

Newsletter



DEVON & EXETER
LAW SOCIETY

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ONLINE EDITION

Young Solicitor of the Year

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MAY 2004

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**DELS Young Solicitor
of the Year Award**
Nomintaion

**Officers of the Society
for 2004/2005**

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First International Conference on Lawyers' Ethics

New Perspectives on Professionalism: Educating and regulating Lawyers for the 21st Century

2 Day Conference – 6/7 July 2004
Detailed information at www.ex.ac.uk/law/ethicsconf

Association of South Western Law Societies

AON Professional Risks Seminar – Plymouth - Monday 7 June 2004 – 2.00 pm – 5.15 pm

Practical guidance on developing a risk aware culture and the types of errors that most frequently occur + thoughts on forthcoming renewals.

Booking form available from DELS office.

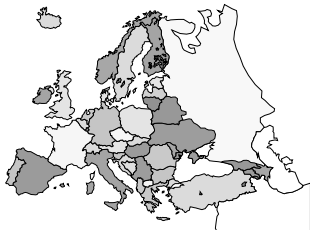
RICS Property Conference

Thursday 10 June 2004 – The Lord Haldon Hotel, Exeter

For information about Property Initiatives and Regeneration Projects in the region.
Tel. 0118 987 2266 or e.mail enquiries@cptevents.co.uk for further information.

REMEMBER

DELS can provide
Personal Introductions
to Lawyers in Mainland
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Ring Monique on
01392 411585

THE PRESIDENT'S DIARY



**Jeremy Howell
congratulates
Paul Derbyshire
(right) on his
election as
DELS President**

The first thing that I want to say is 'Thank You' for electing me as your President for this year. The next is 'Congratulations' for being members of probably the best local Law Society in the country. Time and again we get told how fortunate we are to have an active membership, a solid bank balance and, most importantly, the loyal and hardworking support of Monique, Tony and now Lyndsay.

DELS' success is based on the dedication and enthusiasm of the members and of our administrators. I hope this year to encourage as many of you as possible to lend your support to the Society in whatever way you can. We need to keep DELS at the top of the tree.

At the moment skin and hair are flying to finalise the arrangements for our European Lawyers weekend on the 21st – 23rd May. It is our turn to host the event with our twinned societies of Rennes, Erlangen, Leuven, Cork, Verona and Barcelona. In addition this year we have visitors from Poland and Nova Scotia.

I am particularly looking forward to the football match (mixed) on Saturday 22nd May, 10.00am at Bromhams Farm – near the Double Locks pub. This is the occasion to show our European friends how to play the Beautiful Game. Players are signing up from unlikely quarters – the first

was Jacqui who until recently worked in the DELS office with Monique. It turns out that she is a skilled member of a local women's football team. If not enough of you volunteer, I warn you that your President's knees will be brought out of retirement for a cameo role. That will certainly frighten the horses.

The theme of my year will be to publicise the many ways in which local solicitors help within their own communities on a pro bono basis. Whether it's a free will campaign, or 30 minutes free interview or giving free legal advice to charities – we all do our bit. Yet it is routinely ignored by a Press which wants to rubbish us as 'fat cats'.

I plan to set up a President's Fund to collect money for Devon Air Ambulance. I know that you will all have your favourite charities, but I chose this for two reasons. Firstly it covers all of Devon. Second, ten years ago, it saved the life of my daughter's best friend Anna, who had a brain haemorrhage on her way to school. She was flown from Exeter to the neurology unit at Plymouth for immediate surgery. Though still partially disabled, she got her degree, works as a research chemist and still goes clubbing!

Members who attended the AGM had a whip-round there and then and raised £164 – thank you all. I am going to be adding to that by doing a sponsored walk from Bideford to Dartmouth (The Mariner's Way) from the 14th – 20th July. It's about 70 miles and will take me six days. The route takes in some of the loveliest parts of Devon from the Tarka trail along the river Torridge to Okehampton, over Dartmoor to Buckfastleigh and then through the creeks and lanes of the South Hams. It was originally the route taken by sailors coming off ship at Bideford (firs and tobacco from Canada and USA) and signing on again at Dartmouth (wool and trade with Europe).

I intend to visit as many solicitors as I can on the way for a glass of water – or whatever strong liquor you can lay your hands on. So move over the Ancient Mariner. Here comes the ancient DELS President to shake the loose change from your pockets.

Paul Derbyshire, President
pad@fordsimey.co.uk

FROM THE OFFICE

Members ringing the DELS office may detect a new voice answering the phone.

We welcome Lyndsay Allen who joins the team at Renslade House. Lyndsay is a graduate from Plymouth University in Criminal Justice and Psychology.



Lyndsay replaces Jacqui Asher who has left to further her aspirations as a beauty therapist. We wish Jacqui every success.

ATTENTION ALL CRICKETERS

The summer season is nearly upon us and thoughts, not for the first time this year, turn to Cricket. Searching questions are posed. Can we emulate the performance of our National Team? Will we ever beat the Cornish again? Where is the Steve Harmison of Devon?

We have our annual fixtures lined up for the summer, and we are extremely keen this year to recapture the John Teeman trophy from the Cornish Law Society. I am confident that this year's home fixture will reap rewards, and I am looking for a strong team to remind those Cornish boys who are the best! The date for the accountants fixture is set for Thursday 8th July in Exeter, and the Cornish game will take place at Knightshayes on Friday 25th June.

I will be sending out an availability sheet to the regular names although if there are new lawyers out there who would like to put their name forward for selection then please contact Keith Biggs at Foot Anstey Sargent, 4-6 Barnfield Crescent, Exeter, Devon, EX1 1RF– telephone number 01392 411221 e-mail kmb@foot-ansteys.co.uk

COUNCIL MEMBER'S REPORT

At DELS AGM in April Christopher Palmer gave a comprehensive review of current activity in Chancery Lane. A transcript of his report is set out below:

“I hope that you will not mind but I was proposing to be fairly brief. That is for two principal reasons. The first, although you have no written report today, I have been contributing regularly to the newsletter. I suspect that those of you who are present are those who take the trouble to read the newsletter! It would be tedious of me to repeat what has been written already. Secondly, I know that you will want to hear from Russell Wallman: rather than me.

Having Russell here again makes one realise how much has changed since his previous visit. That, some of you may recall, was to speak to us about the introduction of fixed fees in the Magistrates Court. The meeting was in that extraordinary glass domed room at The Imperial Hotel. Those of us who were there feared that the introduction of fixed fees was the end of the civilised world as we knew it! There was a feeling of great hostility: particularly to The Law Society whom, it was felt, had let the profession down badly. But you may feel that the profession faces even worse now and how relatively insignificant our concerns were then. You may like to consider:-

The possibility (or some would say probability) of the profession losing all or part of self regulation.

The slow death of the once fine and proud legal aid system.

Competitive tendering for legal aid work.

The appointment of a Legal Services Complaints Commissioner with powers of fining The Law Society.

This is just to mention a few.

After that rather gloomy introduction I just wanted, President, if I may, to mention three specific things.

First, referral fees and fee sharing. This (particularly referral fees) has been debated in the Council more times than I can remember of the last 12 months or so. There are some very strong feelings and strong views have been expressed. However, the current position is that these arrangements are now permitted but subject to compliance with strict views as to disclosure: both to the client, and in the case of referral fees, by the referrer to the client also.

These rules will be enforced. I urge you to read them and to comply with them.

Secondly, the Clementi Review of the regulations of Legal Services. I will mention this just briefly because I know Russell will be dealing with it in more detail. The consultation paper is out. Right at the outset The Law Society attempted (and I think with some success) to influence what was in that paper. A number of road shows have been arranged by The Law Society and attended by large numbers of the profession, including here at Woodbury. There is to be a special council meeting this Thursday when the first draft response to the consultation paper will be considered. All responses have to be in my June. Sir David Clementi is due report to the Government in December.

Thirdly, may I share with you some recent experiences concerning legal aid. Three or four years ago I volunteered to sit as a Law Society nominee on the Legal Services Commission Contract Review Body. The CRB determines appeals from firms who have had their application for a legal aid contract refused by the LSC. This experience has brought home to me the stark reality of the control now exercised by the LSC and the way things are going. We have heard a number of appeals recently from firms, mainly in London, who have not had their civil legal aid contracts reviewed. This has been mostly in housing, immigration and family. I have to confess that I did not realise that it is a competitive bidding exercise. It is very much so. What happens is that the LSC decides how many providers they want in a particular area. They then set a number of points to be scored by the applying firm against a predetermined matrix (which is not seen by the applicant). The LSC then consider applications and mark those applications against that matrix. If the score is under the required level then a contract is not granted. Incidentally, you may like to know that the LSC have made it plain that when the criminal contract bidding process begins in London in the autumn they plan to reduce the number of providers from 500 to 150!

Finally, some of you may know that I am experimenting with an MP's type surgery at the DELS Office. My first surgery is on Thursday 29 April. It will be interesting to see who turns up and how many! It will also be interesting to see what concerns and questions are put to me.

President, really finally, may I thank all those of you who voted for me and enabled me to be re-elected as one of your council members last year. It is an interesting and enjoyable thing to be able to do as well as being a great honour. Later in the year you also voted against a proposal that council members should be remunerated/compensated. In fact I am grateful to you in fact for that as well. I have never felt it right that council members should be paid."

A DISTRICT JUDGES OVERVIEW **'THE OLDEN DAYS'**

Before I retire and after 22 years, first as a Registrar at Taunton, Barnstaple and Bridgwater County Courts, and then as a District Judge and Recorder, I thought I might be brave enough to contribute an article or two before I go.

First, please do not take this article as a criticism! I have enormous regard for you all. Furthermore, I have remained a member of Society and have therefore had the opportunity of quietly observing the dramatic changes in working practices.

I am not trying to be a perfectionist; but what causes me concern is, despite all this modernization (some good, some bad and some not radical enough), the public perception of our profession has not necessarily improved.

In my mind, having got rid of much of the delay in the litigation process (through CPR), there remains the perception that we are charging Clients too much and/or not prepared to take on non profitable work.

There is still, in my view, a vast untapped source of work. For example, the explosion of the number of litigants in person who need help in Court, housing and Welfare problems, to name a few.

I can't help feeling sometimes there is one law for the rich and another for the poor.

The constant reasons litigants give me as to why they are conducting their own case is because it "costs too much". (I'm not so gullible as to believe every litigant).

Interestingly they make little criticism about the standard of work offered by a Solicitor.

When people are in trouble they would prefer to see a Lawyer. CAB, Advice Agencies, pamphlets in the Court office all help, but at the end of the day, you are best equipped to help. I often quote the analogy of the dentist with the law. We are all capable of taking out our own teeth, but we would be very stupid to try it. Even if we tried, we would have to learn dentistry techniques. Similarly with the law, Clients if they do their own cases want information and regrettably at the moment it is more likely to be from the Court staff or me. I am incidentally astounded by the time and patience shown by Court staff to litigants in person. Just think, if you did it instead, the knock on effect would be to free up more time for your use.

I do think there is opportunity, and the profession could do more. I realize that already some Solicitors do pro bono work and there is the admirable mediation scheme of Jeremy Ferguson and District Judge Wainwright.

The obstacle I think is that dreaded but necessary word, profitability. Because of market forces, intense competition, targets, stats, computerization, advertising, and time accounting - the profession has lost the ability to be flexible on charging.

Too much emphasis is put upon targets. Our performance should not be measured like cargo or consumer goods, we are dealing with human beings (with all their frailties).

In my day (hence the title "The Olden Days") we were far more laid back, but dare I say it, just as efficient and just as profitable. We did not keep an eagle eye on performance, our partners or staff. We trusted each other and importantly were flexible on charging.

Yes, I already hear you saying "silly old codger" (or something stronger!) life's more complicated now. Its about time he got back to a Solicitors office and into the "real world". (incidentally, a loose phrase that means nothing).

But how about unscrambling the complications and give a lead again to the public?

District Judge and Recorder J Turner

THE CAVALRY IS COMING!

by Michael Swift

Just at the point when solicitors doing residential conveyancing have circled their wagons in a seemingly hopeless attempt to fight off the conveyancing factory Apaches, salvation may be about to appear over the horizon in the form of affordable but enormously powerful technology.

For a raft of reasons those solicitors equipped with a fully developed case management system have a distinct advantage over their competitors. That competitive edge is about to be brought into sharper relief with insurers taking an indecent interest in the detailed ways in which their insureds are managing out risk, to the extent that those without a sufficiently sophisticated system may find themselves paying prohibitively high premiums or even being uninsurable.

The other key advantage derived from a fully developed case management system is the facility to report automatically to work referrers. In the relationship between estate agents and solicitors the agents have always been the dominant partner. The ability to recommend has meant that many high street solicitors have grown and prospered - or wilted and died - simply on their ability (or lack of it) to attract recommendations.

Large chains of agents now 'sell' a conveyancing service to their customers. In the case of Countrywide this is predominantly provided in house but others simply panel out to solicitors who have set up 'factories' to handle volume. There is a perception that these conveyancing factories are impersonal and the quality of service and level of customer satisfaction does not match the high street. Whilst this may have been true at the outset it is less true now.

There is, of course, another component which will interfere with the cosy relationship between independent agents and their local solicitors. One utility, Npower, has moved into the conveyancing market and has access to a huge customer base for selling its service and the likes of Tesco may follow.

Up until recently I had predicted the rapid demise of the high street solicitor but now there is reason to suspect that this may not be the case and that agents' ability to chose a local option may be safe after all. The e-conveyancing revolution (for

such it is) and the increasing and proper demands of agents for quicker and more sophisticated reporting seemed to favour the big guys who had bitten the bullet of very large IT investment. However, there seems to be a will amongst sole practitioners, fuelled by an instinct for survival, to transform themselves from cottage industry to high-tech boutique and the IT to enable them to do so at an affordable cost will soon be available and this is where the fully developed case management system comes in.

For some 15 years a number of IT companies have offered conveyancing case management systems but these have, in reality, simply been the technical foundations upon which the solicitor had to build his own edifice. This can take hundreds of hours of time of people who are already busy trying to earn a crust. Thus relatively few firms have these systems and few of those that have them have ever fully developed them. There was no 'plug and play' option available. The first such system is, however, now coming onto the market and is bound to be followed by others. They are likely to be provided at a relatively low per case fee and, if the solicitor wants to avoid much of the hardware costs, will come with an ASP option whereby the system is 'hosted' and accessed via the web.

Thus the high street solicitor can have all the tools which, to date, only the factories have been able to afford, enabling them to provide their local agents with everything which the large chains get from the factories but with the benefit of local knowledge and the facility for face to face meetings with clients.

Nor is it only in protecting existing connections that the technology will be important. It will also give the sole practitioners using it the opportunity to join one of the panels set up by of an increasing number panel management organisations. There is currently a shortage of solicitors experienced in conveyancing and the vast majority prefer to work for themselves. Thus, to have sufficient resource available, I believe that these panel managers will have to look increasingly at using those sole practitioners which have the technology required for reporting and quality control.

Finally the spread of case management technology will be great news to the Land Registry who have been carrying out excellent pioneering work on devising a paperless electronic system but one which will only work if solicitors have the tools to interact with it.

I am now prepared to predict that although conveyancing factories will take a significant slice of the market they will not take over the world and that bright, customer-focussed sole practitioners will not only survive but flourish. We shall see!

Michael is a solicitor and a director of Intelligent Conveyancing Limited who produce Icon, a fully developed case management system for conveyancers.

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- Solicitors Benevolent Association
Living expenses support for Solicitors & their dependants
 - LawCare
Support ref. personal / alcohol / addiction / stress problems
- Young Solicitors Group
Assistance to Young Solicitors, up to 10 years ppe
- Trainee Solicitors Group
Assistance for Trainees, Junior Paralegals & Students
 - Black Solicitors Network
Advice for black / Afro-Caribbean Solicitors
- Solicitors' Sole Practitioners Group
Support for sole practitioners
- Association of Women Solicitors
Advice / re – training / mentoring / maternity issues for women solicitors
 - Group for Solicitors with Disabilities
Assistance for trainees and solicitors with disabilities
 - Solicitors in Local Government
Assistance for local government solicitors
 - Commerce and Industry Group
Assistance for in – house solicitors

YOUR PRESIDENT INVITES YOU:

WALK OF THE MONTH

Leave those computer screens behind and enjoy some of the wonderful walks of Devon. I will be nominating six of my favourites. All of them are do-able in a morning or afternoon and all end at a pub. This is purely a coincidence. Here is my first. It is actually just over the border in Somerset but is a lovely and interesting walk of five miles.

Culbone and Yearnor Woods

OS Sheet 181, Ref 865479

Start: Porlock Weir car park

We start from the car park opposite the Ship Inn, overlooking Porlock Bay. Walk out of the car park entrance, where there is a signpost pointing to Culbone. This first part of the walk follows the Somerset and North Devon coast path, which is marked with acorn signs. Cross the road and go past the entrance to the Anchor bar. Then turn right to climb up behind the hotel.

After one field the path joins a red waymarked route and continues along the side of fields with the harbour and shingle bank down to your right. Go through a kissing gate and then two more gates before joining the road to Worthy Combe Toll.

At the tollgate itself, do not go under the arch but go through the gate straight ahead and climb up through Yearnor Wood. Soon the path passes through a short tunnel and under a small bridge, showing signs of an ancient pathway. At one time there was a leper colony established in these woods, whose main occupation was charcoal burning. To avoid contact with the outside world, they left their produce by the Culbone stream in exchange for necessities. However they lived mainly off the land with a herd of goats for milk and abundant wildlife for meat.

Carry on along the path. There is a short steep climb and, beyond this, spectacular views can be snatched of the rocky seashore below. This was a popular spot for smugglers! The path gradually turns inland as you reach Culbone Combe. Then the path descends to the church, pottery and cottages which comprise this unique community. The church is thought to be the smallest in England and part of it dates back to the twelfth century. The cottage is the sole survivor of the many which stood here in the eighteenth century. The setting of the church is quite magical in the middle of the wood.

Continue the walk by going through the arch beside the pottery and then follow the path up the right hand side of the stream. There is a steady climb now nearly all the way to Silcombe Farm, turning sharp right away from the stream, through a hunting gate and then left again up a wider farm track. Pause to take in the view behind of Bossington Hill and Hurlstone Point on the other side of Porlock Bay framed by the deep fissure of Culbone Combe.

When the path reaches the road just before Silcombe Farm, turn left to leave the coast path and follow the road. It passes through Parsonage Farm at the head of Culbone Combe and joins another busier road at Yearnor Farm entrance. Go straight on here (signposted Porlock Weir) and carry on downhill, turning sharp left at the entrance to Pitt Farm.

Turn off the road at the Worthy Combe toll notice and follow the track across Yearnor Mill bridge signposted to Porlock and Porlock Weir. Do not fork off to the left on the blue waymarked path just after the bridge but keep on the wide track near the boundary of the wood, climbing gradually at first and then

Devon & Exeter Law Society Young Solicitor of the Year 2004 Award



DEVON & EXETER
LAW SOCIETY

www.devonlawsociety.org.uk

The Devon & Exeter Law Society is delighted to introduce this award.
The search is on for a young lawyer whose achievements exemplify the
outstanding standards of the profession in the South West.

Terms of the award printed below.

YOUNG SOLICITOR OF THE YEAR AWARD 2004

NOMINATION FORM

How to apply:

Nominations should be accompanied with a note or explanation which should not exceed 500 words, setting out your reasons for making the nomination, listing any achievements by the solicitor. Please include any achievements either within or outside the legal profession – 2-5 achievements would be ideal.

Closing date for entry is 4.00 p.m. on 29 October 2004.

NOMINEE

NAME

FIRM

POSITION

PHONE

EMAIL

NOMINATED BY

NAME

FIRM

POSITION

PHONE

EMAIL

DEVON & EXETER LAW SOCIETY YOUNG SOLICITOR OF THE YEAR AWARD

TERMS & GUIDELINES

Eligibility: The award is aimed towards a young solicitor whose contribution to the legal profession has been judged by a panel of experts to be the most outstanding of the year. Essentially candidates should stand out from their colleagues as a lawyer who has made a significant impact, taking into account the time they have been practising and any notable difficulties they may have overcome.

Each nominee must be:

- 35 or under on the date when nominations close
- A qualified solicitor
- A member of DELS

The judging panel will be looking for a young solicitor who:

- demonstrated involvement at a responsible level in interesting, challenging or new areas of law.
- shows a dedication to clients
- has involvement in projects with significant impact on the community i.e. the ability to participate in local projects and contribute to local charities, education e.g. schools and active participation in community life.
- can demonstrate involvement in and understanding of the region
- is determined and motivated to succeed within the legal profession and carries out their work to the highest professional standard.
- has good communication skills.

Notes:

The award is mainly directed towards fee earning work which assists clients. However, non-fee earning work for instance marketing, new initiatives and a broader contribution to the profession may be considered.

The winner of the award will be presented with a certificate and a cheque for £100.00 at the annual dinner on 11 February 2005.

How to apply:

- The DELS will ask member firms and other member organisations e.g. local authorities, CPS to submit nominations.
- These nominations should be accompanied with a note or explanation which should not exceed 500 words, setting out your reasons for making the nomination, listing any achievements by the solicitor. Please include any achievements either within or outside the legal profession – 2-5 achievements would be ideal.
- Closing date for entry is 4.00 p.m. on Friday 29 October 2004.
- The judging panel will be the Vice President's Committee for the time being of DELS.
- In judging, the judges will apply the criteria using their skill and judgment, considering information that is put to them in the nomination form, and their knowledge and experience of the legal industry.
- The judges will declare the winner by 1 December 2004.
- The decision of the judging panel is final.

OFFICERS OF THE SOCIETY FOR 2004/2005

The Officers were elected as follows:

President	.....P A Derbyshire (Exeter & East Devon), Ford Simey, Exeter.
Vice President	.....P R Mole (North Devon), Chanter Ferguson, Bideford.
Junior Vice President	.....C D Hart (South Devon), Hooper & Wollen, Torquay.
Honorary Secretary	.....J A Spiers, c/o DELS, Exeter.
Honorary Treasurer	.....R A Adams, Crosse & Crosse, Exeter.
Immediate Past President	.....J W Howell (South Devon), Kitson Hutchings, Torquay.
The Law Society Council Member	.....C J C Palmer, Bevan Ashford, Tiverton.

Four persons were elected to the Committee for three years. Apart from the Officers above, the Committee Members are as follows:

Chairman: Education & Training Sub-Committee including Advocacy	.....G G N Bond, Tozers, Exeter.
Chairman: International Relations Sub-Committee	.....J J Ferguson, Chanter Ferguson, Bideford.
Chairman: Litigation & Costs Liaison Sub-Committee	.....A M McNicol, Foot Anstey Sargent, Exeter.
Chairman: Mediation Sub-Committee	.....J J Ferguson, Chanter Ferguson, Bideford.
Chairman: Non Contentious Business Sub-Committee	.....R S Coram, Woolcombe Beer Watts, Exeter.
Chairman: Practice Management Sub-Committee	.....S Sanger-Anderson, Tozers, Exeter.
Local Government Representative	.....R Gash, Devon County Council, Exeter.
Crown Prosecution Service Representative	.....R D Bowen, Exeter.
Solicitors Benevolent Association Representative	.....J C R B Lee, Symes Robinson & Lee, Crediton.

Miss P J Ayles, Woolcombe Beer Watts, Newton Abbot.
D P White, Bevan Ashford, Tiverton.
C H S Murray, Tozers, Exeter.
Mrs C S Reynolds, Hooper & Wollen, Torquay.
T G Penny, General Notary, Tiverton.
J Griffin, Everys, Honiton.
M B G Cosgrave, Harold Michelmore & Co., Newton Abbot.
R J G Blair, Woolcombe Beer Watts, Torquay.