Border Mediation Regulations (Northern Ireland) 2011 which were necessitated by the pressing need to comply with the EU Mediation Directive 2008, the mediation developments in our jurisdiction have come about without any legislative intervention. In many other civil and common law jurisdictions the history of developing mediation can be charted as a progression from tentative steps to actual compliance regulation which formalises aspects of mediation practice. This is just what has happened in the Republic of Ireland (RoI) where, within much the same time-frame there has also been an expansion in the use of mediation. South of the border there was a detailed and very informative Law Reform Commission report in 2010 from an impressive group which was chaired by Mrs Justice Catherine McGuinness (who, incidentally traces her home to Finaghy!). There has been a lively seven year debate which eventually led to the Mediation Act 2017 which passed into law in October past.

An examination of the available submissions and the parliamentary travaux preparatoires indicates that the seven year debate has been informed by submissions from a large number of mediation providers including both branches of the legal profession. Again there is no statistical data but a rough head count of known mediation providers indicates that the majority providers in the Republic are from non-legal disciplines. In contacts with legal and mediation practitioners from the RoI it is now seen as an obvious and almost unforgiveable faux pas to speak of someone as a non-legal mediator. If for no

<sup>1</sup> “All members of the legal profession who conduct litigation should now routinely consider with their clients whether their disputes are suitable for ADR. But we reiterate that the court’s role is to encourage, not to compel. The form of encouragement may be robust”

<sup>2</sup> *Halsey v Milton Keynes Health Authority* [2004] 1 WLR 3002

other reason, this is because the prolonged discussions towards the RoI Mediation Act have been marked by concerns that mediation processes which, in other civil and common law jurisdictions are recognized as voluntary, flexible and confidential methods of dispute resolution, should not become over-lawyered.

The legislative progress of the Act was also marked by a clear identification of the practical and academic distinctions which identify two of the well-recognised but significant differing forms or styles of Mediation. These are conveniently referred to as Facilitative and Evaluative Mediation. They are not mutually exclusive but it is essential that the differences are well understood by practitioners.

The Facilitative theory is that the Mediator as a third party, neutral, independent engages with the disputing parties. In this type of process, whilst expertise is always useful, there is no necessity for the mediator to have any subject specific qualification or specialty. Whilst the past history of dispute is important, the Mediator aims to use qualities such as active listening, empathy, clear communication and analytical skills to allow the parties to more clearly identify the present and future of their dispute. The Mediator seeks to help the parties identify and focus upon their interests rather than offer predictions of outcome. In even the most "commercial" of disputes, the parties have a psychological need to be heard, and it is the task of the mediator to assist THEM to find, work out and refine a resolution with which they can be at least content and is better than the alternative. Purposeful, direct and patient engagement with the parties is an essential and necessary part of the facilitative process. The Mediator can be an agent of reality. She/he can 'stress test' the position of parties but she or he is not providing anything like an evaluation of the merits of the case or predicting the adjudicated outcome of the dispute or disputes.

In an Evaluative process the mediator is no less neutral or independent but she or he is usually chosen because of specific subject knowledge. For example if the issue concerns foundations of a building then an engineer with a specialty in ground stability might be selected. In this style the parties agree and accept that the Mediator is entitled and willing to offer evaluations on particular issues.

In many US Federal and State regulations the Mediator is obliged to make it clear to the intending consumers whether the Mediation Contract is for Facilitation or whether it will involve Evaluation. The working rationale is that the consuming public MUST know the type of service which they are contracting to receive.

In both Irish jurisdictions there is a level of anecdotal evidence that some parties and some of their legal advisers have been discontented with some mediators; the grievances include that there has been little or no involvement with the disputing parties and, instead, there has been a focus on discussion and meetings with legal representatives. Some solicitors, who have persuaded clients to enter a collaborative, voluntary, flexible process in which the client is involved, have ended up with discontented clients who have been largely excluded from a process in which they had expected to be involved or who have been confronted with a strident, forceful prediction of the likely or inevitable failure of their legal case. Not all of these complaints have been directed against what used to be called lawyer-mediators.

Certainly in the RoI there has also been a concern that the legal professions have acted as inflexible gatekeepers in commercial matters and that, in the past, they have tried to steer clients away from mediation in preference for the better known route of litigation.

These particular factors have had a very strong influence on the final format of the Mediation Act 2017. The flavour of the legislation can be savoured from the following edited extract from the speech of the then Tanaiste and Minister for Justice, to the Dáil on 2 March 2017:

*"Firstly it should be noted that MEDIATION is defined in the Bill as a facilitative voluntary process in which the parties to a dispute, with the assistance of a mediator attempt to find a mutually acceptable agreement to resolve their dispute.....Part 3 contains two key provisions which impose obligations on solicitors and barristers in relation to mediation. Put simply, the Bill requires solicitors (and barristers) to advise clients to consider the use of mediation, and to provide them with information on available mediation services, before embarking on court proceedings. In order to ensure that this key requirement is given*

*effect, in practice, the Bill requires that solicitors make a statutory declaration that the obligations placed on them by this legislation is discharged.....The Mediation sector is made up of a diverse range of bodies. The Bill does not set out to impose a rigid regulatory structure on the sector. It does however provide for a possible future establishment of a body to be known as the Mediation Council of Ireland..... Section 8 specifies the actions the mediator must take prior to the commencement of a mediation and those he or she must take during a mediation ..... Section 9 provides for Codes of Practice which will set standards in relation to the practice of the mediator. It may be prepared and published by the Minister or alternatively, if the code has been drawn up by some other body, be approved of and published by the Minister."*

It should be noted that throughout the Act there is a recognition that family mediation is an area which requires separate and additional consideration but overall, the legislation seeks to avoid the curtailment or regulation of the voluntary and flexible methods of mediation which have and which will continue to develop. Pending some greater level of consensus between what the then Tanaiste called "the diverse range of bodies" and the formation of the proposed Council, the Act seeks to impose something like minimum standards on those who provide services in any form of mediation. Effectively it has been left to the mediation providers to organise themselves into some sort of unified body which can then seek status as the Council. (Section 12).

In Northern Ireland a Northern Ireland Mediation Council has already been formed. It has met on several occasions and has among its aims the promotion of mediation for the resolution of disputes and the establishment of a forum to discuss best practice and training. It seeks to include all providers – not just the lawyers – who are involved in mediation. It seems that with further development the Northern Ireland Mediation Council could be well placed to undertake work similar to the general functions envisaged for the proposed Mediation Council of Ireland.

The legislation in RoI comes in the context of the concerns raised during the seven year debate and there is an ambition that,

in the future, there will be some system of registration. Pending the congregation and agreement of "the diverse range of bodies" to form the planned Council in the RoI an examination of the provisions of Section 8 is an indicator of the level of agreement which has been found amongst existing providers and which will shortly pass into law in the RoI.

The Section set out below has the simple marginal heading- "Role of the Mediator." It draws heavily upon the express and implied obligations which are articulated in the European Code of Conduct for Mediators but the legislation has started the progression towards imposing positive and active obligations upon Mediators.

8, (1) The mediator shall prior to the commencement of the Mediation:-

- (a) (i) make such enquiry as is reasonable in the circumstances to determine whether he or she may have any actual or potential conflict of interest, and
- (ii) not act as mediator in that Mediation if following such enquiry, he or she determines that such conflict exists.
- (b) furnish to the parties the following details of the mediator relevant to mediation in general or that particular Mediation
  - (i) qualifications;
  - (ii) training and experience
  - (iii) continuing professional development training AND
- (c) furnish to the parties a copy of any code of practice to which he or she subscribes in so far as Mediation is concerned.

(2) The mediator shall:-

- (a) during the course of the mediation, declare to the parties any actual or potential conflict of interest of which he or she becomes aware or ought reasonably to be aware as such conflict arises and having so declared, shall, unless the parties agree to him or her continuing to act as a mediator cease to act as a mediator.

- (b) act with impartiality and integrity and treat the parties fairly
  - (c) complete the mediation as expeditiously as is practicable having regard to the nature of the dispute and need for the parties to have sufficient time to consider the issues and
  - (d) ensure that the parties are aware of their rights to each obtain independent advice including legal advice prior to signing any mediation settlement.
- (3) subject to subsection 4, the outcome of the Mediation shall be determined by the mutual agreement of the parties and the mediator shall not make proposals to the parties to resolve the dispute.
- (4) The mediator may at the request for parties make proposals to resolve the dispute but it shall be for the party should determine whether to accept of proposals.

The slightly odd drafting and interaction between sub sections (3) and (4) in the RoI legislation seeks to say that Mediations are to be facilitative. A mediator is not forbidden from making suggestions about settlement possibilities but the process of agreement is akin to self-determination principles and should be not be achieved by mediator evaluation. The parties can of course stipulate that their agreement can be made an Order of Court or comprised within a Tomlin order or indeed arrange for a variety of their own methods of enforcement.

**Conclusion**

Whilst there has been either a muted or hostile response to mediation from a number of local practitioners, it is not yet too late for us to recognise the factual reality that, as in many jurisdictions, the legal profession does not have a monopoly on the provision of dispute resolution services. If the lawyers ever did have a dominant role as gatekeepers directing parties towards litigation then, that horse has well and truly bolted. Observing the developing situation in the RoI and looking at what has happened in other jurisdictions it is clear that our legal professions must consider greater participation in what might loosely be called the Mediation Debate. The governmental

/management treatment of the administration of justice as an "industry", lawyers as "service providers" and clients as "customers" is unattractive and ignores the professional duties, obligations and ethics which we take as standard. Be that as it may, the twenty first century reality is that lawyers must be in a position to advise parties on how disputes can be processed to a conclusion.

They must be positioned to advise clients about litigation, mediation and other ADR processes. A fortiori they must be in a position to answer client enquiries which are likely to include, the access routes to mediation, who are the providers of the service, what type or styles of service are available, what factors influence choice of mediator, how does it work, what will be involved, how long will it take, who can we get, what are the benefits or detriments, is it confidential, can we still litigate, and of course what will it cost? These are questions which are already being asked by commercial clients and, as indicated in **Halsey** a failure to offer such information will expose lawyers to complaints from dissatisfied and ungrateful clients.

Competence in advice is the minimal level of requirement for the legal professions. If we are not to be left behind, the professions should also seek to engage with other providers of mediation and ADR services with a view to contributing to the ongoing development and, indeed perhaps providing leadership.

An attitude of masterly inactivity cannot serve our professions well and, we should throw our shoulders to the wheel. We should share and cooperate in a common purpose, informing our colleagues and clients about the expectation to resolve disputes, explaining the range of options to achieve this and effectively preparing clients for a process which they understand and can be assured they will receive.



Alva Brangam QC, Mediator



Brian Speers, Solicitor Mediator



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## Self-Efficacy: Do you believe you can?



**Alana Jones,  
Solicitor, Executive  
Coach and Director  
at Alana Jones  
Workplace Solutions  
explores the impact  
of self-efficacy  
on behaviour and  
success.**

Are you setting yourself stretching goals or are you avoiding challenging tasks? Do you swiftly recover from disappointments or do setbacks result in you rapidly losing confidence in your personal abilities? If you have a strong sense of self-efficacy, you will have a stronger belief in your ability to cope and to achieve success. That sense of confidence in yourself and your abilities is likely to influence your motivation, ambitions, commitment, resilience and ability to succeed. A low sense of self-efficacy is debilitating. Believing that challenges and tasks are beyond our abilities limits our drive to take on challenging tasks and we tend to reinforce that limiting belief by focusing on negative outcomes as personal failures rather than looking for the opportunity to learn. According to psychologist Albert Bandura, the originator of the theory of self-efficacy, "The sense of people's convictions in their own effectiveness is likely to affect whether they will even try to cope with given situations".

Whilst, self-efficacy beliefs begin to form in childhood, we continue to develop our beliefs throughout life. We have the ability to develop more useful beliefs and to overcome limiting beliefs. Bandura identified four major sources of self-efficacy. I have identified below the potential for a coach to support development in each area:

1. Experiencing mastery and personal accomplishment influences our perception of our ability. Having significant experience in one particular area of law and recognise that you have expertise in that field. A coach might encourage you to analyse how you approach this particular work, how you perceive the tasks involved, your state of mind as you embark on those tasks and how you learnt and developed your skills and knowledge. The coach may then encourage you to plan how you might seek to replicate that approach in another area where you lack confidence.
2. Vicarious experience, whereby we witness others whom we regard as similar to ourselves succeeding, also serves to build belief in our own ability. If we have role models that we identify with, their success tends to raise our own expectations and as we can see how they achieved we can replicate their efforts to attain our own success. A coach might encourage you to identify a colleague whose success you would like to emulate and to model their approach so you can imitate it.
3. Social persuasion can strengthen self-efficacy, our confidence and willingness to try again and reach further. Encouraging others to believe that they are capable of coping and achieving can build their self-belief and motivation. Workplace appraisals so often focus on the negative but with a greater focus on what can be achieved they tend to be more powerful in facilitating positive behavioural change. The coach can use a range of techniques to identify and challenge limiting and inappropriate negative beliefs about

ability. The coach can also work with the client on building more useful beliefs, planning the achievement of realistic goals, identifying obstacles, building responsibility and clarifying what is within the individual's control to change.

4. Emotional and physiological responses and how we perceive them can impact self-efficacy. If I feel fear and my heart racing as I walk onto a stage to deliver a speech, that may undermine my self-confidence and then my hand might shake and voice waiver. Wouldn't it be so much more useful to perceive those feelings as a sense of excitement? The coach can support you in developing strategies for handling stress, building your emotional resilience and choosing how you wish to feel and respond in certain situations.

Our strength of belief in our own ability can wane at times under the stress of life events or in the face of change such as starting with a new firm, stepping up to a leadership role or getting to grips with a new area of practice or changing technology. My perception is that the work environment for solicitors is getting tougher and more challenging. Many leading UK and international law firms are embracing coaching to support and develop their staff. Coaching can support the development of a "can do" attitude which impacts positively on readiness for new challenges, motivation, commitment and productivity.

The phrase, usually attributed to innovator Henry Ford, "Whether you believe you can do a thing or not - you are right" succinctly encapsulates the power of belief. Resources, skills and strategies are also required. The skilled coach will bring an element of reality checking to any coaching session to ensure the individual is prepared to overcome or circumvent the obstacles which will almost inevitably stand in the way.



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**To discuss how coaching could benefit you or your firm, contact Alana at [wps@alanajones.co.uk](mailto:wps@alanajones.co.uk)**



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A photograph of a man with dark hair and a beard, wearing a dark t-shirt. He is covering his eyes with his right hand, looking down and to the side with a somber expression. The background is a textured, light-colored wall. The text 'Is my client vulnerable?' is overlaid in a bold, yellow font on the right side of the image.

**Is my  
client  
vulnerable?**

## In this article Conor Gillespie BL considers the topic of client vulnerability

Recent years have highlighted vulnerable clients across all areas of law but how do we actually identify them as being vulnerable?

All practitioners need to keep pace with changing trends and developments in order to deliver a professional service. As such you should be aware of the development of 'vulnerability' law issues in identifying and dealing with vulnerable people.

The inception of the term 'vulnerable witness' is from the 1998 Report *'Speaking up for Justice'*. Following on from this 'special measures' and 'reasonable adjustments' developed in criminal and civil justice systems. The initial aim was to ensure vulnerable people were understood being able to give their best evidence though recent focus is predominantly on their protection from psychological harm as encapsulated within both the Victims Charter 2015 and Witness Charter 2017.

Evidence suggests "vulnerable people are disadvantaged by legal discourse"<sup>1</sup> with most people overestimating their communication abilities.<sup>2</sup> The challenge in delivering a professional service is how to adapt practices to client's vulnerabilities - not the other way around.

### Identifying vulnerability

Vulnerability is inherent in the human condition where we are all susceptible to destructive external forces and internal disintegration.

Whilst vulnerabilities invariably arise across four normative developmental domains ie physical, intellectual, emotional and social often being undiagnosed well into adulthood, an equal focus needs to be on their identification through degenerative and aging domains also.

Criminal and civil justice systems need to move away from restrictive and exclusionary definitions of vulnerability where the benefit of special measures is dependent upon a person qualifying within a category. These do not readily recognise newly diagnosed conditions which are rarely finite or fixed often existing in a constellation eg Autistic Spectrum Disorders, Social Pragmatic Communication Disorder, Downs Syndrome with Learning Disability, Personality Disorders with Complex Post Traumatic Stress Disorder.

Definitions need to include more wide ranging vulnerabilities that recognise a 'cognitively impaired person'<sup>3</sup> includes Intellectual Disability, as defined in DSM 5<sup>4</sup> which identifies two areas of deficit:

- (i) Intellectual functioning eg reasoning, concentration, problem solving, planning, abstract thinking, judgment, academic learning, memory, learning from experience,
- (ii) Adaptive functioning ie failing to meet developmental and socio-cultural standards for personal independence and social responsibility affecting daily life in communication, social participation, independent living eg reading, writing, maintaining eye contact, interpersonal skills.

Despite guidance on identifying vulnerability signposts within The Advocates Gateway Toolkits and the 2015 Practice Note issued by the Law Society of England & Wales there still remains an apparent reticence, particularly in criminal justice systems to recognise people as vulnerable who exhibit mild intellectual and adaptive functioning vulnerabilities eg learning disability, autism, when it is not flamboyant or obviously distorted behaviour.

A Registered Intermediary (RI) granted as a special measure under Article 17 of the Criminal Evidence (NI) Order 1999 can identify vulnerabilities and recommend trial adjustments as ground rules enabling effective communication ensuring best evidence. It is surprising that there were only 12 defendant RI referrals against 248 for victims during the RI Pilot Scheme.<sup>5</sup> This is all the more alarming as vulnerable defendants are prevalent within justice systems who themselves are or have in turn been victims. Greater attention needs to be focused on signposts that were previously undiagnosed, unrecognised or mis-interpreted and identified as evasive or guilty behaviour, especially by police during

interrogation eg lack of eye contact, shifting body posture, looking down at the floor.

Civil justice systems apply 'reasonable adjustments' to aid vulnerable people. Guiding principles have been recently summarized and approved in *Patrick Galo v Bombardier Aerospace UK* [2016] NICA 25. The Appellate Court directed all parties of the absolute necessity in their cognisance with the contents of the Equal Treatment Bench Book (ETBB) to enable them to recognize vulnerabilities across all participant categories. The Industrial Tribunal was held to have failed to recognise multiple vulnerability signposts, to acknowledge and apply ETBB guidance or reasonable adjustments that accorded with the applicant's fundamental right to fairness ensuring his effective participation.

It is also vitally important that there is an increase of awareness in the rampancy of vulnerabilities in the elderly and those with terminal and degenerative conditions where their existence, particularly in the early stages, has not been diagnosed or remains hidden due to embarrassment or fear and having learned how to live with and disguise them.

The Chancery Courts in England & Wales are clearly willing to recognise more wide ranging vulnerabilities, giving rise to the presumption of undue influence in elder law cases as encapsulated in *Beech v Birmingham CC* [2014] EWCA Civ 830 and previously in *Schrader v Schrader* [2013] EWHC 446 (Ch) where Mann J, held an elderly testator's volition had been subject to undue influence despite the absence of any overt evidence of same, vulnerability sign posts or qualifying category criteria e.g. terminal illness. He thus considered adaptive functioning deficits primarily within socio-cultural standards of personal independence i.e. the lack of independence of the testator from her son. However, *Elliott v Simmonds* [2016] EWHC 962 (Ch) demonstrates that there is, perhaps, still some way to go in having a uniform approach in recognising that assessments of capacity should also encompass more wide ranging vulnerabilities as in *Schrader*.

Northern Ireland legislation, as in England & Wales under the Mental Capacity Act 2005 (MCA 2015), similarly recognises that causes leading to a lack of capacity should be based on more wide ranging and inclusionary definitions, akin to vulnerabilit

within Article 3 of The Mental Capacity Act (NI) 2016 (MCA (NI) 2016). This will allow for deficits in intellectual and adaptive functioning that lead to an impairment / disturbance in the functioning of the mind / brain to come within Art 3 as 'otherwise'. A person's capacity will then be assessed by their ability to make a decision (Art 1) based on their communication abilities (Art 4) ie understanding, retaining, appreciating and communicating relevant information but only after providing supportive measures (Art 5). However, it is surprising therefore that Articles 1, 3, 4 and 5 of the MCA (NI) 2016 (amongst others) have as yet to be commenced rendering vulnerable people to the risk of injustice due to the current restrictive and exclusionary definitions applied within Art 3 of the Mental Health (NI) Order 1986.

Though the Art 3 capacity test in MCA (NI) 2016, if and when commenced, as happened with the MCA 2005, may also find itself less favoured than the common law 'Golden Rule Test' from *Banks v Goodfellow* (1870) LR 5 QB 549 that was reaffirmed in *Walker v Badmin* [2014] EWHC 71(Ch) when applied in Chancery Courts.

### Dealing with vulnerable clients

It is axiomatic that there should be greater focus on recognising and recording impressions from non-verbal signposts in intellectual and adaptive deficits as these make up the majority of communication eg stress, compliance and acquiescence indicators ie always agreeing with the questioner and answering 'yeah', appearance, lack of concentration or eye contact. This would allow an earlier and more comprehensive assessment of a client's vulnerabilities leading to an expeditious RI referral.

This would also greater skill lawyers' ability to challenge regularly used inappropriate non-verbal communication tactics and techniques that are utilised to create a power differential over a client in favour of the questioner. These are often encountered in police interviews and cross examination e.g. overbearing manner, rolling of eyes to an answer, hostile, intimidatory and aggressive body posturing, pointing and facial expressions and shaking the head in a no (side to side) manner when an answer is given. Guiding

principles have now been set down in *Lubemba* [2014] EWCA Crim 2064.

In order to ensure fairness for all participants in the criminal process there should be mandatory visual recording of all interactions and interviews, especially with vulnerable accused and not just for children as is enacted by the European Child Directive Article 9 - 2013/0408(COD) 11/05/2016 Final Act (EU) 2016/800 [excluding Denmark, Ireland and the United Kingdom].

In a civil setting it may seem too intrusive to visually record your client's instructions or consultation as clear evidence of capacity and volition. Similar risks of intrusion also exist with the Mini - Mental State Examination (MMSE) commonly used within the 'Golden Rule' scenario. Perhaps a measure less intrusive but as effective would be to utilise an RI assessment which seems capable of fulfilling many of the requirements of the MCA (NI) 2016 Art 3 capacity test.

In assessing deficits in intellectual and adaptive functioning an RI assessment can be similarly vital in attesting to or challenging the volition in an elderly client's instructions and especially for those subject to a terminal illness or degenerative condition.

Legal discourse is aimed at the most salient legal issue at the material time. Most people when talking with a lawyer or a police officer often experience a negative power differential creating a communication imbalance inhibiting their best evidence / instructions.

Verbal signposts in intellectual and adaptive deficits are often

- acquiescence, answering yeah to positive leading questions to get out of stressful situations eg especially young adolescents in police custody<sup>6</sup> and
- compliance, answering in a way which allows a person to get out of stressful situations when the answer is inaccurate.

Therefore you should assess a client's functional literacy. Reading statements or instructions back, asking a confirmatory yes/no question on accuracy and asking for them to raise issues concluding with their signature to verify the correctness of the process is not an accurate measure

of literacy and understanding. Vulnerable people have difficulty understanding simple phrases such as plea, bail and particularly their rights as do most vulnerable people understanding legal discourse and concepts lawyers take for granted.

Difficulties also arise in coping with police interviews, giving evidence, understanding proceedings and decision making tasks as psychological research shows that when information is presented in oral form it is soon forgotten.<sup>7</sup> In any scenario it is better to ask open ended non leading questions that check back on answers seeking your client to repeat and explain their understanding of their instructions.

Lawyers should use communication frameworks that incorporate and follow ground rules as contained within communication toolkits, for example, people with autism have difficulties with questions that have legal terminology and lead, have multiple parts or double negatives and tags. Concepts such as time and being asked how they feel also pose difficulties. The language used should:-

- be developmentally appropriate
- have chronological question order with timeline consistency
- signpost subject change.

In order to deliver a professional service with effective communication for vulnerable people, lawyers will it seem require better knowledge and specialist training to obtain the necessary skills in vulnerability issues across all areas of law.

<sup>1</sup> *Kebbell, Hatton and Johnson, "Witnesses with intellectual disabilities in court: what questions are asked and what influence do they have?" Legal and Criminological Psychology, 9 (1). pp. 23-25.*

<sup>2</sup> *Hepner, Woodward and Stewart. "Giving the Vulnerable a voice in the criminal justice system" Psychiatry, Psychology & Law Vol 22, 2015 Issue 3*

<sup>3</sup> *S.306M(1) Criminal Procedure Act 1986 New South Wales*

<sup>4</sup> *DSM .5 2012 American Psychiatric Association*

<sup>5</sup> *Department of Justice Post Project Review 2015*

<sup>6</sup> *Eileen Vizard. 'Common Vulnerabilities'. (paper presented at CBA Conference 6 December 2014)*

<sup>7</sup> *Miller and Manuet(1999) "The Psychology of Jury Persuasion". 22 American Journal of Trial Advocacy 549-70*

# Protected Tenancies



**Carmel Ferguson LLB, Solicitor with Housing Rights discusses: Protected Tenancies: Making an Application to the County Court for a Declaration under Article 69 of the Rent (Northern Ireland) Order 1978.**

Practitioners will be aware that since the implementation of the Private Tenancies (Northern Ireland) Order 2006 no new protected tenancies can be created.

However, there are still a number of protected tenancies in existence and it is important when acting for a landlord or tenant that practitioners are aware of same

A recent Housing Rights case provides an example.

William contacted Housing Rights having received a NTQ from his Landlord who wished to sell the property.

William's home was slightly unusual in that it was a dwelling attached to a "Band Hall" owned by Trustees.

When he had moved in to the property in 1994 it was in a very poor condition. William said that he had been told in no uncertain terms that the Trustees would not carry out any repairs and that if he took on the tenancy, he would take on responsibility for the repairs. He asked how long he could stay if he agreed to those terms and he was told that he could stay as long as he wanted. There was no written tenancy. He had paid rent of £40 per week since moving in to the property.

Over the period of 23 years that he lived in the property, William had carried out significant repairs, including completely rewiring throughout, replacing the roof and chimney, replacing joists, installing a new bathroom and

kitchen and doors throughout the property.

William was very distressed at the thought of being evicted from his home. He felt that it was wrong that the Landlord could try to renege on the agreement which had been made and he felt that he had spent a lot of money under a false assurance.

His main concern however was that he had believed this to be his home for life and he dreaded the prospect of having to move elsewhere, most likely in to an urban environment. He had specifically chosen the property for its peaceful setting, where he particularly enjoyed rearing chickens.

He suffered from a number of health problems including anxiety and high blood pressure and had undergone heart surgery a number of years ago. He said that the stress of facing the loss of his home had caused a deterioration in his health.

## Legislation

The Housing Rights adviser formed the opinion that the property was a protected tenancy.

The significance of this, for the tenant is that a protected tenancy can only be brought to an end in specified circumstances and not simply because a landlord wishes to sell the property.

## The Rent (Northern Ireland) Order 1978 provides:

3.— (1) *A tenancy of a dwelling-house is a protected tenancy for the purposes of this Order if—*

(a) *the Rent Restriction Acts applied to the dwelling-house immediately before the commencement of this Order (1st October 1978), and*

(b) *the dwelling-house was, immediately after that commencement, let under that tenancy as a separate dwelling.*

(1A) *A tenancy of a dwelling-house is a protected tenancy for the purposes of this Order if—*

(a) *paragraph (2) applies to the dwelling-house, and*

(b) *the dwelling-house was, immediately before the commencement of Article 56 of the Private Tenancies (Northern Ireland) Order 2006, let under that tenancy as a separate dwelling.*

Importantly **Article 3[3]** of the Order states: *If any question arises in any proceedings whether the Rent Restriction Acts applied to*

*a dwelling-house immediately before the commencement of this Order, it shall be deemed to be a dwelling-house to which those Acts applied unless the contrary is shown.*

## Role of the Rent Officer

On checking the Rent Officers Register of Rents. (This can be found on the Rent Officer's website) the adviser confirmed that it was not on the Register. She was still of the view that the tenancy was protected, relying on the criteria set out in the Rent Order (NI) 1978, namely;

- The tenancy commenced prior to 1st April 2007
- The dwelling house was built or converted for letting before 1956
- The property was first let before 1st October 1978
- A tenancy existed on 1st October 1978

Housing Rights therefore wrote to the Rent officer setting out the reasons and requesting that the tenancy be declared a protected tenancy.

The Rent Officer considered the matter and concluded that the tenancy was not protected because (a) the property was registered as a Fee Farm Grant in the Land Registry and (b) at one stage the property was rented out to the caretaker of the building.

Housing Rights felt that this was incorrect and appealed the decision to the County Court

## County Court application

The appeal process for the tenant is in the form of an application to the County Court for a Declaration pursuant to Article 69 of The Rent (Northern Ireland) Order 1978

Legal Aid was secured for the client and an application lodged in court, with a grounding affidavit setting out the history of the tenancy, exhibiting photographs of the property showing the condition when first occupied by the tenant and its current condition, along with the Land Certificate and NAV certificate. Papers were served on the landlord who chose not to defend the proceedings.

The Judge was satisfied that the Tenancy was in fact a Protected Tenancy and made a Declaration to that effect.

William is therefore free to enjoy the peaceful surroundings of his home as long as it continues to suit him.



## Everything you need to know about the OISC

The Office of the Immigration Services Commissioner (OISC) was created by the Immigration and Asylum Act 1999, as amended (IAA 1999). Its main duty is, as far as practicable, to ensure that those that provide immigration advice and/or services in the UK are fit and competent to do so.

The OISC is responsible for ensuring that all OISC registered immigration advisers fulfil the requirements of good practice. Registered advisers are trained representatives who are properly qualified and meet OISC approved standards.

The OISC has a Code of Standards which is a principle-based document, and requires that registered persons comply with Codes relating to client care, competence and professional standards, including reporting instances of serious misconduct. Compliance with these Codes is monitored through premise audits of registered organisations.

In addition registered persons are required to comply with the Commissioner's complaints scheme.



Advisers and the organisations they belong to are registered by the OISC and listed on the OISC website [www.oisc.gov.uk](http://www.oisc.gov.uk).

Using a registered person ensures that an individual case is dealt with professionally and honestly. It means people seeking advice will get the help and support they need.

### The qualified adviser logo

All OISC registered advice organisations are required to display the OISC's Global Tick logo

Only registered persons can use this logo. The logo shows that advisers are fit and competent and suitably qualified. The OISC requires advisers to be registered to provide immigration advice and /or services in the broad categories of "immigration"; "asylum & protection" or both. Advisers are regulated at three separate Levels of advice giving, as detailed in the 2017 Guidance on Competence as issued by the Commissioner.

The Levels are:

#### Level 1:

Applications that rely on the straightforward presentation of facts to meet a set of qualifying criteria. All work at Level 1 will be within the Immigration Rules or Nationality Law and EEA Regulations.

#### Level 2:

More complex applications within the Immigration Rules as well as applications outside the Rules and applications under UKVI's concessionary or discretionary policies. Level 2 advisers can lodge appeals on initial grounds to the First Tier Tribunal (Immigration and Asylum Chamber).

#### Level 3:

Includes any work done following the lodging of the notice of appeal against refusal as well as the conduct of specialist casework. Only advisers at Level 3 are allowed to represent clients at bail and appeal hearings before an Immigration Judge. Those authorised in the category of Judicial Review Case Management (JRCM) are permitted to instruct Counsel to represent their clients in Judicial Review matters.

### Protecting the vulnerable

People seeking immigration advice and/or service must use a "qualified person" such as an OISC registered person or a member of a Designated Qualifying Regulator (DQR) such as a Solicitor or a fellow of CILEX. Those in the jurisdiction of Scotland and Northern Ireland must also seek advice from a registered person or a Solicitor, Barrister or Advocate who is a member of a Designated Professional Body (DPB). The OISC regulates both advisers that charge a fee and those that may give advice for free. Advisers can assist people with the laws that relate to immigration and asylum in the UK and help in making applications to the Home Office.

Anyone providing immigration advice and/or services that is not qualified to do so, is acting illegally and may be liable to criminal prosecution. It is a criminal offence to offer or provide immigration advice and/or services whilst not regulated by the OISC. The offence is punishable by a fine imprisonment or both.

### Complaints

The OISC accepts complaints about persons who are within its scheme and those who

give immigration advice and/or services whilst unregulated. Depending on the circumstances they will either:

- investigate the complaint in accordance with its regulatory scheme
- refer the matter to the Legal Ombudsman (if it is a complaint about Solicitor, Barrister or CILEx member) or refer the matter to a Designated Professional Body (DPB) in Scotland or Northern Ireland, if the complaint is about a person in that jurisdiction)
- investigate if advice is being provided illegally

Solicitors who are instructed by clients who have received poor quality immigration advice and/or services from their previous representatives may complain on behalf of their client to the OISC, irrespective of whether the previous representative was an OISC authorised adviser.

#### DPBs

The OISC provides oversight regulation of what the IAA1999 defines as DPBs. The DPBs are the Law Society of Scotland, the Law Society of Northern Ireland, the Faculty of Advocates and the General Council of the Bar of Northern Ireland. The OISC's oversight function requires that it report on whether the DPBs have provided effective regulation of their members in the provision of immigration advice and/or services.

#### Organisations in Northern Ireland

Currently there are only 11 organisations registered with the Commissioner in Northern Ireland. Seven of these are non-fee charging organisations and these include Law Centre (Northern Ireland), Migrant Centre NI, The Children's Law Centre, South Tyrone Empowerment Centre and Glenshane Community Development Limited. In addition all Citizen Advice Bureaux are authorised by the Commissioner to provide initial advice and services on basic applications for leave to enter or remain as well as Citizenship and Nationality applications and entry under EEA Regulations.

The Commissioner has over the last year worked with the South Tyrone Empowerment Centre to run assessment centres for applicants from the voluntary sector to take competence assessments in Dungannon and the Commissioner is committed to working further with organisations that are interested in increasing or improving the provision of immigration advice and/or services in

Northern Ireland. As the position of EU citizens remains unclear in light of Brexit, the Commissioner expects that demand for immigration advice and services will increase in Northern Ireland as is becoming apparent in other parts of the UK.

Currently the Commissioner is concerned about advisers based in the Republic of Ireland who may be seeing clients in Northern Ireland.

#### Solicitors (England and Wales) and the OISC

The OISC does not regulate practising Solicitors in England and Wales. However, fee-charging organisations and charities or other non-commercial advice services regulated by the OISC, may employ in-house solicitors who can provide legal advice within the organisation without any requirement for the Solicitor to be directly regulated by the OISC. This does not

prevent a Solicitor maintaining their practising certificate and acting as a Solicitor in a law firm or ABS.

Solicitors working in Law Centres and certain charitable organisations are however permitted to provide immigration advice and/or services to the public, while acting as individuals regulated by the SRA. They do not need to apply to the OISC for registration. However, the Law Centre or charitable organisation itself will need to be regulated as an entity, and this may be by the OISC or the SRA (if the Law Centre chooses to become an ABS). This is the case even where all advisers are SRA regulated solicitors.

If you wish to find out more about the work of the OISC please visit the website [www.oisc.gov.uk](http://www.oisc.gov.uk)

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## New Immigration Practitioners' Group launched

Representatives from the legal, business, community and voluntary sectors were in attendance at Law Society House for the launch of the **Immigration Practitioners' Group**.

The new group, which has been set up by the Law Society of Northern Ireland, will be a forum for immigration practitioners to share information and to enhance training, by organising seminars and courses, in this ever-evolving and complex area of law. Central to the aims of the group is finding new and better ways in which solicitors can engage with and support members of the community in Northern Ireland who may be from another country and who may not speak English as a first language.

The launch of the new group marks the continuation of the Law Society of Northern Ireland's ongoing work in raising awareness of issues around diversity, equality and human rights.

This work began in 2016 with the launch of the Society's 'Connecting with our Community' project which saw the translation of 36 Law Society information leaflets into nine different languages.



From left: Mr Justice McCloskey, Maria McCloskey and John Mackell.

The success of this project and other initiatives undertaken has allowed the Society to engage more proactively with new audiences, organisations and representative bodies.

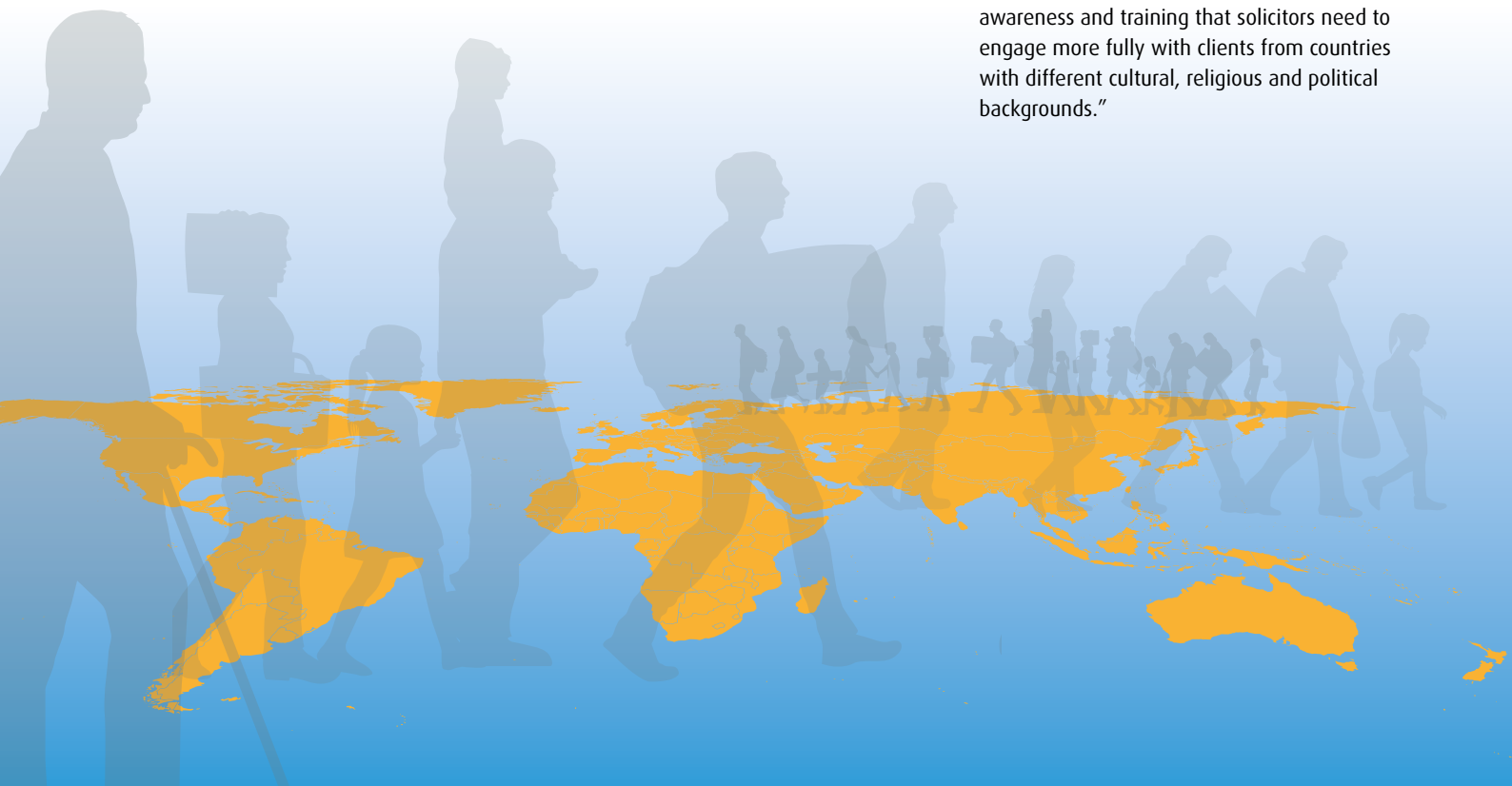
Helping to launch the Immigration Practitioners' Group were Maria McCloskey, solicitor and its new Chair and Mr Justice McCloskey, former President of the Immigration and Asylum Chamber of the Upper Tribunal, who has extensive knowledge and experience of immigration law and practice.

Speaking on behalf of the Society, President Eileen Ewing, said:

"The launch of the Immigration Practitioners' Group is a continuation of the Law Society's ongoing commitment to embracing the ever changing and diverse nature of our community in Northern Ireland. We recognise that each citizen in our democracy, regardless of their race, religious belief or background, must have access to independent legal advice, assistance and representation."

Commenting on the launch of the new group, Chair, Maria McCloskey, said:

"The launch of the new Immigration Practitioners' Group is both necessary and timely and will provide the support, awareness and training that solicitors need to engage more fully with clients from countries with different cultural, religious and political backgrounds."







Manage your legal matters on the go



Home



Police Station



Train



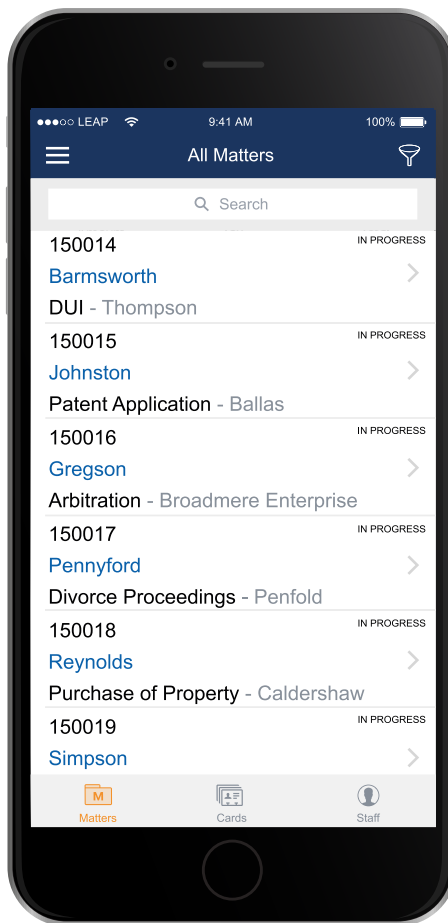
Court



Visiting clients



Coffee shop



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[leap.co.uk/features](http://leap.co.uk/features)

## An interview with Maria Glover Insolvency Practitioner



*In this the second in our series of 'QA' interviews the Writ asked Maria Glover about her role as an Insolvency Practitioner.*

### **1. You have recently received accreditation as a licensed Insolvency Practitioner. Can you explain how an Insolvency Practitioner differs from a solicitor that specialises in insolvency?**

An Insolvency Practitioner is an individual who is authorised to accept and administer formal insolvency appointments such as a Trustee in Bankruptcy or the Supervisor of an Individual Voluntary Arrangement. It's a distinct qualification subject to its own regulatory requirements and oversight. Traditionally, the regulators appointed individuals with a proven expertise in this area such as Sir Oliver Napier. In the 1990s, examinations were introduced to augment the regulatory requirements on practical experience. Candidates are tested on both insolvency law and various accounting processes such as profit and loss accounts, cash flow forecasts and trading budgets. The accountancy aspect seems to have been a major deterrent for solicitors as I am the only solicitor in Northern Ireland to have sought qualification since the 1990s and as a result the vast majority of Insolvency Practitioners are accountants.

### **2. With an average pass rate of less than 25%, the exams set by the Joint Insolvency Examination Board are notoriously difficult. What was involved in your preparation?**

Even looking at the past papers still fills me with dread. You couldn't see my kitchen table for months. Spending evenings and

weekends studying after 10 years in private practice was a big commitment. Juggling studying with work was a test in itself. Beyond the accountancy aspects of the preparation, one of the most difficult components of the insolvency exam is that it is based on the English legislation. That is a disadvantage for any Solicitor in Northern Ireland because it means that you lose your 'home advantage', you lose the ability to be able to say what happens in practice in our Courts. It took me a lot of time to familiarise myself with the English legislation and the regional variations in practice. I initially tried to go it alone and study myself but the task was too daunting so I used a distance learning programme operated by an English CPD provider and went to London for workshops and a mock exam. I will never forget my first day at the workshop when I introduced myself, one of the other students joked that they would give me a traditional London welcome by ignoring me the entire time! My charming Strabane accent won them over in the end and ultimately, I think the course was the difference between a pass and a fail.

### **3. Insolvency is synonymous with bad news and it seems like a very gloomy area of law. Is this a fair perception? What interests you about this area?**

I have always enjoyed practising insolvency law. It's definitely not all doom and gloom. The main focus of insolvency is actually debt relief. In America, lawyers talk about filing for the protection of bankruptcy and that has inspired a lot of our legislation. You can't overestimate how debilitating debt can be. Clients can be in the depths of despair, ashamed to confide in their family and friends and fearful for the future. A few weeks ago I got a note from a client thanking me for my assistance in a bankruptcy case. She said "you were my light at the end of a long, dark tunnel and you will never know the difference your help has made". The ability to help people who are struggling and trapped in a cycle of debt is really empowering. The work of an Insolvency Practitioner also involves trying to save the family home or business as part of a rescue and recovery culture. The fact that you are there to assist businesses to get them back up and running and to encourage that entrepreneurial spirit is something that has always given me real hope and encouraged me.

### **4. Do you worry about how you are perceived when acting in more contentious scenarios involving closing businesses and repossessing family homes?**

Of course, there are definitely instances which are emotionally charged and tense. Like many solicitors, I have to make difficult decisions and face challenging situations. My firm's ethos and reputation for being fair and pragmatic is a major influence on my work. Staying professional and objective at all times is key. Recently a solicitor on the other side of a bankruptcy case refused to shake my hand at the end of the case because it resulted in an order against his client. There was nothing particularly unusual about the case and so I was really taken aback by how he seemed to blame me personally. At the risk of sounding cliché, I have faith in the system. Repossessions and bankruptcies don't happen overnight- it takes months, more commonly years, before these last resorts are necessary. There are countless opportunities for negotiation and alternative dispute resolution before contentious action is required.

### **5. You have recently been appointed as a Partner. As you embark on your new role, what are your perceptions of the legal sector in Northern Ireland?**

Now more than ever, solicitors need a keen business sense to survive and compete in the current market. There is a huge gap between the large corporate firms and the smaller, medium sized practices. There is no doubt that SMEs like our office have to be focused and are constantly challenged to stay relevant, competitive and commercially viable. The traditional role of a solicitor has evolved with a greater emphasis on value added services and innovation. Sometimes we can be our own worst enemies and are too resistant to change. I am also conscious that solicitors often have to be the marketing consultant, sales representative, the HR manager, the business leader, the compliance officer, the advocate and the lawyer all in one. This evolving role provides exciting opportunities but can at times be overwhelming.

### **6. Are there any obstacles that you have had to deal with on your career path?**

If I am being completely honest, I don't think that women in law can just be good

at their jobs and naturally progress through the ranks of an organisation in the same way that our male counterparts do. In my experience, women have to excel, develop a thick skin and be more determined than your male colleagues to get the same recognition. I am realistic enough to know that this is a 'first world problem' and there are more fundamental struggles for women in other parts of the world but it takes every woman in a position of authority to make her mark and consciously work to progress her female colleagues to make a difference. We have come a long way in promoting equality within the profession but there is still more work to be done.

### 7. You are involved in teaching at the Institute of Professional Legal Studies and Chartered Accountants Ireland, what do you think is the biggest challenge for newly qualified professionals?

I love being involved in the teaching programmes for professionals. Obviously there are massive pressures around getting and retaining your first position but once the

demands and pressure of practice hit, one of the biggest challenges is sustaining and channelling your enthusiasm. Your firm's priorities or your clients' priorities quickly become your priorities and it's easy to get swept up in that. My advice: don't sleepwalk through your career, remember why you chose this profession in the first place, keep learning and draw on the help and support offered by organisations such as NI Young Solicitors and the Law Society.

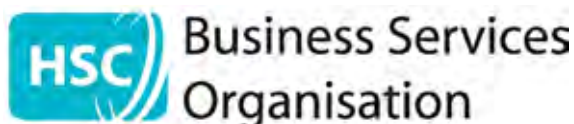
### 8. Are you delivering any CPD events?

Yes, I am presenting two sessions in April and one in November at the Law Society. The first session is on 23rd April and will focus on deceased insolvents' estates. I am working with the Law Society library to launch a codified version of the Administration of Insolvent Estates of Deceased Persons Order (NI) 1991 and it will be available for practitioners to coincide with the event. The second session takes place on 24th April and is a troubleshooting workshop which will examine the impact of insolvency on a range of property transactions. The final

event is scheduled for 8th November and will look at the enforcement powers that flow from the various insolvency procedures.

### 9. Finally, are there any quotes or philosophies that motivate you?

I would love to cite some really profound or novel quote but I genuinely admire current, household names such as Michelle Obama. I love her speeches on empowering women with education and confidence-building. She always strikes the right balance between poise and tenacity. She is eloquent and intelligent without being condescending. It's hard to pick just one quote or to beat the famous line; *"when they go low, we go high"* but my favourite quotes are about her work ethic: *"You have to practise success. Success doesn't just show up. If you aren't practising success today, you won't wake up in 20 years and be successful, because you won't have developed the habits of success, which are small things like finishing what you start, putting a lot of effort into everything you do, being on time, treating people well"*.



## Outstanding care charges on death

Where a deceased person was resident in a residential or nursing home during their lifetime, there may be care charges outstanding on death due to the care home(s) in which that deceased person resided and/or to the Health and Social Care Trust(s).

Contact details for the relevant Health and Social Care Trusts are set out below. Solicitors dealing with a deceased's estate are advised to contact **both** the care home or homes **and** the relevant Trusts to establish whether any charges are outstanding on death. Solicitors should not distribute the Estate until a written response has been received from both the home and the Trust to confirm that there are no outstanding charges.

#### Contacts for each Health and Social Care Trust:

**Northern Trust** - Greenmount House, Woodsides Industrial Estate, Ballymena, BT42 4QJ

Email: [finassessment@northerntrust.hscni.net](mailto:finassessment@northerntrust.hscni.net)

Telephone Number is 028 2563 5333 ext 347097

**Belfast Trust** - 1st Floor, Dorothy Gardiner Unit, Knockbracken Healthcare Park, Belfast, BT8 8BH

Email: [carehomeadmissions@belfasttrust.hscni.net](mailto:carehomeadmissions@belfasttrust.hscni.net)

Telephone Number is 028 9504 5208

**Western Trust** - Western Health & Social Care Trust, Financial Assessments Department, Tyrone & Fermanagh Hospital, Omagh, County Tyrone, BT79 0NS

Email: [Fin.Assessments@westerntrust.hscni.net](mailto:Fin.Assessments@westerntrust.hscni.net)

Telephone Number is 028 8283 5455

**South Eastern Trust** - Bernagh House, Downshire Hospital, Ardglass Road, Downpatrick, BT30 6RA

Email: [sesuppliers.file@setrust.hscni.net](mailto:sesuppliers.file@setrust.hscni.net)

Telephone number is 028 9151 2061/028 4451 3855

**Southern Trust** - Credit Control Department, Ghana House, Daisy Hill Hospital, 5 Hospital Road, Newry, BT35 8DR

Email: [credit.control@southerntrust.hscni.net](mailto:credit.control@southerntrust.hscni.net)

Telephone number is 028 3083 5285

## Solicitors' Practice Regulations 1987, as amended

Members are reminded of their obligations under Regulations 23 (c), (d), & (e) of the Solicitors' Practice Regulations 1987, as amended whereby a solicitor shall:

- (c) inform the Society in writing of the address or addresses at which he practises, carries on business or is employed as a solicitor and of any changes thereof;
- (d) in the event of his ceasing to practise for any reason, inform the Society of such cessation and of the address at which the Society may communicate with him;
- (e) keep the Society informed of his home address, his status in the profession (whether an assistant, consultant or principal in private practice or other employment of a legal nature) and of any judicial or quasi-judicial office held by him, and of any changes therein.

To update the Society please email [records@lawsoc-ni.org](mailto:records@lawsoc-ni.org)

THE LAW SOCIETY  
OF NORTHERN IRELAND



## Updated guidance on financial sanctions enforcement

The Government has extended powers to act against those who don't report information that could undermine UK financial sanctions. All businesses, organisations, and individuals have an obligation under financial sanctions regulations to report information which facilitates compliance. However, enforcement action could only be taken against firms or people in the regulated financial services sector who failed to report.

The extended powers set out in new regulations, broaden enforcement to the following business areas from 8 August 2017:

- auditors
- external accountants
- casinos
- independent legal professionals
- dealers in precious metals or stones
- tax advisors and
- estate agents
- trust or company service providers

Prompt reporting of information is essential for financial sanctions to be an effective foreign policy and national security tool. For instance, it helps Office of Financial Sanctions Implementation (OFSI) to detect breaches and identify those who evade sanctions by using different aliases.

The new regulations extend existing powers without creating new ones or changing the purpose of the law. The only change is that these groups may commit a criminal offence if they do not report the information they should already be reporting to OFSI.

OFSI have updated the Guide to Financial Sanctions to help individuals and businesses understand what they should report and when. All impacted businesses are encouraged to review their responsibilities as non-compliance could lead to a monetary penalty or criminal prosecution.

As well as new information on reporting obligations, the updated Guide clarifies OFSI's existing positions on organisations owned or controlled by those subject to sanctions, as well as the process for obtaining a licence.

OFSI will continue to work with industry bodies to develop its guidance so that it is responsive to what businesses, and the public and charitable sectors, need.

OFSI's Guide to Financial Sanctions is published on OFSI's GOV.UK pages:  
<https://www.gov.uk/government/publications/financial-sanctions-faqs>

To stay up-to-date on financial sanctions, subscribe to OFSI's e-alert.

Alternatively, you can contact OFSI directly:  
Email: [OFSI@hmtreasury.gsi.gov.uk](mailto:OFSI@hmtreasury.gsi.gov.uk)  
Telephone: 020 7270 5454



Office of Financial  
Sanctions Implementation  
HM Treasury

## Advertorial

## Legal Software Has your supplier been bought out?

Purchasing a Legal Software product is not something that firms do very often. The research involved, time taken and pressure of choosing the right system can seem like a daunting task.

The Legal Software market is currently in the midst of a period of significant change, with many providers being taken over by larger organisations having been owner-managed for many years.

In recent years, a good number of these MD owned businesses have been bought up by larger Venture Capitalist backed businesses seeking to consolidate the market.

We are hearing from a lot of law firms that the company who have bought their software supplier are deciding not to continue developing and supporting all their products. They look to regain some of their purchase

cost by increasing their monthly fees and by releasing the staff who developed and supported these products. At the same time, any investment that they do make goes towards their own "go-forward" product. Unfortunately, the end result of this can be that the original software products are no longer supported, and in many cases are 'end of life' or 'sunsetted'.

This, of course, puts pressure on firms to change. Whether your main concerns are the withdrawal of support, the lack of development, the increased cost or the change in personnel, it is unlikely that you will want (or be able) to stick with the product you invested so much in choosing in the first place.

Before withdrawing your current product, the consolidator will invariably ensure that they present you with a migration option or an "upgrade path". In some cases this will be a newer, shinier product than the one you currently have and, if you're lucky, it will also have increased functionality. In other cases, you may find that the system they present for you to move to is entirely different. This is,

perhaps, to be expected given that the new product wasn't built to be a natural successor to your system, it just happened to be the product owned and developed by the consolidator.

It is inevitable that, under the heavy 'guidance' of the provider and the timescales that are enforced, firms can feel that they have no option but to follow this migration path.

There is however an alternative. There are independent companies out there that win awards for their service, who have very modern and functionally rich software, have an expertise in migrations, have a product roadmap to enhance their offering and are very much like the company that you invested in in the first place.

Food for thought....

**Deborah Edwards, Director of Professional Services at Insight Legal Software Ltd**

To discuss this topic further or the services we can offer, please call us on 028 9433 9977, email us at [sales.ni@insightlegal.co.uk](mailto:sales.ni@insightlegal.co.uk) or visit our website; [www.insightlegal.co.uk](http://www.insightlegal.co.uk)

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## Solicitors' Accounts Regulations 2014 Cheque Clearance System Changes

- Cheque clearance system changes
- storage of paid cheques and cheque clearance times

### New update for members

The Law Society has been contacted by the Cheque and Credit Clearing Company, (the organisation that is overseeing the introduction of cheque imaging into the UK).

It has clarified that all banks will be using the 'image clearing system' at some stage by the **summer of 2018** and **not January 2018** as previously indicated.

### Revised communication to members

As members are aware, with changes to the cheque clearing system across the banking sector, it is anticipated that cheques will be cleared potentially within 24 hours (by 23.59 at the latest, the following week day) rather than the current timescale.

This is due to the introduction of an image clearing system, commencing October 2017, to which all UK banks will be moving to at some stage by the summer of 2018.

Members are receiving correspondence from their respective banks about the phased introduction of the new cheque clearing system, as part of which original paid cheques will no longer be returned by the banks to firms who will continue to receive their bank statements. Rather, digital images of the front and back of each cheque will be retained and will be available either through your online bank system or through alternative arrangements with and through your respective banks. The banks' approach and arrangements seem to be different and will impact on cheque clearance times.

Members must be aware of the potential accelerated clearing time, with the potential for some cheques to clear in two working days and six working days in others. This is in the control of the banks and is subject to how your cheque is treated by your bank and by the bank into which it is paid. You must ensure that you understand the process, and if necessary if there is any doubt, while this new system is bedding in, assume that each cheque will take six working days to clear, to ensure compliance with the Solicitors' Accounts Regulations 2014.

The Society has been meeting with and is in ongoing discussion with the Belfast Bankers' Clearing Company Limited, the Cheque and Credit Clearing Company Limited and Bank representatives and will provide further information to members as appropriate. In the meantime, members must ensure that they have in place an arrangement with their bank for the production and retention of durable digital images of the front and back of cheques which must be readily available for inspection by the Society and your statutory reporting accountants and retained for a period of six years as is required at present.

Members must contact their own banks to put in place arrangements to ensure that members continue to comply with their above obligations under the Solicitors' Accounts Regulations 2014. It is for members to ensure that they continue to comply with their regulatory obligations.



### Leases for whole and part of building now in writeable PDF format

Members can now download two new writeable PDFs:

1. Lease for whole of building
2. Lease for part of building

The new writeable PDFs will allow users to fill in and print off to ensure standardisation of documentation provided.



### Notice in relation to solicitors wishing to transfer to the Bar of Northern Ireland

Applications to the Education Committee of the Executive Council of the Inn of Court of Northern Ireland from solicitors wishing to apply to transfer to the Bar of Northern Ireland under Rules 17-19 of the Admission Rules must be lodged with the Under Treasurer of the Inn of Court on or before 1 May of the year in which it is proposed to join the next Bar course at the Institute of Professional Legal Studies commencing in September.

It should be noted that a place at IPLS in that year cannot be guaranteed.

Any enquires should be addressed to [lisa.mayes@barofni.org](mailto:lisa.mayes@barofni.org)





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## Family Law Conference



### **JVP, Suzanne Rice, speaks at Four Jurisdictions Family Law Conference**

*The Society's Junior Vice President, Suzanne Rice, attended the Four Jurisdictions Family Law Conference in Dublin. The Junior Vice President presented a short talk on the Northern Ireland perspective on the identity rights of children to more than 250 lawyers & judiciary from England and Wales, the Republic of Ireland, Scotland and Northern Ireland.*

## Society represented at SLA Dinner



### **SVP attends SLA dinner**

*The Society's Senior Vice President, Ian Huddleston, was delighted to attend the Southern Law Association (SLA) Dinner. The SLA represents solicitor practitioners working in Cork City and County.*



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**THE WRIT** THE LAW SOCIETY OF IRELAND

THE JOURNAL OF THE LAW SOCIETY OF IRELAND  
ISSUE 214 Autumn 2017/Winter 2018

**THIS ISSUE**  
The Law Society welcomes its new President

**GDPR**  
Check the law on 25 May. An overview.

**Mediation**  
How will it develop as part of our Civil Justice System?

**The Office of the Immigration Services Commissioner**  
Everything you need to know about the OISC.

THE WRIT

## Pro Bono Choir raises £10,000 in support of Welcome Organisation

Members of the Pro-Bono Choir were on hand at Law Society House in Belfast to present a cheque for £10,000 to the Welcome Organisation.

The money which was raised from a concert held at St Anne's Cathedral included performances from local singer Brian Kennedy.

The £10,000 raised by the Choir at the concert will help the local charity which provides support services to people who are homeless or vulnerable and at risk of homelessness.

Kieran Hughes, the Fundraising and Marketing Manager for the Welcome Organisation, was delighted to receive the cheque from Joe Rice, the Chairman of the Pro Bono Choir.

Members of the choir, which is made up of members of the legal profession, were joined by the President of the Law Society, Eileen Ewing,



*From left: (back): Joe Rice and David Mulholland, and (front) Nora Tallon, Kieran Hughes and Eileen Ewing.*

David Mulholland, Chief Executive of the Bar and Nora Tallon, from Harbison-Mulholland Accountants which sponsored the concert for the cheque presentation.

Commenting the President of the Law Society of Northern Ireland, Eileen Ewing, said:

"Congratulations to the Pro Bono Choir for their successful charity fundraising throughout the year which has culminated in £10,000 being raised. This will help the Welcome Organisation in the fantastic work which they provide in support of those who are homeless, vulnerable and at risk of homelessness."



## Marking International Women's Day, the President of the Society, Eileen Ewing, reflected on comments she made during her recent speech to newly admitted solicitors.

Commenting, the President said:

"When I see the number of females being admitted to the Roll of Solicitors today it would be remiss of me not to recount that it is 100 years since the suffragette movement won the right for women to vote.

"8.4 million women gained the vote in 1918 and this represented significant progress for the feminist movement. However despite gaining the right to vote, gender inequality remained as many laws and societal attitudes meant that women faced barriers and prejudice in their work, education and marriage.

"The Sex Discrimination Removal Act 1919 changed the law on women being disqualified from certain professions on the grounds of their sex. It gave women access to the legal profession for the first time and meant they could also hold any civil or judicial office or post. The Sex Discrimination Act 1975 made it illegal to discriminate against women in work, education and training.

"How far we have come since then. Times have certainly changed since I was admitted to profession. The legal landscape and the solicitor profession you are poised to enter is a different professional environment to that which I knew.

"Much has been done to advance women in the legal profession including the appointment in October 2015 of two women Judges to the High Court and I pay tribute to the Lord Chief Justice, Sir Declan Morgan, for his commitment and encouragement he has given to female members of the Legal Profession.

"As we mark International Women's Day we should remember the sacrifices which have been made before and reaffirm our commitment to equality of opportunity for all."

## Law Society launches new Social Media Campaign

**The Society has launched a new Social Media Campaign highlighting some of the legal services offered by solicitors in Northern Ireland.**

The new campaign includes a series of four animated adverts showcasing family law, wills and power of attorney, road traffic accidents and buying a house.

All of the new adverts are appearing on various social media platforms including Facebook, Twitter and youtube over the next six months as the campaign is rolled out. Commenting, the President of the Law Society of Northern Ireland, Eileen Ewing, said: "The Society is delighted to launch our new Social Media Campaign, an extension of the successful ASK – A Solicitor Knows Campaign - which has been running for the last three years.



We recognise the growing importance of social media as a means to engage with new audiences and to communicate key messages in formats they understand. The new adverts reflect the Society's ongoing commitment to promoting the solicitor profession to the widest possible audiences using new communication mediums."

The new adverts can be accessed via the following links:

**Buying or Selling a Property:**  
<https://youtu.be/rpmVrir-w08>

**Family Law:**  
<https://youtu.be/Q4UmHraER-Y>  
Road Traffic Accidents: <https://youtu.be/RlBxS0dbP0>

**Wills and Power of Attorney:**  
<https://youtu.be/b5HcNCFmynQ>

**Law Society CPD Programme 2018**

For information about the Society's CPD programme from May onwards please contact [cpdbookings@lawsoc-ni.org](mailto:cpdbookings@lawsoc-ni.org).

THE LAW SOCIETY OF NORTHERN IRELAND

**CONTINUING PROFESSIONAL DEVELOPMENT**  
Seminar Programme  
2018

# Newly admitted solicitors welcomed at Annual Dinner 2017

The Law Society of Northern Ireland's Annual Dinner was held at the Ulster Museum, Belfast on 1 December 2017.

More than 140 solicitors attended the dinner including 35 newly admitted solicitors.

Speeches were delivered by the Society's new President, Eileen Ewing, guest speaker, Presiding District Judge Brownlie and Meghan Kirk, from Pinsent Masons speaking on behalf of the newly admitted solicitors.

During her keynote address, the new President, Eileen Ewing, welcomed the newly admitted solicitors to the Law Society of Northern Ireland, outlined her Presidential programme for the year ahead and her support for her chosen charity of the year, Barnardo's.

The Society wishes to thank Elizabeth Birrell and Stewart Title for their sponsorship and support of the Annual Dinner 2017.



*Meghan Kirk from Pinsent Masons.*



*Society President, Eileen Ewing.*



*Ian Huddleston, Society Senior Vice President.*



*Presiding District Judge Brownlie.*



*From left: Meghan Kirk, Pinsent Masons; Elizabeth Birrell, Stewart Title; Eileen Ewing, President Law Society; Presiding District Judge Brownlie and Alan Hunter, Chief Executive of the Law Society.*



*BSA Chair, Steven Keown and Society President, Eileen Ewing.*



From left: Alan Hunter, Society Chief Executive; David Cairns; Eileen Ewing, Society President; Joe Donnelly and Mary Murnaghan.



From left: Shauna McLaughlin; Carmel Doherty; Claire McNamee; Stacey George and Jack Balmer.



From left: Shauna Thompson; Lynsey Paul; Annemarie O'Hare and Sarah Hamill.



From left: Ciaran McAteer; Peter O'Brien; Deirdre Lavery and David Flinn.



From left: Richard Dickson; Eoin Hamilton; Steven Cockcroft; Jason Thompson; Julie Carrick and Graeme King.



From left: Anne McCleary; Alan Hunter, Society Chief Executive; Eileen Ewing, Society President and Donald Eakin.



*Gillian Greenfield and Kirsten Magee.*



*Claire McKeegan and Olivia O'Kane.*



*Oonagh Murdock and Chloe Doherty-Prosser.*



*Rachael Gamble and Aimee Donaldson.*



*Elizabeth Birrell and Carmel Doherty.*



*From left: Darren Toombs; Jill Downing; Richard Craig and Shane McVeigh.*

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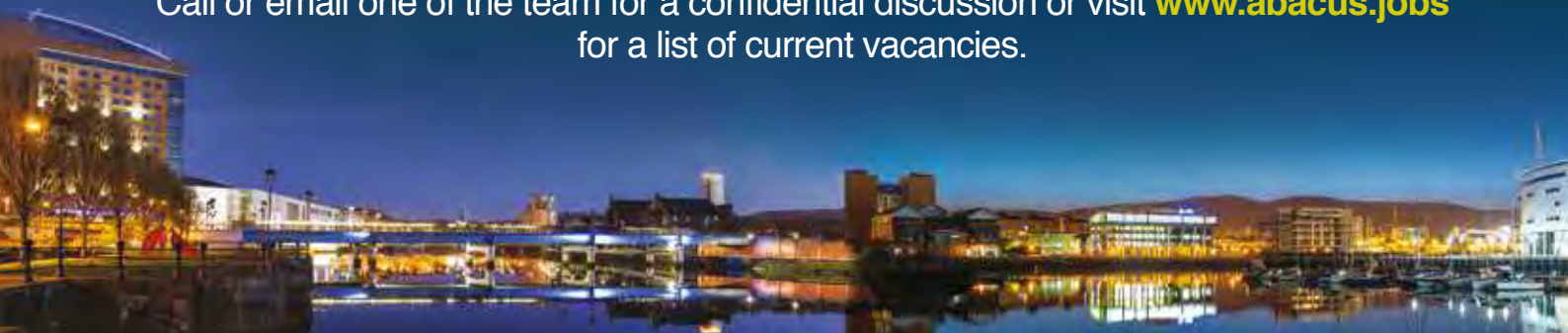
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## Joined up approach needed to deal with capacity issues



*Keynote speakers and organisers of the Elder Law Conference.*

Greater awareness and a joined-up approach is needed to deal with the difficulties surrounding capacity issues in Northern Ireland was the central message of a unique conference that took place in Belfast recently.

The Elder Law Conference organised by the Law Society of Northern Ireland in association with Age NI and Step NI, provided a platform for Medico-Legal Professionals to come together to share current thinking around capacity issues, to discuss the challenges and problems which lie ahead and to identify areas of commonality and approach.

More than 140 doctors, healthcare and legal professionals were in attendance at the conference which included presentations and contributions from key note speakers including:

- Linda Johnston, Elder Law Solicitor and member of the Elder Law Group in Northern Ireland
- Dr Julian Sheather (PhD), Specialist adviser, Ethics and Human Rights Policy Directorate, BMA
- Dr Barbara English, Consultant Psychiatrist
- Eddie Lynch, Commissioner for Older People
- Ian Huddleston, then President, Law Society of Northern Ireland

Commenting on the conference, Mr Huddleston said:

“The Elder Law Conference is timely given the considerable issues which exist around, capacity issues, mental health provision and the need for a greater joined-up approach.

“The importance of this conference is reflected in the senior medical and legal professionals attending all of whom remain committed to developing a joined-up approach to respond to capacity issues in Northern Ireland.”



*Linda Johnston, Solicitor.*



*Packed conference.*



*Dr Barbara English.*





# YOU CAN PLAY A VITAL ROLE IN BEATING CANCER SOONER



Half of us will hear the devastating words **'I'm sorry, you have cancer'** at some point in our lives. Thanks to research, cancer survival has doubled over the past 40 years, with 1 in 2 now beating their disease.

But there is still so much to do. Every day, 25 people are diagnosed with cancer in Northern Ireland. Half of them sadly will not survive their disease.



With your support we will accelerate progress to see 3 in 4 people survive cancer within the next 20 years. We receive no government funding so we need more people and companies to support us right now.

There are many ways to get involved including:



Please contact Danielle Sheridan on [danielle.sheridan@cancer.org.uk](mailto:danielle.sheridan@cancer.org.uk) or **07788 309209** to find out more about our research in Northern Ireland and how YOU can get involved!

Together **we'll beat cancer sooner.**



**Every penny you raise will be spent in Northern Ireland.**



CANCER  
RESEARCH  
UK



## New apprentices welcomed to Law Society House

More than 100 trainee solicitors were welcomed to Law Society House in Belfast recently.

The new trainees were formally welcomed by the Society's Chief Executive and Registrar of Solicitors, Alan Hunter, and members of the Society's Senior Management Team.

The Society will be providing training to the new trainee solicitors throughout 2018 as part of its ongoing outreach and engagement programme.

## Support materials for Solicitors and firms

The Law Society has prepared a document which outlines all of the support materials available to solicitors and firms.

This is accessible from [https://www.lawsoc-ni.org/DatabaseDocs/med\\_4164908\\_\\_support\\_materials\\_catalogue\\_2018.pdf](https://www.lawsoc-ni.org/DatabaseDocs/med_4164908__support_materials_catalogue_2018.pdf)

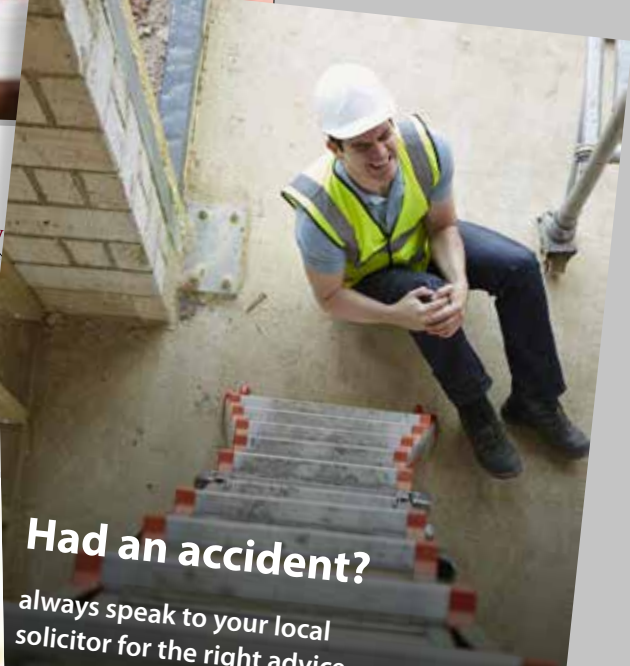
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## LEGAL PUNCH UP

### Featuring:

*Chazmanian Devil* – Charlene Dempsey

*Delta Force Devine* – Steven Devine

*Paul “Damages” Dougan* – Paul Dougan

*Executioner Elliott* – Arleen Elliott

*Fisty Cuffs Ferguson* – Jennifer Ferguson

*The Newtownards’ Nightmare* –

Patricia Gaston

*Paddy the Whack* – Patrick Gillen

*The Glynn Reaper* – Francesca Glynn

*The Dancer* – Iryna Kennedy

*Lorraine “Aim to Maim Keown”* –

Lorraine Keown

*Steven “Time to Pay” Keown* – Steven Keown

*Chris “Section 18” Kinney* – Chris Kinney

*Paddy “Peaches” Kinney* –

His Honour Judge Patrick Kinney

*The Stormont Stiletto* – Jill Lindsay

*The Loganator* – Neil Logan

*John “the Debacle” Mackell* – John Mackell

*Tina Tiny Troublemaker* – Tina Murray

*Kevin ‘El Terrible’ Morgan* – Kevin Morgan

*Mad Hair Don’t Care Guardian ad Fight’em*

– Patricia McDonnell

*Kieran ‘Million Dollar Baldy’ McGarrigle* –

Kieran McGarrigle

*The Blonde Assassin* – Claudine Quinn

*Viper Vance* – Laura Vance

A group of battled hardened, rough and tumble lawyers and legal professionals more familiar with court room battles than bar room brawls decided to take up the noble art of Boxing for a good cause. The aim of this fundraiser was to raise £30,000 for the Judge Corinne Philpott QC Memorial Prizes with any funds raised in excess of that amount going towards Marie Curie. The Judge Corinne Philpott QC Memorial Prizes were established in 2017 in memory of a great judge who sadly passed away on 17 June 2016.

Her Honour Judge Philpott QC was a trailblazer during her time at the Bar, passionately believing in justice and fairness. She never lost sight of the ongoing difficulties facing young law graduates as they embarked on their chosen legal careers showing a keen interest in their professional development. These Memorial Prizes were set up to reflect her constant desire to help those starting out in practice. The prizes will be awarded annually to the solicitor and bar trainee who attains the highest mark in the Criminal Litigation module.

Under the careful eye of European Silver Medallist Cathal McMonagle and his willing assistants, Stevie McMonagle and Sean McPeake, the group undertook an intensive 8 week training regime, foregoing their pampered lifestyle of lazy afternoons chatting over coffee, burying their heads in legal periodicals and spending time pondering heavy legal argument to transform into teak tough athletes living on a diet of raw eggs, old Rocky movies and bobbing and weaving.

In a dusty gym in South Belfast legal careers and friendships were put aside as the art of uppercuts, jabs, hooks and power punches were honed in preparation for the big event. Opponents sized each other up looking for signs of weakness. Rumours swirled in the lead up to the big night. Participants gathered in corners sharing bite sized gossip. ‘Did you hear that Dougan has been training on the side three times a week?’, ‘I saw Paddy Gillen running up the Ormeau Road last Sunday morning with weights tied to his back’, ‘Word

on the street says young Lorraine can bench press 240lbs’.

Emotions heightened as participants got familiar with live one to one sparring. Bruised eyes and egos sat alongside noses reddened

and put out of joint. Blood was wiped away, bruises healed and tears were shed in private. The band of pugilists picked up the pace as the day of reckoning appeared. The pads were pounded, the bag was battered and skipping ropes slaughtered as training intensified.

Costumes for the big night were picked out along with fighting monikers. Nicknames ranged from the easy going ‘Peaches’ and ‘The Dancer’ to the more menacing ‘Time to Pay’ and ‘Section 18’ whilst the less said about ‘The Executioner’ the better. Ring Walk anthems ranged from 80s power ballads, to riffastic guitar tunes with Culture Clubs ‘Do you really want to hurt me?’ a crowd favourite.

The fights were over in the blink of a (black) eye for spectators but for the fighters themselves the three rounds of boxing were a culmination of 8 weeks of hard graft, tough training and unforgettable experiences. The occasional bruise or bloodied nose was all worth it when the final fund raising totals were confirmed. The words of the Simon and Garfunkel tune ‘The Boxer’ now have a special resonance for a small band of local legal professionals who will forever remember their time, however fleeting, in the ring:

*‘In the clearing stands a boxer and a fighter  
by his trade*

*And he carries the reminders of ev’ry glove  
that laid him down*

*Or cut him till he cried out in his anger and his  
shame*

*“I am leaving, I am leaving” but the fighter  
still remains’*

**With costs covered, the event raised a total  
of £54,454.61 for the benefit of both funds.**





## 1967 year reunion

A 50th anniversary reunion of the solicitors who qualified in 1967, was held at a luncheon at the Reform Club, Belfast. Fourteen people qualified in 1967, and all of the eleven survivors were present, with the exception of Nixon Logue, who was unable to be there.

*From left: Pictured from left are: Brendan Agnew, Lex Ross, Sean O'Neill, Michael O'Kane, then Society President, Ian Huddleston, Monica Davey, James McFarland, Eimer Cleland, Derek Tughan, Richard Wilson and Alan Hewitt.*

## IPLS trainees compete in 2018 UK Mediation Competition

Four trainee solicitors from IPLS participated in the 2018 UK Universities Mediation Competition at the University of Law (Moorgate Campus), London. After completing four mediations, the team were ranked third overall out of twenty teams in the competition. Conor McAleese (Arthur Cox), Robyn-Dee Herdman (John McKee), Roisin Maguire (Cleaver Fulton Rankin) and Nolene McFerran (Citi) were joined by Barbara Jemphrey, Interim Director at IPLS and team coach, for the two day competition.

The competition began early on Friday morning with an interactive masterclass provided by speakers from the Centre for Effective Dispute Resolution (CEDR). Over the course of the competition, the team participated as joint mediators in four scenarios. In each round the mediators were provided with a set of basic facts about the scenario, whilst the parties themselves (played by other competitors) were given a more detailed set of instructions and



target outcomes, making each mediation challenging and more realistic. Each round lasted 75 minutes and took place in the presence of expert judges. The teams were assessed on their communication skills and ability to manage the mediations before being ranked according to their performance in all four mediations.

The trainees worked with and guided parties through the mediation process with the aim of reaching a resolution to the various disputes – on a number of occasions even getting the parties to consider or sign up to draft settlement agreements! The competition concluded with an award ceremony and dinner at Jamie's Fleet Place for the teams, their coaches and the judges. The IPLS trainees were delighted to be ranked third best overall team and all agree that the competition was both enjoyable and an invaluable learning experience. Special thanks to team coach, Barbara Jemphrey, for her help and support in preparing for the competition.

## In-House Legal Group holds AGM

**The In-House Legal Group NI (IHLGNI) recently held its AGM and delivered an information session for its members, in association with A&L Goodbody.**

It had been a very successful year for the IHLGNI during which it expanded its membership to more than 200 in-house lawyers in Northern Ireland and organised a number of professional CPD events, covering a range of issues and topics in-house lawyers face, as well as social events such as wine tasting.

At the AGM, the following people (pictured) were elected to serve on the IHLGNI committee for the forthcoming year: Lisa Armstrong (Belfast City Council), Sean Grego and Sinead McAroe (both from Citi), Elma McEaney and Conall McMahon (both from Kainos), Niall McSorely (Baker McKenzie) and Anne MacRandal (Autism NI).

Following the AGM, an information session was held for the 110 people in attendance.



*The IHLGNI 2018 Committee.*

During this session, which was designed for in-house legal professionals, senior lawyers from A&L Goodbody discussed recent commercial contracts updates and tips for influence, persuasion and negotiation. This was followed by a keynote presentation from James Stebbing, Senior Legal Counsel at the Rugby Football Union, who gave an insight into his career to date along with the challenges he has faced as an in-house legal counsel.

Information on future events will be shared via email for members of the IHLGNI and through the Group's Facebook page (<https://www.facebook.com/inhouselegalgroupNI/>).

Any in-house lawyers in Northern Ireland who wish to join the membership of the IHLGNI, or would like more information about the Group, or the events it organises, can email [inhouselegalgroupni@gmail.com](mailto:inhouselegalgroupni@gmail.com).

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# Obituary Comgall McNally



A litany of the important legal posts held by Comgall McNally in his long life is insufficient to reflect his contribution to the community in which he lived and the legal profession which he served nor does it illustrate the man he was.

Comgall took his degree in law as a part time student whilst working as a clerk in Belfast Corporation. He was apprenticed in the firm of Bernard Campbell and Co. from where he moved to be a partner of Colm McGrath in the firm of E&L Kennedy. After three decades of successful practice with that firm he was appointed a Social Insurance Commissioner ultimately to become Child Support Commissioner in Northern Ireland continuing to work in that capacity until well into his 70s. As to how he managed that given the compulsory retirement age of 72, it remains a mystery. Suffice to say, only Comgall could have done it.

Meantime, Comgall was actively involved in the Council of the Law Society to which his contribution was enormous. I remember well at Council meetings everyone would have their say and Comgall would then adroitly sum up and come forward with a recommendation which was usually received with approval and acted upon. His opinion was valued in all walks of life. As Chairman of the Education Committee he took an enthusiastic interest in his students, an enthusiasm he maintained throughout his life. He had an abiding interest in education to the extent, in furtherance of his own education, he completed two separate Masters Degrees whilst in his 70s, one in Human Rights and the other in European Law. He sponsored the reforms leading to the establishment of the Institute of Professional Legal Studies. He was President of the Law Society 1980-1981 after which he continued in a leading way to participate in the affairs of the Law Society Council. In particular, he continued to serve the Education Committee of the Society and was an active and valuable member of the Council of Legal Education.

He drafted the Admission Regulations for apprentices and included one particular provision reserving generous discretion to his committee. When he went to the Lord Chief Justice, Lord Lowry, for approval, as was required, Lord Lowry thought that the discretion provision was perhaps excessive at which Comgall explained that he had copied this particular provision from the Bar admittance regulations. Needless to say, the Regulations were approved. To say that Comgall was astute would be an understatement.

Comgall was possessed of sound judgement. He had charm in abundance. He had wit and intelligence to spare. He knew how to get things done. His friends and colleagues in the profession were keenly aware of the practical side of his nature. If all else failed send for McNally. One colleague in particular needed to get a safe to a first floor office where the doors and stairs were not wide enough. There was no lift or elevator in the building. Comgall was consulted and, in no time, he had a builder take out the windows. He arranged for the street to be closed and he organised a crane to lift and propel the the

safe into the desired position. Comgall usually knew a man who could do a job and, if he did not, he knew a man who knew a man who would do the job. It was second nature to him to share his connections.

The range and depth of Comgall's accomplishments was prodigious. He will be remembered by different people for different things. His kindness was legendary. In the subculture of those people suffering hard times no news travels faster than the existence of a sympathetic donor. Comgall was that man. There was a well-trodden path to his door. He did not ask for recognition. He went out of his way to avoid it. He was, in the literal sense of the word, a truly good man.

The most important element in Comgall's life was his family. He was devoted to his wife, Kathleen, who was, before their marriage and for a time afterwards, a well-known actress. I suppose she would have to be described as an actor nowadays. In the debate as to whether his interest in the arts came through his marriage to Kathleen, or, whether he already had that interest and through that interest he met Kathleen, the jury is still out. I believe it is the latter but, either way, they did nurture and share each other's enthusiasm for the arts throughout their lives. I do not believe there is an art gallery in Europe with which Comgall was unfamiliar. His seats at the Ulster Orchestra concerts were reserved from year to year.

The children, Joseph, Mary and Katherine remember their father and mother as loving, liberal and beneficent parents who spared no effort or expense in their upbringing and welfare.

There is no cure for life and death but to enjoy the interval which Comgall undoubtedly did. The measure of man is not the sum of his talents but the use to which he puts such talents as he has. Comgall certainly used his talents in a positive way. In doing so, there is not a man or woman whose lives he touched who has not been enriched by the experience. We are all the poorer for his passing.

**Bernard Turkington**



## Digital transformation: what does it mean for the legal sector?

*In the midst of Industry Revolution 4.0 and the era of digital transformation, 'Innovate or Die' is the stark message for businesses. According to a study by PwC, 80% of law firms understand a clear digital strategy is critical for future success, yet only 23% say they are underway.*

*Lisburn based IT company, Xperience Group specialise in solutions for legal firms and understand the key role that technology plays in digital transformation. Patrick Leggett, Director at Xperience Group discusses the impact digital transformation is having on the sector:*

### **Digital transformation now or never?**

It's no secret, the legal sector has been slow to adopt new technologies and introduce new business models. Many firms trying to evolve to a digital workplace hit road blocks, while others perceive it as too complicated and are unsure where to begin.

Patrick comments, "Whether your firm is just beginning its digital transformation journey or is one of the 77% that haven't started, it's not too late. Having worked with many organisations within various industries, we are seeing a big shift from traditional to digital across all business operations."

He continues, "When you take into consideration the large amounts of sensitive information held by legal companies, it's understandable there is a resistance to go digital. However, there are some quick digital wins which can help firms improve processes and gain competitive advantage."

### **Using technology to digitise processes**

According to McKinsey, businesses should aim to reinvent processes using digital by cutting the number of steps required in the client experience. McKinsey state that this will both improve the client experience and help cut costs by up to a staggering 90%. The process of dictation for example could save legal practitioners valuable time, money and resource.

Patrick remarks, "By embracing technology, law firms can streamline business processes to increase transparency and efficiency. Client needs have changed and with it, expectations on how services should be delivered – our advice is that firms should consider new technologies to create slicker processes and streamline the end-to-end client experience."

### **Using digital to go paperless**

The legal sector is deluged with case-critical paperwork, and with it comes a magnitude of administration. Although, many firms are moving towards digital, a large amount of information is still largely paper-based. Patrick notes, "Everything paper based; from case archives and contracts to client records, creates hurdles that prevent solicitors from being agile. Not only can it be difficult to find the information you need when you need it, if a disaster were to strike (ie fire, flood) all records would be lost."

He adds, "Digital case management systems, and secure online document storage can open a world of potential for firms. By removing long paper trails and filing, firms can save both time and money while delivering exceptional customer service. Not to mention

it leaves more time to spend on billable work!"

### **Digital first future**

Gartner predict that by 2025 every industry will be transformed into a digital business, and truly brings the statement 'Innovate or Die' into perspective. Patrick concludes, "Once firms have a clear vision, and have embedded digital into their strategic plans, we have the tools and technology to fuel the business strategy and pave the way for digital transformation."

**For expert advice on IT Solutions for your firm contact Xperience Group:**  
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Patrick Leggett



Pictured are: Mal Donaghy, IFA; Michael Ward BL, The Bar of Northern Ireland; Andy Waterworth, IFA and Eoghan McKenna, BSA.

## Solicitors and barristers get match fit for mental health

Inspired to promote positive mental health, members of the Belfast Solicitors' Association (BSA) challenged their barrister colleagues to a charity football match in aid of local mental health charity Inspire.

Prior to the match the team representatives joined their football legend coaches, Mal Donaghy and Andy Waterworth, at the National Stadium to go through their paces.

Eoghan McKenna, then Chair of Belfast Solicitors' Association, said: "We in BSA are committed to raising awareness of mental health issues and helping to break down the stigma that still exists. The football match was a great way for us to play a part in this and, whilst ourselves and the barristers had our

eyes firmly on lifting the cup, the real winner had to be the charity and its work to promote positive mental health."

IFA and Linfield's, Andy Waterworth, added "I've been supporting Inspire's work for more than a year now and hope that the match has raised awareness, especially with young men, who can find it difficult to talk about their mental health."

The IFA's commitment to supporting mental health and wellbeing was highlighted by former Northern Ireland and Manchester United player Mal Donaghy: "Sport, both played and watched, can have a positive effect in helping people who are perhaps struggling with mental health. It's important that we play our part and we were delighted to support BSA and Inspire in their preparation for the match."

Nuala Dalcz, Director of External Affairs for Inspire, offered her thanks: "The whole BSA team has been so supportive in terms of raising funds and awareness of mental health. During the course of a year one in four people will experience some type of mental health issue. Anyone may be affected, regardless of age, gender, social class or lifestyle. Inspire provides mental health, addiction and learning disability support services across Northern Ireland and helps thousands of people every week. The support from the individuals in the BSA is invaluable."





# From the High Court and Court of Appeal – abstracts of some recent case law

The full text of these decisions is available on the *Libero Database* in the member's section of the Law Society Website at [www.lawsoc-ni.org](http://www.lawsoc-ni.org)

## CHARITY LAW

### TREVOR MCKEE V CHARITY COMMISSION FOR NORTHERN IRELAND

Appellant seeks permission to appeal against the decision of the Charity Tribunal for Northern Ireland whereby it refused to extend time for the appellant's application (the substantive appeal). - substantive appeal is against the decision of the Charity Commission whereby it decided to open a statutory inquiry into Lough Neagh Rescue (the charity). - whether the tribunal erred in law in failing to exercise its discretion and grant the appellant's application. - legal test to be applied on appeal from the exercise of discretion by the Charity Tribunal. - principles for extending time. - HELD that the tribunal erred in law in the exercise of its discretion and reached a decision which no reasonable tribunal would have made when it refused permission to appeal and refused to extend time for appeal. - permission granted for leave to appeal and extension of time granted  
*HIGH COURT*  
14 NOVEMBER 2017  
MCBRIDE J  
[http://Lawsociety2.lawsoc-ni.org/unreported/MCKEE\\_V\\_CHARITY.doc](http://Lawsociety2.lawsoc-ni.org/unreported/MCKEE_V_CHARITY.doc)

## CONFLICT OF LAWS

### IN THE MATTER OF AN APPLICATION BY TKF FOR JUDICIAL REVIEW

Applicant is a Polish resident in Northern Ireland since 2006 and has been granted leave to apply for judicial review. - construction of certain measures of EU law in relation to Polish Court maintenance decisions ("the decisions"). - whether illegal since Poland was not a Member State of the European Union when the Polish court decisions were made. - whether illegal in the alternative since the Maintenance Regulation did not apply to the decisions and whether illegality in the further alternative in that the decisions were not in compliance with the Maintenance Regulations since there was no evidence that the Applicant was aware of, or attended or was represented at the proceedings in question. - Hague Convention on the international recovery of child support and other forms of family maintenance. - Hague Protocol on the law applicable to maintenance obligations. - whether the Maintenance Regulation must be interpreted in a manner which permits this measure no retrospective operation. - HELD that application for judicial review dismissed  
*HIGH COURT*  
23 FEBRUARY 2018  
MCCLOSKEY J  
<http://Lawsociety2.lawsoc-ni.org/unreported/TKF.doc>

## CONSTITUTIONAL LAW

### R V GERARD ADAMS

Appeal against convictions on counts of attempting to escape from detention. - validity of Interim Custody Order (ICO) used where it appeared that a person was suspected of being involved in terrorism. - whether the Secretary of State was personally required to consider the ICO. - delegation of the powers of detention. - Carltona principle on constitutional decision making. - whether conviction

unsafe. - HELD that convictions safe and appeal dismissed  
*COURT OF APPEAL*  
14 FEBRUARY 2018  
MORGAN LCJ, WEATHERUP, SIR RONALD, WEIR, SIR REGINALD  
[http://Lawsociety2.lawsoc-ni.org/unreported/R\\_V\\_GERARD\\_ADAMS.doc](http://Lawsociety2.lawsoc-ni.org/unreported/R_V_GERARD_ADAMS.doc)

## CRIMINAL LAW

### R V A

Appeal against conviction. - appellant convicted on 2 counts of sexual assault on a child under 13 contrary to a 14 Sexual Offences (NI) Order 2008. - whether there was a failure on the part of the prosecution to make proper disclosure, and if so, whether the failure to disclose the material rendered the convictions unsafe. - HELD that the failure to disclose renders the convictions unsafe. - convictions quashed and no retrial ordered  
*COURT OF APPEAL*  
17 NOVEMBER 2017  
STEPHENS LJ, TREACY LJ, SIR ANTHONY HART  
[http://Lawsociety2.lawsoc-ni.org/unreported/R\\_V\\_ACA.doc](http://Lawsociety2.lawsoc-ni.org/unreported/R_V_ACA.doc)

## DAMAGES

### JAMES MORGAN V BRYSON RECYCLING LIMITED

Appeal from a County Court decree that the plaintiff was entitled to £2250.40 damages arising from a road traffic accident. - plaintiff's car was damaged when it was driven into by a servant or agent of the defendant. - value of the car. - car had no valid MOT certificate at the date of the accident and was not covered by insurance. - defendant claims the plaintiff was not entitled to a hire car to replace a car which the plaintiff could not have driven since to do so would have constituted two criminal offences of driving without an MOT certificate and driving whilst uninsured. - HELD that the plaintiff is not entitled to recovery and appeal is granted  
*HIGH COURT*  
31 JANUARY 2018  
BURGESS J

[http://Lawsociety2.lawsoc-ni.org/unreported/MORGAN\\_V\\_BRYSON.doc](http://Lawsociety2.lawsoc-ni.org/unreported/MORGAN_V_BRYSON.doc)

## FAMILY LAW

### IN THE APPLICATION BY LAM FOR LEAVE TO APPLY FOR JUDICIAL REVIEW (NO.2)

Anonymity granted to the applicant to protect the identity of her child who is a minor and vulnerable person. - applicant is the mother of a child who is a "looked after" child (LAC) and is the subject of a care order and was in secure and residential accommodation. - applicant challenges the decision of the LAC Chair not to admit her solicitor to the LAC review. - applicant did not feel able to be present and her solicitor had previously attended LAC meetings on certain occasions. - solicitor attended the premises was not admitted to the meeting and was advised that it was not appropriate to attend without the client in attendance. - HELD that there is no public interest case and no arguable case that the Chair failed to appreciate there was a discretion to permit the solicitor to attend and it was of no benefit to the child. - leave to apply for judicial review refused  
*HIGH COURT*  
21 NOVEMBER 2017  
MCCLOSKEY J  
<http://Lawsociety2.lawsoc-ni.org/unreported/LAM.doc>

### TT V HM

Application by a child's father for a Return Order to live with her father in Egypt. - child was born in Northern Ireland holds an Irish passport and lives in Northern Ireland with her mother. - appeal against Residence Order and Prohibited Steps Order to prevent the father from removing the child from Northern Ireland. - whether the Court's refusal to transfer the case to a higher court was wrong on law. - habitual residence. - whether the Court failed to have any or adequate regard to the father's Hague Convention rights and failed to give any or proper regard to the welfare checklist.

- degree of connection of the child with each country. - forum conveniens. - HELD that appeal allowed in that the proceedings should have been transferred to the High Court but application for a Return Order rejected. - Residence and Prohibited Steps Orders affirmed and Contact and Occupation Order made in favour of the mother

*HIGH COURT*

*MCBRIDE J*

18 NOVEMBER 2016

[http://Lawsociety2.lawsoc-ni.org/unreported/TT\\_V\\_HM.doc](http://Lawsociety2.lawsoc-ni.org/unreported/TT_V_HM.doc)

#### **XY V A HEALTH AND SOCIAL SERVICES TRUST**

Appeal from a decision whereby judge made an order freeing the child for adoption. - whether the judge erred in failing to take into account that the evidence was limited about the intensive psychological support that the mother required and the mother's potential to parent the child within a reasonable and realistic timescale, in his application of a Supreme Court decision and in failing to give consideration to significant improvements and motivation on behalf of the mother. - Adoption (NI) Order 1987 and welfare of the child. - a.8 ECHR and right to a family life. - whether adoption in the best interests of the child. - whether there is a realistic prospect of rehabilitation in this case. - HELD that adoption is in the best interests of the child and freeing order affirmed and appeal dismissed

*HIGH COURT*

22 FEBRUARY 2018

*KEEGAN J*

[http://Lawsociety2.lawsoc-ni.org/unreported/XY\\_V\\_AHSSD.doc](http://Lawsociety2.lawsoc-ni.org/unreported/XY_V_AHSSD.doc)

#### **JUDICIAL REVIEW**

#### **DEPARTMENT OF JUSTICE V PATRICIA BELL AND POLICE OMBUDSMAN FOR NORTHERN IRELAND**

Appeal against decision declaring that the Department acted unlawfully by failing to provide a sufficient level of funding to the Police Ombudsman for Northern

Ireland (PONI) to enable it to carry out its statutory obligation to investigate the applicant's complaint within a reasonable period of time. - HELD that the judge failed to adequately address and recognise the nature and width of the broad discretion vested in the Department, and had therefore failed to take into consideration a highly relevant matter and had fallen into error. - appeal granted and findings reversed

*COURT OF APPEAL*

7 NOVEMBER 2017

*GILLEN LJ, DEENY LJ, SIR PAUL GIRVAN*

[http://Lawsociety2.lawsoc-ni.org/unreported/DOJ\\_V\\_BELLCA.doc](http://Lawsociety2.lawsoc-ni.org/unreported/DOJ_V_BELLCA.doc)

#### **IN THE MATTER OF AN APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL REVIEW BY CIARAN MCMURRAY**

Applicant is a suspect in a criminal investigation and seeks leave to challenge a policy or decision of the PSNI to exclude him and his legal advisers from the selection process when choosing a suitable set of images to be used in the VIPER identification procedure. - applicants and legal teams would previously have an opportunity to have input into how comparator photographs are chosen, and this approach has changed without warning or consultation. - whether the prosecution's monopoly over the investigative stage of the case is ameliorated by the suspect's solicitor playing as full a role as is reasonably possible ensuring fairness. - whether suspect and solicitor rights are being undermined. - whether the absence of the consultation process leaves legal advisers unable to explain to the suspect why the changes have been brought about. - principles of legitimate expectation. - HELD that there is no arguable case that the alteration of the practice by the PSNI created any unfairness or abuse of power. - application for leave dismissed

*HIGH COURT*

30 JUNE 2017

*MORGAN LCJ, MCBRIDE J*

[http://Lawsociety2.lawsoc-ni.org/unreported/CIARAN\\_MCMURRAY.doc](http://Lawsociety2.lawsoc-ni.org/unreported/CIARAN_MCMURRAY.doc)

#### **REAL PROPERTY**

#### **HSBC BANK PLC V IVAN ROBINSON AND LOUISE ROBINSON**

Order for possession of agricultural lands. - second defendant applied to be joined and for a stay. - whether she was only prompted to do so because of the imminence of eviction from agricultural lands. - strength of the respondent's case and test for proprietary estoppel of representation, reliance and detriment. - test in relation to the exercise of discretion to stay the execution of the order for possession. - whether actual occupation. - delay in bringing the application. - HELD that appeal allowed and stay removed on execution for the order for possession

*COURT OF APPEAL*

24 OCTOBER 2017

*GILLEN LJ, STEPHENS LJ*

[http://Lawsociety2.lawsoc-ni.org/unreported/HSBC\\_V\\_ROBINSON.doc](http://Lawsociety2.lawsoc-ni.org/unreported/HSBC_V_ROBINSON.doc)

#### **SOLICITORS**

#### **GERARD MCKERNAN AND ORLA MCKERNAN V ALASDAIR GIBSON, JANE GIBSON AND FRANCIS JASON MCDONALD**

Plaintiffs bring an application to join three parties as defendants pursuant to O 15 r.6 and O 20 r.5 Rules of the Court of Judicature. - plaintiff's claim against the defendants arise from a conveyance whereby the defendants agreed to sell and the plaintiffs agreed to buy property. - contract for sale included a special condition that the defendants would apply to the Land Registry by way of application by first registration of the possessory title and would furnish the said Land Certificate in respect of the possessory title after registration. - plaintiffs allege that the defendants have failed to comply with the special condition in breach of contract and are seeking damages for the breach. - defendants claim that the delay in perfecting title was due to unforeseen circumstances and has also been occasioned

by the actions and omissions of the plaintiffs. - undertaking by the solicitor of the defendants. - plaintiffs say that the undertaking was not fulfilled and are seeking an order for compensation for failure to comply with the undertaking or alternatively damages for breach of contract as to the undertaking. - plaintiffs seek to join personal representative of the deceased solicitor in the action together with the partner in the firm where the deceased solicitor worked, and the firm he subsequently joined 2 years after the conveyance was completed. - HELD personal representative joined in the action. - partner in the firm where the deceased worked joined in the action. - the firm he subsequently joined are not joined in the action

*HIGH COURT*

12 OCTOBER 2017

*COLTON J*

[http://Lawsociety2.lawsoc-ni.org/unreported/MCKERNAN\\_V\\_GIBSON.doc](http://Lawsociety2.lawsoc-ni.org/unreported/MCKERNAN_V_GIBSON.doc)

#### **CLAIRE THOMAS V CONOR AGNEW PRACTISING AS CONOR AGNEW AND COMPANY SOLICITOR**

Plaintiff seeks an order that the defendant be ordered to pay compensation for breach of an undertaking given by him in his capacity as a solicitor. - plaintiff was divorcing her husband and was being released from the mortgage. - defendant gave an undertaking to furnish a copy of the land registry letter of confirmation of completion of registration to the plaintiff's solicitors. - plaintiff seeks compensation since the undertaking was incapable of performance. - plaintiff denies he was undertaking to release her from her mortgage. - interpretation of undertakings. - whether the defendant gave an undertaking to release the plaintiff from her mortgage obligations. - HELD that the defendant is not in breach of his undertaking

*HIGH COURT*

9 NOVEMBER 2017

*MCBRIDE J*

[http://Lawsociety2.lawsoc-ni.org/unreported/THOMAS\\_V\\_AGNEW.com](http://Lawsociety2.lawsoc-ni.org/unreported/THOMAS_V_AGNEW.com)

# Library Update - Human trafficking

## Legislation

### **Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (NI) 2015 Ch 2**

Commencement date: 14 January 2015

*The objective of the Act, is to provide Northern Ireland with a more robust legal framework in relation to:*

- *the prosecution of traffickers and those subjecting people in Northern Ireland to conditions of slavery;*
- *the provision of improved support for victims; and*
- *tackling the demand for the services of trafficked victims.*

*The Act also seeks to achieve improved compliance with international obligations under the Council of Europe Convention on Action against Trafficking in Human Beings and the European Directive on Preventing and Combating Trafficking in Human Beings and Protecting its Victims. Valentine: All Law of Northern Ireland.*

## Definitions

### **Slavery, servitude or compulsory labour**

1— (1) A person (“A”) commits an offence if—

- (a) A holds another person (“B”) in slavery or servitude and the circumstances are such that A knows or ought to know that B is held in slavery or servitude, or
  - (b) A requires B to perform forced or compulsory labour and the circumstances are such that A knows or ought to know that B is being required to perform forced or compulsory labour.
- (2) In subsection (1) the references to holding B in slavery or servitude or requiring B to perform forced or compulsory labour are to be construed in accordance with Article 4 of the Human Rights Convention.

#### *Article 4 Human Rights Convention*

1. No one shall be held in slavery or servitude.
2. No one shall be required to perform forced or compulsory labour.
3. For the purpose of this Article the term “forced or compulsory labour” shall not include:
  - (a) any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention;
  - (b) any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service;
  - (c) any service exacted in case of an emergency or calamity threatening the life or well-being of the community;
  - (d) any work or service which forms part of normal civic obligations.

### **Human trafficking**

2— (1) A person (“A”) commits an offence if A arranges or facilitates the travel of another person (“B”) with a view to B being exploited.

- (2) A may in particular arrange or facilitate B’s travel by recruiting B, transporting or transferring B, harbouring or receiving B, or transferring or exchanging control over B.

## Articles

### **Haynes: Northern Ireland’s Human Trafficking and Exploitation Act (2015): a preliminary assessment – critique of the provisions of the legislation**

CLB 2016 42(2) 181-211

### **O’Hagan: Protecting the victims of trafficking – provisions relating to assistance and support for victims of trafficking and unaccompanied minors**

Writ 2016, 225 (Spr) 36 – 38

## Guidance

### **A guide to Northern Ireland’s Human Trafficking and Exploitation Act**

Law Centre NI

Includes details of offences, sentencing and ancillary orders.

<https://www.lawcentreni.org/component/content/article/47-publications/1407-a-guide-to-northern-irelands-human-trafficking-and-exploitation-act-2015-chapter-2.html>

# FOLIO: the Northern Ireland Conveyancing and Land Law Journal

Folio contains up-to-date and authoritative comment and information on conveyancing and land law. The journal is packed with practical and topical articles, case notes and information from leading practitioners and academics. Its unique focus on Northern Ireland law makes Folio an essential information resource for local practitioners. Folio is published twice a year and is priced at £60 per annum (inc p&p).

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folio



# The Child & Family Law Update

The Child & Family Law Update is a multi-disciplinary journal published by the Law Society of Northern Ireland. It is designed to keep lawyers, medical practitioners, social workers, advice workers and others involved in the field of child and family law up-to-date with legal developments. In addition to case notes, the Update contains articles on topical issues relating to children and families that will assist professionals across a range of disciplines discharge their responsibilities. Articles and cases notes are written by practising professionals and academics. The Update is published twice a year priced at £60 per annum.

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# CLASSIFIEDS

## Missing Wills

**George Fleming Archer (formerly 'George Fleming')**  
**Formerly of: 'Beechmount', 40 Knockbracken Road South, Belfast, BT8 8AA**

**Date of Death: 26 June 2017**  
Would anyone having knowledge of the Will of the above named person please contact:  
*Greer Hamilton Gailey*  
*incorporating Murphy Carey Solicitors*  
27 High Street  
Ballymoney  
Co Antrim BT53 6AJ  
Tel: 028 2766 2104/028 2766 2132  
Fax: 028 2766 5856

**Re: Gareth Francis Naan (deceased)**  
**Late of: 7 Church Lane, Hillsborough, County Down**  
**Date of Death: 12 July 2017**  
Would any person having knowledge of the whereabouts of a Will made by the above named deceased please contact:  
*Napier & Sons Solicitors*  
1-9 Castle Arcade  
Belfast BT1 5DF  
Tel: 028 9024 4602  
Fax: 028 9033 0330  
Email: joe@napiers.com

**Isobel Steele (nee Smith), a patient of the Office of Care & Protection**  
**Of: Daleview Nursing Home, Shepherd's Way, Dungiven Road, Londonderry BT48 5GW**  
**Formerly of: 2 Columba Terrace, Derry BT47 6JT & 21 Pine Street, Derry BT47 6HB**  
**Date of Death: 18 July 2017**  
Would any person having any

knowledge of the whereabouts of a Will made by the above named patient please contact:  
*Caldwell & Robinson Solicitors*  
10-12 Artillery Street  
Londonderry BT48 6RG  
Tel: 028 7126 1334  
Fax: 028 7137 1659  
Email: j.okane@caldwellrobinson.com

**Re: Sara Carolyn Margaret Irwin orse Lyn Irwin (deceased)**  
**Late of: Fortwilliam, 40 Old Kilmore Road, Moira, County Armagh**  
**Formerly of: 14 Oldfort Park, Moira**  
**Date of Death: 29 June 2017**  
If any person has any knowledge of the whereabouts of a Will for the above named deceased please contact us within 30 days.  
*Charles Irwin (retired Solicitor & next of kin)*  
155 Ballinlea Road  
Stranocum  
Ballymoney BT53 8PX  
Tel: 028 2074 1514  
Email: irwinsofgardenvale@gmail.com

**Re: William John Tate**  
**Late of: 7 Railway View, Derrriagh, Dunmurry and 5 Belsize Court, 189 Belsize Road, Lisburn**  
Would anyone having knowledge of the whereabouts of a Will made by the above named please contact:  
*Skelton Callender Solicitors*  
*The House of Vic-Ryn Moira Road*  
Lisburn BT28 2RF  
Tel: 028 9252 8170  
Fax: 028 9252 8171  
Email: dawn@skeltoncallender.com

**Re: Isobel Cunningham (deceased)**  
**Late of: 39 Hamill Street, Belfast BT12 4AA**  
**Date of Death: 23 May 2015**  
We currently hold a copy of the above named deceased's Will. Would anyone having knowledge of the whereabouts of the original Will please contact:  
*Nichola Harte*  
*Harte Coyle Collins Solicitors*  
9-15 Queen Street  
Belfast BT1 6EA  
Tel: 028 9027 8227  
Fax: 028 9072 7830  
Email: nharte@hartecoylecollins.com

**Re: Mr Ian Thomas Maye**  
**Late of: 89 Locksley Park, Belfast BT10 0AT**  
Would any person having any knowledge of the whereabouts of a Will made by the above named contact the undersigned as soon as possible:  
*Alex Wong*  
*Flynn & McGettrick Solicitors*  
9 Clarence Street  
Belfast BT2 8DY  
Tel: 028 9024 4212  
Email: a.wong@fmgssolicitors.com

**Re: John Francis William Bingham**  
**Late of: Flat 51, Clarendon Court, Clarendon Street, Belfast BT9 6UA**  
**Previously of: 108 Melrose Street, Belfast BT9 7DQ**  
**Date of Death: 24 April 2017**  
Would any person having knowledge of the whereabouts of a Will made by the above named deceased please contact:  
*Melanie Bond*  
*Thompson Mitchell Solicitors*  
12 - 14 Mandeville Street  
Portadown  
County Armagh BT62 3NZ  
Tel: 028 3833 7172  
Fax: 028 3835 0950  
Email: melaniebond@thompsonmitchell.co.uk

**Re: George Frederick Morton**  
**Date of Birth: 27 March 1932**  
**Date of Death: 3 February 2017**  
**Late of: 48 Templemore Avenue, Belfast BT5 4FT**  
**Formerly of: 161 Castlereagh Road, Belfast BT5 5FG**  
If anybody has knowledge of the whereabouts of any Will made by the above named deceased please contact:  
*Tim McQuoid*  
*Tim McQuoid Solicitors*  
2nd Floor, 432-434 Ormeau Road  
Belfast BT7 3HY  
Tel: 028 9064 4888  
Fax: 028 9002 0512  
Email: tim@mcquoidsolicitors.com

**Re: Cormac Murray**  
**Formerly of: 7 Mizzen Gardens, Belfast BT11 9GQ**  
**Date of Death: 19 May 2011**  
If anybody has knowledge of the whereabouts of an original Will made by the above named deceased please contact:  
*MacElhatton Solicitors*  
58 Andersonstown Road  
Belfast BT11 9AN  
Email: info@macelhatton.com

**Re: George McCausland (deceased)**  
**Late of: Broadways Nursing Home, Larne BT40 1LT**  
**Date of Death: 15 June 2017**  
To any person holding or knowing the whereabouts of the last Will of the above named deceased please contact:  
*Paul Fitzsimons*  
*Fitzsimons Mallon Solicitors*  
6 John Mitchel Place  
Newry  
County Down BT34 2BP  
Tel: 028 3026 2269  
Fax: 028 3026 5660  
Email: pfitzsimons@fm-law.co.uk.

**Re: Mr Howard McIlwrath**  
**Late of: 63 Banbridge Road, Dromore, County Down**  
**Date of Death: 12 August 2017**  
Could anyone having knowledge of any Will made by the above named Deceased please contact:-

*Gillen & Co*  
*Solicitors*  
218/220 Kingsway  
Dunmurry  
Belfast BT17 9AE  
Tel: 028 9061 2144  
Email: [ian@michaelgillen.co.uk](mailto:ian@michaelgillen.co.uk)  
*co.uk*

**Re: Richard Bernard Maxwell (deceased)**  
**Late of: Park Manor Nursing Home, 6 Thornhill Road, Dunmurry, Belfast BT17 9EJ**  
**Formerly of: Killynure House House, Carryduff, County Down**  
**Date of Death: 16 August 2017**  
Would anyone having knowledge of the Will of the above named deceased please contact:  
*Liam Quinn*  
*Donnelly & Wall*  
*Solicitors*  
19-27 Church Street  
Belfast BT1 1PG  
Tel: 028 9023 3157  
Email: [liam@donnellyandwall.co.uk](mailto:liam@donnellyandwall.co.uk)

**Re: Kathleen Philomena McKee (deceased)**  
**Late of: Greenpark Nursing Home, 15 Keady Road, Armagh**  
**Formerly of: 20 Caramoyle, Racarbry, Keady, County Armagh**  
**Date of Death: 23 August 2017**  
Would anyone having knowledge of the Will of the above named deceased please contact:  
*Sharon Keeley*  
*Solicitor*  
5 College Street  
Armagh  
County Armagh

**Re: Thomas John McParland (deceased)**  
**Late of: 49E Downshire Avenue, Lurgan BT66 8SE**  
**Date of Death: 20 December 2016**  
Would any person having any knowledge of the whereabouts of a Will made by the above named deceased please contact the undersigned as soon as possible:

*Conor Downey & Co*  
*Solicitors*  
Unit 8, First Floor  
Legahory Centre  
Craigavon BT65 5BE  
Tel: 028 3834 9911  
Email: [Craigavon@conordowney.co.uk](mailto:Craigavon@conordowney.co.uk)

**Re: Stephen Spraggon (deceased)**  
**Late of: 78 Clanmaghery Road, Downpatrick, County Down BT30 8SU**  
**Date of Birth: 16 June 1954**  
**Date of Death: 23 July 2017**  
Would any person having any knowledge of the whereabouts of a Will made by the above named deceased please contact the undersigned as soon as possible:  
*Brian Feeney & Co*  
*Solicitors*  
20-22 Market Street  
Downpatrick  
County Down BT30 6LY  
Tel: 028 4461 6895/028 4461 5153  
Email: [info@brianfeeneysolicitors.co.uk](mailto:info@brianfeeneysolicitors.co.uk)

**Re: Mary Theresa McDowell**  
**Late of: Lisburn Intermediate Care Home, 119B Hillsborough Road, Lisburn**  
**Previously: 78 Hillsborough Old Road, Lisburn BT27 5EP**  
**Date of Death: 10 October 2017**  
Would anyone having knowledge of any will by the above named deceased please contact:  
*Reid & Co Solicitors*  
48 Bachelor's Walk  
Lisburn BT28 1XN  
Tel: 028 9266 3310  
Email: [info@creidco.com](mailto:info@creidco.com)

**Re: Roy Kirkpatrick (deceased)**  
**Late of: 22 Beechgrove, Antrim BT41 2BW**  
**Date of Death: 20 October 2017**  
Would anyone having knowledge of any Will made by the above-named deceased please contact:  
*Mr Raymond Wilson*  
*RJW Law*

*Solicitors*  
*Lesley Suites*  
1st Floor, 2-12 Montgomery Street  
Belfast BT1 4NX  
Tel: 028 9521 3111  
Fax: 028 9031 9884  
Email: [rwilson@rjw.legal](mailto:rwilson@rjw.legal)

**Re: John Joseph Mullan (deceased)**  
**Late of: 13 Robert Street, Waterside, Londonderry BT47 4ET**  
**Date of Death: 11 June 2017**  
Would anyone having knowledge of the whereabouts of a Will for the above-named deceased please contact:  
*Brendan Kearney & Co*  
*Solicitors*  
4 Clarendon Street  
Londonderry BT48 7EX  
Tel: 028 7136 6612  
Fax: 028 7137 1845

**Re: James Brady (deceased)**  
**Formerly of: 63 Greenview Avenue, Antrim BT41 4EJ**  
**Date of Death: 18 October 2017**  
Would anyone having any knowledge of any Will for the above-named deceased please contact:  
*Small & Marken*  
*Solicitors*  
65 Church Street  
Antrim  
County Antrim BT41 4BE

**Re: William John Fleming (deceased)**  
**Formerly of: 10 Beechmount Park, Belfast BT10 0GZ**  
**Date of Death: 22 April 2003**  
Would anyone having any knowledge of any original Will made by above-named deceased please contact:  
*Gilmore Solicitors*  
202 Andersonstown Road  
Belfast BT11 9EB  
Tel: 028 9030 9037  
Fax: 028 9030 9038  
Email: [mail@gilmore-solicitors.com](mailto:mail@gilmore-solicitors.com)

**Re: Ann Hanley (deceased)**  
**Previously known as Ann Kierans and Ann Tajti**  
**Late of: 201 Ballycolman Estate, Strabane, County Tyrone**  
**Date of Death: November 2007**  
Would anyone having any knowledge of the whereabouts of any Will made by above-named deceased please contact:  
*Oliver Roche & Co*  
*Solicitors*  
2-4 Bowling Green  
Strabane  
County Tyrone BT82 8BW  
Tel: 028 7188 3377

**Re: Brian Allen (deceased)**  
**Late of: 21 Orchardville Avenue, Belfast, County Antrim BT10 0JH**  
**Date of Death: 15 January 2017**  
Would any person having knowledge of the whereabouts of a Will made by the above named deceased please contact:  
*Napier & Sons Solicitors*  
1-9 Castle Arcade  
Belfast BT1 5DF  
Tel: 028 9024 4602  
Fax: 028 9033 0330  
Email: [joe@napiers.com](mailto:joe@napiers.com)

**Re: Doreen (aka Dorcas) Allen (a patient)**  
**Of: 21 Orchardville Avenue, Belfast, County Antrim BT10 0JH**  
Would any person having knowledge of the whereabouts of a Will made by the above named person please contact:  
*Napier & Sons Solicitors*  
1-9 Castle Arcade  
Belfast BT1 5DF  
Tel: 028 9024 4602  
Fax: 028 9033 0330  
Email: [joe@napiers.com](mailto:joe@napiers.com)

**Re: Patrick Savage (deceased)**  
**Late of: 22 Rockfield Heights, Ballyholland, Newry, BT34 2DD**  
**Date of Death: 2 December 2017**  
Would anyone having any knowledge of the whereabouts of any Will made by the above named deceased please contact:  
*Eoin McConville*  
*Fisher & Fisher*

Solicitors  
9 John Mitchel Place  
Newry BT34 2BP  
Tel: 028 3026 1811  
Fax: 028 3026 6695  
Email: eoin.mcconville@  
ffsolicitors.com

**Re: William John Liddell  
(deceased)**

**Late of: 9 Bowland Heights,  
Newtownards, County Down  
BT23 8SA**

**Date of Death: 14 November  
2004**

Would any person having any  
knowledge of the whereabouts of  
a Will made by the above named  
deceased please contact:

Joseph F McCollum & Company  
Solicitors  
52 Regent Street  
Newtownards  
County Down BT23 4LP  
Tel: 028 9181 3142  
Fax: 028 9181 2499  
Email: joe@josephmccollum.co.uk

**Re: Merinda Gregg (deceased)  
Late of: 18 Aughnacloy Road,  
Banbridge, County Down BT63  
5QQ**

**Date of Death: 15 December  
2017**

Would anyone having any  
knowledge of the whereabouts of  
a Will made by the above named  
deceased **from** 10 October 2001  
(this is the date of the last Will  
which we presently hold) please  
contact:

Paula Morrow  
Trevor McBurney & Co  
Solicitors  
37-39 Rathfriland Street  
Banbridge  
County Down BT32 3LA

**Re: Rachael Anderson  
(deceased)**

**Late of: 7 St Mark's Court, 19  
Church Street, Newtownards,  
County Down  
BT23 4WU**

**Date of Death: 8 January 2017**

Would any person having any  
knowledge of the whereabouts of  
a Will made by the above named

deceased please contact:

Joseph F McCollum & Company  
Solicitors  
52 Regent Street  
Newtownards  
County Down BT23 4LP  
Tel: 028 9181 3142  
Fax: 028 9181 2499  
Email: joe@josephmccollum.co.uk

**Re: Jack McGuckin  
Late of: 12 Hillside Road,  
Castledawson BT46 5SD**

**Date of Death: 8 January 2018**

Would any person having any  
knowledge of the whereabouts of  
a Will made by the above named  
deceased please contact:

Mallon McCormick Solicitors  
Limited  
Station Master's House  
16 Station Road  
Maghera  
BT46 5BS  
Tel: 028 7964 2670  
Fax: 028 7964 4655

**Re: John Stewart  
Late of: 18 Grove Terrace,  
Maghera BT46 5BW**

**Date of Death: 16 January 2018**

Would any person having any  
knowledge of the whereabouts of  
a Will made by the above named  
deceased please contact:

Mallon McCormick Solicitors  
Limited  
Station Master's House  
16 Station Road  
Maghera  
BT46 5BS  
Tel: 028 7964 2670  
Fax: 028 7964 4655

**Re: Patrick Lagan  
Late of: 45 Halfgayne Road,  
Maghera BT46 5NL**

**Date of Death: 23 November  
2017**

Would any person having any  
knowledge of the whereabouts of  
a Will made by the above named  
deceased please contact:

Mallon McCormick Solicitors  
Limited  
Station Master's House  
16 Station Road  
Maghera

BT46 5BS  
Tel: 028 7964 2670  
Fax: 028 7964 4655

**Re: Patrick Joseph Crilly  
Late of: 111 Ballydown Court,  
Glen Road, Belfast  
Date of Death: 22 January 2018**

Would any person having  
knowledge of the whereabouts of  
a Will made for the above named  
deceased please contact the  
undersigned as soon as possible:

Alex Wong  
Flynn & McGettrick  
Solicitors  
9 Clarence Street  
Belfast BT2 8DY  
Tel: 028 9024 4212  
Fax: 028 9023 6490  
Email: a.wong@fmgssolicitors.com

**Re: Jeannie Renwick  
Late of: 27 Middle Road,  
Islandmagee, Larne, County  
Antrim BT40 3SL**

**Date of Death: 4 November  
2007**

Would any person having any  
knowledge of the whereabouts of  
a Will made for the above named  
deceased please contact the  
undersigned as soon as possible:

Mark Shannon  
Bernard Campbell & Co  
Solicitors  
17 High Street  
Carrickfergus BT38 7AN  
Tel: 028 9336 9033  
Email: mark.shannon@  
bernardcampbell.co.uk

**Re: Hugh Nelson (deceased)  
Formerly of: 73 Killaughey  
Road, Donaghadee, County  
Down BT21 0BQ**

**Date of Death: 4 April 2017**

Would any person having any  
knowledge of the whereabouts of  
a Will made for the above named  
deceased please contact the  
undersigned as soon as possible:

Ruth Graham  
Thompsons  
Solicitors  
39 Frances Street  
Newtownards  
County Down BT23 7DW

Tel: 028 9181 1652  
Fax: 028 9181 9645

**Re: William Edward McCaughey  
(deceased)**

**Late of: 11C Notting Hill, Belfast  
BT9 5NS**

**Date of Death: 2 November  
2017**

Would any person having any  
knowledge of the whereabouts of  
a Will made for the above named  
deceased please contact the  
undersigned as soon as possible:

Jade Gabriel  
Cleaver Fulton Rankin  
50 Bedford Street  
Belfast BT2 7FW  
Tel: 028 9027 1725  
Fax: 028 9024 9096  
Email: j.gabriel@cfrlaw.co.uk

**Re: Rosaleen McKee (deceased)  
Late of: 25 Carlisle Road, Belfast  
BT15 2PT**

Would any person having any  
knowledge of the whereabouts of  
a Will made for the above named  
deceased please contact the  
undersigned as soon as possible:

Joe Napier  
Napier & Sons  
1/9 Castle Arcade  
Belfast BT1 5DF  
50 Bedford Street  
Belfast BT2 7FW  
Tel: 028 9024 4602  
Fax: 028 9033 0330  
Email: joe@napiers.com

**Re: James Hamilton (deceased)  
Late of: 65 Upper Lisburn Road  
Belfast BT10 0GY**

**Date of Death: 22 December  
2017**

Would any person having any  
knowledge of the whereabouts of  
a Will for the above named  
deceased, please contact the  
undersigned as soon as possible:

Philip Gallen & Company  
Solicitors  
195 Lisburn Road  
Belfast BT9 7EJ  
Tel: 028 9066 3364  
Fax: 028 9038 1134  
Email: info@philipgallen.co.uk

**Re: Anna Patricia May Cummings**

**Address: 50 Tobergill Gardens, Antrim BT41 1AW**

**Previous Address: 59A Castlerobin Road, Belvoir Park, Belfast BT8 7DX**

**Date of Death: 8 February 2018**

Would any person having any knowledge of the whereabouts of a Will made by the above named deceased please contact the undersigned as soon as possible:

Helen McGregor  
O'Rorke McDonald & Tweed

Solicitors  
37 – 39 Church Street  
Antrim

Co Antrim BT41 4BD  
Tel: 028 9446 3108

Email: helen.mcgregor@omtsolicitors.com

**Re: Edward McVey**

**Address: 22 Rogully Road, Ballygillen, Cookstown, County Tyrone**

**Date of Death: 12 January 2018**

Would any person having any knowledge of the whereabouts of a Will made by the above named deceased please contact the undersigned as soon as possible:

*Bernadette Mulholland Solicitors*

37, King Street

Magherafelt

BT45 6AR

DX 3305 NR Magherafelt

**Re: Mabel Florence McClure (deceased)**

**Late of: Mount Lens Care Home, 166 King's Road, Belfast BT5 7EL**

**Formerly of: 166 Gilnahirk Road, Belfast BT5 7QR**

**Date of Death: 1 March 2018**

Would any person having any knowledge of the whereabouts of a Will made by the above named deceased please contact the undersigned as soon as possible:

*Johnsons Solicitors*

Johnson House

50-56 Wellington Place

Belfast BT1 6GF

Tel: 028 9024 0183

## Missing Title Deeds

**Premises: 187 Obins Street, Portadown, County Armagh BT62 1BU**

Would any person having knowledge of the whereabouts of Title Deeds relating to the above property please contact:

*John McGrane*

*Solicitor*

*John McGrane & Co*

*46A Meadow Lane*

*Portadown*

*County Armagh BT62 3NJ*

*Tel: 028 3839 1787*

*Fax: 028 3839 1813*

*Email: john@jmcgranesolicitor.com*

**Property at: 74 Elmwood Drive, Bangor BT20 3LL**

**Owner: Rebecca Lee Campbell otherwise known as Ruby Campbell (deceased)**

If any persons have knowledge of the whereabouts of the Title Deeds to the above property, would they please contact:

*William J McCoubrey*

*McCoubrey-Hinds*

*Solicitors*

*61 Main Street*

*Bangor BT20 5AF*

*Tel: 028 9127 1916*

*Fax: 028 9127 1315*

*Email: wmccoubrey@*

*mccoubreyhinds.co.uk*

**Re: Hugh Nelson (deceased)**

**Formerly of: 73 Killaughey Road, Donaghadee, County Down BT21 0BQ**

**Date of Death: 4 April 2017**

Would any solicitor having any knowledge of the Title Documents for the above property please contact the undersigned as soon as possible:

*Ruth Graham*

*Thompsons*

*Solicitors*

*39 Frances Street*

*Newtownards*

*County Down BT23 7DW*

*Tel: 028 9181 1652*

*Fax: 028 9181 9645*

**Owners: Mr Thomas W.**

**McCullough & Mrs Martha M.**

**McCullough**

**Property Address: 127 My Ladys**

**Road, Belfast BT6 8FE**

**County: Down**

Take notice that any person having custody of or information as to the whereabouts of the Lease dated 31 December 1966 between Maureen W. Cameron and Donald L.W. Lillington and relating to the above mentioned property should forthwith produce said Lease or communicate such information to the under mentioned solicitors.

And take further notice that unless the said Lease is so produced or adequate information as to its whereabouts is so communicated within three weeks of publication of this notice, a duplicate, certified copy of said Lease may be applied for.

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Please contact: [helen934267@gmail.com](mailto:helen934267@gmail.com)







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

(Registered Charity No: XN52409).

(Inland Revenue Gift Aid Scheme Code: EAP76NG).

(Registered with The Charity Commission for Northern Ireland: NIC100399)

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