

Newsletter

March 2008



DEVON & SOMERSET
LAW SOCIETY
1808 - 2008

Dates for your Diary:

DASLS AGM

Tuesday 22nd April
(Reports enclosed)



The guest speaker is Stephen Ward, who will give an anecdotal speech based on his previous experience

Return your AGM Dinner booking form now!

International Lawyers' Weekend

Thursday 5th - Sunday 8th
June

Look out for the flyers enclosed!



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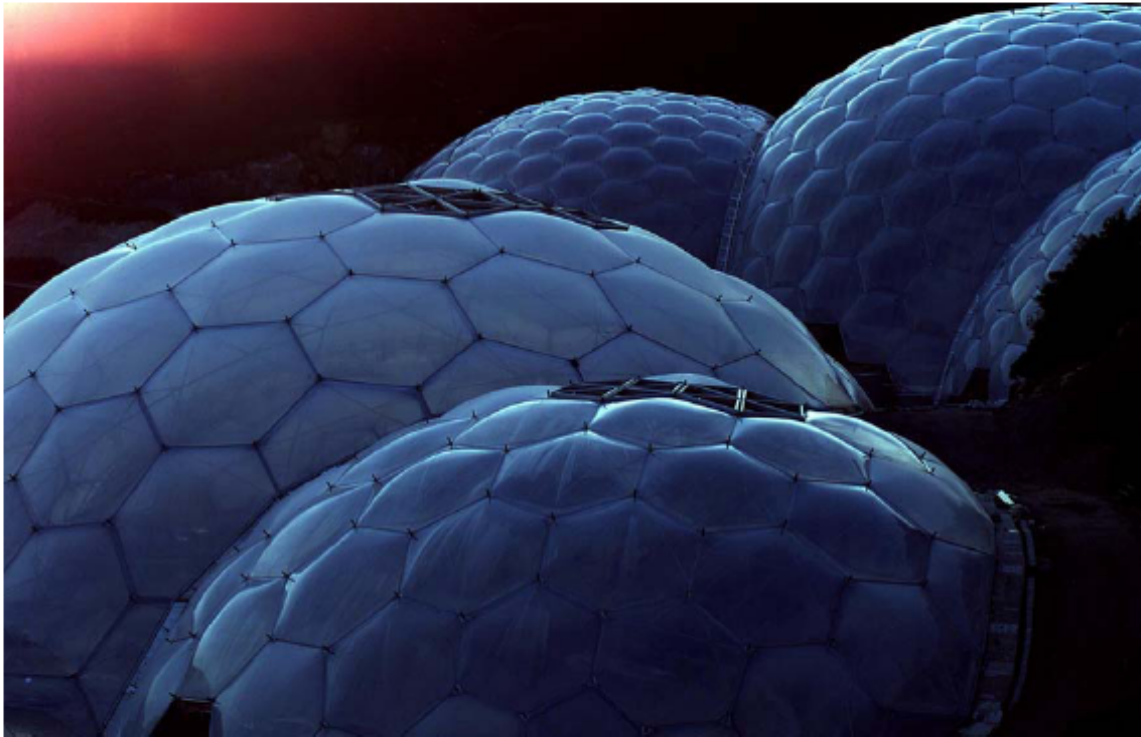
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President's Diary

By Erik Salomonsen, President



As I write this, I have just returned from Cork and the annual dinner of the Southern Law Association of the Republic of Ireland. I was the only guest from "overseas" and it is clear that our

Irish colleagues would like to have closer links with us and that we will be seeing them in the South-West during the coming year.

Tony Spiers, Rod Mole and I attended the Leadership Summit organised by the national Law Society during the last week in February. The Executives of the Society – Des Hudson, Anne Godfrey and Stephen Ward – were all very positive about our Society and certainly wished to work with us in developing the new identity for the national Society, enhancing what we do and working in partnership where they can.

The sponsorship of the FBE conference by the national Law Society was raised at the conference as being a significant new initiative from the national Society and I believe that Anne Godfrey, the Director of Membership Services, will be looking for every opportunity to work in partnership with us, given her acknowledgement that we know what works for our members.

Alison Hook, who is the Head of the International Department at the Law Society, is keen to work with us on future twinning and there will be opportunities for members to play a wider role within the national Society if they wish to do so.

Thank you to all of you who attended the annual dinner and made it such a success. Thank you also for your contributions to the fundraising for Macmillan Cancer Support and Farms for City Children.

This is my last President's column. Time flies! I have enjoyed my year enormously and I am grateful for all of your support. It has been a privilege to represent the Devon & Somerset Law Society during the last 12 months and I wish Alec McNeill every success as he takes on the role of President for the next 12 months.

Consultation ... or just Information?

By Alec McNeill, Vice-President



Service and the expressed concerns of the CEO of the Law Society.

Most Members will have seen the item in the Gazette of 31st January and some may even have read it and noted both the enthusiastic comments of the CEO of the Legal Complaints

How many have yet found the time to read the Consultation Paper issued by the Legal Complaints Service and consider the matter in any detail? It would take a serial optimist to believe that the LSC have not decided what is to happen. Woe betide you if you find yourself with an unhappy client! A "fantastic tool" is about to be given to consumers to enable them to bring about an improvement of standards within the legal profession.

What is this wonderful new tool which is to benefit us lawyers? A register of Complaint Records which will list for inspection by anybody interested those complaints against solicitors which have been adjudicated upon and "upheld". It is said that it will shape the legal profession in the same way that this kind of proposal has shaped and driven demand in schools. Some of us may wonder quite what this means and whether it is really how we want to be "shaped"!

All of us should be willing to recognise that our clients are our most important asset, that we sometimes get things wrong and that when we do we should accept our failings and apologise. However, we know that there are some clients who are never happy and like to complain, how much more exciting for them when they have this fantastic new tool and know that they can secure a "record"!

As far as I am aware, no other profession has a "blacklist" freely available to all and sundry. Is it really going to be used by genuine clients? Will they be checking up on their usual Solicitor or will we find that the Complaint Register is actively promoted by the LSC or others. Some of you may think this idea is wonderful but some of you may perhaps be concerned and able to add a whole host more questions to the very few I pose above.

But then perhaps you say relax it is only an

idea – just another "consultation exercise" – it will not happen. Wrong!! Read the small print. The LSC have decided that this is what they want – consider the SIX consultation questions very carefully and take special note of the order in which they are posed. Am I paranoid? Probably, but this is nothing to do with benefiting the profession and all to do with encouraging the public at large to make it an "Aunt Sally".

The V-P Committee of DASLS has endeavoured to deal with all consultation papers as they arise and will do so on this occasion. However, this "fantastic tool" is so important to us all that we would ask all Members to find the time to read the Consultation Paper, to respond individually to the six questions and if at all possible to let the Vice-President's Committee know your thoughts so that we can reflect the views of as many DASLS Members as possible.

As a part of its response to the consultation the Law Society are proposing a press campaign aimed at highlighting solicitors recognised as providing high quality care; most of us will feel that we qualify for this accolade but clearly not all will gain recognition. However, DASLS has been asked to pass on any stories or items to illustrate the benefit to particular firms or clients of Lexcel or other Law Society (or DASLS!) products which have assisted firms to improve; details of any particular successes with client care and details of any situations where, in dealing with the LCS, it has been necessary to push for an adjudication in order to secure acceptance of their position on a complaint. The V P Committee will be pleased to receive Members' input.

A final thought ... All of us are likely to experience complaints from time to time and not always can we resolve them in house. If you get it wrong this fantastic new tool will mean that we shall all know. Remember, DASLS continues to offer a complaints resolution service and at the moment we have no plans to publish any details! You may feel that if you have a complaint you cannot resolve you should try very hard to have it settled without the involvement of the LSC.

You can find the Consultation Paper at www.legalcomplaints.org.uk

The Law Society's "Library Online" Service

The Law Society Library Online service can be found at www.lawsociety.org.uk/libraryonline

This free legal information source for solicitors and their employees is a collaborative project between the Law Society library and LexisNexis.

What's available at Library Online

Information on the books, journals and law reports held by the library can be searched without registering. If you complete the simple online registration you can search across a wide range of Law Society library content and also access a selection of LexisNexis premium content.

Who can register?

All Law Society members, including those in practice and employed solicitors; and anyone working for members of the Law Society, including trainee solicitors and legal information professionals. Registration is free.



Once you've registered the following benefits are available:

- Queries and Enquiries Database with sources for specific precedents and answers to many legal information enquiries, based on the experience of the library team.

- English Cases Index – a case citator updated daily.
- Commencement Index – an index to UK statutes going back to 1974.
- EU Developments – updates on EU legislation.
- Free access to a monthly email alert from LexisNexis with 30 hand-picked relevant stories.
- LexisNexis Butterworths Journals Index, with article abstracts from over 120 journals.

Additional features

If you already have a subscription to LexisNexis Butterworths (LNB) you will be able to link directly from Law Society Online to LNB content. There are many links to full text information such as transcripts of cases and legislation which are available free.

DASLS Counsels Fixed Fee Scheme

Members are reminded of this scheme, whereby Barristers will give an opinion on a topic for a fixed fee of £50.00 + VAT.

The Chambers that are participating are:

CLERKSROOM, TAUNTON
Senior Clerk: Martin Davies
TEL: 0845 083 3000
www.clerksroom.com

COLLETON CHAMBERS, EXETER
Senior Clerk: Philip Alden
TEL: 01382 274898
www.colletonchambers.co.uk

ROUGEMONT CHAMBERS, EXETER
Senior Clerk: David Parker
TEL: 01392 208484
www.rougemontchambers.co.uk

SOUTHERNHAY CHAMBERS, EXETER
Senior Clerk: Joy Daniell
TEL: 01392 255777
www.southernhaychambers.co.uk

WALNUT HOUSE, EXETER
Senior Clerk: Chris Doe
TEL: 01392 279751
www.walnuthouse.co.uk

Terms and conditions of the Scheme:

1. The fixed fee

The fixed fee is £50.00 plus VAT.

Payment of the fee must be made by the Solicitor within fourteen days of receipt of Counsel's fee note. In the event of non payment or late payment, Counsel may refer the matter to the Committee of DASLS to take up with the Solicitor.

2. Entitlement

A Solicitor wishing to take advantage of the scheme is entitled to receive from Counsel up to 30 minutes initial advice either in person at Chambers or over the telephone.

Solicitors are not entitled to written confirmation from Counsel of the advice given.

If Counsel is unable to advise within the half hour limit then either Counsel can refuse the instructions or negotiate an additional fee. The "cab rank" rule does not apply.

3. Procedure

At the first instance Solicitors should contact the Clerk of participating Chambers and clearly state that this is a DASLS Fixed Fee

Scheme matter. They should then supply the following information :-

- (i) Name of preferred Counsel
- (ii) Names and addresses of all the parties
- (iii) The general area of Law involved
- (iv) The precise legal issue upon which advice is required

4. Conflicts

It is the responsibility of Counsel to ensure that no conflict of interest arises. For this reason it is essential that Solicitors accurately identify the parties involved.

5. Monitoring

The Practice Management Sub-Committee of Devon & Somerset Law Society wish to monitor the take up of this scheme among members.

In order to do so it is expressly agreed by all Solicitors and Counsel participating in the scheme that Clerks to Chambers are authorised to make a bi-annual statistical return to the Practice Management Sub-Committee indicating the number of Solicitors who have taken advantage of the scheme with each set of Chambers. The return will not include any information on the identity of instructing Solicitors, their clients, or Counsel advising: it will be a purely numerical return.

Interview of the Month

Rebecca Hill, Executive Assistant

Why did you join Devon & Somerset Law Society?

I was in search of a job just before Christmas, sent off a few copies of my CV to adverts seen online. A couple of months later whilst working for an agency, I got a call completely out of the blue from Tony Steiner and here I am. A lovely surprise!

What is your dream job?

At about the age of about 7 years old, when most kids still dreamed of being firemen/policewomen/fairies and superheroes, I answered that I wanted to become a bi-lingual secretary for the EU. I have changed that particular dream, and nowadays would probably prefer just to be a PA that still has time to go on holidays.

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

Possibly (and there have probably been more I have chosen to forget about!) it was a very long time when I was caught asleep at my desk. Luckily, my manager saw the funny side, and I never made the same mistake again.

Which sort of work gives you the most job satisfaction?

Just doing a job really well...fingers crossed!

What do you do in your spare time?

I love spending time at home, experimental cooking (though I'm still learning to make it work), watching films, reading in stolen moments, and seeing family and friends.

Where is your favourite holiday destination?

Again, and not just because of the food, my favourite to date has been Mexico.

What book are you reading at the moment?

I've managed to save some very old tatty copies of 'Dick Francis' books from being thrown out of my mother's attic, so I'm currently and very slowly reading 'Trial Run'.



What is the most recent film you have seen?

I have recently been mainly watching Japanese anime films, my favourite being 'Princess Mononoke'

What is your favourite food?

Far too many to pick just one! I love food, but I ate a wonderful Cheese soufflé just the other day with a red onion chutney - beautiful!

Which is your favourite restaurant?

I've probably ate my favourite ever meal in a restaurant in Cancun, Mexico but I can't remember the name of it. In and around Exeter, my family go to the 'Conservatory' quite a lot as it's the best place we found in these parts.

What is your favourite pet?

We had very flat faced, ugly bundle of fluff called William who was a Persian cat. He looked a bit like a gremlin, but had the most wonderful personality I have ever seen in an animal.



We are delighted to welcome the following new members:

Mr John Brimble,
Foot Anstey, Taunton

Ms Susan Bunning,
Foot Anstey, Exeter

Mr Nicholas Burt,
Foot Anstey, Exeter

Miss Nerys Chapman,
Battens, Yeovil

Miss Victoria Clarkson,
Broomhead & Saul, Taunton

Mr Philip Crowther,
Battens, Yeovil

Miss Natalie Cutting,
*Charlesworth Nicholl and Co.,
Credton*

Miss Jennifer Dart,
Foot Anstey, Exeter

Mr Hugh Davey,
Fleet Solicitors, Taunton

Mr Rhodri Davey,
Kitson Hutchings, Torquay

Mr Stewart Donald,
Battens, Yeovil

Mr Andrew Dunningham,
Foot Anstey, Taunton

Mr Daniel Eames,
Clarke Willmott, Taunton

Mr Matthew Gingell,
Foot Anstey, Exeter

Mrs Kate Golding,
Battens, Yeovil

Miss Alison Griffiths,
T.G. Pollard & Co., Wells

Ms Rebecca Gurgul,
Clarke Willmott, Taunton

Mr Peter Halawin,
Foot Anstey, Taunton

Miss Pollyanna Hall,
Foot Anstey, Exeter

Miss Charlotte Hammersley, Wells
Mr Raymond Hayes,

Bartons, Salcombe

Mrs Helen Headech,
*Crosse Wyatt Verney & Ayre,
South Molton*

Miss Catherine Hegarty,
Eastleys, Paignton

Mr Dominic Hollingsworth,
Kitson Hutchings, Torquay

Mr Paul Howard,
T.G. Pollard & Co., Wells

Mr Steven Hudson,
Gard & Co., Plymouth

Miss Maria Hunt,
Battens, Yeovil

Miss Helen Ings,
Veitch Penny, Credton

Ms Elizabeth James,
Over Taylor Biggs, Exeter

Mr Richard Jones,
Beers LLP, Kingsbridge

Mr Jonathan Kitchin,
Foot Anstey, Exeter

Mr David Littlewood,
FDC Law, Midsomer Norton

Miss Kate Longhurst,
Stephens & Scown, Exeter

Mrs Anna Manning,
Foot Anstey, Taunton

Mrs Juliet Thérèse McCooley,
Foot Anstey, Exeter

Mr Philip Mole,
Hooper & Wollen, Torquay

Mr Peter Norris,
Bartons, Kingsbridge

DASLS Wills and Probate Questionnaire 2007

By Patricia Durham-Hall, Chair of Non-Contentious Business Sub-Committee

Mr James Owen,
Battens, Yeovil

Mrs Emma Perkins,
Foot Anstey, Taunton

Mr Mark Perry,
Symes Robinson & Lee, Exeter

Miss Antonia Power,
Foot Anstey, Exeter

Miss Rachel Price,
Kitson Hutchings, Torquay

Miss Jamilah Pringle,
Scott Rowe, Axminster

Mrs Joanne Pruden,
Veitch Penny, Exeter

Miss Nicola Purcell,
Foot Anstey, Exeter

Miss Joanne Pummery,
Bartons, Plymouth

Mrs Hilary Quantick,
Foot Anstey, Taunton

Miss Ellen Regan,
Everys, Honiton

Ms Maggie Roberts,
Foot Anstey, Taunton

Mrs Anna Roderick,
Foot Anstey, Exeter

Miss Julia Ruffe,
Hooper & Wollen, Torquay

Mrs Susan Savill,
Foot Anstey, Taunton

Mrs Siân Sedgwick-Wilde,
Broomhead & Saul, Taunton

Miss Abbie Short,
Samuels, Barnstaple

Mr Martin Short,
FDC Law, Frome

Mrs Rebecca Siegle,
Parlett Kent, Exeter

Mr Michael Stamp,
*Director of Legal Services, Devon
& Cornwall Constabulary, Exeter*

Miss Claire Stoneman,
Foot Anstey, Taunton

Mrs Ruth Streeter,
Foot Anstey, Taunton

Mr David Sutton,
Beviss & Beckingsale, Chard

Mr Duncan Sykes,
Foot Anstey, Exeter

Miss Lisa Todd,
Everys, Exmouth

Ms Katrina Vollentine,
Hooper & Wollen, Torquay

Miss Fiona Wadey,
Bartons, Kingsbridge

Miss Louise Widley,
Foot Anstey, Exeter



Following on from the success of previous surveys, the DASLS Non-Contentious Business Sub-Committee

undertook a survey of Devon and Somerset firms in order to gain an overview of private client services offered within both counties. The survey focused on aspects such as fees charged in relation to the type of work involved and general practitioner opinions and attitudes within this area.

Nearly half of all firms surveyed described a simple or basic Will as consisting of a gift to one individual (i.e. Spouse) with a gift in remainder/substitution to another (no tax planning). Although there was a diverse range of fees charged, firms broadly indicated that clients would be charged between £60-£100 for their preparation. Where more detailed clauses or tax advice was required, fees would often be between £150-£200.

It was interesting to note from the results the varying fee systems charged by firms for Will drafting, with just under a third indicating that they operate on both a hourly rate and fixed fee basis. In addition to the level of complexity involved, firms would also consider a number of other factors when determining their fees for a particular instruction. Notable answers included fee earner seniority, whether the firm/partner had been appointed Executor and time involved.

It was more difficult to try and define what consists of a simple Probate administration, although it was generally indicated that this would often be where the assets and beneficiaries were readily identifiable, with no IHT payable on the estate. Unlike with Will writing services however, there was a greater variance in the level and basis of fees charged by firms for Probate work. Only a limited number operate on both a fixed fee and hourly rate basis, with 35% of firms also adding an additional value element of between 1% and 2.5%. Other factors that

firms take into account include the value of the estate generally, whether any specialist trusts are involved and whether any ancillary work or advice would be required. Typical overall fees for administrations would be between £1,750-£2,250.

Finally with regards to cross selling, a majority of firms surveyed believed that they would be instructed on a different matter, with Conveyancing a usual source of work. EPA's were also a popular source of additional work but it is evident from some answers that this has not continued since the advent of LPA's and the Non-Contentious Business Sub-Committee plans to examine the full impact of the new Powers of Attorney at a future date.

Wealthy but none the wiser

By Stephen King,
Parkers Insurance Brokers

Nearly 2.5 million households (one in ten of the population) can now be clearly identified as wealthy according to the Hiscox Wealth Review 2008, published recently by specialist High Net Worth insurer Hiscox.



An average 'Working Wealthy' household in Britain earns £88,000, takes two foreign holidays a year and has over £20,000 worth of disposable

annual income. Despite this over 90% of them do not consider themselves at all wealthy.

According to an in-depth analysis of this unknowingly wealthy group, the 'Working Wealthy' say they would need to earn around £150,000 per household, have paid off their mortgage, own more than one property or a holiday home and send their children to private school before saying they are well off.

And therein lies the problem.

The Hiscox Wealth Review 2008 highlights

the fact that the bar for entry is much lower than many might think. For many 'Working Wealthy' people, their wealth has slowly accumulated and crept up on them over time and they are now seriously under-estimating the value of their possessions.

In fact, another survey carried out by an independent valuer found that on average people had underestimated the value of their home contents by 40%. It's easy to do. We're always buying things; some items like fine art actually gain in value; and we lose track of how much it would cost to replace them. Plus most of us simply underestimate how many things we actually own.



This unseen risk means that many of the 'Working Wealthy' are buying home insurance that leaves them inadequately insured.

The insurance industry's obsession with selling cheap policies is failing this emerging group. By focusing solely on price and providing only the bare essentials in standard policies, the industry is not keeping pace with people's rapidly changing lifestyles and risks leaving many customers underinsured. For the growing number of 'Working Wealthy' consumers it shouldn't be just about what you pay, but what you actually buy.

Help is at hand.

Parkers High Net Worth team has approaching 100 years experience of advising clients on the complexities of this specialist insurance market. Compared to standard cover, High Net Worth policies deliver better cover, service and flexibility at highly competitive premiums. They typically suit people with home contents and fine art valued at over £50,000 and buildings and contents can be insured under the same policy for convenience. Help with valuations and calculating sums insured is also available.

For a free and confidential review of your home insurance requirements please contact Stephen King at Parkers on 01392 861275 or email Stephen@eparkers.co.uk.

Stop Press!

Since the formation of DASLS in January 2008, we have welcomed 141 members from Somerset.

Welcome to your new Society!

Solicitors Regulation Authority: Consultation alert

Information requirements from firms in the context of a risk-based approach to regulation

The SRA is inviting firms to participate in a consultation on the type of information they should gather from firms in order to regulate effectively—specifically in the context of their risk-based approach to regulation. This consultation is one of a series of consultations they are conducting to help us develop a regulatory framework for the new forms of practice enabled by the Legal Services Act 2007.

Many other regulators collect a wider variety of information than the SRA. They maintain that such information allows them to focus regulatory resources on high-risk areas—to the consumer's benefit and in the interests of the regulated community. The SRA aim to be proportionate in developing firms' requirements, minimizing as far as possible the costs of complying with them.

This is a broad-ranging consultation to gauge initial views. The SRA will consult again on the detail of any new information requirements. But they encourage you to express your views now, so that they can be taken into account as early as possible in the policy process.

The consultation period ends on 30 April 2008.

To participate, or to find out more visit: www.sra.org.uk/consultations/439.article

District Judges' Corner

By District Judge Maureen Read

In memory of Joyanne (Dame Joyanne Bracewell)

Many of you knew Joyanne Bracewell as a lawyer, a judge, a teacher, a protector of children, and an advocate of children's rights in society as well as a good friend. To me she was above all the latter.

She was diagnosed with breast cancer in August 2003. Her approach to cancer was to carry on as usual; there was no room in her itinerary to be unwell. Her attitude was a lesson to us all.

She died in January 2007 and is sadly missed. Many tributes have been and continue to be paid to her; I want to mark my contribution by undertaking the Moonwalk in May. This is a half marathon during the night of 17th May in London to raise money for Walk the Walk, a charity set up to raise money for breast cancer research and cancer care. All 15000 participants, male and female, have to wear a decorated Playtex bra! I took part some seven years ago dressed as a sunflower; Joyanne thought I was crazy but supported me.

Now seven years on, seven years older, and in the absence of my friend I want to raise as much money as possible to tackle this prevalent cancer which afflicts so many women.

In Joyanne's memory please contribute either by logging onto www.justgiving.com/maureenread or by sending a cheque payable to me or Walk the Walk at Barnstaple County Court, Civic Centre, North Walk, Barnstaple, North Devon EX31 1DY

Thank you.

Don't forget!

2008 Bicentenary Lecture with
Joshua Rozenberg

Saturday 7th June

Flyer herewith



President's Business Quiz

Quiz teams of up to 6 are being invited to enter the President's Business Quiz on Thursday 3rd April at 7.30pm at the Vivary Park Golf Course, Taunton. This follows the success of the quizzes held in Exeter and Barnstaple last autumn. All the money raised will be split between Macmillan Cancer Support and Farms for City Children. Entry forms can be found on the DASLS website: www.dasls.com



DASLS Challenge Cup



The DASLS Social Sub-Committee have planned an exciting year of sporting events for member firms. A league table will be established, and each firm will move up the league by entering as many different events as they choose over the year and gaining points. Points, of course, mean prizes and the "DASLS Challenge Cup" will be awarded to the league leaders at the dinner in February 2009 after the final event has been completed.

A wide range of events are being considered and suggestions are more than welcome. Please email charlotte@dasls.com with any ideas of sports or games that could be included, along with any possible venues.

The first event will be **skittles**. This will take place at the Atmospheric Railway Inn, Starcross (nr Exeter) on Wednesday 16th April.

Firms are invited to enter teams of up to five players, at a cost of £10 +VAT (£11.75) per team. A light buffet will be provided.

Visit the DASLS website (www.dasls.com) or call Charlotte on 01392 411585 for further information.



Annual Dinner & Disco



Erik Salomonsen,
Mrs Frannie Salomonsen,
Chris Hart,
Mrs Elizabeth Hart

The DASLS Annual Dinner was held on Friday 8th February at the Palace Hotel, Torquay. Over 250 members and guests enjoyed a lively dinner and were then addressed by The Hon. Mr Justice Owen, Senior Presiding Judge of the Western Circuit. Cabaret entertainment followed, courtesy of 'Kit and The Widow', who had composed a song especially for the occasion. Thanks to generous donations from those present, £1612.90 was raised during the evening, which has been split evenly between Macmillan Cancer Support and Farms for City Children.



Simon and Lesley Sanger-Anderson with Tony Mills



The Sir George Fowler Prize was awarded at the Dinner to Andrew Pheasant, currently a trainee at Bond Pearce, Exeter. He is shown here being congratulated by Erik Salomonsen and Professor Simon Payne of the University of Plymouth

A Taste of European Family Law

By John Crosse

In December 2007, I attended the annual conference of the Lyon Bar Association as Judicial representative for Great Britain. Also attending were Judges from Spain, Germany, Italy, Luxembourg and Poland as well as the Presidents of other Law Societies in England and a Council Member of the Law Society. I had been invited by one of the organizers, Tim Hughes, a former partner of Ashfords who had worked in their Tiverton office before moving with his family to Lyon about two years ago.

On the first day of the conference, the discussions concerned the proposed amendments to Article 3 of the Council Regulation 2201/2003 which contains the grounds upon which a member state has jurisdiction in matters relating to divorce, legal separation or marriage annulment.

In this context one needs to consider what is meant by 'habitual residence' that appears frequently in the Article but which is not defined. Lord Brandon in *C v S (A Minor) (Abduction)* 1990 observed that the question of whether a person is or is not habitually resident in a specific country is a question of fact to be decided by reference to all the circumstances of any particular case.

The decision of Mr. Justice Munby in *Marinos v Marinos* (heard in July 2007) has raised some eyebrows and caused some French lawyers to choke on their baguettes! The Judge found that the wife, who had returned from Greece in January 2007, having lived there with her husband and their children since 2002, had been habitually resident in this Country since September 2004 and accordingly could petition for divorce in this country. He said 'I can see no reason why, in these circumstances, she did not immediately acquire a habitual residence in this country upon her return on 31st

January 2007 if immediately prior to that she was in fact habitually resident in Greece..... She lost her habitual residence in Greece as the aircraft in which she and the children were travelling took off from Greece, in the same way she acquired a new habitual residence in this country as the aircraft landed down at Heathrow'.

The proposal to change Article 3 is aimed at enhancing legal certainty, predictability and flexibility and introduces the possibility for spouses to agree upon the competent court in proceedings for divorce and legal separation and furthermore it allows them to choose the law to be applied in such proceedings. The proposal makes provision for the applicable law in the absence of choice and aims at ensuring that such proceedings are governed by a law with which the marriage has a close connection by virtue of their nationality or their last 'common habitual residence' (not defined)

Even if the parties agree that a Member State shall have jurisdiction in proceedings relating to divorce and legal separation they will have to show that they have a substantial connection with that Member State.

It may be only a matter of time before English judges will be asked to try an ancillary relief claim upon the basis that the law of another member state is to be applied. I will leave readers to consider how some judges may react to this and what additional costs are likely to be involved. Parliament may need to consider whether our current appeals procedure is appropriate to deal with those cases where the ground of appeal is that the Judge was wrong in his construction or application of the foreign law.

The conference discussed the procedures that apply in other member states for the obtaining of a divorce; for the hearing of disputes in relation to children and for the hearing of ancillary relief claims. You may be surprised to hear that in Germany the judges see the children even if one of them is only aged three; that in Luxembourg a wife under the age of 52 will not, in the absence of good reasons, obtain maintenance (she can go out to work, said the Luxembourg Judge) and that in Poland



the parties to a marriage will not be able to get a divorce by consent.

The conference discussed the judicial systems operating in each country and the procedures for the appointment of judges. The French system is entirely different from ours in that their lawyers can, upon obtaining the necessary qualifications, obtain a judicial appointment without having had any advocacy experience in a French court.

Having explained the process by which a lawyer is appointed a Judge in this country, I was pleased to hear from a French Judge that he agreed with my view that there is no substitute for experience and that he would prefer the appointment system in France to be similar to ours. So it is not true to say that the English and the French can never agree on anything!

This was a most interesting conference which ran over three days. I would thoroughly recommend members of the legal profession to attend future conferences if the opportunity arises.

International Lawyers' Meeting Exeter

Friday 6th—Sunday 8th June 2008

Flyer herewith

LOST DEEDS.

In the name(s) of Catherine Doris King and/or Royston Sydney King, numbers 10,12,14 and 16 Old Exeter Road (previously known as Exeter Road) Newton Abbot, Devon. Believed purchased from a Mr Jolly in stages by the Kings between 1945 (Mrs King) and 1966 (Mr King) and probably, but not necessarily, handled by a Newton Abbot firm of solicitors.

Any information most welcome to Patricia Durham-Hall at WBW Solicitors, 75 Queen Street Exeter EX4 3RX or DX 136186 EXETER 18.



A chance to relax in Lyon's Hotel de Ville

Implications of the Planning Bill

By Graham Gover

When the Planning Bill was introduced in November 2007 most of the media attention focused on the proposed introduction of the Infrastructure Planning Commission to determine applications for development consent for nationally significant infrastructure projects relating to energy, transport, water, waste water, and waste projects. Tucked away in the last few clauses and Schedules are some measures which, if they are enacted, will make major changes to the planning system and greatly increase the cost of development.



Community Infrastructure Levy

Currently finances for infrastructure and other schemes are raised by s106 obligations, with payments being made when a trigger event occurs (e.g. first occupation of a dwelling, or commencement of development).

In future, costs incurred in providing infrastructure support will be borne by the landowner as a kind of tax on the uplift in the value of the land following the grant of planning consent. Clause 163 reads: "In making the regulations the Secretary of State shall aim to ensure that the overall purpose of CIL is to ensure that costs incurred in providing infrastructure to support the development of an area can be funded (wholly or partly) by owners of land the value of which increases due to permission for development".

Regulations will ensure that—

- (a) CIL is payable in respect of land when development is commenced in reliance on planning permission,
- (b) liability attaches to the owner of land at the time when CIL becomes payable in respect of it, and
- (c) the amount of CIL is determined at, or by reference to, the time when planning permission first permits the development as a result of which CIL becomes payable.

The power to raise contributions by s106 obligations will continue alongside CILs which means that s106 payments might be restricted to site specific issues and CILs might finance district-wide projects such as schools, highways and open spaces.

The Bill does not yet contemplate what happens if the owner fails to make the payment: will payment be enforceable, or affect the validity of the planning consent? Conversely, what happens if the council uses the finance for other purposes?

Determination of planning applications, listed building consent and Certificates of Lawful Use etc by officers

Currently all Local Planning Authorities have a scheme whereby applications are determined by officers unless the application is particularly contentious or a set number of objections or representations contrary to the recommendation of the case officer are received.

What is new is that for a class of applications, to be defined by regulations and set by the LPA, the Council may review the delegated decision of the officer to refuse, or grant subject to conditions, upon application by the applicant. The controversial aspect is that review will be the only avenue of appeal. For these prescribed cases there is no opportunity to appeal to the Secretary of State, unless a request for review has been made but the LPA have failed to conduct a review. The only means of 'appeal' is an application to the High Court for judicial review, and application must be made within 6 weeks.

The Bill proposes a miscellany of other changes:

- LPAs may refuse to determine applications where the same or a similar application has been made and refused twice in the previous two years.
- Removal of the right to compensation for the revocation of planning consent where 12 months notice is given.
- Tree Preservation Orders will in future be governed by "tree preservation regulations".
- Power to override existing easements

on land acquired by local authorities for planning purposes, subject to compensation.

- Introduction of fees for appeals to the Secretary of State.
- S of S to determine how appeals are to be conducted: local inquiry, informal hearing or written representations.

The greater part of the Bill deals with the introduction of the Infrastructure Planning Commission. An application for development consent is made to the Commission who have six months to examine the application and three months to make the decision. The examination will largely be based on consideration of written representations with less reliance placed on oral evidence and cross-examination will be restricted. The assessment will be made either by a panel of three Commissioners or by a single Commissioner.



Development consent will take the form of a development consent order which will include powers to facilitate the order, such as compulsory purchase of land.

Blight provisions are extended where the owner of land might be affected by a designation of land in a national policy statement or when a development consent order has been made with compulsory purchase powers over certain land.

The Bill has, at the time of writing, had its first and second readings and has passed the Committee stage in the Commons. The Government is committed to getting the Bill on the statute book by Summer 2008. Even then it will take some time for the Regulations to be drafted which will give detail to the Act which, typical of modern legislation, is largely a framework for subordinate legislation to adorn.

Graham Gover is a sole practitioner based in Exeter who specialises in planning and licensing and can be contacted on graham@ggsol.co.uk.

The knock at the door – how to handle a visit from the Solicitors Regulation Authority

By Sabina Rinker

There are several forms that a visit from the SRA could take, and there are ways in which a firm can be prepared for such a visit.

Intervention

The Solicitors Regulation Authority (SRA) authorises one of their Panel solicitors to step into a firm and assume responsibility for client files and monies so as to prevent loss to the public.

Although interventions were fewer in 2006 (50 down from 60 in 2005 and a high of 113 in 2000) this is still the nuclear option in terms of regulating the profession.

The intervened upon firm ceases trading and the practising certificates (PCs) of all partners are immediately suspended (both equity and salaried).

Intervention can be challenged and any application must be issued within 8 days of service of the notice of the intervention taking place.

Practice Standards Unit (PSU)

The PSU is tasked with visiting every firm in England and Wales to assess their compliance in order to make recommendations for improvement.

The current priorities are: sole practitioners, practices undertaking immigration work and firms engaged in the field of claimant personal injury.

Forensic Investigation Unit (FIU)

This starts with a letter from the FIU investigating accountant enclosing a list several pages long of the documents that he or she wishes to see.

The purpose of the visit will be to assess your firm's compliance with the Code of Conduct 2007, the Solicitors Accounts Rules 1998 and other associated rules.

Typically when the visits are concluded an interview will be arranged with principals to discuss issues arising from the visits. These can take place with your representative and should be regarded as akin to a Police

interview although they do not take place under caution. One of my firm's clients has referred to the interview in these terms:

"...the meeting was not a discussion but more of a question/interrogation exercise, approximately 30-40 questions at least must have been asked."

Special Projects

This essentially means claimant personal injury practices about which there is much furore at present as a result of the controversy surrounding the miners' compensation scheme run by the DTI of which it is alleged some firms have taken advantage. In particular the issue of referrals and payment for those referrals is under the spotlight.

Investment Business Unit (IBU)

Does your firm share commission with an independent financial adviser (IFA) or other professional adviser e.g. an accountant? If so there are two sets of rules with which your firm will need to comply in order to show the IBU that your firm is compliant.

Those are the Solicitors Financial Services (Scope) Rules and the Solicitors Financial Services (Conduct of Business) Rules otherwise known as the Scope rules and the CoB rules respectively. Failure to comply could be very costly in terms of managing any continuing SRA inquiry which can last up to 3 years or more.

I strongly recommend that you review the state of your firm's compliance today. If a visit is about to take place, seek advice from a specialist in the field urgently.

Sabina Rinker

Sabina is a partner specialising in solicitors compliance work at GUISE, the niche business disputes and regulatory Practice and a member of the Solicitors Assistance Scheme.

www.guisesolicitors.co.uk

www.solicitorsassistancescheme.org.uk



Friends of the Law School

"A Hippocratic Oath for Lawyers?"

Including the paper "The Hippocratic Oath: Origin, Myth and Reality" to be given by Dr Julius Rocca, Wellcome Trust Award Fellow in the School of Classics and Ancient History, University of Exeter.

Chair: Andrew Holroyd OBE
President of the Law Society)

Discussants: Andrew Holroyd (President of the Law Society), Prof Kim Economides, Lord Justice Sedley (TBC), Anthony Pinching (Peninsula Medical School) (TBC), plus other speakers to be announced.

Date: Monday 12th May 2008

Time: 5.30pm – 9pm

Venue: Xfi Lecture Theatre, Streatham campus, University of Exeter

Cost: £40 (inc VAT).

Cost includes 2 CPD hours for attendance and refreshments.

Further details can be found at:
<http://www.law.ex.ac.uk/friends/index.shtml>

All enquiries to:

Laura Taylor, Administrative and Marketing Secretary, School of Law, Amory Building, University of Exeter, EX4 4RJ.

Telephone: 01392 725244

Email: lawevents@exeter.ac.uk

News from Erik Salomonsen's Presidential Charities

News from Farms for City Children



Farms for City Children has been selected as the official charity of this year's Devon County Show and we are very excited about it!

The dates are Thursday 15th, Friday 16th and Saturday 17th May at the Westpoint Showground just outside Exeter. We would love to see any of you who would like to visit our stand.



We are also looking for 25 volunteers on each day to go round with collecting buckets at the show. A bucket collection for the charity is only allowed during two set 40-minute time slots each day, leaving the rest of the time free to enjoy the the show. Unfortunately, we can't allow under 16 year-olds to collect money as it is against show regulations.

Volunteers will each get a FREE, yes FREE day-pass to the show if they offer to help.

If you are able to offer your support for a day, or know anyone who would like to, please let me know by contacting Tracy Izod at: tracy@farmsforcitychildren.org.



We are also once again having an open air Shakespeare production at Nethercott House near Iddesleigh. This years play, 'Much Ado About Nothing' is on Saturday 19th July at 7pm prompt. Bring your own chairs, blankets and picnics please!



Shakespeare



Farms for City Children and Macmillan Cancer Support wish to thank your President, Mr Erik Salomonsen, the DASLS staff and every member firm and individual who have so generously participated in raising funds to help us continue our vital and varied work for disadvantaged city children and people affected by cancer. You have our grateful thanks.

Macmillan Cancer Support improves the lives of people affected by cancer. We are a source of support: providing practical, medical, emotional and financial support. We are a force for change: listening to people affected by cancer and working together for better cancer care.

Macmillan's ambition is to become THE source of support for people affected by cancer in this country by 2011, our centenary year. Although we are entirely dependent on voluntary giving, with the support of people like you we shall get there!

A final request from 'Farms' and Macmillan: gifts that supporters leave us in their Wills account for over a third of our total income. Please may we ask you to bear us in mind as and when you are asked by clients to suggest appropriate charities? Macmillan's legacy team are available to offer support on 01527 574240 or you can visit www.macmillan.org.uk/legacy.

Thank you, once again, for your wonderful support!

Calvin Lovelock
Macmillan Cancer Support
Tel: 01803 528004
E: clovelock@macmillan.org.uk

Tracey Izod
Farms for City Children
Tel: 01837 55876
E: tracy@farmsforcitychildren.org

Macmillan Cancer Support: A selection of forthcoming events

For a full and up to date listing, please visit www.macmillan.org.uk/Devon

www.exeterharriers.co.uk
or call 01392 432 398

26 April 2008
NIGHTWALK
Tarka Trail, North Devon

15 May 2008
KINGSBURY ESTUARY ROTARY GOLF CHALLENGE
Thurlestone Golf Club.

Supported by North Devon Journal, Nightwalk started in 2007, when more than 1,500 women completed the walk between Barnstaple and Bideford and raised £125,000 for Macmillan and the North Devon Hospice. This year's event promises to be even bigger! Start time: 9pm approx. For information visit www.thisisnorthdevon.co.uk/nightwalk or call 01271 347213 or 347204.

Contact David Wadey on 01548 511395

6 May 2008
GREAT WEST FAMILY FUN RUN
Exeter Arena, Exeter

6 June 2008
BARNSTAPLE LINK ROTARY CLUB GOLF DAY

Annual golf day: Macmillan Cancer Support being the nominated charity for 2008
Contact Tim Neve on 01271 342348

Sponsored by **team** estate agents, Macmillan is the official race charity for the second year running. To join our Green Team of Macmillan runners and receive a free runners pack, please contact our Paignton Fundraising Office. Start time: 9.40am approx. For race information visit: www.thegreatwestrun.co.uk or

7 June 2008
THE BIG MIDNIGHT WALK
Torbay

Supported by Herald Express, this is the first ever ladies only midnight walk event in South Devon. We hope to see at least 1,500 ladies take part for what promises to be a fantastic moonlit challenge event. The event is in aid of Macmillan and Rowcroft Hospice. Start time: from 9pm
For information visit www.bigmidnightwalk.co.uk or call 01803 217 641.

Why should you choose DASLS seminars?

We offer a local, cost-effective way for practitioners to gain CPD hours and to keep up to date with current developments in the law. We are responsive to requests for seminars on particular subject matters. Meetings are held with solicitors throughout the year to discuss potential topics and all suggestions are considered. We endeavour to secure high-quality speakers for our seminars, and we welcome suggestions of specialists we can invite.

Don't forget to sign up for the monthly training e-bulletin containing details of all our courses and links to online flyers. Simply e-mail charlotte@dassls.com to subscribe.



**Don't forget ...
All DASLS members receive
a discount when booking
courses.**

Pre-Nuptial Agreements and Co-Habitation

Thursday 3rd April 2008 2.00 – 5.15pm:

3 hours CPD

Christopher Sharp QC, *St John's Chambers, Bristol*

I'm a Lawyer ... Not a Manager No-one Told Me About!

DAY FIVE: Managing People

Tuesday 8th April 2008 9.30am-4.30pm:

5.5 hours CPD: Simon Young

Probate for Support Staff

Wednesday 9th April 2008 9.45am – 5.15pm:

John Thurston

Wills Probate and Administration of Estates Update

Thursday 10th April 2008 9.45am – 1.00pm:

3 hours CPD: John Thurston

Protecting the Assets of the Elderly

Thursday 10th April 2008 2.00 – 5.15pm:

3 hours CPD: John Thurston

Residential Conveyancing Update (Taunton)

Thursday 10th April 2008: 9.45am – 1.00pm:

3 hours CPD: Richard Snape

Conveyancing Documentation including Building Regulations (Taunton)

Thursday 10th April 2008: 2.00pm – 5.15pm:

3 hours CPD: Richard Snape

Criminal Law Update

Tuesday 15th April 2008

10.00am – 5.30 pm:

6 hours CPD: Anthony Edwards

Negotiating Business Tenancies

Tuesday 15th April 2008 9.45am – 1.00pm:

3 hours CPD: Richard Snape

Commercial Leases Update

Tuesday 15th April 2008 2.00pm – 5.15pm:

3 hours CPD: Richard Snape

Civil Litigation Update (Tiverton)

Thursday 24th April 2008 9.45am – 1.00pm:

3 hours CPD: Dominic Regan

Personal Injury Update (Tiverton)

Thursday 24th April 2008 2.00pm – 5.15pm:

3 hours CPD: Dominic Regan

Residential Landlord & Tenant Law

Wednesday 30th April 2008

2.00pm – 5.15pm: 3 hours CPD

Professor Martin Partington and District Judge Andrew Harvey

Residential Conveyancing Update (Yeovil)

Wednesday 7th May 2008

9.45am – 1.00pm:

3 hours CPD: Richard Snape

Commercial Property Update (Yeovil)

Wednesday 7th May 2008

2.00pm – 5.15pm:

3 hours CPD: Richard Snape

SDLT and VAT for Property Lawyers (Taunton)

Wednesday 21st May 2008

10.00am – 5.00 pm:

5.5 hours CPD: Reg Nock

Children Law

Thursday 22nd May 2008

10.00am – 4.30 pm: 5 hours CPD

Christopher Naish and Susan Campbell, *Southernhay Chambers, Exeter*

Pitfalls of Conveyancing an Insolvent Property

Wednesday 4th June 2008

4.00 – 6.15 pm: 2 hours CPD

Stephen Lawson, *Consultant at Foot Anstey, Exeter*

Options, Pre-emptions and Conditional Contracts & Mixed Use Developments – the Problems with Residential Tenants

Thursday 5th June 2008 10.15am – 1.30pm:

3 hours CPD: Peta Dollar

Commercial Leases

Thursday 5th June 2008 2.00pm – 5.15pm:

3 hours CPD: Peta Dollar

Restrictive Covenants and Overage (Tiverton)

Wednesday 11th June 2008

9.45am – 1.00pm:

3 hours CPD: Richard Snape

Planning Update for Residential Conveyancers

Thursday 12th June 2008 9.45am – 1.00pm:

3 hours CPD: David Forbes

Planning Update for Commercial Property Lawyers

Thursday 12th June 2008 2.00pm – 5.15pm:

3 hours CPD: David Forbes

For full course details and prices, simply download flyers from our website:
www.dassls.com

Book via the website or phone Charlotte on 01392 411585

All courses are held in the Exeter area unless otherwise indicated

THE COOK'S AND HATCHARD'S LAW PRIZE

Members are invited to nominate candidates who meet the criteria set below and who have completed their training contracts in the twelve months from 1 June 2007 and 31 May 2008, for consideration by the Trustees at their next meeting in June 2008.

Please return your nominations to the DASLS office by Friday 30 May 2008.

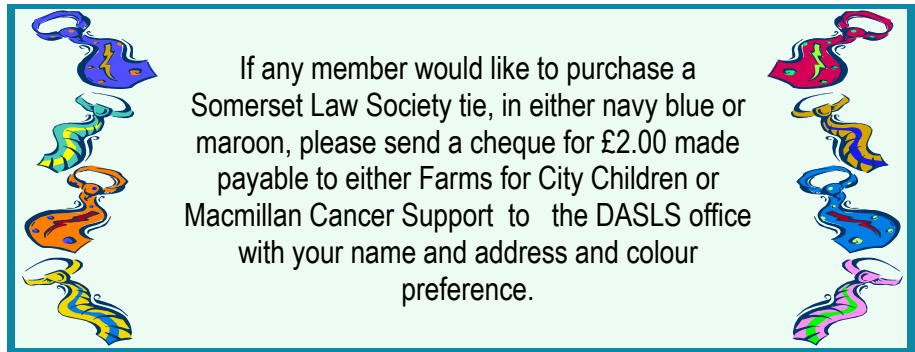
Extract from the Central Register of Charities maintained by the Charity Commission for England and Wales

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.



If any member would like to purchase a Somerset Law Society tie, in either navy blue or maroon, please send a cheque for £2.00 made payable to either Farms for City Children or Macmillan Cancer Support to the DASLS office with your name and address and colour preference.

Heard it on the Grapevine

By Andy Ford, Quay West Wines, Exeter

Organic wines are made from grapes which are cultivated without recourse to synthetic fungicides, herbicides or fertilisers. To produce a quality wine it is imperative that organically grown grapes have a head start because they are not in a cycle of chemical dependency.

Organic growers encourage biodiversity and always talk of wanting to have "living soils", so they sustain the soil by spreading worm-rich composts and the grape skins left over from winemaking.

Organic vineyards sometimes look a bit scruffy, but allowing weeds to grow prevents topsoil from cracking and then eroding to produce the atmospheric dust which contributes to haze and global warming.



Wines produced from organically-grown grapes usually contain appreciably lower levels of the wine preservative sulphur dioxide. Growing grapes in harmony with nature gives more options to organic winemakers. Instead of using vacuum-packed factory yeasts, they can let yeasts naturally present on the grapes at picking ferment the juice into wine. Such wines are more likely to reflect the true tastes of each individual grape variety, each vineyard and wine region.

Vineyards new to organics must go through a three-year period called "conversion".

Despite the strict rules there are more organic vineyards worldwide than ever before and their numbers are growing rapidly.

Biodynamics pre-date the organic movement by half a century but have gained wider recognition only recently. Biodynamic methods embrace all organic ideas but are both stricter and wider reaching. Growers respect the "dynamic" cycles of the moon, sun, planets and stars so time vineyard ploughing, pruning and even when to pick the grapes by the cosmic cycles that vitalise vines, strengthening them from within. This produces healthier vines – and more highly flavoured wines. Apparently!

WINE OFFER

Devon & Somerset Law Society in association with Quay West Wines are pleased to offer Society members 12 bottle mixed cases of wines at the following reduced prices for Easter. Each case contains 3 different whites and 3 different reds.

£48 £60 £78

Delivery is free throughout Devon and there are no other hidden costs

If there is ever a particular wine you are looking for we will do our best to source it for you.

Telephone: 01392 - 841833

Fax: 01392 - 841996

E-mail: sales@quaywestwines.co.uk

Information about DASLS Member Services

MEDIATION SERVICES

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

DASLS co-ordinates and provides mediators to Devon Courts for the innovative Small Claims Scheme for which it has secured financial backing from the DCA.

DASLS is a recognised provider of mediators to the Court for 3 Hour Time Limited Mediations in Fast and Multi Track Cases.

DASLS Mediators are required to attain high qualification standards and are under the continuous supervision of the Society to maintain these.

DASLS 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. DASLS 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 & Somerset Law Society, Suite 5 Renslade House, Bonhay Road, Exeter EX4 3AY.



DEVON & SOMERSET
LAW SOCIETY
1808 - 2008

COMPLAINTS CONCILIATION

Since 2000, DASLS has actively sought to resolve complaints against members by conciliation.

The scheme has been very successful and has saved members' time and expense in dealing with a Law Society investigation.

This is a free service and the conciliator is a member of DASLS Executive Committee or a Past President of the Society.

The objective is to resolve any complaints quickly so as if possible to retain the link between client and solicitor.

Member firms are able to refer to the service in their client care materials.

This scheme is held in high regard and this is largely built on the informality of the scheme. There is no complicated form filling or rigid structure – much of the work is done by phone with only rarely a need for a meeting.

The scheme has been publicised through Libraries and Citizens Advice Bureaux in Devon and Somerset, which has helped raise awareness of this resource.

Further information is available on the DASLS website or can be obtained by contacting the DASLS office.

What else would you like to see your Society provide for its members?

If it is possible, then the Society will endeavour to provide it.

Letters to the Editor ...

...are always welcome.

Please write to Tony Spiers at Suite 5, Renslade House, Bonhay Road, Exeter, EX4 3AY (DX 8361 Exeter) or email mail@dasls.com