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EMPLOYMENT REGISTER 2, 5, 16-20



| • 2012

# @DASLS January

SUPPORTING SOLICITORS IN PRACTICE.

*Welcome to your new look DASLS E-Newsletter to start the New Year on a bright note! We hope you like it. Your Committee, Officers and Staff wish you a very Happy New Year.*

## President's Diary *Cont'd p.4*

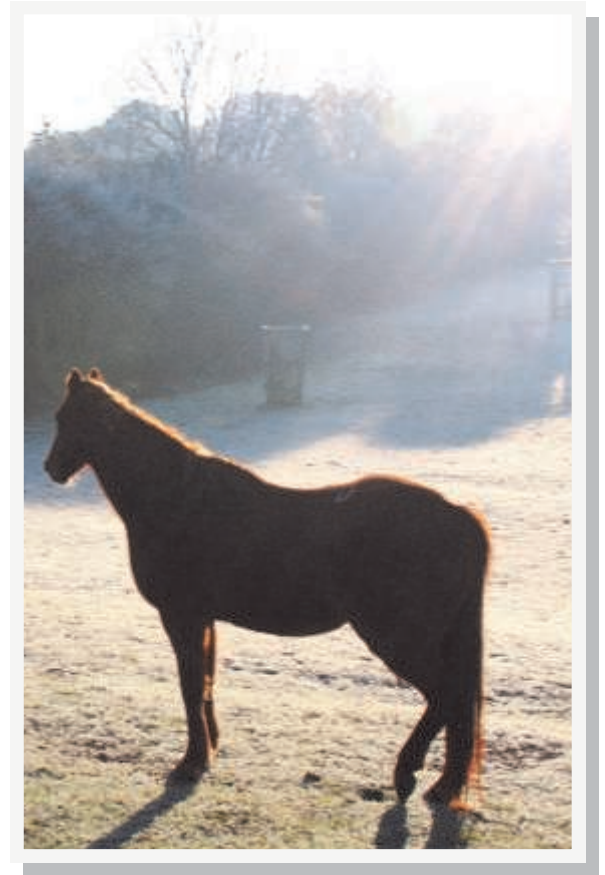
Hello Everyone. Can I firstly wish everyone a very prosperous New Year. I hope you have enjoyed the break and like all new years, 2012 looks as if it will not just have its challenges but also its opportunities. We live and work in a lovely part of the United Kingdom where professional service firms (including of course legal firms) thrive. There is no reason to think 2012 will be any different; let's embrace it.

After looking forward, my diary looks back now to 2011. It was a very busy November and December.

November started with the DASLS Somerset Dinner. This was a very well attended event and a very enjoyable one

too at the Somerset County Cricket Ground. The guest speaker was the Bishop of Bath and Wells who reminded us all of his office's claim to Blackadder fame as the "baby eating Bishop of Bath and Wells".

The following week I had the privilege of hosting the President's Luncheon at St Olaves Hotel in Exeter. This was an opportunity for DASLS to thank those other professional bodies for their hospitality to us over the previous year. We had a full house, including the Lord Mayor of Exeter, and my thanks go to Mr Michael Melville-Shreeve for providing a very entertaining and amusing after lunch speech. Still in November and the events continued. I was fortunate enough, along



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## A Warm Welcome to DASLS New Members

Emma J. **Brown**, Clarke Willmott, Taunton

Vittorio S. **Cinque**, Kennedys, Taunton

Naomi L. **Cox**, Alletsons, Bridgwater

Alastair J. **Dunnett**, Veitch Penny, Exeter

Stella **Dyer**, Howard & Over, Plymouth

Nicola **Ellis**, Compliance Solutions for Lawyers LLP, Liskeard

Nicola E. **Fowkes**, Milford & Dormor, Ilminster

Rebecca **Heal**, Amicus Law, Yeovil

Emma L. **Hough**, Emma Hough Legal Consultant, Exeter

Ben L. **Jones**, Porter Dodson, Taunton

Simon R. **Mole**, Wollen Michelmores, Torquay

Alice C. **Pearcey**, Everys, Exeter

Alan **Sarhan**, Porter Dodson, Taunton

Brian J. **Wilkes**, Amicus Law, Yeovil

John G. **Wyatt**, Nash & Co., Plymouth



### DID YOU KNOW THAT

as well as full membership of DASLS, the Society offers Associate Membership for Trainee Solicitors and Affiliate Membership for practising barristers, senior academics [those with both a first and second degree] and those who become partners in or are employed at a senior level by firms of solicitors.

Both memberships are currently free and nominations forms can be found at [www.dasls.com](http://www.dasls.com)

# Protect.



## Protecting your reputation and personal assets

Investigations into misconduct by fellow partners can be very expensive, costs which have to be met by your firm and can have a negative affect on your balance sheet or even worse your personal assets, meaning both financial and emotional suffering you don't deserve.

From March 2012, firms must appoint a Compliance Officer for Legal Practice (COLP) and for Finance and Administration (COFA) who will start to fulfil their obligations from 31 October 2012. The responsibility for compliance ultimately rests with the managers of a firm but Compliance Officers could face the SRA's new enforcement powers if they fail to meet their responsibilities.

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## President's Diary Continued

That week ended with a visit to Newquay in Cornwall where I was a guest at the Cornwall Law Society Dinner. It was a hugely enjoyable evening.

I also chaired a DASLS Committee meeting and I would like to publicly thank all members of the Committee for all the hard work they do on behalf of DASLS.



Can I also please mention my chosen Charity for my presidential year which is Children's Hospice South West. The generosity shown by the members of DASLS and their guests has meant that we have

already raised a large amount for this very worthwhile charity; thank you everyone.

Finally, please can you save a date. That date being Friday, 2nd March 2012. This is the date for DASLS Annual Dinner.

The venue is Sandy Park, which is a great venue and very easy to get to. The guest speaker is Ian Woodall, who is an entertaining and motivational speaker, who has conquered Mount Everest. I hope that as many of you as possible can attend and it would be lovely to see you all there.

Once again – all the best for 2012. Regards,

*David Turner, Foot Anstey Solicitors, Exeter  
David.Turner@footanstey.com*

with other members of DASLS, to travel to the Houses of Parliament, where we met with South West members of both houses. It was our opportunity to start to form links with local members of both the House of Commons and the House of Lords upon which we can build a working relationship going forward. A fuller report appears on page 8 in this Newsletter. In the same week I had lunch with Lucy Scott-Moncrieff, the current Vice President of The Law Society. I was joined by other members of DASLS and the lunch was very thought provoking.

## Letters to the Editor

...are always welcome.

Please write to  
Tony Spiers

[secretary@dasls.com](mailto:secretary@dasls.com)

## What's Different about the new SRA Code of Conduct 2011? *By Tracey Calvert*

The new Code replaced the Solicitors Code of Conduct 2007 last October. It's part of the Handbook which the SRA is using to launch itself as an outcomes-focused and risk-based regulator. Prescriptive rules have been replaced by Outcomes. Outcomes are the behaviours which firms and individuals must achieve. The difference between Outcomes, and the rules in the 2007 Code, is that by and large, methods of compliance are not included and firms can develop their own compliance strategies based on their particular business model, their client base and their areas of work.

Detailed guidance has gone and instead there are Indicative Behaviours (IBs) in the new Code. These are non-mandatory examples of behaviours which tend to show that you either have or have not achieved an

Outcome. However, these come with a SRA health-warning; they do not give examples of everything you may come across in practice and nothing should be read into what is included and what has been left out. Also, the SRA says that firms should not fall into the trap of "unthinking compliance" or "painting by numbers" simply by adopting IBs as examples of good practice without considering what would be appropriate for them.

### **So, if the rules have gone, can I now act for the seller and buyer in a conveyancing transaction?**

The new Code has caused some confusion because conveyancing conflicts are no longer dealt with separately from other types of client conflict. Do not read anything into this change of style! The basic conduct issue has not changed; in the new language of the Code, the

outcome you must achieve is that you do not act where there is a client conflict, or a significant risk of a conflict arising, and conveyancing is an area of practice where this risk is high.

A client conflict arises in any situation where you owe separate duties to act in the best interests of two or more clients in relation to the same or related matter, and those duties conflict, or there is a significant risk that those duties may conflict. This is always a judgement call: is your ability to give independent advice to both clients impaired by the fact that you are acting for both? Is there a need to negotiate? Is either party particularly vulnerable? Is there an imbalance in bargaining power?

Your judgement should be to guard against acting routinely for seller and buyer and the IBs in

the new Code certainly give you this nudge. However, there may be rare occasions when this need not be the case. For example, this may be because the conveyance is between two companies in the same group or between family members. Your risk strategies should include a policy on acting in conveyancing matters. Where you decide it is acceptable to act for seller and buyer, it would be good practice to develop internal audit trails to provide evidence of how this decision has been reached.

Tracey Calvert



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# What does DASLS offer?

DEVON & SOMERSET LAW SOCIETY IS A NOT FOR PROFIT ORGANISATION WHOSE SOLE PURPOSE IS TO SUPPORT THE LEGAL PROFESSION. IT HAS EXPERIENCED AND ABLE STAFF WHO CAN ASSIST WITH MOST ENQUIRIES AND HAVE A SIGNIFICANT NETWORK OF RESOURCES AT THEIR DISPOSAL.

## EXCLUSIVELY FOR MEMBERS

Meeting other members and professionals

- ◆ Social functions and the Challenge Cup
- ◆ Inter-firm Challenge events
- ◆ Inter professions networking

Keeping in touch

- ◆ Free bi-monthly Newsletter relevant to legal practice in the region
- ◆ Buzz, our fortnightly e-bulletin with news and details of events
- ◆ International referral network

*Discounted rates for seminars with extra discounts for multiple delegates*

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*Discounted commission rates for recruitment services*

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- ⇒ Civil / Commercial Mediation Panel
- ⇒ Discounts for Law League client and staff satisfaction tool with benchmarking
- ⇒ Inquiries before Contract of Managing Agents / Freeholders form
- ⇒ Access to local and national networks
- ⇒ Your voice at Chancery Lane and beyond

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# Cook's & Hatchard's Law Prize 2012

**THE SEARCH IS ON .....**

**Somerset Members are invited to nominate candidates for this prize.**

**To be eligible their training contract must have ended in the twelve months from 1 June 2011 to 31 May 2012.**

**Please send nominations in writing to DASLS office by 31 May 2012, for consideration by the Trustees at their June meeting.**

**The successful nominee will receive the 2012 Law Prize at the annual Somerset Dinner to be held in Taunton on 9 November 2012.**

**The winner's firm will benefit from the attendant publicity in Somerset.**

*Extract from the Central Register of Charities maintained by the Charity Commission for England and Wales*

## OBJECTS

In the award of a cash prize to be called "The Cook's and Hatchard's prize" to or to be divided between the trainee solicitor or trainee solicitors who has or have completed his, her or their training contracts or (in the unfettered judgement of the trustees) a substantial part thereof in the county of Somerset (as hereinbefore defined) and who (without regard for age) has or have (in the unfettered judgement of the trustees) obtained honours in

the academic stage of and / or has or have otherwise shown merit throughout his, her or their period in training. Provided that if in any year no candidate is qualified for the prize of that year, the income which would otherwise have been applicable for that prize may to such extent as the trustees think fit be applied in augmentation of the income applicable for the prize or prizes of one or more years next following.

## **AREA OF OPERATION**

**Bath and North  
East Somerset;  
North Somerset;  
Somerset**



## **Congratulations to**

Emma Brown pictured here with Bishop Peter Price at the 2011 Somerset Dinner.

Emma was the recipient of the Cook's & Hatchard's Law Prize 2011.

# Financial Planning is Key to your Retirement Aspirations

*A new survey conducted by Wesleyan for Lawyers has revealed that more than half of lawyers don't have access to a pension or health scheme offered through their firm. In addition, more than a third are failing to make adequate financial provisions for their retirement, according to the research findings.*

The survey of legal professionals from across the UK also revealed the average planned retirement age for lawyers is 62 years old, with a fifth (21%) wanting to retire before 60. The majority (57%) of lawyers believed they will need an annual retirement income of £36,000-£50,000 to live on.

Jon Parker, Senior Business Development Manager for Wesleyan for Lawyers, said "It's important lawyers take the time to review and plan their personal finances and it's even more vital for those lawyers that don't have any pension arrangements.

"The research showed a significant number felt they

weren't making adequate financial provision for retirement. The longer this situation goes unchecked, the harder it will be for someone to make up any shortfall in retirement savings.

"To put this into perspective, if the aspired average retirement age is 62 (with most lawyers needing £36,000-£50,000 per annum) and assuming an individual lives to 85, then a savings fund of £828,000 to £1,150,000 (without taking

inflation into account) will be required over the 23 years."

With 61% of lawyers saving on a monthly basis outside of any pension contributions they make, the average amount they put away every month is almost £600. Nearly a fifth (17%)

indicated they saved £1,000 or more a month.

When asked where they primarily kept their savings, 41% said they made use of tax efficient

savings by holding money in ISAs, while 39% chose bank and building society savings accounts. Just 7% selected stocks and shares.

Jon added: "Encouragingly, a large percentage of lawyers have developed good habits, saving regularly and making use of tax efficient savings such as ISAs. However, lawyers who keep the majority of their cash in a bank account could see its long-term value eroded by high inflation rates. They should consider moving to other more rewarding saving and investment products.

"By doing so lawyers will give their money a greater chance to grow and a pension definitely remains one of the best ways of generating a good income in retirement."

"More than 80% of lawyers believe their job is secure. Hopefully this will give them the confidence to continue to make informed long-term financial plans. It's important lawyers review their finances regularly with a qualified Financial Consultant, who can then help them plan for a retirement that they want and deserve.





# What's on @ DASLS

By Tony Steiner, Executive Director

2012 promises to be another year of opportunity with many challenges ahead. DASLS team will be here to support members throughout.

Work in the office at this time of the year tends to concentrate on planning the seminar and social programmes, various committee meetings and finalising the arrangements for the annual dinner.

The Challenge Cup has been in full swing with the 5 a side football just before Christmas. Congratulations to Ashfords on their win. The Annual Quiz on the 2<sup>nd</sup> February will be a fitting finale. This event is always very popular so make sure you get you get your booking in early. Details are available on our website.

The Challenge Cup will be awarded to the winning firm just a month later at the Society's Annual Dinner at Sandy Park, Exeter. The dinner is sponsored by Aon and also Wesleyan for Lawyers. I am delighted that both sponsors have agreed to support the Society in various ways over the next twelve months and hope that members will find their contributions to this newsletter informative and helpful.

By the time you read this I anticipate that the Joint Professions' Networking Group's meeting on 17 January will have taken place and Stephen Collins, the Bank of England's South West Agent, will have given us his forecast of what is ahead, although I shan't try and second guess what he will have said! DASLS is keen to support this

group; it is an excellent opportunity to develop contacts from other professional sectors including accountancy, property, insurance and banking. The group meets on a quarterly basis and full details of the April event will be announced shortly.

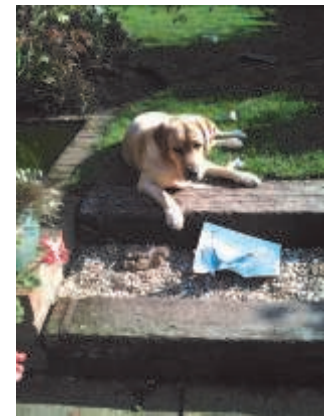
Work continues on DASLS strategic plan for the coming 3 years. As reported in the last

newsletter we have plans to improve what we do and I hope to report some more concrete ideas in the coming months. In the meantime, we would be very pleased to hear from any member with feedback or initiatives that DASLS could take on.

I look forward to seeing you at a DASLS event sometime in the coming year and wish you all a happy 2012.

**APOLOGIES:**  
Tosca (pictured again) is a girl!

**She has qualified for Crufts in March 2012 - bravo!**



## Qualification as Notary

### Open Day Notice

At The Grange Holborn Hotel  
50-60 Southampton Row  
London WC1B 4AR  
Thursday 23rd February 2012  
11.00a.m to 4.00p.m

Organised by the Notaries Society, the Open Day will provide an introduction to the notarial profession in England & Wales for those interested in qualifying.



- The Faculty Office, regulation and rules
- UCL, Faculty of Laws - Notarial Practice Course

Fee: £160 including lunch

Application forms available from:  
THE ADMINISTRATION DEPT.,  
THE NOTARIES SOCIETY,  
PO BOX 226 MELTON,  
WOODBRIDGE, IP12 1WX.  
DX 41412 WOODBRIDGE.

[admin@thenotariessociety.org.uk](mailto:admin@thenotariessociety.org.uk)  
[www.thenotariessociety.org.uk](http://www.thenotariessociety.org.uk)

The programme will include:

- The role and practice of the notary
- Qualification and admission to the profession

## Have you seen DASLS's BUZZ?



**It's our fortnightly e-bulletin. If not, do we have your current email address?**

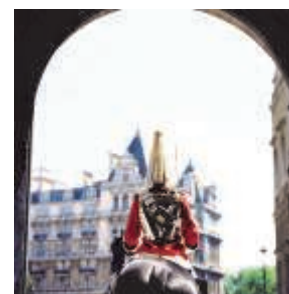
**Please contact [monique@dasls.com](mailto:monique@dasls.com) to register your details!**



# DASLS goes to Westminster

By Peter Cox

DASLS Parliamentary Liaison Officer (Newton Abbot and Torridge & West Devon MPs)



## From left to right

- Matt Still, *Regional Manager, Law Society South West*
- Penny Scott, *Cartridges*
- Chris Hart, *Wollen Michelmores*
- Adrian Sanders,**  
*Liberal Democrat Member of Parliament for Torbay*
- Bob Symons, *Taunton*
- Mrs Jeanie Cox
- Geoffrey Cox QC,**  
*Member of Parliament for Torridge and West Devon*
- Peter Cox, *Boyce Hatton*
- Tony Steiner, *DASLS Executive Director*
- David Turner, *DASLS President*
- Leela Titus, *Intern at the House of Commons and Parliamentary Assistant to Adrian Sanders MP*

After some debate, a team of DASLS Parliamentary Liaison Officers and your President duly assembled at various train stations en route to London on 23rd November for a Reception at Westminster, very kindly hosted by Adrian Sanders MP (Torbay).

Invitations were sent to all Members of Parliament and Lords in the DASLS geographical area and several replies and apologies were received. Some chose to ignore us altogether!

The primary purpose of the meeting was to lobby Members of Parliament and also the Lords in relation to the pending Legal Aid and Civil Justice Reforms. A

secondary aim of establishing contact and building relationships with the MPs and Lords for future lobbying was also to be fulfilled.

The day got off to a flying start with all attendees duly assembling as planned as the train progressed towards Paddington. Tony Steiner and Peter Cox got on at Tiverton to join Chris Hart. Bob Symons and your President joined the train at Taunton. We were later joined by Penny Scott at Westminster.

Matters took a sudden turn for the worse at Paddington when our President suggested walking to the Palace of Westminster (the

sun was shining, after all) and, an hour later, we arrived at the Palace exhausted but in the nick of time.

Access to the House of Commons was surprisingly easy and waving a piece of DASLS headed paper seemed to be all that was required! Tony Steiner even managed to get us all right through to Dining Room C simply by informing anyone in a uniform who challenged us that we were all 'organisers'.

The meeting was regarded by all to have been very successful and certainly to have fulfilled the secondary aim, if not the primary one. All enjoyed drinks and canapés in the cosy surroundings of Dining Room C and a well received speech from our President.

Members of Parliament attending were Adrian Sanders (Torbay), Geoffrey Cox QC (Torridge & West Devon), Iain Liddell-Grainger (Bridgwater) and Ben Bradshaw (Exeter). Lord Cotter and Lord King of Bridgwater also attended. Each has received a hand written letter of thanks from your President. Those Members of Parliament who did not attend have received a letter telling them what a useful meeting they missed!

Incidentally, a few days later the Government announced that the Legal Aid Reforms were to be delayed by six months...

# Obituary: Thomas Gillard Penny

By Tim Howells, Partner, Ashfords LLP, Tiverton

The Society will be saddened to learn of the death, at the age of 77, of Tom Penny, a longstanding and active member of the solicitors' profession and of the DASLS Main Committee.



He faced his increasing physical infirmity with fortitude while continuing to express his lifelong concern for others.

Tom came from a distinguished local legal family, his father having

started his practice in Tiverton after the First World War. Tom attended Winchester and Cambridge, did his National Service with the Somerset Light Infantry in Malaya and was articled in Exeter.

After many years as a partner in the firm known variously as Penny and Harward (by which name it is known to many in Tiverton to this day) and Ashford Sparkes and Harward.

Tom retired to become Clerk

to the Tiverton Almshouses and to practise as a Notary Public. He continued to give valuable support to many local organisations and charities and to promote the interests of a range of age groups from Young Farmers to the elderly.

His religious faith and sense of public service combined in membership of the General Synod of the Church of England and his support for local clergy and church members.

He leaves a widow, Joan, and four children to whom the Society sends condolences.



# Renewal 2011



*Grahame Davidson Dip CII Lexcel Consultant, Branch Director*

*Marco D'Ovidio, Senior Client Manager, Tel: 0117 948 5116*

The 2011 solicitors' professional indemnity insurance (PII) renewal season, completed, finalised and boxed away on 30th September 2011, passed by with less of a thunderous bang and more of a sigh of relief than in the previous three or four years.

Summer time in England and Wales recently has brought not only the uncertainty of unpredictable weather patterns, but the more worrying aspect for those involved in the legal profession, the PII renewal. Looming large on the back of the school summer break, all legal practices, whether large or small have that foreboding feeling when completing the renewal proposals forms for submission to the open market insurers. Will we get renewal terms? Will they be competitive? Will they allow us to continue in business? Will further cut backs be necessary to fund the latest premium hike? It is an uncertain time for sure.

**FOUR INSURERS SECURED MORE THAN HALF OF THE MARKET SHARE IN TERMS OF PREMIUM.**

Added to this uncertainty, this year there were a number of changes, but did these proposed changes help the 2011 renewal? In a word, yes.

Whilst those insurers who have been around for a number of years still have the historical pain of taking the hits of TAG, the conveyancing issues of 2008, 2009 and 2010, and of course the recent exposures to the assigned risks pool (ARP), the future for the profession has been brightened by the changes implemented by the Solicitors Regulation Authority (SRA).

The perceived issues of firms being unable to obtain cover did not manifest as had done in the last three years and firms in the ARP for 2011 were at a manageable number of 29, compared with hundreds at its peak. This is a positive sign even

before the implementation of all of the reforms proposed by the SRA for 2012/13.

In previous renewals, there had been a much more conservative attitude to underwriting from established players. The global economic situation has not yet gone away, and despite the reforms set to be introduced, there is still an underlying concern that the housing market and banking sector in particular could yet throw up another round of conveyancing related claims. This concern caused existing insurers to look closely at their renewal books to see if there was a perceived conveyancing risk; however, the procurement of new clients with robust risk management and reasonable claims records continued to be sought.

Whilst the future reforms did encourage new players

into the market, creating some competition in 2011, the established players did continue to write a substantial portion of the overall market. As you can see below four insurers secured more than half of the market share in terms of premium. The rate rises from previous years were not evidenced in as greater numbers or severity as previously seen. The SRA's proposed changes meant that some insurers could see 'the light at the end of the tunnel', keeping them keen and interested for the foreseeable future. It will be interesting to see what additional appetite new and existing markets have for 2012.

Whilst the PII renewal for solicitors will never be a time of joy, the summers of discontent may be tempered slightly with a little ray of sunshine ...or two.

2010		2011	
Chartis	18%	XL Insurance	18%
Hannover	14%	QBE	13%
XL Insurance	13%	Hannover	13%
Zurich	13%	Travelers`	12%
Travelers	11%	Zurich	9%
QBE	8%	Chartis	9%
Allianz	6%	Allianz	6%
Aviva	4%	Barbican Syndicate	3%
Lemma	3%	Alpha Insurance	3%
Royal & SunAlliance	2%	Aviva	3%
Remaining insurers	6%	Remaining insurers	10%



# Referral Fees in Conveyancing

By Ian Bradbury, WBW Solicitors, Torquay  
Member of the Non Contentious Business Sub-Committee

With the amount of column inches given to referral fees paid to ambulance chasing lawyers recently, those paid in conveyancing have been rather overshadowed. The underlying arguments, however, remain the same. On the one hand, there is nothing wrong with buying in work. Others do it, why shouldn't solicitors? On the other hand, it is argued that the fee paid only benefits the agent/introducer and that indirectly that cost is paid for by the consumer without receiving any corresponding benefit. There has been a degree of flipping and flopping within the profession with the status quo continuing at least partly on the basis that at least if the fees are declared there may be some apparent control as opposed to them being driven underground and effectively hidden.

Whilst Mr Djanogly was committed to pushing through the Jackson reforms including the ban on personal injury referral fees, the government is "not currently pursuing further work specifically in relation to referral fees and estate agents". The Law Society Chief Executive, Des Hudson, has expressed his opinion that this is "short-sighted and does not recognise the clear potential for consumer detriment that exists in respect of the most important transaction most

people make in their lives – buying or selling a house".

It appears that for the foreseeable future conveyancing referral fees are with us but given their contentious nature it would be as well to review any current agreements to see how they have been affected by the recent regulatory changes. Having been approached by a "well known" agent recently, it is evident that some terms and conditions being offered do not comply with the current Code of Conduct.

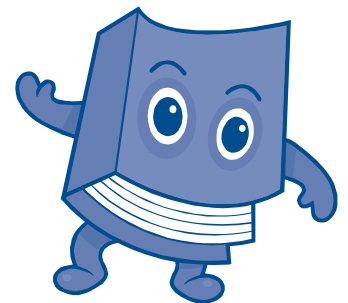
The previous regulations were primarily dealt with in the Solicitors Code of Conduct 2007 Rules 7 and 9 as amended. As has been made clear to everybody by the SRA following the new "Indicative Behaviours" in detail is not sufficient, we must continue to focus on the "Outcome". However, having a look at the old rule and the new Indicative Behaviours is at least a place to start in endeavouring to comply with nebulous concepts. As briefly as possible, under the old Rule 9.01 you needed to draw the attention of the introducer to the rules applicable to publicising your firm to ensure that they, the

introducer, did not transgress them, by for example unsolicited phone calls.

Under 9.02 the agreement between yourself and the introducer would need to be in writing and available for inspection by the SRA. The introducer would have to undertake to comply with Rule 9 and the agreement must provide that before making the referral the introducer must give the prospective client information on the fact that they have a financial arrangement with you including the amount of any payment calculated by reference to that referral. Before accepting the instruction you were obliged to give like information directly to the client. It is apparent that was not always done and that the referral fees were hidden within third party "Management Fees".

We now have the Ten Principles and Chapter 9, Fee Sharing and Referrals to consider. The object is to apply them correctly. Success in doing that would be shown, subject to the final comment in this article, by achieving the required Outcomes 9.1 to 9.7. To achieve those Outcomes your independence and

judgement must not be prejudiced, the client's interests must be protected, they must be in an informed position generally and specifically with regard to any financial interests of the introducer and any fee sharing arrangement that is relevant. One of the few specifics is in 9.7 which confirms any arrangement with the introducer must, as before, be in writing. There then follow 9 Indicative Behaviours, observance of which it must be stressed will not ensure that you are fully compliant. However, the arrangements can only be with "reputable" third parties (I do not dare to try and define "reputable" in this context).



The arrangements must ensure that the clients are treated fairly and we must advise our clients if they are entering into an arrangement with an introducer which we consider is not in their best interests. (How do we determine who is the best agent?) An introducer agreement which causes us to breach The Principles must be terminated.

# Referral Fees in Conveyancing Continued



Ian Bradbury

Similar to the old Rule 9 and 7 we must ensure any introducer marketing would not breach the Code if carried out by ourselves. Attention must be drawn to any payments made in connection with any referral. Any information given to the client must be clear and in writing, or a form appropriate to the client's needs.

There are three specific Indicative Behaviours that will indicate that The Principles have not been

complied with, namely entering into any type of business relationship with a third party that places you in breach of the authorisation or other regulatory requirements in the Handbook, allowing the introducer to influence your advice or accepting referrals where you believe the client may have been pressured or misled.

*“Attention must be drawn to any payments made in connection with any referral.”*

It would of course benefit any member firms wishing to continue to pay referral fees to ensure that they review their systems and ensure that these are robustly, intelligently and individually applied and not just based on a tick-box approach if they are to stand the best chance of not breaching the new Code.

Overall we can continue to follow the procedures as set out in the old Rule 9 and we can follow all the additional positive Indicative Behaviours in the new Rule 9 but if it is decided that solicitors paying for conveyancing referrals lessens the trust the public places in us we have just breached Principle 6 and are guilty as charged anyway.

Happy New Year!

## Speaker's Corner OFR 2012 - unthinking compliance?

By Nicola Ellis, Compliance Solutions for Lawyers LLP



The 2011 Code of Conduct has been with us now for some three months but it seems that some firms may not yet have undertaken procedural compliance reviews, on the basis that it will be one of their new compliance officers' responsibilities later this year. However, if you were to be on the receiving end of an SRA visit next week, would you be able to demonstrate full compliance with the 2011 Code? Are you confident that you know what your reporting obligations are and that you have systems in place to ensure that you are able to fulfill them? Do you have a compliance plan? Firms should not be waiting until they have to designate their

compliance officers to deal with such issues – some of the processes should already be up and running, and others well on their way.

In December Samantha Barrass, SRA Executive Director, delivered a speech in which she outlined the SRA's expectations in relation to OFR compliance. She cited a discussion that she had had with a City firm which told her that they were struggling about how to deal with conflicts of interests under the new Code and were hoping that, if they continued doing what they had been doing under the 2007 Code, all would be well. She also referred to other solicitors who had proudly told her that they

had been through all the indicative behaviours in the new Code and ticked off all the ones that might apply to them in order to demonstrate that they had addressed the issues. However, Ms Barrass made it clear that this is not what the SRA is looking for, and said that firms needed to “shift from unthinking compliance to ethical, contextualised engagement with the principles and outcomes” and to “realise that mindless following of the old code and/or unthinking compliance with the Indicative Behaviours means much greater compliance risk than genuine engagement with the Principles and Outcomes”.

Ms Barrass also cautioned firms about appointing their senior or managing partners as COLPs, particularly in the larger firms. The person appointed must firstly have sufficient time to devote to fulfilling the COLP's responsibilities, which will be particularly time-consuming in firms subject to the SRA's relationship management approach because they are deemed to be high impact firms. Secondly, even if some of the day-to-day duties are delegated, a COLP must “be completely on top of risk and compliance management” in the firm.

There is no time to lose if your firm isn't yet up to speed with compliance issues.



*is pleased to continue its sponsorship of Devon and Somerset Law Society*

Zoe Dobson, Searches & Business Development Manager, explains why Wessex Searches is delighted to sponsor DASLS.

*“Having worked with a number of other local Law Societies over recent years, we have experienced the positive benefits of sponsorship. For us, having the opportunity to attend various events throughout the year, to be on hand to discuss any questions or to provide advice and training, is an important part of our on-going commitment to provide high standards and levels of service.”*

**Meet the Team**

**Zoe Dobson  
 Searches & Business Development Manager**

*WE ARE PROUD OF OUR EXCELLENT CUSTOMER SERVICE AND TURNAROUND TIME.*

Since joining Wessex Searches in 2007, I soon became involved in customer relations, a major element of which included providing our free CPD training courses to conveyancing professionals. The role soon grew to include increased involvement in business development and marketing, as well as continuing to build relations with our valued customers. Since January 2011, I have been managing the Wessex Searches business.

Involvement in sponsorship, attending events either formal or informal, provides an excellent opportunity to speak to conveyancing professionals, and whether it be discussion on the current condition of

the housing market, changes and challenges in the sector, or the variety of products we offer, it's all valuable. Of course attending social events is great fun too; Margy and I had a thoroughly enjoyable evening at the recent DASLS Somerset Dinner held in November. If you missed the Dinner this year, I'd certainly recommend booking for next year.

**Margarita Thomas  
 Commercial Sales Team Leader**

I had been with Wessex Searches for almost a year before the new Commercial DW's were launched in 2009 and I was pleased to take on the role of Commercial Team Leader. My natural desire to take on a challenge and ability to solve the most complex of puzzles serves me well! I still get the same enjoyment from reading maps and searching our records for matching information.

Zoe Dobson (front left) & Margy Thomas (rear left) enjoying the evening at the Somerset Dinner held in November 2011

Photograph courtesy of ANG PHOTOGRAPHY  
[www.ang-photography.com](http://www.ang-photography.com)



Being able to talk to our clients on a one-to-one basis enables us to provide a fast service, and our high levels of customer service have encouraged our clients to order all their required searches from us. I am looking forward to seeing what next year will bring.

*WE HAVE ALWAYS SOME-ONE ON HAND TO HELP WITH ANY QUESTIONS IN RELATION TO DRAINAGE AND WATER ENQUIRIES*

**The remaining Wessex Searches team members are**

Laura Scull, Team Leader;  
 Laura Perrett, Searches Credit Control;  
 Kay Durham, Sales Administrator and Shirley Ashwin, Susannah Brooks, Su Carpenter, Maryann Fisher, & Mark Stillman, Searches Technical Administrators.

*Wessex Searches is provided by Wessex Water, Bristol Water and Sembcorp Bournemouth Water and provides the official CON29DW & CommercialDW Drainage and Water Enquiry in the Wessex Water region. In addition, working with a number of conveyancing search providers, Wessex Searches offers an extensive range of products including coal, environmental, flood, planning, other water company area drainage and water enquiries and Local Authority searches for both residential and commercial properties.*

*Wessex Searches is based at the Wessex Water Operations centre in Bath, which allows close liaison with the development engineers, planning, mapping and new connections departments on site to ensure that delivery of the most accurate reports possible.*

*We are proud to say that with a combined total of over 55 years experience between us, we always have someone on hand to help with any questions or queries in relation to Drainage and Water Enquiries.*

*Please don't hesitate to contact us using our details below should you need to:*

Wessex Searches, Wessex Water Operations Centre, Claverton Down, Bath, BA2 7WW  
 Website: [www.wessexsearches.co.uk](http://www.wessexsearches.co.uk)  
 Email: [contactus@wessexsearches.co.uk](mailto:contactus@wessexsearches.co.uk)  
 Telephone: 01225 526206

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# Interview of the Month

*With Charles Cooper  
Wollen Michelmores, Newton Abbot*



## **Why did you join Devon & Somerset Law Society?**

The legal profession is anticipating unprecedented change in the next 5 to 10 years, and I hope to see it emerge more efficient, profitable and respected, embracing both the traditions and the opportunities that modern technology and business practice can provide. DASLS offers many benefits to its members but the most important for me were the chance to meet and discuss developments in the profession with lawyers from other firms and businesses, and those with influence in Chancery Lane and beyond. I joined the General Committee last year because I felt that, as the voice of the region's legal profession, DASLS could be improved, and am now part of the working group tasked with developing the Society's business strategy plan.

## **What is your dream job?**

Law is ideal for me as I enjoy a good debate and am passionate about the art and skills of advocacy. Ultimately I aspire to a judicial appointment.

## **What has been the most embarrassing moment during your professional career?**

I trained originally as a doctor and recall delivering my first baby as a 4<sup>th</sup> year medical student. The mother was very kind and relaxed and the delivery went smoothly, but as I handed the baby to her I noticed the Consultant Obstetrician hovering uncomfortably in the doorway. He gave me a very odd look, ushered me from the room, then proceeded to charm the mother as if she was a member of the Royal family. On later enquiry I discovered I had just delivered the grandchild of the President of the Royal Society of Obstetricians and Gynaecologists, a personal friend of the Consultant's who had assured him that his daughter would be in the "best possible hands"...

## **Which sort of work gives you the most job satisfaction?**

Constructing a well-reasoned and persuasive argument, and conceiving and implementing a successful business

development and marketing strategy.

## **What do you do in your spare time?**

I used to row, and while I am still a member of British Rowing I now have a beautiful 2-year-old daughter who has a monopoly on my spare time. She gives me the excuse to indulge my more cerebral interests by going for nature rambles, visiting National Trust properties and gardens, ancient monuments, zoos and museums, going fossil hunting and star-gazing, and searching old dusty warehouses full of antiques and works of art. My wife and I particularly love travelling and, when my daughter is a bit older, we hope to show her the wonders of the ancient and natural world.

## **What book are you reading at the moment?**

*The Greatest Show on Earth* by Richard Dawkins, *The Complete Sherlock Holmes* by Sir Arthur Conan Doyle, and *Mary Poppins Opens the Door* by P L Travers.

## **What is the most recent film you have seen?**

The Nutcracker.

## **What is your favourite food?**

I enjoy variety and try to eat local seasonal food wherever I am in the world. At this time of year I like to be in England so it has to be mince pies with a glass of mulled wine.

## **Which is your favourite restaurant?**

Burgh Island, South Devon.

## **Where is your favourite holiday destination?**

The Isles of Scilly in spring, Channel Islands in summer, Africa at the end of the rainy season, Scotland in the autumn, and Vienna at Christmas.

## **What is your favourite pet?**

Samson, my dear departed chocolate Labrador, who has yet to be replaced.

## DASLS Cufflinks



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DASLS Office.

## **Inquiries before Contract of Managing Agents / Freeholders**

An updated version of this helpful proforma is now available at:

[www.dasls.com/uploads/LhE2011.doc](http://www.dasls.com/uploads/LhE2011.doc)

This form may be completed on screen and saved on your own system.



# DASLS Annual General Meeting on 17 April

To be held at the Tiverton Hotel, Tiverton starting at 5.30 pm with a free CPD seminar - details to be announced.

Nominations are invited for the main Committee of the Society. Elected Committee members serve for 3 years and meetings take place 4 times a year when current legal issues are discussed.

We would welcome involvement from a wide cross section of our membership. Last year our debates were advanced with the input from Lisa McClelland and Charles Cooper (see interview on p.14).

**BOOK EARLY!**  
FOR FURTHER DETAILS  
PLEASE CONTACT MONIQUE  
AT DASLS OFFICE

We would love to benefit from more members like them!

Opposite is a form of nomination and this should please be returned to the Honorary Secretary by no later than 5.30 p.m. on Tuesday 31 January.

### NEW FOR THIS YEAR'S AGM!

Prior to the formal business, a FREE one hour CPD seminar will be arranged starting at 5.30pm. Please visit DASLS website where details will be posted as soon as we receive confirmation from our speaker.



To: Tony Spiers MBE  
DASLS Honorary Secretary  
Aston Court, Pynes Hill,  
Exeter EX2 5AZ  
[DX 8361 EXETER]

I wish to nominate

.....  
of.....

For election to the main Committee and I confirm that the nominee is willing for his/her name to go forward.

Signed .....

Address .....

Year of Admission of Nominee .....

Please return this form by Tuesday 31 January 2012.

## Diary Dates for 2012 Wainwright Walk and Legal Sunday Service

The Wainwright Walk will take place on 9th March 2012. Students, staff, alumni and members of the legal profession will walk from the Law School around the beautiful University campus, past some significant and historic Exeter legal landmarks, finishing at Exeter Court on Southernhay, Exeter.

The walk will be led by Baroness Hale, and funds raised will support the [Community Legal Helpdesk](#) which Jill Wainwright helped to establish.



place in her memory and to raise funds for the clinic which she supported from its inception.

**Justice of the Supreme Court,  
The Right Hon the Baroness  
Hale of Richmond**

Baroness Hale is the first and only female judge in the Supreme Court. She is a family lawyer and an academic. She is the President of both the International Association of Women Judges and the UK Association of Women Judges. District Judge Jill Wainwright, who sat on the Board

of the International Association of Women Judges, was a friend of the Law School and a member of the Steering Group which envisaged the Community Legal Helpdesk at Exeter County Court. Sadly, Jill did not live to see the Helpdesk in action as she died from cancer in April 2011. This walk takes

Further entry details will follow.

For immediate enquiries please contact:  
Dr Sue Prince s.j.prince@exeter.ac.uk



**This year's Legal Service** will take place on Sunday 17 June 2012 at Exeter Cathedral.

Anyone wishing to take part in the Procession, would they please contact Monique at DASLS office Tel. 01392 366333 or by email [monique@dasls.com](mailto:monique@dasls.com)

Thank you.

# Invitation to CHSW Open Days

By Marie Tippet, Press Officer



Registered Charity No. 1003314

Children's Hospice South West is the only organisation providing specialist hospice care in the South West for families with children who are not expected to reach adulthood. Through its homely hospices – Little Bridge House in Devon, Charlton Farm in Somerset and Little Harbour in Cornwall – we offer short breaks, palliative, emergency and end of life care to sick children and care and support to their families. As well as help, advice, care and support to well brothers and sisters in bereavement and beyond.



Charlton Farm

The services our wonderful care staff provide are free to the families and we rely on the generosity of supporters to deliver our promise to 'make the most of short and precious lives'.

As a thank-you to our supporters we are throwing open the doors of your local hospice – Little Bridge House in Devon and Charlton Farm in Somerset – giving everyone that visits an insight into children's hospice life.

The support of the people across the South West has been an invaluable gift to CHSW and we would like to invite you to join us at one of our Open Days for a chance to see inside the hospice

and how your support really makes a difference to the children and families who stay with us.

You can rest assured that our hospices are bright, fun and lively places. You won't be disturbing any children or families as these days are carefully planned as an opportunity to carry out essential maintenance and care team training. They also provide our donors and volunteers with a day of thanks for their on-going support.

Our Open Days will take place monthly throughout 2012 starting in January and we would be very pleased to welcome you and any family members, friends or colleagues you would like to bring along to experience first hand the warmth of Little Bridge House and Charlton Farm and see the results of our supporter's hard work and generosity.

Little Bridge House



For more information or to book your place on one of our tours please visit [opendays@chsw.org.uk](mailto:opendays@chsw.org.uk) or

call 01271 325270 (Little Bridge House)

01275 866600 (Charlton Farm)



## The Optimist's Creed by Christian D. Larson (1874-1954)

I promise myself...

- To be so strong that nothing can disturb my peace of mind.
- To talk health, happiness, and prosperity to every person I meet.
- To make all my friends feel that there is something worthwhile in them.
- To look at the sunny side of everything and make my optimism come true.
- To think only of the best, to work only for the best, and to expect only the best.
- To be just as enthusiastic about the success of others as I am about my own.
- To forget the mistakes of the past and press on to the greater achievements of the future.
- To wear a cheerful expression at all times and give a smile to every living creature I meet.
- To give so much time to improving myself that I have no time to criticize others.
- To be too large for worry, too noble for anger, too strong for fear, and too happy to permit the presence of trouble.
- To think well of myself and to proclaim this fact to the world, not in loud words, but in great deeds.
- To live in the faith that the whole world is on my side, so long as I am true to the best that is in me.



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PROFESSIONAL  
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**If so, you do not have  
to do so alone.**

**Support groups exist  
to assist you.**



## Upcoming Events

### Ten Tricky Problems in Relation to Flats

Thursday 19th January 2012:  
9.45am – 1.00pm 3 hours CPD  
Richard Snape

### Conveyancing Law Update

Thursday 19th January 2012:  
2.00pm – 5.15pm 3 hours CPD  
Richard Snape

### Family Advocacy Course

Tuesday 7th February 2012: **FULL**  
*To meet demand, a second day has been arranged on*

### Tuesday 13 March 2012

9.30am – 5.00pm 6 hours CPD  
Nicola Isaacs

### Property Litigation Update

Thursday 15th March 2012:  
2.00pm – 5.15pm 3 hours CPD  
Speakers from St John's Chambers

### Ten Top Tips on appearing before a District Judge

Tuesday 20th March 2012:  
6.00pm – 7.30pm 1.5 hours CPD  
District Judge Andrew Moon

### Criminal Law Update

Wednesday 21st March 2012:  
10.00am – 5.30pm 6 hours CPD  
Anthony Edwards

### Injury Developments

Thursday 22nd March 2012:  
9.45am – 1.00pm 3 hours CPD  
Prof. Dominic Regan

### Costs and Funding

Thursday 22nd March 2012:  
2.00 pm - 5.15 pm 3 hours CPD  
Prof. Dominic Regan

### Outcomes-Focused Regulation and the new SRA Handbook

Thursday 22nd March 2012:  
2.00pm – 5.15pm 3 hours CPD  
Nicola Ellis and Clive Warburton

### Employment Law - Latest

Wednesday 18th April 2012:  
2.00pm – 5.15pm 3 hours CPD  
Debbie Grennan

### Pre Death Problems & Pitfalls

Wednesday 25th April 2012:  
9.45am – 1.00pm 3 hours CPD  
John Thurston

### Protecting the Assets of the Elderly

Wednesday 25th April 2012:  
2.00pm – 5.15pm 3 hours CPD  
John Thurston

### Children Law Update

Thursday 10th May 2012:  
10.00am – 4.30pm 5 hours CPD  
Susan Campbell QC & Christopher Naish

## Professional Development

**DASLS has over 21 years' experience** of organising a comprehensive programme of CPD courses annually, including *in-house training*, with experienced and *high-quality speakers*; Delegates enjoy the benefits of training undertaken nearer to the office, reduction in travel and associated expenses resulting in *cost-effective training* with discounts available for multiple bookings - *look out for our 3 for 2 Offer* when you can book 3 people on the same seminar and get the cheapest place free; Practitioners can *keep up to date* with current developments in the law throughout the CPD year; No penalty for substitute delegates with individual CPD *Certificates of attendance* issued after each course; Members of DASLS *Education & Training Sub-Committee* are responsive to requests for seminars on particular subject matters and welcome suggestions for future topics and *specialists* we can invite. Latest developments include an online training facility with the *College of Law Media service* - see details on our website.

### FOR PARALEGALS AND SUPPORT STAFF

#### Conveyancing for Paralegals and Support Staff

Wednesday 29th February 2012:  
9.45am – 5.00pm  
Alastair Teague

#### Wills & Probate for Paralegals and Support Staff

Thursday 26th April 2012:  
9.45am – 5.15pm 6 hours CPD  
John Thurston

### FOR TRAINEE SOLICITORS

#### Professional Skills Course - Spring & Autumn 2012 Compulsory Course for Trainees

Starting on 5 March 2012 / 5 November 2012

East Devon Business Centre, Honiton

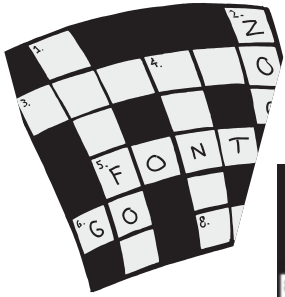
For more details please contact Monique at DASLS office [monique@dasls.com](mailto:monique@dasls.com)

All courses are held in the Exeter area unless otherwise indicated.

Book via the website or

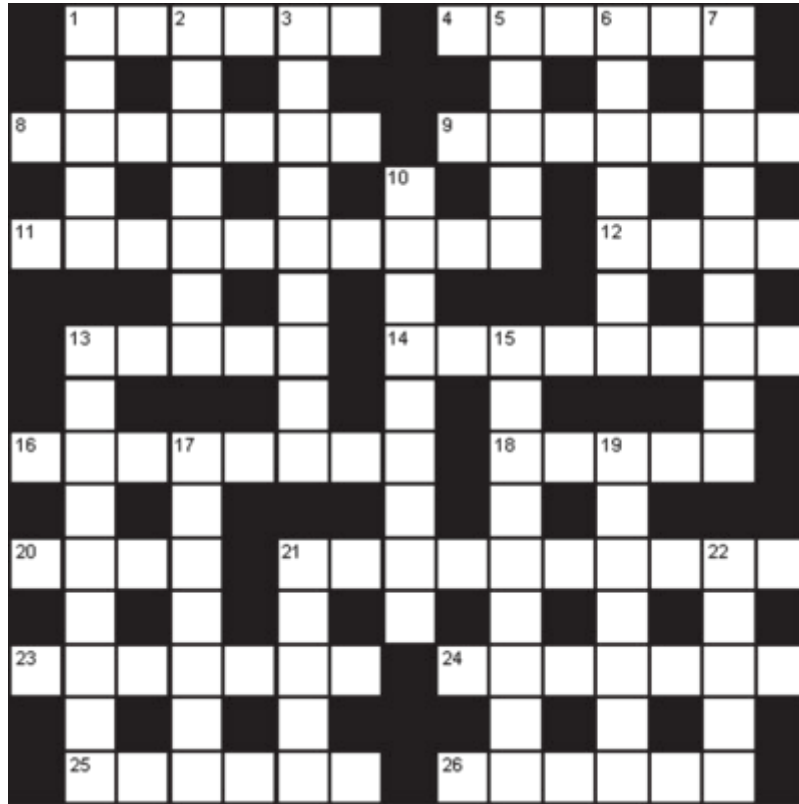
For full course details and prices, simply download flyers from our website: [www.dasls.com](http://www.dasls.com)

Contact DASLS Office on 01392 366333.



# Crossword Corner

COMPILED BY DAVID STEPHENS OF BATTENS



## COMPETITION

For your chance to win a bottle of champagne, simply **complete this month's** crossword, scan and email it to [monique@dasls.com](mailto:monique@dasls.com)

The winner will be drawn from all the correct entries received by Friday 3rd February.

The solution will be published in the e-March issue.

*The competition is open to all DASLS Members, Associates and Affiliates.*

Good luck!

## Across

- 1 Abrasive rubs vermin up the wrong way, firstly (6)
- 4 To a higher position rise, then draw down (6)
- 8 5/16s a failed romance (7)
- 9 Centenary vessel has computers in brown in charge (7)
- 11 When blended, Hamlet's ale is of consistent quality (3,3,4)
- 12 Paradise 5/16 (4)
- 13 5/16 belongs to British Railways (5)
- 14 5/16 from a barn owl (8)
- 16 See 5 Down
- 18 "Diamonds" plays devil's music (5)
- 20 5/16 not away (4)
- 21 Seaside structure could be a church? hospital next to river? (10)
- 23 Middle eastern capital to claim Hungarian capital, father (7)
- 24 5/16 victory for the hairless (7)
- 25 Headless twins preceding 5/16 with Hampstead connection (6)
- 26 5/16 in battle, evidently (6)

## Down

- 1 Jools, we hear, singularly is a singer (5)
- 2 Some rat upset a real artiste (7)
- 3 Held together distressed clients ok (5-4)
- 5/16 Leader flounders in strip-mine mire (5,8)
- 6 The unprofessional perambulate around - but not with pleb! (7)
- 7 Private roads disturb Ivy Seward (9)
- 10 Windsor McKellan alliance without a savage (9)
- 13 French DIY sees calibre go awry (9)
- 15 No threats about Geordieland (9)
- 17 99s - and how - put on by skaters (3,4)
- 19 Dominican leader in choral music featuring triads etc (7)
- 21 Troublesome Libra 5/16 (5)
- 22 Grab 16 in France (5)



# DASLS Challenge Cup

**LEAGUE TABLE:  
After four rounds**

*NEXT EVENT - CHALLENGE QUIZ  
2nd February 2012 at the Mill on the Exe  
Details at [www.dasls.com/uploads/Quiz12.pdf](http://www.dasls.com/uploads/Quiz12.pdf)*

As in previous years the 5 a side Football competition was enthusiastically supported with furiously fast games that were fought, won, lost and (most significantly) drawn as it was the single point gained in a drawn match that meant Tozers just pipped Foot Anstey to go through to the final. It was therefore a slightly surprising but very exciting final between Ashfords and Tozers, who each failed to score and it went to extra time. Ashfords swiftly dispatched



the matter, with two goals in quick succession leaving no doubt of who the winners of the night were.

Thank you to everyone who took part on the evening in such a sportsman like manner and entering into the true spirit of the event and especially to those who stood in for the absent referees!

The result leaves an exciting finale for the Challenge Cup at the annual quiz on 2<sup>nd</sup> February where potentially any of the top four teams in the leader board could claim the trophy.

<b>Foot Anstey</b>	<b>12</b>
<b>Gilbert Stephens</b>	<b>12</b>
Kitsons	11
Ashfords	8
Tozers	4
Wollen Michelmore	4
Everys	2
Clarke Willmott	1
Over Taylor Biggs	1
Parlett Kent	1
Veitch Penny	1

## Solution to the November 2011 Crossword

**CONGRATULATIONS**

**Giles Bowen**

**of Everys**

**in Sidmouth**

