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4	Committee Members and Member Firms
5	Editor's Introduction
5	President's foreward
6	News
7	News
8	News
9	News
10	The Worcestershire Law Society Awards Dinner 2014
15	The Majority of Britons Have No Will and Should Act Fast
16	Law Society backs legal challenge by Rights of Women to restore access to legal aid for victims of domestic violence
17	Tree Preservation Orders
20	Going International
14	LSSA gives law firms advice to counter cybercrime threats
15	Professional Indemnity
	Lord Faulks: Courts Should be The Last Resort

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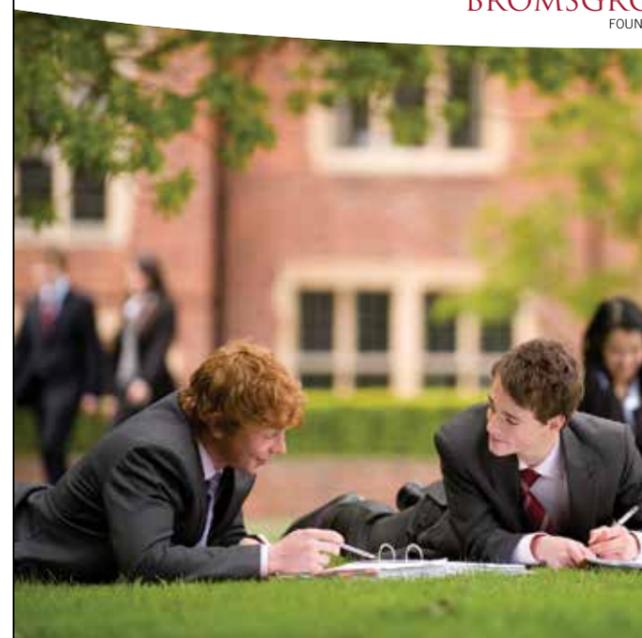
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Editor's introduction



I would like to congratulate all of our nominees and winners of the first WLS President's Awards. There has been much PR coverage of the event and I welcome you to this special Awards edition of the Pears Magazine that captures a snapshot of what was a hugely successful evening.

May I thank everyone who took part and with your continued support I hope the event goes from strength to strength and will look forward to next years.

If you would like to contribute to the next issue and our regular features, all pieces welcomed and by 1 September 2014. To be kept updated of WLS news and events take a look at our website www.worcestershirelawsociety.org.uk or follow us on Twitter via @WorcsLawSociety.

Kirsten Bridgewater
Editor, for and on behalf of the WLS.
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Past-President's foreword:



I have been asked by the Committee to write a contribution to this edition of the Pears as your now immediate past president.

I have very much enjoyed my year as President and it has been an honour and pleasure to have been able to serve the Society in this way. It has certainly been a very busy 12 months.

The profession continues to face challenges particularly in publicly funded areas of work such as family and criminal legal aid. We have endeavoured to keep the members abreast of these changes and have engaged in the consultations whenever we have been able to do so.

My aim when I took office was to continue the good work of past presidents and to keep the Society relevant to its members. I was keen to see how we could recognise the skills of our local practitioners and the Annual Awards Night idea gave us the opportunity to do this. A lot of hard work and planning went into the night and I do hope that those that attended had a very enjoyable night. I have no doubt that this event will go from strength to strength and the Awards themselves will be highly valued by those receiving them. I would like to thank the Committee for the support it has given me and for its hard work on behalf of the members. And finally may I wish Nick Hughes all the very best as this Year's President and I hope that he has as an enjoyable year as President.

Iain Morrison
Past-President

President's foreword: Welcome & Introduction

First I should like to thank all members of the Society for electing me your President. I shall try and work over my Presidential year to benefit you all and honour the heritage bound up in a Society that is 163 year's old whilst building on our recent successes in modernising as and where appropriate.

I must thank our outgoing President, Iain Morrison, for what has been a very successful year culminating in the outstanding Award's Dinner at The Chateau Impney which we are looking to repeat, with a few changes in 2015 - details of the Categories and Dinner to follow in due course.

Within a few days of being elected our Secretary, Tom Evans, and I travelled to London for the Law Society's Presidents and Secretaries Conference where we were able to network with many other Local Law Society Officers and pick each other's brains for ideas and experiences in developing our Societies as well as listening to experts in the field. The opportunity was also taken to challenge the National Society about some of their decisions over the last year particularly about how they handled the Legal Aid issue.

As often is the way when you come back from such a conference on the train Tom and I had lots of ideas about how to expand membership, how better to communicate with members and other professionals and indeed the public who too often have the wrong idea of what being a Lawyer involves. Some of these will need a lot of work but we have already put in train some of the strategies.

I am sure those of us who have been in the profession for a while are used to this almost "punch drunk" sensation following SRA strategies and consultations, Legal Aid Challenges and in my area the ever changing requirements of Lender's Panels and the Land Registry apparently wanting to control the whole conveyancing process. Picking up on just the SRA and two of their ideas - first abandoning compulsory CPD hours and secondly doing away with accountant's reports. I cannot see how this is going to help the Public's perception of the profession and in my view these are very dangerous proposals

which, as they are driven by a seeming lack of manpower and resources to monitor them, I am sure will go through. I do not think however that a problem in monitoring as SRA are seemingly over burdened with qualified Accountant's Reports owing to minor breaches should be a reason for abandonment. A better definition of minor breaches would, to my mind, solve the problem! I hope I am proved wrong and my concerns are groundless - we shall see.

Nick Hughes
President

A couple of compliance reminders

- 1 Later this year (probably October now) the Consumer Credit Regulations change as the old group licence held by the Law Society comes to an end. Your firm may need its own licence unless your work is exempt. See information on SRA website.
- 2 From June 13th the Consumer Contracts Regulations 2013 come into force. Your terms of business will probably need amending and if you do much of your work, or your instructions are given, off premises or at a distance then you will have to be aware of the further requirements. There is a Practice Guide (although some things remain to be clarified and there are no precedents to help) on the Law Society's website.

Court of Appeal ruling will make civil litigation less adversarial and more co-operative after Law Society intervention



The Court of Appeal has today handed down a crucial judgment which will make civil litigation in England and Wales less adversarial and more co-operative.

Following an intervention by the Law Society in three linked appeals, the Court of Appeal has decided to issue guidance which will clarify the way civil litigation is conducted.

The Law Society had called for clear guidance on costs sanctions and a re-emphasis of parts of the law to make civil litigation less adversarial and more co-operative.

The significance of today's ruling is that it will help to clarify the interpretation of Civil Procedure Rules and the Court of Appeal's earlier guidance in the leading case of Mitchell -v- News Group Newspapers Ltd, which led to significant issues for all solicitors involved in litigation.

The Law Society said the Mitchell decision had a 'significantly detrimental' effect on the conduct of civil litigation as the judgment's strict application of case management rules has led to 'a raft of satellite litigation' that has clogged up the courts. It has also led to inconsistent lower court decisions and a much more adversarial, non-cooperative litigation culture with increased costs.

Having considered the Law Society's argument the Court of Appeal has now set out and explained a three-stage test to be applied. The court anticipates that a contested application for relief from sanctions should now be exceptional and it has warned the profession that 'opportunism' would be penalised.

Commenting on the judgment Law Society chief executive Desmond Hudson said:

'The Court of Appeal's decision in these three cases and their conclusion that the earlier judgment in Mitchell had been misunderstood and misapplied by some courts is welcome news for solicitors.

'I am pleased to say that as a result of the submissions which were made by the Society, and which were gratefully welcomed by the court, further guidance has been issued. The court's previous decision in Mitchell and the way it was being applied by the lower courts had resulted in disproportionate penalties and a breakdown in co-operation between parties to litigation, clogging up the system and introducing huge uncertainty into the whole process of civil litigation. This in turn had led to a significant amount of unnecessary satellite litigation, a waste of costs and court resources and the risk of big increases in professional indemnity insurance costs for our members.

'The guidance has clarified the factors which the court believes should be taken into account.

'This decision is a success for the Law Society who intervened on behalf of our members and for common sense. We will, of course, continue to closely monitor the litigation process to ensure that the problems since Mitchell now fall away. If the problem of interpretation of the rules is to be eradicated then we also need the courts to be more consistent in the application of the rules.'

Law Society says law firms at risk of computer malware



The Law Society is urging solicitors to take action against malicious software that encrypts data on computers.

Solicitors are among the professional groups warned by the government to protect their computers against the powerful virus which encrypts personal and financial data and holds it hostage.

An operation led by the FBI has managed to take control of the servers behind the malicious software. The National Crime Agency has now given computer users a two-week window to deal with malware, known as GameOver Zeus. An estimated 15,000 computers in the UK may be infected.

Law firms can find advice on the immediate action they should take to deal with the GOZeus malware by visiting the government's GetSafeOnline website. Because this website is currently overloaded due to heavy demand solicitors may wish to visit the government's Computer Emergency Response Team (CERT-UK) website.

Timothy Hill, technology policy adviser at the Law Society said

"In the longer term this is an opportunity for law firms to review their cyber resilience. The Law Society can sponsor law firms to join other solicitors as part of CERT-UK's Cyber-security Information Sharing Partnership (CiSP) and law firms may also wish to consider signing up to be accredited to the government's forthcoming Cyber Essentials Scheme."

The Law Society provides a wide range of advice on cyber security. For more information, including joining CiSP, please visit the cyber security hub at

<http://www.lawsociety.org.uk/advice/cyber-security/>

Law Society Responds to Reports That Wonga Used Bogus Legal Letters to Bully Debtors

The Law Society has responded to news that the Financial Conduct Authority has ordered Wonga, the payday lender, to compensate 45,000 customers after evidence emerged it sent bullying letters from fake law firms to threaten customers who were behind on repayments.

The Law Society described reports that Wonga issued letters from fake law firms to threaten customers who were behind on repayments as alarming both to the public and to Law Society members.

The case has highlighted a loophole where organisations and individuals can pass themselves off as legal professionals by calling themselves legal firms.

Responding to the news that consumer groups and an MP are demanding a police inquiry into Wonga, a Law Society spokesperson said: "We are writing to the Financial Conduct Authority and the Solicitors Regulation Authority and the police about this. We are establishing the facts. The case has highlighted a number of important issues around organisations and individuals presenting themselves in a misleading way so that the public believe them to be regulated legal professionals, such as solicitors."

In an interview with BBC Newsnight on Wednesday Law Society vice president Andrew Caplen said it was concerning that Wonga's customers were treated in this way. He explained that people can call themselves law firms as the term is not protected. However they cannot



call themselves solicitors. The problem, however, is that consumers often do not understand the differences.

Under the 1974 Solicitors Act, anyone unqualified holding themselves out as a solicitor can be jailed for up to two years.

However, Wonga did not use the protected term and the Law Society continues to establish the options to protect consumers and solicitors.

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I am frequently instructed in cases where the claimant has been exposed to atmospheric contamination from faulty or incorrectly installed gas appliances. Almost always, the injury is described as 'carbon monoxide (CO) poisoning'. In very few cases are there measurements of carbon monoxide in the room air or measurements of carboxy-haemoglobin levels in blood within a few hours of the last exposure. This makes exposure to CO difficult to prove. Even where there is carbon monoxide exposure, it is usually not the cause of the symptoms and the effect falls short of what would normally be regarded as poisoning. In the case of fumes arising from gas fires and central heating boilers, the exposure is best described as 'flue gases'. In the case of cooking equipment, the exposure is best described as 'gaseous products of natural gas combustion and cooking fumes'.

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Government Announces Serious Crime Bill

The Serious Crime Bill 2014-15 was introduced by the government in the House of Lords on 5 June 2014.

Part 3 of the Bill seeks to enhance the ability of law enforcement agencies to prosecute those responsible for serious and organised crime.

Notably, it will create a new offence of participation in an organised crime group, which is intended to target 'professional enablers' - including solicitors, accountants and other professionals - who help criminals to carry out their activities.

It will be an offence to participate in an organised crime group's activities if you know, or have reasonable cause to suspect, that those activities are criminal, or that your participation will help to carry on criminal activities.

This offence will rely on proving the active relationship with the organised criminality, so you will have to have done something to take part in the crime (for example deliver packages, rent warehouse space, written a contract).

The offence will have a maximum penalty of 5 years' imprisonment.

The burden of proof is low (reasonable cause to suspect), and it is not clear from the Bill how far you would need to go to satisfy yourself that: the service you are providing is not assisting criminal activities down the line somewhere, and

you had carried out a level of due diligence that to a level that would ensure that you could not be said to have turned a blind eye to criminal activity.

The Law Society is already engaging with parliament to raise awareness of the implications of Bill for the profession, and the Law Society's Money Laundering Task Force assisted in producing a briefing paper for peers in advance of the Bill's Second Reading in the House of Lords on 16 June.

In addition to the low burden of proof, the primary concerns with Part 3 of the Bill are: the breadth of the offence; the overlap with existing criminal and money laundering offences; and the additional administrative burdens caused by a potential increase in due diligence measures.

The Law Society's briefing paper was mentioned during the Second Reading debate, as was the fact that the Home Office had failed to consult with any of the professions in advance of this Bill being published.

In response, Lord Taylor of Holbeach, the Minister in charge of the Bill, stated during the debate that the Home Office will shortly be meeting with both the Law Society and ICAEW to discuss their concerns with the Bill.

The next stage in the legislative process is the Committee Stage, which was scheduled to begin on 2 July.

New Consumer Contracts, Client Retainers and CFAs

The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 came into force on 13 June 2014.

The regulations apply to contracts entered into on or after that date and impose a new statutory regulatory regime for certain consumer contracts.

Solicitors will need to review their standard retainers, client care letters and model agreements.

The new regulations apply to solicitors' retainers but only where the client is a consumer and the contract is entered into:

- on the solicitors' premises
- away from the solicitors' premises or following discussions which have taken place there
- at a distance as part of an organised distance sales service

The regulations also extend the previous cancellation period of seven days to 14 days.

The Law Society published a practice note on 15 May which sets out further details of the new regulations.

Please note: The Consumer (Distance Selling) Regulations 2000 and the Cancellation of Contracts made in a Consumer's Home or Place of Work Regulations 2008 will no longer apply to any consumer contract entered into on or after 13 June 2014.

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The Worcestershire Law Society Awards 2014

Following an excellent launch on 25 September 2013, we knew the inaugural Worcestershire Law Society's Annual Legal Awards was set to be a special event and we were not disappointed.

The 11 April 2014 saw the spectacular Awards Dinner held at the Chateau Impney Hotel start with a champagne reception. The master of ceremonies Mr Phil Mackie led the way and our guest speaker for the evening was His Honour Judge William Davis QC, who kept all those present captivated. Ministry of Soul a wonderful 9 piece band rounded off a fantastic evening.

The event showcased the depth of legal talent we have here in Worcestershire and our thanks to everybody who took part.

The Awards went to Priya Tromans of Harrison Clark Rickerbys Solicitors - Trainee Solicitor of the Year; Alexandra Phillips of MFG solicitors and Kirsty-Ann Gilmour of Harrison Clark Rickerbys Solicitors - joint winners of Young Solicitor of the Year; Lesley Bartlett of HallmarkHulme Solicitors - Solicitor of the Year; Penny Raby & Co. - Professional Discipline - Family Law; Harrison Clark Rickerbys Solicitors - Innovation Award- Website; and William Stallard of SME Solicitors - Lifetime Achievement. Congratulations.

Sponsored by Anja Potze Fine Jewellery Ltd; Matt Hampson Foundation; Morgan Motor Company; Crown & Sandys Ombersley; Severn Trent Services; Wesleyan for Lawyers.



From left to right: Iain Morrison, Lesley Bartlett (Hallmark Hulme), Anna Roby-Welford (HCR), Priya Tromans, Penny Raby (Penny Raby & Co), Kirsty-Ann Gilmour (HCR), William Stallard (SME) Alexandra Phillips (MFG) Award Winners - Andrew & Priya Tromans - Rebecca & Billy Blaymires - Iain & Lisa Morrison - Tom Evans (Russell & Co), James Sommerville (Thomas Horton) - Peter Simner (MFG), Tony Gibb (Thursfields), Nick Hughes (WLS President, Painters) - Rebecca Randle, David Howarth (both Painters Solicitors) - Billy Blaymires, Lisa Morrison, Iain Morrison (WLS President, MFG), Rebecca Blaymires (Wesleyan for Lawyers) - Rebecca & Billy Blaymires - Asim Khan, Anna Roby-Welford, Tom Williams (all HCR) - Liz Simner, Gurdip Kaur-Brring, Rachel Summers, Tracy Parry, Alexandra Phillips (all MFG) - Molly Giles, Lorna Borthwick (both Cornwall Street Chambers) - Lyndsey Hedley, Stephen Foster (Hallmark Hulme).



From left to right: Bill Stallard (SME) with Lifetime Achievement Award - Maynard Burton (MFG), Lorraine Henry (Henry Pepper PR), Stuart Henry (Henry Pepper PR) - Rebecca Widdowson (Hallmark Hulme), Lisa Morrison, Lyndsey Hedley - Phil Mackie (BBC New Correspondent) - Kevin & Debbie Joynes - Kirsty-Ann Gilmour, Priya Tromans, Anna Roby-Welford (all HCR) - Mike Gordon, Mark Lathwood, John Court-Jones, Sharon Thompson, Penny Raby, Eve Bugeja, Louise Hewett, Jo Lunn - Iain Morrison (WLS Past-President, MFG) - Dante & Carmel Friend (Douglas Scott Recruitment) - Helen & James Sommerville - Molly Giles, Lorna Borthwick (both Cornwall Street Chambers) - His Honour Judge William Davis QC, Recorder of Birmingham.

Words from the winners...

Alex Phillips - Joint winner of the Young Solicitor of the Year Award 2014

It was an honour to be nominated by my firm for Young Solicitor of the Year 2014. I began my legal career with mfg Solicitors as a paralegal in September 2010 and was thrilled to be given the opportunity to complete my Training Contract with the firm, qualifying in September 2013.

As a Trainee Solicitor and now as a young Solicitor I have received nothing but the utmost support from my colleagues at mfg. As a profession we never stop learning and it is important to know as a young Solicitor that there is someone more experienced than you who is available to help, or simply to discuss issues with. It is because of this environment that I am where I am today.

Before the awards night itself I had not let myself think too much about the possibility of the winning the award, despite my parents talking about it constantly! Hearing my name read out and my colleagues and friends cheering is one of the proudest moments of my life and a memory that will stay with me for a long time.

I am absolutely thrilled to have been recognised by the Worcestershire Law Society at the inaugural awards night. As a newly qualified solicitor there is no better way to be told that all the hard work you have put in over the years was absolutely worth it. At the risk of sounding a little corny, it also felt like a fantastic way to thank my family and friends and mfg for all the support they have given me.

I have no doubt that the Worcestershire Law Society Awards will go on to become the highlight of the County's legal calendar.





From left to right: Laura Moore (MFG), Lizzie Wiltshire (MFG), Alexandra Phillips (MFG), Lisa Morrison - Laura Colley, Adrian Harling, Louise Adams (all Painters Solicitors) - Chateau Impney Room Setting - Lesley Bartlett (Hallmark Hulme), Robin Ap Cynan (Lupus Mediation), Pat Beeching (SME) - Julian Powell (HallmarkHulme), Cath Mackie - Therese Hoyle, Brian Hulme, Anja Potze, Cath Mackie - Penny Raby (Penny Raby & Co.), Brian Hulme (Scoff & Quaff) - Professional Discipline (Family Law) - Lesley Barlett (HallmarkHulme), Steve Morris (Morgan Motor Company) - Solicitor of the Year - Chateau Impney Room Setting - Matt Hampson Foundation Silent Auction

From left to right: Lesley Bartlett (Hallmark Hulme) with Solicitor of the Year Award - Louise Hewett, Robin Ap Cynan, Penny Raby - June & Bill Stallard - Anna Roby-Welford (HCR) with Innovation Award (Website) - Iain Morrison, Bill Stallard, Ian Pugh - Lauren Hartigan-Pritchard, Amy Harron (both Thursfields) - Anja Potze (Anja Potze Fine Jewellery Ltd), Priya Tromans (HCR) - Trainee Solicitor of the Year - Kirsty-Ann Gilmour (HCR) Alexandra Phillips (MFG) - Young Solicitor of the Year - Penny Raby (Peny Raby & Co.) with Professional Discipline Award (Family Law) - Anna Roby-Welford (HCR), Owen Davies (Severn Trent Services) - Innovation Award (Website) - Rebecca Blaymires (Wesleyan for Lawyers), William (Bill) Stallard (SME) - Lifetime Achievement

Words from the winners...

Kirsty-Ann Gilmour - Joint Winner of Young Solicitor of the Year 2014

It was an honour just to be shortlisted for Young Solicitor of the Year 2014. I moved to Harrison Clark Rickerbys last year following two and a half years at a Birmingham based litigation practice. As soon as I arrived I was overwhelmed by the quality of legal work and talent in the region.

The opportunities available to me since moving to the region have been fantastic. As well as opportunities made available through the Worcestershire Law Society, I have enjoyed numerous good quality networking events which have provided chance to engage with the strong local community. The copious experiences gained through such events have allowed me the opportunity to be nominated for this award.

I didn't realise how much the award meant to me until the awards night itself. I was extremely nervous waiting for the winner's name to be called out; especially when the speaker described the winner as "straight talking and tenacious". I was thrilled when the speaker announced my name.

Winning the award is the proudest moment of my career to date. However, whilst it is a testament to the hard work and dedication that I have committed to my career, I also have a responsibility to ensure that I demonstrate to the Worcestershire Law Society and local community that I am worthy of the title. The award is an opportunity for me to reach out further into Worcestershire and prove that people do not need to look to Birmingham or London in order to obtain excellent quality legal assistance and that legal assistance is available to all.

Worcestershire is a vibrant hub of the legal profession and I am privileged to be part of the First Worcestershire Law Society Awards, helping to develop its reputation across the country.



Words from the winners...

Priya Tromans - Trainee Solicitor of the Year

Q: How did you get started in your career?

A: I came to the Law through a very unorthodox route. I qualified as a medical doctor in 2005. I loved medicine, but was unsure whether it was something I wanted to do forever. Life events all seemed to point towards the Law. It was a mammoth decision, but I thought it was best tried rather than regretted later. I knew I'd made the right decision within weeks of starting the GDL; I felt like I was using a whole different part of my brain that had been asleep before. After completing the GDL and the LPC, I was lucky enough to be offered a paralegal position at Harrison Clark Rickerbys...and the rest, as they say, is history.

Q: Why Worcestershire?

A: Well, I grew up in Worcestershire. After several years of living abroad, I came 'home' to start a family and Worcestershire is geographically convenient for so many places. Harrison Clark Rickerbys is a great place to work. Although the firm has grown considerably over the last few years, it has retained a friendly atmosphere, more in keeping with a small firm. We also get the opportunity to work in beautiful cities across the Three Counties, something I know I would miss if I worked in a big city firm.

Q: What does your award mean to you?

A: To be nominated by your peers to receive an award is a great feeling. As a trainee, you are moved from department to department and quite often you only find your feet when it's time to move on again. Ultimately it can cause a loss of confidence in your abilities because you feel like you're constantly starting again. My peers and the distinguished panel saw fit to award me with this accolade and I am immensely grateful for the honour.

Q: What's next?

A: I am pleased and excited to begin my career as a qualified solicitor advocate at Harrison Clark Rickerbys. As chair of the Junior Lawyers Division of the Law Society I am continually trying to improve communication between juniors in their respective firms, and introduce more people to the benefits of the WLS. Our socials and seminars are a great place to meet other junior lawyers and trade 'war stories'. So, what's next? Junior Solicitor of the Year 2015 of course!



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Almost two out of three Britons have not made a will and risk leaving a financial nightmare for family members when they die, warns the Law Society.

Research out today from the Dying Matters Coalition revealed that only 36 per cent of British adults say they have written a will, while 83 per cent reported being uncomfortable discussing their dying wishes. The research coincides with Dying Awareness Week.

Those who die without a will are said to die intestate, and this can result in a complicated and long drawn-out battle for those left behind. When a person dies intestate, the State will direct who inherits, so their friends, favourite charities and relatives may get nothing.

A will is always important but especially so for those who are not married or in a registered civil partnership - the law does not necessarily recognise cohabitants. People with children or dependents will need to make it clear who will look after or provide for them.

Law Society president Nicholas Fluck reacted to the findings:

'It is extremely concerning that a significant number of people have not written a will and made their final wishes clear. It is understandable that most of us are uncomfortable discussing our dying wishes, especially younger people, but you have nothing to lose and your loved ones can have everything to gain if you ensure your affairs are in order.'

'The families of those who die intestate will often use their experience as a cautionary tale of struggling with banks, utility companies and property sales, for example. Don't let that be your family.'

'A badly drafted will can cause more problems than no will at all, so the Law Society advises against using unregulated will writers. All solicitors are subject to strict regulation to ensure that they deliver the best service to their clients, unlike unregulated will writers. Solicitors are unparalleled in the will writing market as only they have the breadth of training to consider wider implications and complex issues, including tax and family law.'

'We welcome this insightful research from the Dying Matters Coalition and hope it encourages people to be more open about their wishes after death.'

The Law Society's Wills and Inheritance Quality Scheme (WIQs) provides a best practice quality mark for law firms and solicitors with respect to wills and estate administration. Firms or solicitors who have received WIQs accreditation have demonstrated a that they follow best practice procedures to meet the highest standards of technical expertise and client service in this area.

The Law Society provides a free Find a Solicitor service for the public to assist in finding appropriately qualified lawyers to assist with legal issues, including will writing.



The research also revealed that 71 per cent of people said they have never thought about what would happen to their digital legacy, such as social media and online accounts, online photos and music, when they die. The Law Society encourages people to leave clear instructions about what should happen to their digital assets after their death. Having a list of all your online accounts, such as email, banking, investments and social networking sites will make it easier for family members to piece together your digital legacy, adhere to your wishes and could save time and money. Not making your digital legacy clear could mean important or sentimental material - such as photographs on social networks - is never recovered.

Visit the Law Society's Find A Solicitor service

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The Law Society is the independent professional body, established for solicitors in 1825, that works globally to support and represent its members, promoting the highest professional standards and the rule of law.

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Law Society Backs Legal Challenge By Rights of Women to Restore Access to Legal Aid for Victims of Domestic Violence



The Law Society is supporting a challenge brought by the Public Law Project on behalf of Rights of Women, over the lawfulness of government changes to legal aid which are preventing victims of domestic abuse from getting legal aid for family cases, even when it is clear there has been violence, or there is an ongoing risk of violence. Rights of Women argues that this is not what parliament intended.

Legal aid changes, introduced by the government in April 2013 include regulations which set out what evidence victims of domestic violence have to provide. This evidence can be extremely difficult for many people to get and in many cases is subject to a 24 month time limit - although perpetrators may remain a life long threat to their victims.

Legal aid is a lifeline for victims of abuse, enabling them to escape from abusive relationships, protect their children, and manage their financial situations. Access to justice is vital in these cases - the statistics are stark: two women are killed each week by a current or former partner and 500 recent victims of domestic violence commit suicide every year.

Emma Scott, director of Rights of Women, said:

"Without legal aid women affected by domestic violence feel unable to access the kinds of legal remedies which enable them to safely exit violent relationships. In our most recent survey, half of all women who were ineligible for legal aid because they did not have the required evidence of domestic violence said that they took no legal action as a result, leaving them at risk of further violence and even death. This legal action is taken on behalf of those women in order to hold the government to account on their promise to continue to make family law legal aid available to victims of domestic violence."

Law Society president Nicholas Fluck said:

"The LASPO legal aid cuts have resulted in radical consequences for access to justice with the worst impact affecting the poorest and most vulnerable sectors of society. It is vital that survivors of domestic abuse can bring evidence to satisfy the broader statutory meaning of domestic violence, not the over-strict tests required by the regulations as they now stand. Survivors should not be excluded from accessing legal aid for family law disputes against an abusive ex partner or relative."

The Public Law Project (PLP)

PLP is an independent, national legal charity which aims to improve access to justice for those whose access is restricted by poverty, discrimination or other similar barriers. To fulfil its objectives PLP undertakes research, policy initiatives, casework and training across the range of public law remedies.

Rights of Women

Rights of Women is a registered charity that provides free legal advice to women and engages on a policy level concerning access to justice and violence against women issues. We provide training on legal issues to statutory and third sector professionals, write legal publications designed to assist individual women, and those supporting them, through the law and provide three legal advice lines offering legal advice to women on immigration and asylum issues, sexual violence and criminal law, and family law (including domestic violence, divorce, contact disputes).

Our advice lines are staffed by qualified practising women solicitors and barristers.

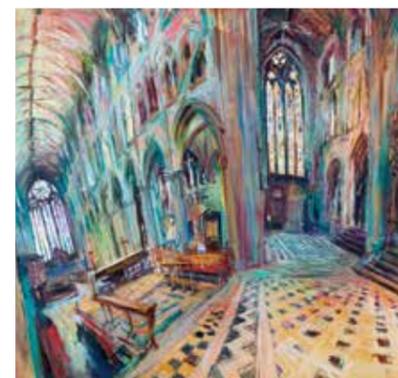
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Tree Preservation Orders: How the 2012 Changes Could Affect You

Tree Preservation Orders (TPOs) have been part of the legal and planning framework since their introduction as part of the Town and Country Planning Act 1947. They place a restriction on the pruning or felling of trees subject to a TPO. Usually, the consent of the local planning authority is required to undertake works. In the absence of this consent, the local authority can seek to enforce the breach, including pursuing a prosecution via the magistrate's court. Since 1947, they have been subject to periodic changes. In 2012, the regulations governing the administration of TPOs changed. This is having an impact which can affect the unwary, both owners and local authorities.

When a new TPO is served, affected parties (land owners and neighbours) can object, and raise any queries or make an objection. There is a time limit to this, usually 21-28 days. The TPO comes in to effect once it has been served. The local authority then has six months from the date of serving the document to confirm it, with or without any changes, or to 'not confirm'. Previously, if an order was not confirmed within the six months, it simply became inactive until confirmed. Confirmation could then happen months or even years later. Any breaches would not be enforceable between the six months period lapsing and a subsequent confirmation. Local authorities are now required to confirm the order within the six months, otherwise a new order needs to be made.

It is important to check the details contained within a new TPO. One client I have worked with had no concerns when a 'woodland' TPO was served on the woodland backing on to his garden. The local authority did not wish to include the garden. Unfortunately, a brook passing through the garden was taken to be the boundary of the woodland, which actually followed an unmarked line. He didn't check the document for accuracy. Years later, as the woodland began to spread on to the edge of his garden, he found the local authority reluctant to authorise clearance works or to amend the document. He now has a woodland garden.

Another client faced prosecution for cutting down trees and branches he considered to be exempt due to their condition. Material that is dead, dying or dangerous can be removed without the formal consent of the local authority. I was able to explain to the Magistrates that due to the vague wording of the legislation, it was likely that the works undertaken were exempt. It was possible to fell a whole tree due to a single branch being dead. The wording has been tightened (probably a good thing). It is unlikely that such a defence could be successfully presented now.

TPOs can see overwhelming, but only two aspects really matter: the plan and list of trees (called the First Schedule). These two parts need to be clear and unambiguous. One TPO I was asked to comment on last year involved protected trees being tagged by the officer. Tagging can be a sensible idea, especially when managing a population of trees, and to enable identification for example during a planning consultation, so that all parties know exactly which trees are being considered. However, they can be lost from trees, and unless referred to on the plan, do not provide sufficient identification.

One local authority produced a TPO with a poorly defined plan. I highlighted this anomaly, to receive the response that this was just an issue with the printer. The problem is that the printed plan IS the legal document.

There are many misconceptions about TPOs. These include that all oak trees are protected, that trees in the grounds of a listed property are automatically protected, and that only individual trees within a conservation area are protected. All three statements are incorrect. A tree is only protected if it is the subject of a TPO, or within a conservation area. Anomalies remain in the system. A row of conifers forming a hedge, with individual trees having a trunk diameter of more than 75mm at 1.2metres height, enjoy some protection. It is not the same level of protection afforded trees within a TPO, but the penalties can be as severe.

Finally, it is important, when applying for permission to prune or fell a tree, to be clear about what you wish to do. Vague requests to 'prune' or 'crown' the tree tend to be unsuccessful. However, if a local authority refuses consent, it is a good idea to explore their reasons, as these can be erroneous. I have seen ecology, such as the potential loss of dormouse habitation, cited in one case. Laudable though this may be, it is not within the remit of the TPO legislation. Similarly, we need to recognise that each tree has its day, and that felling, ultimately, is the only realistic option. One client, had a large tree in her garden, which had shed branches. She was refused permission to fell because the local authority preferred it to remain as wildlife habitat, even though approved pruning would leave little more than a trunk. Whilst this was a perfectly acceptable request and option, it wasn't appropriate to the setting, and the applicant's wish to have an attractive tree in her garden. The appeal inspector agreed.

Mark has experience in Tree Preservation Orders, boundary disputes, amenity tree valuations, planning permission and tree works. He can provide feasibility assessments, support mediation and produce technical reports, and can guide your case through to a court hearing. He has had specific training in cross examination and has an excellent track record of successful courtroom witness cases.



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Going International...



Written by
Dr Thomas Walford
EWI Governor.

We celebrate this July, the 300-year anniversary of the Longitude Act, in which the British parliament offered a financial reward for any person who could find a simple and practical way of determining a ship's longitude.

As we now know, the prize was eventually won by John Harrison, a carpenter and horologist, in 1773. In effect, this new-found technology made the world a smaller place. Since then there have been many inventions that have assisted travel and communications - how things have changed since 1714.

The UK was not only known for its technological inventions but also built a political and legal system which has stood the test of time and, through the growth of the empire, been replicated in many countries throughout the world. The legal system in the UK has become internationally respected for the fairness of its decisions and also for the quality of the judges who preside over the courts. Even to this day, many international agreements quote the courts of England and Wales as the determining body for any disputes.

This gives the role of an expert from the UK a significant advantage and an opportunity to work almost anywhere and carry with him/her the respect and support of the UK legal system. Most experts' disciplines are the same internationally and so the technical advice that may be provided does

'How should an expert conduct himself when there are no rules or system in which to operate?'

not change according to geographic location. There are obviously notable exceptions, such as a property valuation which requires local knowledge, or legal precedents which are determined by the local laws. However, if we leave the surveyors and lawyers on one side, most other disciplines can be judged by the same principles, irrespective of where the case is brought. Obviously some of the best opportunities are within the medical fields and the advice that a doctor may wish to give the courts is not affected by the country of jurisdiction. The same is true of my own field of finance, where banking has become a truly international activity and the duty of care is really unchanged by location.

It is therefore with great pleasure that the Expert Witness Institute, to celebrate the 300-year anniversary, are going to devote a session at their conference to be held in September 2014 to the principle involved for experts acting in the international sphere. I have provided reports in such diverse locations as Bermuda, Dubai, the Channel Islands and the United States.

We intend to look at the different legal systems, the overarching duties of the expert, whether under the CPR 35 or the Ikarian reefer principles espoused by Mr Justice Cresswell. In Ireland, there are no rules to conform to and hence the system is considerably less regulated. How should an expert conduct

himself when there are no rules or system in which to operate? In the US courts the principles are set by both Federal and State requirements and may also be set by specific rules set by an individual judge. The procedure is also quite different in that they do not rely on experts' meetings in the same way as we do in the UK but both sides have the opportunity to cross-examine the other side's expert in a deposition. This is a maximum of 7 hours of cross-examination under oath and is transcribed (and may be also filmed) by the legal team of the opposing party.

The EWI is looking to provide both an international meeting point for experts to be able to share their experiences and a forum for advice for any expert going into a new jurisdiction. We welcome experts from all the major legal centres and anyone practising as an expert both here and abroad.

The expertise available here in the UK is second-to-none in many fields. As a result, whether you be a handwriting expert, engineer, doctor or banker you will have an expertise from which courts elsewhere may benefit. The EWI holds a directory of members and we want to be able to use this as a platform to assist our members with marketing their services internationally.

Dr Anthony K Clarke
BSc MB BS FRCP



Consultant in Rheumatology and Rehabilitation Medicine

I was Senior Physician at the Royal National Hospital for Rheumatic Diseases in Bath.

I have thirty years of medico-legal experience, with a wide portfolio which includes, in the rheumatological area, general rheumatology, ankylosing spondylitis, musculo-skeletal pain, back pain, occupationally-related and traumatic chronic pain, including complex regional pain syndrome, and fibromyalgia.

With my rehabilitation background, I have expertise in traumatic brain injury, spinal injury and stroke.

I was Medical Director of my NHS Trust and have expertise in medical negligence and matters of competence. I helped to establish the Bath & Wiltshire Chronic Fatigue Syndrome service.

I have extensive experience in the preparation of medical reports and joint statements, and court appearances. I am willing to undertake domiciliary visits on claimants who are unable to travel, including abroad.

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- Area and volumetric surveys to assist in dispute resolution
- Plotting boundaries from aerial survey
- Expert Witness experience
- Written large number of reports predominately in relation to boundary disputes and given evidence in court in Swansea, Cardiff, Bristol, Oxford and London.
- Familiar with Civil Procedure Rules Part 35
- Registered with RICS Expert Witness Registration Scheme

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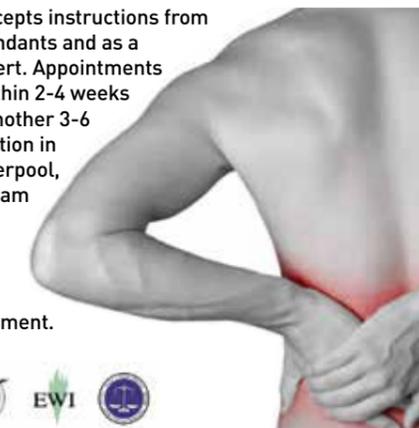
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PI Lawyers Support ATE

Three-quarters of personal injury firms disagree that qualified one-way costs shifting (QOCS) is an alternative to after-the-event insurance, a new survey has found.

The shift to QOCS was a key element of the Jackson reforms to compensate for the abolition of recoverability of ATE premiums.

A poll of more than 500 managing partners conducted by law firm adviser O'Connors found 90% of respondents still advise every PI client on the availability of ATE as part of their standard service.

One in six firms arranges an ATE policy for every client, though the majority (61%) operate a business model where an ATE policy is arranged only if the client specifically requests it or if the firm considers it to be necessary based on the firm's own assessment of the case. A small minority (5%) never arrange an ATE policy.

When asked if they agreed with the Ministry of Justice view that QOCS is an alternative to ATE insurance, 75% of respondents said they did not, with just 10% agreeing.

Of the clients who decline their law firm's recommendation to take out an ATE policy, 53% tell their lawyer they are prepared to take the risk and 31% that they feel the premium is too high.

Law firms ranked premium pricing and extent of cover most highly in their choice of ATE insurance provider with ATE insurance expertise, ease of doing business and insurer security close behind.

Most firms (95%) accessed ATE policies direct from an insurer

with only 12% ever using an insurance broker. Just over a third (35%) of firms use just one insurer with the majority (59%) using two and a small number (6%) using three or more.

O'Connors LLP partner Nigel Wallis said: 'These results show the diversity of business models in the market and the lengths to which law firms go to ensure that they act in their client's best interests.'

'In order to survive, the ATE insurance market has to remain responsive to the needs of firms and their clients and things are likely to remain very fluid as the full impact of the reforms starts to bite.'

'From our own experience of advising many law firms, we see an increasing number of management teams seizing new market opportunities and developing innovative business models that are client centred and, one hopes, financially successful.'

In a speech at the Modern Claims conference in London, Mr Justice Ramsey, who is responsible for implementing the Jackson reforms, said the changes to recoverability had yet to adversely affect the ATE insurance market.

'There is limited evidence coming through that the ATE market is diminishing,' he said. 'The core suppliers are now looking at more realistic premiums than before.'

Law Society calls for action as human rights lawyer receives death threats

The Law Society has publicly condemned threats made against the lives of lawyers after prominent human rights lawyer Phil Shiner received death threats against both him and his family.

Phil Shiner has been subject to intimidation and harassment over the last 10 years as a result of his work for Public Interest Lawyers (PIL) and their cases representing Iraqis in war crimes cases.

Recently, Mr Shiner and PIL have worked on a number of issues including the Al Sweady Inquiry relating to Iraqi detainees, non-nationals receiving legal aid for judicial review cases and the decision by the International Criminal Court to investigate war crimes by the UK in Iraq.

As a result of his human rights advocacy work, Mr Shiner has experienced threats and intimidation for nearly 10 years, with, at one stage, a police investigation launched into the threats and a 2010 threat that led to a prosecution under the Malicious Communications Act 1988.

The Law Society understands that, as a result of a recent rise in the negative media attention paid to PIL, Mr Shiner has received an increasing number of abusive emails and phone calls.

As part of its ongoing work to advocate the rights of lawyers, the Law Society has written to the chief constable of West Midlands Police urging all sensible steps are taken to protect lawyers in this firm and to ensure that wrongdoers are brought to justice.

The Society will also seek the assistance of the Lord Chancellor to ensure proper enquiries are made into the threats to Mr Shiner and his family have received, Measures should also taken to ensure their physical and psychological wellbeing.

Phil Shiner said: "The threats made against PIL, my family and me are distressing, to say the least. It is apparent that some people object to and disapprove of the work carried out by PIL, but the directing of abuse at PIL for the legitimate work we do to uphold the rule of law in a democratic country cannot continue unchallenged."

Nicholas Fluck, president of the Law Society, said: "Every citizen in this country enjoys the protection of the rule of law. That is a precious right. Those rights depend on lawyers presenting their client's cases without fear or favour no matter how unpopular or unattractive some might regard those clients or the cases brought before the courts."

We are all the poorer and less free if the lawyers representing such cases are threatened or placed under duress as Mr Shiner has experienced.

It is precisely because of the role that lawyers play in free societies that under the UN Basic Principles on the Role of Lawyers, governments must ensure that lawyers are able to perform all of their professional functions without intimidation.

All lawyers should be able to carry out their legitimate work freely and without fear of reprisal. As such, the Law Society has today written to the chief constable of West Midlands Police Force and the home secretary urging them to address Mr Shiner's case promptly.

The Law Society recognises that lawyers play an integral role in our society, and effective steps need to be taken to put an end to the kind of harassment Mr Shiner and his associates have experienced, and to help guarantee other lawyers are not subjected to the same intimidation."

Legal Software Suppliers Association issues warning to law firms to be vigilant against cyber threats and to keep technology up to date

Roger Jackson, Chair of the LSSA gives law firms advice to counter cybercrime threats and the withdrawal of support for Microsoft Windows XP which means continued use of Windows XP might not meet SRA data security requirements.

Twice recently law firms have been the target of emails purporting to originate from the Solicitor's Regulation Authority but which have not been the case. Spam emails such as these are known as "phishing" and these emails look very convincing and from a cursory glance look genuine. These malicious emails often carry attachments with malware and if not closely scrutinised can appear genuine.

Julian Bryan, of LSSA member Company Quill, comments, "The recent email scam purporting to be from the SRA and targeting law firms demonstrates the need for constant vigilance and risk assessment amongst legal practices. The email concerned carried a cleverly named attachment which had all the hallmarks of an embedded virus. This incident demonstrates the ongoing battle between Microsoft and potentially malicious individuals who create viruses, malware & Phishing scams. Law firms in particular need to be sure that their Windows PCs and servers are constantly updated and protected from such issues. This process is facilitated by Microsoft who provide security updates to their supported operating systems. However, from 8th April 2014 – just a month away – support for Windows XP will be withdrawn. This means that Windows XP users will no longer be protected from new security threats, potentially creating risk for law firms. Practices should audit their IT infrastructure and assess their exposure to such risk created by the ongoing use of Windows XP in their business."

Microsoft is withdrawing support for Windows XP on 8th April and is recommending users to move towards new platforms such as Microsoft 365. It is difficult for the firm to justify supporting an old version. The firm invests in new platforms, such as Microsoft 365, and as users attach new peripherals to old software it increases the risk for a consumer and increases the cost of support for the software vendor. However there are many law firms still using Windows XP who are not going to migrate overnight to new systems, and in many cases legacy software systems will need a lot of work to run on new systems, and continued use of Windows XP might not meet the SRA's data security requirements.

Another LSSA member, Dominic Cullis of Easy Convey comments, "This is a major milestone because the versions of Windows and Office have been widely used in the workplace. Many firms have not adopted later releases from Microsoft. One way forward is to subscribe to Microsoft 365. Subscribers receive future upgrades therefore ensuring out of date unsupported software becomes a thing of the past. Another option is to move your software on to a virtual server with Windows and Office being provided by your legal software provider. With more and more solutions being delivered on a virtual server users are free to work wherever a computer has internet access, therefore enabling more flexible working options."

Phishing emails are not the only current cyber threat. Be very careful if you are logging into any public WiFi networks. You may not be logging in to the Starbucks or Costa Coffee network that you believe that you are connecting to. Hackers and cybercriminals have the capacity to create what is known as an

"Evil Twin WiFi Hotspot" which looks exactly like the bona fide WiFi that you are intending to connect to, with the same name and virtually impossible to distinguish that it is a fake network. So, with unwittingly using a rogue network instead of the genuine one you are opening up your device, whether that be laptop, tablet or smartphone, to the vulnerabilities of the criminal fraternity. To the user the fake network acts supposedly normally, but to the criminal it allows access to eavesdrop on your network traffic, keystroke logging, stealing of account names/passwords or redirecting you to phishing/malware sites, fake financial websites etc.

One way of protecting your data against an evil twin network is to use a Virtual Private Network (VPN), which historically has been limited to being used by large corporates due to the costs involved, but now there are personal VPN services available to End Users on a monthly subscription basis. Another way of combatting a fake hotspot is only logging on to your email and social networking sites using secure HTTPS encrypted pages. Be careful with yours and your clients' data and we would recommend that you never use a public WiFi for your banking or online shopping purposes.

The message from the LSSA is to be vigilant, make sure your IT security systems are properly up to date and take all reasonable precautions to keep your data safe.

About the Legal Software Suppliers Association (LSSA)

The Legal Software Suppliers Association (LSSA) is the UK industry body for legal systems developers and vendors. Representing most of the leading UK suppliers, the LSSA sets and maintains professional standards within the legal software industry, and also manages areas of mutual interest between lawyers and software providers. The LSSA is committed to developing clear channels of communication, so that law firms can gain the maximum benefit from their selected software solutions.

The LSSA provides a highly representative and unified voice for the legal software industry and is therefore best placed to provide a strong focus in establishing standards and cooperation between suppliers, professional bodies, and government organisations. The Association has set up and actively contributes to a number of different working parties and forums, representing and lobbying on behalf of its members with HM Land Registry, HMRC, Court Service and the LAA.

For more information please visit www.lssa.co.uk

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Professional Indemnity

The Potential Changes to the Minimum Terms and Conditions and the current Professional Indemnity Insurance Market Explained

As a solicitors' professional indemnity insurance broker, now is the time we find out about the changes in the professional indemnity insurance market. We discover which existing insurers still have an appetite for renewal and new business, which insurers only want to look at their renewals and selectively pick up additional risks and which insurers are looking to 'cleanse' their existing client book and redirect their approach to the market. We also get to find out about any new insurers to the market and find out what their criteria will be.

During the past year, there have been a number of changes in the marketplace in relation to the solicitors' professional indemnity market. The demise of insurers such as Balva and Berliner to name but two, left a number of practices chasing PI insurance cover at the last minute as the deadline approached. As there was no Assigned Risk Pool to fall back on, and together with the guidelines imposed by the SRA, this forced many practices to go into the newly imposed Extended Period, and then into the Cessation Period. If cover was not sourced at the end of this period then the practice had to be closed down.

The demise of Balva and Berliner has led the SRA to look further at Participating Insurers and their suitability to provide cover in the market. One area looked at was to only have 'financially rated' insurers. This was looked at in detail, but ultimately not implemented, which still allows scope within the market for Participating Insurers who at present remain unrated. However, a number of banks and building societies are now setting their own guidelines for panel solicitors which only allows solicitors with rated insurers to be on their conveyancing panels. Although this group of financial institutions only account for 2-3% of mortgage providers at present, the ramifications could be far greater if this is followed up by other mortgage providers in the next twelve to eighteen months.

The SRA have followed this up by introducing a further Consultation Paper proposing changes to the current insurance minimum terms and conditions. The SRA's consultation closes at the end of June and they are then looking to implement these changes in early August prior to the 1st October 2014.

The main points of this proposal are:

- To reduce the mandatory level of PI cover to £500,000 any one occurrence
- To introduce an aggregate level on claims – currently proposed to be three times (£1,500,000)
- To provide cover for individuals, small and medium sized businesses, trusts and charities. This does not extend to large corporations and financial institutions
- Reduce the 'run-off' cover to a minimum of three years, despite limitation in the Courts being up to six years
- Require practices to assess their own levels of cover appropriate beyond the minimum requirement

These proposals, could potentially have cost implications for all practices that may need to purchase additional cover over and above the proposed minimum terms and conditions. For example, to obtain cover for financial institutions, mortgage providers may well insist that the insurance documentation you provide them with provides confirmation that cover extends to cover claims from financial institutions and insist on limits of indemnity over and above the proposed minimum terms and conditions.

Whilst it is accepted that most claims fall within the proposed minimum limit, no mention is made as to whether these limits also include costs. As experienced brokers, we know that a claim can

breach not only the proposed mandatory limit but in exceptional circumstances, breach the aggregate limit of £1,500,000, so if costs are also to be considered this places even greater risk on choosing an appropriate indemnity limit.

In addition to this, with the mandatory 'run-off' cover for practices who are ceasing trading being reduced from six years to three, principals could find themselves personally liable for claims which arise in years four, five and six years. The consultation identifies that 60% of claims occur in the first three years after a practice closes, but what about the other 40%? The Limitation Act remains at six years, so after cessation of the business, if a claim was to come in after three years but prior to limitation, then the principals would be liable, unless additional cover is purchased. All of these risks will require further cover to be purchased to mitigate any potential claim which could place partners personally liable.

Another change to the Professional Indemnity Insurance Rules came in last year which allows practices to alter the renewal date of their PI insurance as they are no longer tied to the common renewal date of 1st October. Whilst this is the case, most practices continued to obtain their insurance on this date as their practices had already budgeted for the outgoing costs at that time. There is also still concern as regards which Participating Insurers will actually be quoting all year round.

Since SIF in September 2000 when the open market was created, those firms that have practised throughout that time have seen numerous insurers appear in the market and just as quickly disappear. Insurance is all about risk. Nobody saw the claims from the demise of The Accident Group and nobody foresaw the financial meltdown and the conveyancing claims that have since been seen by insurers for previous transactions. But going back to the word, risk, this has been the biggest downfall in the solicitors' professional indemnity market. An insurer needs to try and understand its exposure, likelihood of there being similar claims. This is why the risk management questions and the answers provided are so important. So too is keeping an eye on previously notified claims. Insurers look at the frequency of notifications provided each year and whether anything comes of them. They also look at the costs. If insurers have paid say £500,000 over the past five years in settlement figures and costs, then a firm is running at an average £100,000 claims cost per year. So no insurer is going to offer a quote below this amount unless they are happy that some of the claims cannot reoccur or if a large claim was a one off. The claims costs can change overnight. A practice can notify several matters that remain dormant for 2-3 years and then suddenly claims are paid. Insurers during the 2-3 year period will have charged a premium based on there being no payments. When payments are made, the claims costs suddenly become a major underwriting factor.

Dependent upon the size of your firm, all insurers have certain criteria as to the type of practices they wish to insure. The larger brokers will tell you that they have access to the majority of insurers and those with their own schemes, which they will always push more. So as a buyer of professional indemnity insurance, you need proper advice to help you understand the market from which you are purchasing, the potential pros and cons of all quotations and ensuring that come the potential changes to the minimum terms and conditions, you are with a Participating Insurer who is going to be there to assist you and provide you with the cover you need.

So our advice this year is for practices to be diligent in choosing an insurance broker, ensuring that the most relevant information is provided to insurers to obtain as many competitive quotations as possible. In order to do this practices should consider the following:

- **Select the brokers you wish to assist you very carefully.**
It is imperative that the broker provides best advice to your individual requirements and does not just consider terms on how much they can save you on the cost of premium alone.
- **Complete one full proposal form**
The completion of a Full proposal form will allow brokers to approach other insurers for alternatives to renewal terms offered by existing insurers. A simple 3 or 4 page renewal declaration will not suffice. Time should be spent ensuring that all sections are completed fully and that all relevant additional information has been declared.
- **Obtain up to date claims records for the past 6 years**
Claims summaries from all of your previous insurers for the past 6 years should be requested and reviewed to check whether any claims positions have changed, (i.e. payments having been made, reserves having increased / decreased or settlements agreed). These all have an effect on the premium you pay and is particularly pertinent if you have become a successor to one or more other solicitor practices as you will need to consider these too. If positions have changed, provide an explanation for insurers.

- **Where you have claims / claims notifications, provide a brief overview of how the claim / potential claim has occurred**
Details should be recorded together with risk management procedures you have put in place to try and alleviate the same potential claim happening again and your views of quantum, whether the claim be a preliminary notification or if it has progressed further. If you are unhappy at the way in which a claim was handled and have copy correspondence proving wrong decisions were taken during the process of the claim, then enclose copies of the same.
- **Previous tribunal matters and SRA investigations**
The same principle should apply as to claims information. Copy correspondence, brief background and what you have done to rectify matters so they cannot reoccur.
- **Contact Solicitorassist.com to help with your submission**
Once the information highlighted above has been properly collated and the proposal form fully completed, please contact us so we can assist you to effectively market your practice. Once we receive the documentation we will then review the documentation and report to you our findings and recommendations going forward.

Solicitorassist.com are independent insurance brokers who specialise in solicitors' Professional Indemnity insurance and strive to provide best advice to practices. We understand the trials and tribulations that practice managers go through when obtaining or renewing PI insurance and endeavour to give a realistic view of what can be done to ensure a competitive premium.

We provide a comprehensive and enlightening review service, analysing claims summaries and risk management / business procedures, providing practices with an 'insurer's viewpoint', which will help to understand how insurers arrive at their premiums. This will also assist us in potentially identifying which insurers are most likely to provide competitive premiums at renewal.

Solicitorassist.com market risks to all Participating Insurers and broker schemes available to us which provides the most competitive quotations suited to your individual requirements. We also produce our market overview and crib sheet confirming the Participating Insurers which we approach on your behalf, which is available on our website www.solicitorassist.com. Because we are completely independent and not tied to any one particular insurer, we ensure each risk is properly marketed to every available market, ensuring that insurers provide their best terms and premiums. Sadly there are very few other brokers who operate with the same transparency.

The sooner we receive an enquiry with a proposal form and up to date claims summaries, the sooner we can work with practices to review a submission and ensure competitive premiums can be sourced.

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Lord Faulks: Court Should Be the Last Resort

Yesterday I was at the Civil Mediation Council conference in Leeds. This is the title of the presentation given by Lord Faulks QC, minister of justice.

He trotted out the usual arguments about the advantages of mediation, how the Government is encouraging its use (though of course not by putting any money into it - we still have austerity) and his speech includes these:

- Going to court should be a last resort, we need to cut down on the amount of unnecessary, expensive and confrontational litigation in our society.
- As a barrister I knew that the best thing for clients was to stay away from court and I believe it just as strongly as a minister.
- Government is leading by example by resolving issues away from court using alternatives which are usually quicker, cheaper and provide better outcomes. We are continuing to encourage others to do the same.
- The success of mediation and other methods in keeping unnecessary litigation out of the courts is a key cornerstone of an efficient and cost effective justice system.
- Mediation is one of several forms of resolving disputes away from the expense and confrontation that going to court can cause. Mediation involves the two parties taking part in negotiations led by a qualified independent mediator to reach a solution they are prepared to keep.

So why am I more optimistic this time that mediation will really take

off? For a number of reasons. First, of course, is that solicitors have a duty to consider ADR regularly throughout a case. And there's Halsey. Then under the Jackson costs regime, the parties are made aware of the frightening cost of fighting a case to the end. These costs budgets should persuade parties not to litigate, but to mediate; so often, by the time a case comes to mediation a great deal of money has already been spent, and the mediation is more about saving further costs than about the original merits.

But above all, my optimism is driven by the appointment of Sir Alan Ward as chairman of the Civil Mediation Council, and for three reasons: that Sir Alan is a friend of Lord ("Ed") Faulks, that he is an enthusiast for mediation, and that he has the most wonderful sense of humour.

This is a typical extract from one of his judgments:

"This case involves a number of – and here I must not fall into Dr Spooner's error – warring bankers."

And see this, from one of his last judgments:

"In as much as this is the penultimate judgment I shall write after 18 years in the Court of Appeal, I am a kindred spirit who has sailed away from the safe harbour of the Royal Courts of Justice, not at all sure how to explore, or what to dream or what I am about to discover."

But now we do know what dreams he has discovered: mediation dreams, and that is hardly surprising when he is known to have given many judgments where he told the parties not to be so stupid spending money on court proceedings, when with the help of sensible lawyers and an experienced mediator, the matter could have been sorted out months earlier and at a fraction of the cost.

In fact, Sir Alan told me recently that with these judgments he felt obliged to train as a mediator himself, as soon as he retired from the Court of Appeal.

How come he spoke about this to me? Because in recent weeks I have come to know him well, and to admire him immensely. In fact, we have even done a mediation together!

This was a dispute between a very high profile businessman and a national firm of chartered accountants, over alleged tax negligence. The parties wanted two mediators: an accountant and a lawyer. They chose Sir Alan as the lawyer mediator, and little old me as the accountant mediator. We spent a full day together planning the mediation and, inevitably, a very long day at the mediation itself. It settled. Sir Alan was wonderful; an empathising mediator, not like a judge at all. He has a great career ahead of him. And the thing is that, because it was Sir Alan's very first mediation (how amazing is that?) and I have done 90-odd, he was there to learn and I took the lead!

Which brings us back to yesterday.

I was chatting to Alan near a trade stand of textbooks. He pointed one out to me, and said it was worth buying for the Foreword alone. I took the hint, and paid £40 for "Mediation Law and Practice", with Foreword by guess who. But then I took the opportunity to ask him to write me a dedication – if times got hard I could always sell it on eBay! – and this is what he wrote:

"To Chris, That very great man who so skilfully eased the pain of the loss of my virginity. With my thanks and admiration. Alan Ward."

Well, I know who the great man is, and it certainly isn't me. In Sir Alan Ward, the mediation profession has a great future.

Watch this space!

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"It's coming home..."

It's that time again. As I write this article we are preparing for the football World Cup. Every four years, English football fans go through a period of excitement, followed by a profound period of disappointment. From 1970 onwards, the history of English football has been a series of over-optimistic false dawns as expectations have soared ahead of hard realities.*

In some ways, there is some comparison between this period of fanciful elation and the recent experience in the Equity Markets. In 2008, investors had to face the reality that much of the established 'wisdom' on investments had proven to be wrong and that the very fabric of our banking system was at risk of falling apart. From then onwards we have seen a steady return of investor confidence firstly on the back of 'relief' and then on the back of 'aspiration'. At the same time, the global markets are still struggling to really understand everything that has happened over the last six years.

The reality is that through all of this period of turmoil many companies continued to trade effectively, grew their profits and dividends and proved that the global economy is still very much a strong driving force. Artificially low interest rates continue to drive many economies forwards and this has presented investment houses with an almost baffling conundrum when it comes to asset allocation. Theoretically, a 'Balanced' portfolio (as adopted by most trust portfolios with residual and life interests) comprises of, amongst other things, a mixture of lower and higher risk investments, namely Fixed Interest Securities and Equities. Traditionally, Fixed Interest Securities provided the 'insurance' aspect of a portfolio, together with relatively strong yields and the Equities provided the potential for both lower but rising yields to protect income against inflation and the potential for capital growth. Low interest rates have completely turned this on its head,

with shares in many cases offering a higher income return than Fixed Interest investments. The challenge for the investment institutions now is to decide whether this is the 'new norm' or whether this is still the after effects of the Credit Crunch and we will return to more conventional investment patterns over the next decade.

At the same time many professional investors have sought greater returns by investing in the Emerging Markets, taking advantage of the structural movement of capital from West to East. Here, results have so far been mixed. Undoubtedly there is huge potential in some of these markets, but investors also have to accept the increased levels of risk and geo-political instability often associated with these areas. For example, witness the recent events in Thailand. Brazil is also an interesting example of this; it has massive potential through its raw material base supported by a large workforce. However, it remains politically unstable, thus causing continuing concern to global investors.

What Brazil undoubtedly has is a very fine football team. The next few weeks will be dramatic ones for English football fans and, let's hope, just this once, the team breaks the mould and exceeds expectations. And the markets? Well... let's hope for a combination of German discipline, Italian guile and Brazilian flair!

Ian F Bailey Chartered MCS1
Senior Investment Director
Investec Wealth & Investment

*By the time you read this the England team may well have proved me wrong of course!



To see how we could be of service to you please contact Ian Bailey on 0121 232 0700 or email ian.bailey@investecwin.co.uk

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