

Newsletter



DEVON & EXETER
LAW SOCIETY

www.devonlawsociety.org.uk

SUMMER 2005

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Volunteers Wanted!

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MEDIATION SERVICES

The Devon & Exeter Law Society is a recognised trainer in mediation and a member of the Civil Mediation Council.

- DELS co-ordinates and provides mediators to Devon Courts for the innovative Small Claims Scheme for which it has secured financial backing from the DCA.
- DELS is a recognised provider of mediators to the Court for 3 Hour Time Limited Mediations in Fast and Multi Track Cases.
- DELS Mediators are required to attain high qualification standards and are under the continuous supervision of the Society to maintain these.
- DELS experience is that many disputes are capable of a mediated solution whether Court based or not.
- Some clients may prefer to seek a mediated resolution to their disputes. DELS is able to help and can provide experienced and trained lawyer mediators for non-Court based mediations.

Current rates for mediation services:

Up to 3 Hours Time Limited Mediation	£650 inc. VAT
For each hour thereafter	£200 inc. VAT

Parties will be responsible for the venue and its costs.

For further information and to make a booking contact

Devon & Exeter Law Society, Suite 5 Renslade House, Bonhay Road, Exeter EX4 3AY. Tel. 01392 411585
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TONY SPIERS MBE

Congratulations!

Congratulations to DELS Honorary Secretary, Tony Spiers who has been awarded the MBE in the Queen's Birthday Honours list.

Tony, who has been 'Hon. Sec'. for over ten years and is a partner in Exeter based Michelmores Solicitors is recognised for his considerable contribution to charities in the westcountry and service to the legal profession.

★★★★★★★★

DELS would also like to congratulate Lucy Wright for being awarded The Medium – Sized Firm Award at the YSG Pro Bono Awards 2005. Readers may recall that Devon based Lucy spent eight months in Kenya volunteering for CLEAR (Christian Legal Education Aid and Research) where she provided legal advice to poor communities.

REMEMBER

DELS can provide
Personal Introductions
to Lawyers in Mainland
Europe

Ring Monique on
01392 411585



NEW MEMBERS

We welcome:

Mr M. R Arden

Symes Robinson & Lee, Exeter

Mr J. K. Bell

Beviss & Beckingsale, Honiton

Mr H. B. Dixon

Everys, Exmouth

Miss S. J. Glanville

Eastleys, Paignton

Mrs S. K. Goodwin

Torbay Council

Miss C. L. Green

Stephens & Scown, Exeter

Mrs F. P. Hughes

Windeatts, Totnes

Mr M. R. Justice

Symes Robinson & Lee, Crediton

Mr A. N. J. Macmillan-Scott

Ashfords, Exeter

Mr C. Matthews

Trobridges, Plymouth

Miss I. W. Merrison

Eastleys, Totnes

Mr M. Preston

Everys, Exmouth

Mr C. P. Richards

Paignton

Mrs C. J. Thompson

Roger Richards, Paignton

Miss J. H. Wills

Torbay Council

PRESIDENT'S DIARY

Rod Mole

President



I am sure many of you will be aware of the fact that our Honorary Secretary was awarded the

Devon & Exeter Law Society – Online Edition

MBE in the Queen's Birthday Honours List for services to the Legal Profession and to the Community in the West Country. Congratulations Tony and welcome back to Exeter. It remains a sad fact that achievements of this nature rarely rank as headline news whereas the activities of one defaulting solicitor can, as we have seen locally, monopolise the press for many months.

Well three months down the line: has it really gone so quickly? What else have I to report?

On the international scene the visits to Erlangen, Dresden and Verona heralded in my last contribution to the Newsletter have all now taken place.

The Erlangen symposium on Road Traffic Law was attended by lawyers from seven countries including Russia. Rob Newman and Chris Hart made cogent presentations. Unfortunately at the mock trial that followed my legal team were not able to make the same impression on Judge Michael Fischer who dismissed the somewhat fanciful arguments put forward by 'Junior' and 'Senior' Counsel leaving me with a significant damages award to settle before being able to quit the country. Following the working session we were given the opportunity to tour the Court House in Nuremberg and to spend time in Court Room No. 600, which of course was the scene of the International Military Tribunal Hearings following the end of the Second World War.

Both the trip to Erlangen and the subsequent visit to the FBE Conference at Dresden offered, to my mind, moving glimpses of recent history and reinforced how readily we accept without question the freedom and liberties that others, particularly in Eastern Europe have only seen re-established in the last fifteen years. In addressing the requirements and expectations of the emerging Eastern European Bars it was interesting to note the problems which we share, for example:

- * Maintaining independence and preserving the right to client confidentiality
- * Self regulation or external regulation
- * Legal Aid provision
- * Professional Indemnity
- * The weight of bureaucracy which restricts innovation and flexibility
- * The lack of interest by individuals in the operations of associations

Hopefully we do not however have to cope with issues such as the past collaboration of lawyers

Summer 2005

with the security services nor the admission to the profession of political appointees!

Once again DELS should be grateful to and proud of the contributions made to the FBE proceedings by members of this Society, principally Michael Cosgrave and Jeremy Ferguson.

The next meeting of the FBE is scheduled to take place in Marseille on the 20th – 22nd October.

On the 1st of June Andy and I were treated once again to the lavish hospitality of our colleagues in Verona at the celebrations of San Pietro Martire. DELS is scheduled to sign a formal Twinning Agreement with the Verona Bar Association at the end of September and at the last count a party of 18 had booked passage.

Back on home ground I am grateful to those members of the Society who attended the joint reception with the Judiciary and Bar on the 10th of June and who also played host to the 11 international guests who joined us that weekend and who took part in the Legal Sunday Service. I am sure I was somewhere in the procession but on looking at the photograph published in the Western Morning News although I could see the Vice-President and the Past President, the President appeared to be absent – hiding behind some Q.C.'s wig I suspect. Despite the lack of a sporting event I believe a good time was had by all.

Some members may question the value of our international activities, I would however say that following the horrific events on the 7th of July it was heartening to receive messages of sympathy, support and solidarity from a considerable number of our European colleagues.

On the 21st of June following the DELS Committee Meeting held at The Tiverton Hotel we were fortunate to secure the attendance of Julie Swan who is Head of Education and Training at The Law Society with a view to discussing and debating the areas of concern raised by The Law Society's Training Framework Review Consultation Paper. We were able to host representatives from neighbouring Law Societies and hopefully the exercise was thought to be worthwhile by those that attended.

On the 30th of June, along with Tony Spiers, I attended a special meeting at the South West Regional Office in Bristol at which Janet Paraskeva addressed the Presidents and

Secretaries of Local Law Societies, Counsel Members and other members of the profession on the Post Clementi Reforms and Changes that are happening and are yet to take place at Chancery Lane. Unfortunately I did not find the meeting that helpful and I conclude that there is still a great deal of uncertainty as to the role that The Law Society will take in the future both in regulatory and representational terms. This reinforces my view that there is now a unique opportunity for our Society to play a much greater role in representing the profession than it has done in the past and hopefully the ongoing Strategic Review will identify the ways in which this can be achieved.

THE LAW SOCIETY COUNCIL MEETING - MAY 2005

The May Council meeting dealt with a weighty agenda including the future shape of the Law Society and the review of the referral fees rule. Council agreed minimum salaries for trainee solicitors and approved the 2004 accounts and the Society's first Race Equality Scheme. Members also discussed, but did not take decisions on, proposals to tighten the rules for becoming and remaining a Council member.

The Society in transition: Up to now

At its January and February meetings, the Council took important decisions on separating the governance of the Society's regulatory functions setting entry standards, rule-making, monitoring and enforcement, complaints and discipline – from its non-regulatory functions of law reform, international work, representation, and commercial services.

To recap, regulatory functions will be overseen by two new bodies, a Regulation Board and a Consumer Complaints Board, which will operate in 'shadow' form from September 2005, before taking on formal responsibilities in January 2006. The Council will retain the last word on rule-making and setting the level of the Practising Certificate fee and Compensation Fund contributions (subject to the Master of the Rolls' concurrence) as it is bound to under the current constitutional arrangements, because these cannot be delegated.

The President has just announced the appointment of Peter Williamson as Chair of the Regulation Board and Professor Shamit Saggar as Chair of the Consumer Complaints Board. Both Boards will include lay and solicitor members, and

interviews for members will be held in late June and early July. In keeping with the separation of regulatory and representative functions, neither Board will include Council members.

Council views

At the May meeting, Council discussed the future shape of the Society post-legislation, in the expectation that the Government will publish a White Paper in response to the Clementi report this autumn, and that legislation will follow in 2006/2007.

The three models discussed were:

- Option 3: establishing a ring fenced regulatory board, a reporting line to the Legal Services Board and complaints responsibility moved to an Office of Legal Complaints;
- Option 4: operating regulation through a separate legal entity (a company), a reporting line to the LSB and complaints responsibility moved to an OLC;
- Option 5: a model in which representation and regulation were carried out by entirely separate organisations.

In debate, members discussed:

- delaying a Council decision until the Government's position became clearer;
- whether Option 3 would allow the regulatory Boards sufficient independence; whether Option 3 would be sufficiently credible to the public;
- how far the representative part of the organisation would be restricted in its ability to respond critically to the regulatory arm under the models;
- whether Option 4 would lead to the dominance of one side over the other.

Some members felt that Option 5 was desirable as a complete separation and was the 'cleanest' way to deliver regulation in the public interest, enabling the effective representation of the profession. Others argued that Option 5 would be incompatible with profession-led regulation, would more easily lend itself to government control of the regulation of the profession, and would be the most expensive option. It was pointed out that moving to Option 5 would be an irreversible step. Those in favour of Option 4 felt that it was consistent with Clementi proposals while providing room to manoeuvre; that it maintained the principle of profession-led regulation within a single entity; and provided as clear a split as possible without compromising professionally-led regulation.

From now on

Under any of the options there would need to be clarity about the status and positioning of the law reform function, and whether accreditation schemes and Lexcel would be considered a regulatory or representative function. The ability to continue to levy the profession for the cost of quasi-regulatory and public interest functions, as presently existed under section 47 of the Access to Justice Act, was critical. Members voted overwhelmingly (65 out of 86 members present) for 'Option 4' which will create a subsidiary company, provisionally termed RegCo. With this governance structure, the Law Society will remain a unitary body but with a clear separation of functions.

Referral Fee Review

Solicitors have been permitted to make referrals arrangements since 1988 but it was only in March 2004 that a change to the rules of professional conduct allowed for payments to be made for the introduction of work, subject to safeguards to protect the public. When agreeing to the rule change, the Master of the Rolls asked for a review of its operation after a year. The outcome of this review was reported to Council.

The review attempted to assess the impact of the new rule in terms of

- solicitors' independence;
- damage to public confidence in solicitors;
- a client's freedom of choice;
- the costs of solicitors' services;
- the disclosure requirements; and
- clarity and practicality for enforcement purposes.

The Standards Board, which conducted the review, concluded that there was no clear evidence to justify reintroduction of the ban, but that further research was needed as there were some areas of concern. The Board has therefore decided to issue further guidance to the profession, and remind the profession that compliance with these requirements will be monitored and enforced.

The Standards Board will conduct further research, to be completed by November 2005, into the impact of the current provisions with a view to consultation on:

- (i) whether referral fees (or referral arrangements generally) should be prohibited where the introducer has a continuing and potentially adverse interest in the transaction;

(ii) whether there are additional sectors of work for which referral fees should be prohibited (that is, areas other than publicly funded or criminal work).

The Council asked that, in addition, the Standards Board conduct a regulatory impact assessment of the re-instatement of the ban of referral fees, and to report in July.

Legal Aid

Council members discussed the effects of the Legal Services Commission proposals on price competitive tendering for criminal legal aid work. The following motion was carried unanimously: 'The Council recognises that the decision on whether to bid for contracts is for individual firms. However, the Law Society takes the view that firms should not bid for contracts unless or until such time as, in the opinion of the Council of the Law Society, a scheme is proposed which does not risk reduced access to justice or the quality of advice and representation available to legally aided clients.'

Audit Committee Annual Report

Stephen Brooker, the external Chair of the Council's Audit Committee, presented his Committee's annual report. The Committee's task is to ensure that the Society's accounts and financial statements are fair and balanced, and conform to accounting standards; and to review internal control and risk management systems. It comprises two Council members and five external members with the relevant experience and expertise, in addition to the Chair. The Committee reported no significant internal control issues arose in 2004, but made recommendations for reinforcing the Society's approach to risk management.

Race Equality Scheme

Publication of a Race Equality Scheme by the end of May was a statutory requirement on the Society. The Scheme agreed by the Council builds upon the Society's commitment to playing a leading role in the elimination of discrimination. The Society has undertaken a number of activities aimed at helping to eliminate unlawful racial discrimination and promote equality of opportunity, including:

- a review of the strategy and action plan;
- revision and updating of the Solicitors Anti Discrimination Rules;
- provision of advice, support and guidance to solicitors;

- ensuring that equality and diversity implications are identified and addressed in Society policies and activities (in particular, regulatory activities);
- equality and diversity training;
- ongoing dialogue with different demographic sectors (including ethnic or racial minorities) within the profession;
- provision of information in different languages and formats;
- the Solicitors' Race Equality Awards;
- the Diversity Access scheme providing scholarships, mentoring and work placements to those who, without support, would not be able to overcome particular obstacles.

2004 Accounts

The Society's 2004 accounts showed an income of £103.1 million of which the Practising Certificate fee accounted for £73.8 million. Expenditure amounted to £108.6 million, in line with a planned deficit. The budget for 2005 and the new PC fee will be set at the July Council meeting.

The Compensation Fund accounts were also approved. The Fund makes discretionary grants to those who have suffered hardship or loss because of a solicitor's dishonesty. Income for the year was above expenditure, resulting in a balance of £41.1 million. The value of grants paid in 2004 was £11.7 million, down from £13.1 million in 2003. Solicitors' annual contribution to the Compensation Fund was £700, a decrease of £124 over 2003. The contribution level for next year will also be set at the July Council meeting.

Independent Commissioner's report

Sir Stephen Lander, the Society's Independent Commissioner, was appointed in 2002 for a three year term, to 'oversee in the public interest and advise on improving the Law Society's handling of complaints'. In this, his penultimate report, he reviewed a survey based on research of private practice firms which looked at the impact of the Lexcel scheme and whether there was any correlation between membership and the number of complaints made against firms. The report showed that Lexcel was gaining popularity, but that the firms that would benefit the most were least likely to take it up.

Council membership

The Council had a preliminary discussion on tightening up rules for Council membership in line with other professional regulators. Amending the eligibility rules will require a decision by a general meeting, which means that no changes are likely to be made before the 2006 AGM.

The issues included:

Eligibility – whether previous criminal convictions (other than spent convictions and convictions for minor motoring offences) or SDT findings (depending upon severity and elapsed time) should disqualify a candidate from Council membership;

Disclosure – whether the electorate or a nominating professional association should know about convictions or findings which do not go so far as to disqualify a candidate;

Attendance – whether there should be tighter attendance requirements to maintain Council membership;

Age limit – whether the 70 year age limit set out in the Bye-Laws is justified (this is to be the subject of a motion at this year's AGM).

Removal – whether Council membership should be forfeited automatically on some grounds, and whether the Council should have greater powers to remove a member (subject to due process) in other circumstances. (Currently, a Council member may only be removed from office by a Special General Meeting convened by the Council (by two-thirds majority vote) for that purpose).

Trainee salaries

The Council agreed recommended salary levels for trainee solicitors for 1 August 2005 to 31 July 2006. The minimum salary for trainees working outside central London rises to £14,720 pa (up from £14,200). The recommended salary levels would be £15,180 (up from £14,870).

For information on any of the issues raised in this report, please contact Christopher Palmer at:

c.palmer@ashfords.co.uk

Tel: 01884 242 111

ERLANGEN – MAY 2005

Rob Newman

Kitson Hutchings

Erlangen – a busy city centre roundabout at the intersection of four main roads. A drunk driver (a German) enters the roundabout in the wrong direction, against the flow of traffic. Two other drivers (respectively, Belgian and English) entering the roundabout simultaneously



from other roads, but in the correct direction collide with each other and with the drunk driver. Damage, injury and confusion result.

The annual May meeting between representatives from Devon & Exeter and their three twinned European Bars took place this year in Erlangen, in Bavaria, from the 12th to 15th May. Also present were observers from bars and law societies in Italy (Verona), Poland (Gdansk) and Russia (Vladimir).

The business session on the Friday focused on the simple scenario outlined above. During the morning delegates were required to consider the scenario – on the basis of the law and procedure applicable in their own country – and to describe what steps would be taken in both civil and criminal proceedings (presented, in our case, by Chris Hart and Rob Newman respectively), and what the likely outcome would be.

In the afternoon all parties took part in a mock civil trial, conducted in one of the courtrooms of the Erlangen District Court and presided over by Judge Fischer of the Erlangen Bench.

It quickly became apparent that even the limited progress made so far on the path towards European unity was insufficient to enable any rational outcome to take place. It transpired that every country represented had differences, sometimes fundamental, in their traffic laws, particularly those relating to roundabouts. In the case of the English presentation, of course, the difference was particularly stark. On our view of the accident, the seriously intoxicated driver, in attempting to negotiate the roundabout in a clockwise direction, was driving, in that respect, quite legally. The two other (totally sober) drivers, by travelling in the opposite direction, were acting illegally and indeed, arguably, recklessly and dangerously.

In some ways the roundabout is symbolic of the state of the European Union in 2005, half a century on from its establishment. Different member nations travelling round in circles, all aiming at different objectives, following different laws and observing their own national interests. Without some agreement on basic traffic laws, what hope is there of finding common ground on the more complex issues of economics, foreign policy and constitutions?

Happily, such points of detail can be left to others. The assembled European lawyers in Erlangen were happily able to overcome differences of

language, history and culture and devote themselves to the fascinating task of discovering a little more about how they do things in other countries.

The highlight of the day's proceedings was undoubtedly the Court hearing during the afternoon. The English team (already welcomed by the Erlangen Chairman in his opening remarks as "the Exeter Shakespeare Society" did much to maintain their long-established reputation for thespian excellence, even though the undoubted legal merits of their case consistently failed to find support or recognition so far as the hard-nosed Judge Fischer was concerned.



The unfortunate and seriously injured English driver (played with characteristic aplomb by President Rod Mole) failed in his efforts to obtain compensation for his losses and damage. Indeed Judge Fischer added insult to injury firstly, by advising him to dismiss certain members of his legal team and, secondly, by condemning him to pay out from his own pocket substantial sums of Euros. The gallant and unremitting efforts of his legal team (leading Counsel Jeremy Ferguson, junior Counsel Chris Over and interpreter Rob Newman) should not however go unrecorded. They did not abandon their cause, even though their comprehensively researched and well argued submissions (based partially on human rights grounds) were roundly dismissed by the Judge, and their repeated attempts to cross-examine an array of duplicitous and deceitful foreigners masquerading as witnesses, were ruled inadmissible (cross examination is a procedure not widely recognised in continental Courts).

The intoxicated German driver, played on the day to alcoholic perfection by Wolfgang Engler) saw all of his assertions roundly rejected by the Judge.

To say that it was the Belgian driver who ultimately succeeded on all counts, will come as a surprise only to those who had still not realised that the European Union is a device invented by the Belgians with the sole objective of making themselves Top Nation.

From the cut and thrust of battle in the Erlangen Courtroom, it was with considerable relief that the delegates repaired to the more congenial surroundings of the Erlangen Beer Festival.

The subsequent events of the evening will remain, inevitably, clouded in a slightly alcoholic haze. Suffice it to say that considerable laughter, a certain amount of singing and huge amounts of sausage consumption took place. Those who were attending for the first time were delighted to learn that a lesser-known effect of the consumption of local beer is its tendency to facilitate the ability both to speak and to understand the German language.



During the Saturday a further forensic treat had been lined up, namely a visit to the Nuremburg Courthouse: the venue in 1945 of the Nuremburg war trial. The prospect of a one-hour lecture in the Courtroom by the senior presiding Judge, proved an unexpected treat, even for those who had come to it with little in the way of expectation. Apart from Mr Justice Behrschmidt's excellent English it was impossible not to be struck both by his enthusiasm for the subject, and by some of the parallels he drew with the situations which we face in Europe today. He painted a vivid picture of the huge task facing the 1945 Tribunal and the way in which they carried out and completed their task. In doing so, he had much to say about issues of law and criminality, legal and illegal wars, which struck familiar chords for some of the English team.

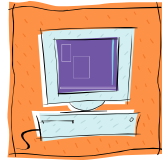
There was great deal more of course. Meals, sightseeing and the chance to for all of us, and our wives to meet and get to know other lawyers from across the whole of Europe. All of us were struck by the warmth and generosity of the hospitality provided by our German friends, both collectively (as a law society) and individually in their homes.

Whatever problems may beset the European project at a higher level, there is no doubt that DELS' twinning links are in excellent shape.

The society was well represented by Rod Mole, Chris Hart, Jeremy Ferguson, Rob Newman, Chris Over (and spouses) and (a first) by Monique Bertoni. Next year we shall all meet again in Belgium. Past experience suggests that it will be another memorable visit.

BROADBAND4DEVON

Sarah Jane Parker
Project Communications
Executive



Broadband4Devon provides Information and Communications Technology (ICT) knowledge and subsidies to businesses to help them use technology as part of a successful business growth strategy.

Independent ICT advice will make sure you are getting the most out of your technology investment – however large or small. This ICT consultancy is available at *no cost to your business*, and is available until the end of 2006.

Our guidance and information is supported by subsidies: a **maximum of up to 40%** of the cost of ICT products and services for your business.

This could include work on your website, network, software and hardware. Each business is individually assessed by an ICT Advisor and the subsidies for your business discussed. Subsidies are provided for products and services which will have a beneficial development effect on your business. Subsidies cannot be given retrospectively, so make sure you contact Broadband4Devon *before* you purchase any ICT commodities.

To receive the ICT advice and support subsidies from Broadband4Devon your business must be in the Objective 2 area of Devon - Plymouth, South Hams, West Devon, Torridge, North Devon, and parts of Mid Devon and Torbay. You must employ no more than 250 people full-time, have a turnover of less than €50 Million (£35m), and not have received any state aid over the value of €100,000 in the last 3 years.

An exciting development resulting from the fantastic success of Broadband4Devon in the Objective 2 area of Devon, is that three major Partners in the Project have decided to invest even more!

Devon County Council, the South West Regional Development Agency and Business Link have provided more resources and funding to help businesses in the area of Devon outside Objective 2 benefit from ICT.

For more information telephone 01752 333800 or visit www.broadband4devon.org.uk

ATTENTION CRIMINAL LAWYERS!

Tim Smith
Justices' Clerk for Plymouth & South Devon



The ETMP forms part of the Criminal Case Management Programme, a national initiative focused on ensuring that the whole of the criminal justice process is effective from arrest to disposal.

The Devon and Cornwall Local Criminal Justice Board (LCJB) has formed an ETMP project team consisting of representatives from the CPS, Her Majesty's Courts Service and the Police. That team has held meetings with defence representatives, to ensure the views of the defence are taken into account throughout the planning and implementation process.

In order to develop a Devon and Cornwall local ETMP Framework, the project team has been reviewing the Criminal Case Management Framework (CCMF), a national document designed to provide operational practitioners with guidance on how cases might be managed most effectively and efficiently. The CCMF is also closely aligned with the Criminal Procedure Rules and the local framework will reflect the requirements within the CPRs. The local Framework will be used to implement ETMP within Devon and Cornwall.

The Framework covers only adult cases at this stage.

A significant number of the changes recommended within the CCMF already reflect existing good practice within Devon and Cornwall, including the fact that Magistrates' Courts, Crown Court and CPS Case Progression Officers have been in place for some time.

To enable further improvements to be achieved, a number of key business changes are proposed. The ones most likely to be of relevance to defence practitioners are as follows:-

Charging Process

- The Police will re-launch the requirement to provide a court information pack (two leaflets and a means enquiry form) to all persons charged or summoned.
- Procedures regarding identification of relevant defence solicitors and dispatch of

advance disclosure prior to first hearing where practicable, or on the morning of the hearing, will be improved.

Court Process

- Cases committed by the Magistrates' Courts for sentence will be given a fixed date at the Crown Court. (This is existing practice in Cornwall but not in Devon.)
- An indication of plea will be requested when cases are sent to the Crown Court. (This will support the CPRs.)
- The Court will continue to ensure defendants are aware of credit for guilty plea.
- Telephone numbers for defendants will be captured at first hearing.
- The Court will telephone defendants to remind them of the date of their trial hearing.
- A new Magistrates' Courts Trial Readiness Checklist will be introduced – in line with Rules 3.2, 3.5 and 3.9 of the CPRs. A new process of the prosecution and defence formally certifying in writing their readiness for trial will be managed by Court Case Progression Officers. A standard form is currently under development. This will be an administrative process and only listed before the Court if there is a material failure likely to affect the proper progress of the case. The form will be sent by the Court 14 days prior to the trial and its return will be expected at least 7 days prior to the hearing. Representative defence practitioners are currently being consulted in relation to this new procedure.
- Fail to Appear Warrants will be issued and executed more promptly.
- Magistrates and Legal Advisers will be more proactive in giving formal directions regarding expectations at next hearing and timetabling the future progression of the case.
- The standard Case Management Forms will be introduced consistently throughout Devon and Cornwall.

There will also be greater use of secure e-mail to facilitate more timely and effective communication. A Stakeholders' Communication Plan will be drafted by the end of June and the communication and consultation process will continue throughout the implementation phase. This will of course include further consultation with defence representatives.

Full implementation will be achieved by the end of December, 2005.

If you would like to comment on any of these proposals, please contact the local ETMP Project Manager, John Nettleton (CPS Area Business Manager) on 01392 288012, or Tim Smith (Justices' Clerk for Plymouth and South Devon) on 01752 292570/206199.

OBITUARIES

BRIAN NELSON

1933 – 2005

Brian George Nelson was born in 1933 in West Hartlepool, the only son of George and Minnie Nelson. He was born into a musical family. However, Brian's lifelong love of music began after an uncle gave him a clarinet to occupy himself having broken his leg. A talented musician, Brian later joined the Northern Youth Orchestra.

After leaving school, Brian gained his pilot's licence and joined the RAF in hope of a career as a pilot. Unfortunately an eye problem precluded this and Brian left the air force after completing his National Service.

In 1957 he married Sheila and joined the Weights and Measurements Department in West Hartlepool as a trainee. After Brian qualified, the couple moved to London.

Musically this was an exciting time for Brian and he played saxophone and clarinet with many of the top names of the day. In 1959 Brian transferred to the Weights and Measurements Department of Nottinghamshire County Council. In the meantime, he accumulated a number of qualifications, including the Diploma in Shops Acts Administration, Petroleum Testamur and Diploma in Municipal Administration.

Brian and Sheila had two children, Julie and Anthea and in 1968 the family moved to Torquay. That same year Brian helped to set up a Trade Administration Department at the newly created Torbay Borough Council in Devon. His experience of general licensing functions over the years proved to be useful, and he was particularly keen to establish a vigorous consumer advice service. In the meantime, he obtained a Law degree from

London University and became the first Chief Examiner for the new Diploma in Consumer Affairs.

His Town Clerk in 1973 persuaded him to qualify as a solicitor, which he did. He resigned the post of Deputy County Trading Standards Officer for Devon and became a solicitor to the Council in the following year.

In 1976 Brian became the Local Government Representative on the Committee of the Devon & Exeter Law Society. In 1989 he was elected President of the Society, the first public sector solicitor to become President in its 150 year history.

During this time he gained a further degree with the Open University. He continued his work as a solicitor until his retirement from the Council in 1996. However, rather than taking the opportunity to shift down a gear, Brian accepted an invitation to join a local firm of solicitors, Boyce Hatton, as a specialist in Planning Law. This he did on the basis that "a change is as good as a rest". He was also kept busy in a voluntary capacity as legal advisor or member of a number of organizations including the National Federation of Residential Landlords, Committee of the St. John's Ambulance, Cockington Village Residents Association, the South Devon Landlords Association, the Riviera Housing Trust, the Chartered Institute of Arbitrators and the Sports Council.

Brian had a profound sense of generosity, fairness and duty, reflected in his many commitments outside of work. He supported his wife Sheila in her work for the Torbay Child Contact Centre.

They gave innumerable hours to facilitate access between children and separated parents. Brian was also on the board on 'Chill'd Out', a youth project providing learning and recreational opportunities. Despite all of this, Brian still found time to pursue his lifelong love of music. He was a member of two local groups, playing clarinet and saxophone for Classic Breeze and Sam's Big Band.

He leaves behind his wife Sheila, his daughters Julie and Anthea, and his sister Linda. He will be sorely missed.

HARRY COLES

1903 – 2005

Harry Coles died on the 30th May at the age of 102, survived by a son, three daughters, ten grandchildren and three great grandchildren.

Mr Coles was the eldest son of famous Devon writer and humorist "Jan Stewer".

During a visit by a senior member of the royal family about 20 years ago he was asked: "Have you lived all your life in Torquay, Mr Coles?" To which he replied, quick as a flash: "Not yet".

He joined the legal profession as an articled clerk for local solicitors Almy & Thomas, rising to be a partner and later president of the Devon & Exeter Law Society in 1965. One of his main passions was sailing, a hobby which gave him years of pleasure as a member of the Royal Torbay Yacht Club. He became its commodore in the early 70's.

On reaching his 100th birthday the club marked the milestone by naming a new inflatable boat in his honour. At the time he was the club's vice president.



Solicitors Support Network

ARE YOU EXPERIENCING PERSONAL OR PROFESSIONAL PROBLEMS?

**If so, you do not have to do so alone.
Support groups exist to assist you.**

**For confidential help ring
0800 328 4203**

NOTICES

Portfolio of Warning Cards goes Online

Four high profile areas have been targeted by the Law Society in a set of downloadable warning cards.

They cover issues surrounding money laundering, property fraud, undertakings and banking instrument fraud.

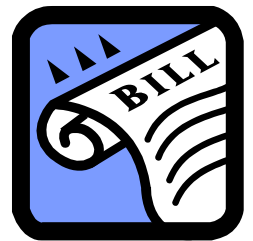
More information: download the cards as –

www.lawsociety.org.uk/professional/conduct/guidance.law or for a printed copy email professional.ethics@lawsociety.org.uk or telephone 0870 606 2577.

Guidance: Non-Contentious Costs

The Law Society's Practice Advice Service recently released a downloadable document about non-contentious costs. It is not intended to be a fully comprehensive guide but attempts to cover those areas that generate the most frequent enquiries from solicitors.

It provides information on charging in non-contentious matters, discussing billing generally and the procedures available to clients who wish to challenge solicitors' costs. It refers to various cases and it is intended to update the booklet from time to time.



For advice on costs generally, telephone the Practice Advice Service on 0870 606 2522 or email lib-pas@lawsociety.org.uk.

For more information go to: www.lms.lawsociety.org.uk/pages/files/fileList/83

Attention Female Solicitors

Judith Wills, Professor of Legal Practice, is currently undertaking research into the impact and effectiveness of the solicitors' Anti Discrimination Practice Rule, with particular reference to women solicitors, since it was brought in ten years ago, in 1995.

The research takes the form of a short (15 minutes maximum) telephone interview; the callers identity will be kept confidential and the results will be published with callers remaining anonymous and unidentifiable.



If you wish to take part please contact Prof Wills on:

Tel 020 7430 5309

Email: judithwills@bpp.com

Members of the Devon & Exeter Law Society are eligible to enjoy savings on their PROFESSIONAL INDEMNITY INSURANCE at least commensurate with the cost of the Devon & Exeter Law Society's membership fee.....

This is a crucial time in the law firm calendar. All solicitors members are required by the Law Society to have their professional indemnity insurance in place by **1st October**. This year, for the first time, the Law Society has ruled that the required cover should be increased to £2m. With insurance costs often one of the largest overheads, this decision means it is even more important for Devon & Exeter Law Society member firms to ensure that their premiums are competitively priced and that they are receiving the very best guidance when making the decision about which insurance company to use.

All Legal practices will need to demonstrate that they represent a good risk. Thus, Devon & Exeter Law Society members need to choose an expert, Legal Professional Indemnity broker with a strong understanding of the Legal marketplace so as to ensure they get the best possible terms.

PYV's clients include many small to medium to large sized firms. Furthermore, PYV has put together a range of specialist professional indemnity insurance facilities for various Legal affinity groups: Indeed, **Devon & Exeter Law Society members who meet key insurer criteria are now eligible to receive savings commensurate with at least the cost of membership of Devon & Exeter Law Society.**

PYV will obtain competitive terms from a panel of underwriters, which aims to provide better pricing for Devon & Exeter Law Society members than they will be able to obtain elsewhere. Each firm will be rated individually and those Devon & Exeter Law Society members who meet key insurer criteria will enjoy the best possible terms available from our panel.

Also, this year PYV will actively source more quotations from more Insurers than ever before....you spend less time and we do the work.

PYV is one of the fastest-growing independent Lloyd's brokers offering professional indemnity insurance to solicitors. It has worked closely with the Law Society for the past three years, in its capacity as the professional indemnity insurance sponsor of its annual conference.

PYV is part of the OFEX listed PYV Group. Established for over 30 years, PYV employs over 80 staff and has a strong reputation for its pension and protection expertise. Its Legal Professional Indemnity team is young, entrepreneurial, driven and determined to demonstrate that it tries harder to give its clients the best service and best value rates in the marketplace. PYV actively searches the insurance market for a number of quotes before offering what it believes to be the best policy at the best price to each individual law firm client. PYV is able to obtain terms not available elsewhere, and enthusiastic enough to provide a genuinely personal service.

Its personal service includes all clients having a dedicated team, headed by a PYV director, and backed up by special help lines offering advice and support to Practice Managers, new start ups, Limited Liability Partnerships and firms with high risk issues.

PYV offers 6 tips on how you might keep the cost of your professional indemnity insurance down:

- 1. Provide evidence of active and ongoing risk management**
- 2. Ask your broker to advise you of the panel of Insurers he/she will be approaching....he/she may not have access to the full range of insurers and/or be able to access markets exclusively available to market leading specialist professional indemnity insurance brokers, like PYV**
- 3. Choose a broker who is not only a specialist in professional indemnity insurance, but who also has a sizeable portfolio of practices like yours in terms of size and specialism.... Otherwise, your broker may not have the leverage with the insurance marketplace to get you the most competitive terms ...ask for confirmation of the size of practices and disciplines typically covered by the broker before you commit**
- 4. Where appropriate, increase your excess**
- 5. Demonstrate your firm's commitment to training**
- 6. Get your proposal form to PYV by 15th August 05 as significant discounts are available for committing well before the renewal date of 1st October.**

PYV Ltd is authorised and regulated by the Financial Services Authority.

For more information about the special terms available please call the solicitors helpline on 020 7626 6789 or visit www.pyv.co.uk

Join the board

Voluntary Board Members

This is an exciting time for the Riviera Housing Trust, post transfer housing association based in Paignton and the largest Social Housing provider in Torbay; we have recently appointed a new Managing Director and Senior Management Team and are changing the way we look at Housing.

We are looking to appoint a qualified lawyer as a non-executive Board Member on our Board of Management.

For further information or an informal discussion, please call **John Brennan**, Managing Director on 01803 696131. If you would like to apply, please forward a letter of application along with a CV to **Claire Burridge**, Human Resources Manager, Riviera Housing Trust, Woodview House, Woodview Road, Paignton TQ4 7HP or email Claire.burridge@rivierahousing.org.uk

VOLUNTARY BOARD MEMBERS



Is this your opportunity to give something back?

At Devon and Cornwall Housing we are looking for new board members, to share responsibility for steering our strategic direction and continued development.

We have 9000 homes in management, 22,000 residents, a development budget of £20 million and a turnover of £25 million. We aim to provide high quality services to our residents and to meet pressing housing and community needs.

We want to recruit people from a wide variety of backgrounds with skills which include:

- financial management including an understanding of loan finance,
- commercial business management including experience of project management,
- contractual and partnering approaches and frameworks,
- understanding of legal considerations and requirements

Board members usually attend about 16 daytime meetings a year, including training and conferences. The work is currently unpaid but we reimburse expenses such as travel and dependent care. If this sounds right for you and you'd like an informal conversation about the role, please telephone Dave Chitty, Head of Human Resources on 01392 814568 or 07976 559128. Alternatively, for an information pack and application form please call 01392 814531 and select line number 1 or contact us via our website at www.dcha.co.uk.

We are committed to equality and diversity and welcome applications from all sections of the community.

Putting something back?



Teign Housing is a Registered Social Landlord based in Newton Abbot, South Devon. Established in 2004 and managing 3,500 homes, we're committed to being well managed, well governed and financially viable.

Voluntary Board Members

We are currently seeking new Independent Board Members, and are particularly keen to recruit someone with good high-level business skills, coupled with sound legal knowledge. As a Board Member, your main role would be to ensure we drive strategy, track delivery and manage risk. With a £12m turnover, over 90 staff and a commitment to achieving sustainable communities, we have a Board made up of tenants, independents and local authority Councillors. Affordable housing is at a premium in South Devon and finding a home has never been more difficult. Against a background of rapidly rising house prices, second homes and relatively low incomes, our Board Members can make a real difference.

For an Information Pack please ring Georgina Mason, Human Resources Manager on 01626 322760 or email Georgina.mason@teignhousing.co.uk

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