

Newsletter

March 2009



DEVON & SOMERSET
LAW SOCIETY

www.dasls.com

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BRISTOL

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Honorary Secretary: Anthony Spiers MBE
secretary@dasls.com

Administrator: Monique Bertoni
monique@dasls.com

Membership Services Manager: Tony Steiner
tony@dasls.com
Direct Dial: 01392 494110
Mobile: 07979 746 205

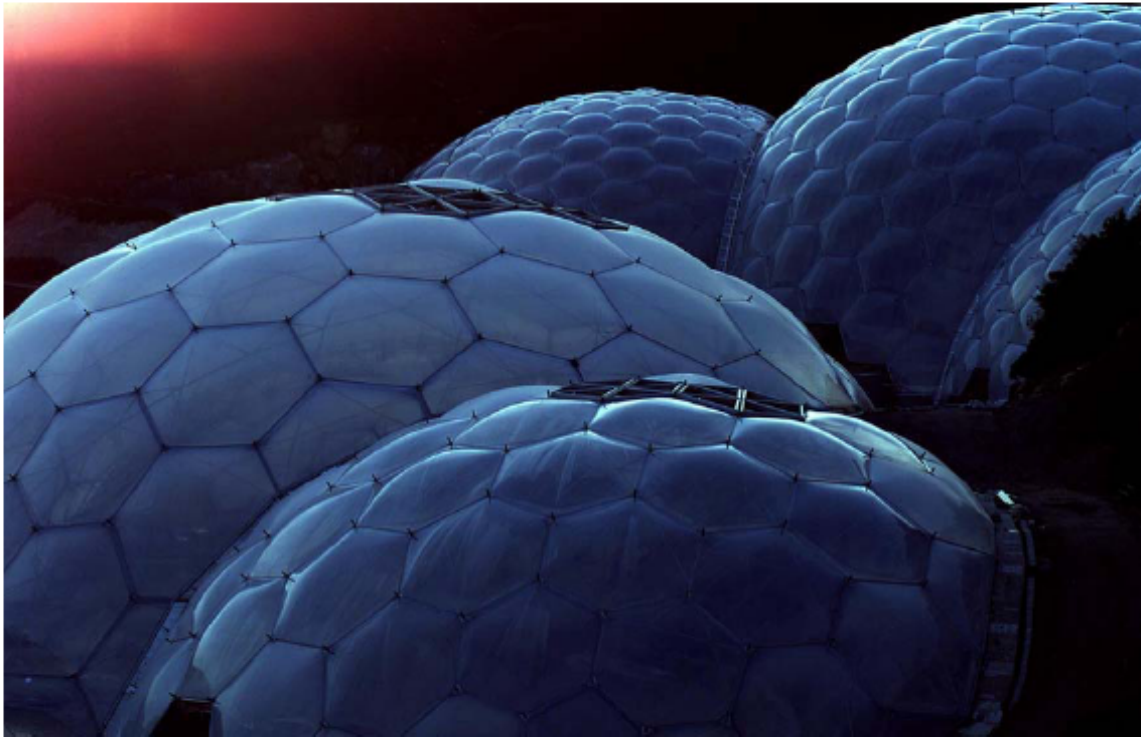
Education & Training: Charlotte Lythgoe
charlotte@dasls.com

E-Mail: mail@dasls.com
Tel: (01392) 411585
Fax: (01392) 431511
DX: 8361 Exeter

Office: Renslade House
Bonhay Road
Exeter
EX4 3AY



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President's Diary

By Alec McNeill, President

It seems only yesterday that I wrote my first Diary Page and already I find myself writing my fifth and final one. It is difficult to believe that the months have passed so quickly and that my year as President is drawing to a close.

The start of the New Year was relatively quiet, and the main event was the quarterly meeting of the Association of South Western Law Societies, which was attended by Paul Marsh, the Law Society President. He spoke on topical subjects including the initiatives being taken by the Law Society with regard to indemnity insurance renewals and run off cover and the approach which the new Office for Legal Complaints will be taking to complaints handling. He made it clear that firms will need to be careful about taking on "difficult" clients and robust in avoiding complaints in the first place if they are to avoid the risk of significant cost.

February proved a busier month: the beginning of the month found me in Spain where I attended the "Festivity Sant Raimon De Penyafort" as a guest of the Barcelona Bar. This event seems to have become one of the fixtures in the Presidential calendar and this year involved not only the annual "awards" ceremony to honour senior and long serving Barcelona lawyers but also an FBE Conference on International Arbitration [where I should perhaps not reveal that for me the highlight was a message on my mobile phone from the Fraud Department of HSBC asking me to contact them urgently – it transpired that use of my Bank Card in a cash machine upon arrival at Barcelona Airport had set off alarms!]

Next followed our own Annual Dinner, which this year was held in North Devon. Whether because of the recession or the location, the event was not as well supported as in previous years and some of our "regulars" were noticeably absent. This was a shame given that Paul Marsh was with us. However, those of us able to attend enjoyed the evening and were entertained by tales of some of the



exploits of Katie Hopkins.

After this I soon found myself at another Dinner, this time in Cork as guest of the Southern Law Association. I went well briefed by several Past Presidents as to the warmth of the Irish hospitality I could expect. I was not disappointed and the event will remain a memorable part of my year.

The end of the month saw me in Chancery Lane with our Honorary Secretary for the Law Society "Leadership Summit". Tony Spiers has written about this elsewhere, but I must mention the opportunity we were given to hear Lord Hunt speak of his brief to conduct a Regulatory Review into the regulation of the profession. He stressed that he would be inviting all Solicitors to make representations to him. It also enabled us to join with other local law societies in debating issues of concern. At one stage I found myself in a session on carbon footprints. It was certainly not what I had expected but the point was well made that this will become an area where law firms will increasingly find themselves expected to take action. Members may wish to investigate the *Legal Sector Alliance* - an association of lawyers committed to reducing carbon emissions (www.legalsectoralliance.com).

There are just a few events left in the Diary before the end of the presidential year:- our "annexure" of Somerset has yielded an invitation for DASLS to participate in the Somerset Legal Sunday Service and I am very much looking forward to representing the Society in the Judicial procession and

the subsequent service in Wells Cathedral on 15th March. After this I shall be representing DASLS at the Annual Dinner of the Insurance Institute of Exeter, which event I note is sponsored by a well known firm of local Solicitors!

At the end of March the Society will host the national conference of local law societies in Taunton and this will be attended both by representatives of local law societies from across the UK and by observers from the Law Society. For DASLS to have been invited to hold this Conference is an honour for the Society, and the Society is indebted to those members and officers who have been involved in the organisation of the event.

The Annual General Meeting is to be held at the Exeter Golf & Country Club on 21st April and that will see the end of my year and the inauguration of our next President. I hope that many of you will find the time to attend. I shall hand over office with mixed feelings. I am very proud to have been allowed the opportunity to serve as the President of the best local law society in England and Wales. The opportunity to do so comes to very few and I was, and still am, humbled to have been chosen by my colleagues for the honour. I hope that I have not let them down.

Finally, I cannot end this my last Diary page without expressing my heartfelt thanks for the support and encouragement of the Committee, all at Renslade House and my family, friends and colleagues.

Legal Sunday Service

This year's Legal Sunday Service will take place at Exeter Cathedral on Sunday 7th June.

Anyone wishing to process should contact Monique at the DASLS office by Friday 3rd April.

Did you know back copies of the DASLS Newsletter can be found at www.dasls.com

Non-Contentious Business Sub-Committee: Lasting Powers of Attorney Questionnaire

By Ashley Bevans, Vice-Chair

Introduction

Following the very successful Wills and Probate questionnaire undertaken by DASLS in 2007, it was felt that one area not fully addressed by the survey was Lasting Powers of Attorney ("LPAs"). Primarily on account of LPAs having only been recently introduced in October 2007 and the inevitable "bedding-down" period with practitioners, the 2007 questionnaire nevertheless revealed that the introduction of LPAs was not greeted with enthusiasm.

At the end of 2008, a series of further questionnaires were sent out to firms across both Devon and Somerset, and the response was impressive. Over 41% of firms contacted responded, indicative perhaps of how emotive the issue of LPAs presently is. Questions focused on both fees charged and time incurred in preparing LPAs (in direct comparison to the former Enduring Powers of Attorney or "EPAs") as well as issues firms have encountered when dealing with the same.

Fees

A majority of firms in both Devon and Somerset (Somerset less so) appears to operate on a fixed charge system in preparing and registering LPAs. In Devon, 65% of respondent firms operate such a scheme compared to 54% of Somerset firms.

How much respondent firms charge clients for preparing LPAs on a set fee basis varies greatly, however. In Devon, this ranges from £100 to £400 for a single LPA, whereas an LPA could cost clients up to £450 in Somerset. Usual concessions where LPAs are prepared for 2 clients are evident in both, though this could still cost £800 in Devon.

Where hourly rates are charged for preparing LPAs, there would also appear to be a wide scale of charge out rates, ranging from £120 to £190.

For registering an LPA, the general fees for

doing so on a set fee basis sit around £150-£200 in both Devon and Somerset, with a top end of £300-350 plus VAT and disbursements). Two Devon firms did indicate a fee of £500 and this was inclusive of the costs in preparing the LPA. In addition, registration fees were also more expensive (generally double) where the firm was not instructed in preparing the LPA at the same time.

Time

It is clear that the cost to clients in preparing and registering an LPA is more expensive than the former EPAs, which could be explained by the time indicated by respondent firms as being necessary in preparing and attending on clients to execute LPAs. No firm in Devon or Somerset believed that it would take less than 1 hour to prepare and complete an LPA, compared to 76% in Devon and 87% in Somerset when answering the same question with regard to EPAs. Most thought that it would take between 2 – 3 hours to complete an LPA – at least double the time than their predecessors.

This trend continues when it comes to the time taken in registering an LPA. 52% and 77% of respondent firms in Devon and Somerset respectively believe that it would take between 1-2 hours to complete. 44% of Devon firms also believed that it would take over 2 hours to do so, though only one respondent firm in Somerset agreed. When compared with EPAs, 48% of Devon respondent firms believed that it would take no more than 1 hour to register, with 50% of Somerset firms also of this view. Only one firm in Devon and Somerset believed it would take over 2 hours to register an EPA.

Registration Problems

Respondent firms in both Devon and Somerset appear to have experienced a number of problems when applying to register LPAs. The 2 most common issues practitioners mostly appear to face are:

(1) Time delays in applying and completing registration; and

(2) Documentation issues with the OPG, including return of incomplete or inaccurate LPAs, inefficiency and, more concerningly, loss of submitted documentation (with one respondent firm commenting that their returned LPA contained a third party's details).

Part of the reason behind such problems may be explained by the usability and complexity of the LPAs themselves. 68% and 69% of respondent firms in Devon and Somerset respectively believe on a scale of one to five that the forms are either very complex or complex. Quite notably, no respondent firms held that the LPA forms were "very simple". One respondent firm did however comment that it was not so much a case of complexity but that the forms were not fit for the purpose for which they are designed.

The issues with the forms and registration are not (at least from the results) leading to an increase in clients making or using General Powers of Attorney at the same time as LPAs.

Certification

Another new requirement of the LPA regime has been the need for a certificate to be provided which will often necessitate the need for a third party to do so. Despite this, 92% of Devon respondent firms and 77% of Somerset respondent firms do not have reciprocal or similar referral arrangements for the provision of certificates. Over 50% of respondent Devon and Somerset firms would however be interested or otherwise supportive of a certificate provider database being created by DASLS.

Where firms are asked to provide a certificate, there would seem to be a strong preference to base their charges in doing so on an hourly as opposed to a fixed fee system. Due to the number of N/A responses and general spread of the results, it is not possible to conclude clearly the general hourly fees firms would charge which could range from anything between £130 to

Conclusion

The initial scepticism implied at the time of the 2007 Wills and Probate questionnaire following the introduction of LPAs has not, it seems, retracted. The major points of criticism which practitioners level at the LPA regime broadly focus on the following:

- The LPA regime is more costly to clients, both in time and money;
- Preparation and registration of an LPA takes longer than the former EPA;
- The LPA forms are lengthy and not necessarily best designed for the purpose they seek to achieve;
- The Office of the Public Guardian is not as efficient as it can be in the processing and handling of applications submitted to it; and
- There is no set system or database in place for certificate providers

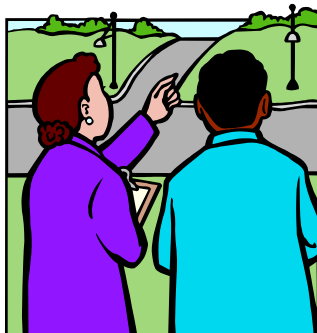
What does this mean for law firms? It is clear that respondent firms to the questionnaire believe that the introduction of LPAs has had a notable impact upon the number of clients and amount of work. 60% of respondent firms in Devon and 77% of respondent firms in Somerset indicated clearly that the replacement of EPAs by LPAs has reduced instructions. In the case of Somerset, more than 50% of respondent firms intimated that this has affected on marketing strategy (whether for better or worse is less conclusive).

There have been suggestions that the LPA form will be revised and made easier to understand so that mistakes in their completion are avoided. There are not presently plans however to do away with the LPA system and revert back to the simpler EPA system.

Land Registry Launches New Resource

Land Registry's Head of Register Development Maggie Telfer explains the thinking behind the new microsite aimed at solicitors wanting to advise clients on why it is in their interests to register their property.

Since Land Registry first began publicising the benefits of land registration we have received an increasing number of enquiries from solicitors asking for more information. In response to this we have launched a new microsite to help firms who want to give their clients the best possible advice with regard to registering property.



Because we believe that advising clients to register their land is the best professional advice solicitors can give, our user-friendly site has been developed to help them explain to clients why land registration is so important and how they can benefit from voluntary registration.

The site lists up-to-date information on voluntary registration, including benefits, discounted fees and contact information, in one easy-to-access place. You can also read case studies recounting the experiences of other firms that have undertaken voluntary registrations on behalf of their clients.

More than 30 per cent of land in England and Wales has yet to be registered, meaning this land can be more difficult to manage and protect than property that has already been registered.

But the benefits to clients of voluntarily registering land are clear. Registered land is better protected from encroachment, and because registration enables owners to identify their landholdings and computerise their records, ongoing management is much easier.

Registration simplifies title, consolidating and storing relevant information in one place. And for a one-off fee based on the value of land, clients can expect to save money in the long run, especially if they have any future conveyancing needs.

The fee for registering land could range from £30 for land worth up to £50,000, to £525 for land worth over £1 million. Clients can benefit from a 25 per cent discount fee on first-time voluntary registration.

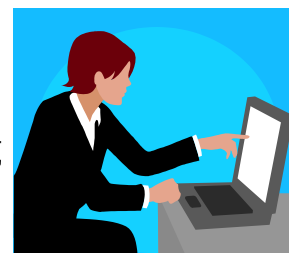
Land Registry has already registered more than 22 million titles and has offices throughout England and Wales, with experienced teams to offer guidance and support all the way. It is our aim to make the process of voluntary registration as straightforward as possible to help both solicitors and their clients.

Visit Land Registry's microsite at www1.landregistry.gov.uk/solicitors

Would you be interested in receiving your newsletter via e-mail?

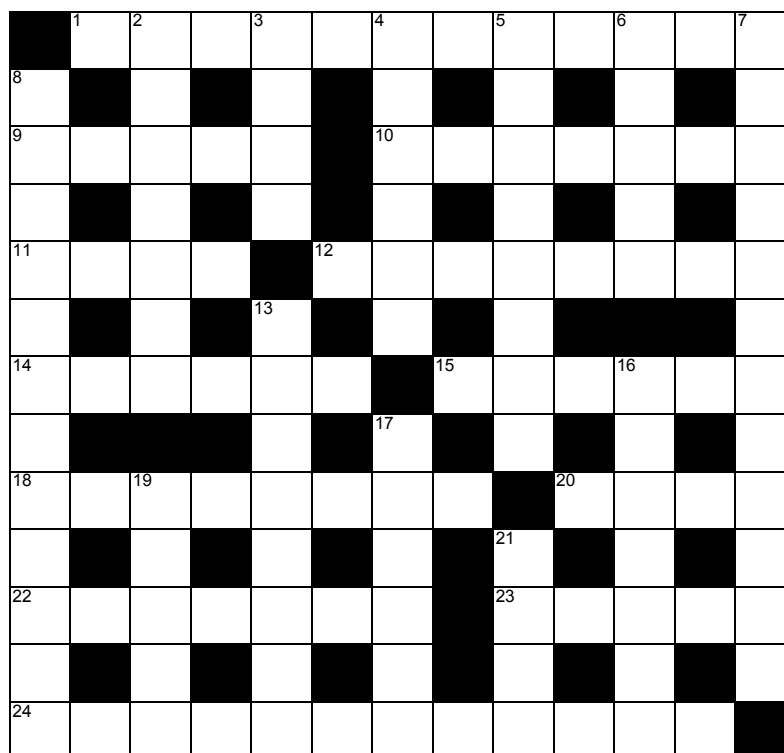
DASLS have established a 'e-newsletter' format to complement our existing print version.

If you would like to be included on the mailing list for the e-newsletter then please email mail@dasls.com with "e-newsletter" as the subject of your message.



*** The e-newsletter will not replace the print version but will just offer an alternative form of accessing and reading the newsletter. ***

Crossword Corner



Across

1. Depression: believe crumble ... (6,6)
9. ... left in paper kingdom (5)
10. European country (7)
11. Hits broken indicator (4)
12. Ray of night (8)
14. Involve English appendage (6)
15. Makes grade in golf shouts (6)
18. Nurse poorly cute bairn - without running (8)
20. Reasonable blonde (4)
22. Country: foolish PM, say (7)
23. You'd need lots of dough to get this car! (5)
24. You'd be stumped by this one! (12)

Down

2. Pragmatic painter (7)
3. Curse audible barrier (4)
4. Drink container vessel (6)
5. Bird's on Heath? (8)
6. Coinage new at one time (5)
7. Leader of the brothel? (12)
8. Fellow solicitor is a relation (7-2-3)
13. Allegedly, inheritor hatched while flying (8)
16. Brown drug (6)
17. Sounds like a nail bomb (6)
19. Three-dimensional
21. Soft cheese

Competition!

For your chance to win a fine bottle of J.M. Gremillet champagne, simply complete this month's crossword and send it to Charlotte Lythgoe at DASLS, along with your name and address. The winner will be drawn from all correct entries received by Friday 24th April. The DASLS address can be found on the front cover.

The solution will be published in May's newsletter

DASLS Challenge Cup 2008-9

After an exciting year of sporting events, the Challenge Cup was jointly won by Ford Simey and Veitch Penny. Ashley Bevans of Ford Simey is pictured below, being presented with the Cup at the Annual Dinner by DASLS President, Alec McNeill.

The final league table is shown on the right.

The 2009-10 Challenge Cup runs from March 2009 to January 2010. Firms do not have to participate in all rounds, and entry is welcome at any point in the year.

If you wish to receive details of each event, email charlotte@dasls.com to register interest.



DASLS Challenge Cup League Table			
Position	Team	Points	
= 1	Ford Simey	8	
= 1	Veitch Penny	8	
= 2	Gilbert Stephens	6	
= 2	Hooper & Wollen	6	
= 3	Foot Anstey	5	
= 3	Kitson Hutchings	5	
= 4	Ashfords	3	
= 4	Cartridges	3	
= 4	Charlesworth Nicholl	3	
= 4	Rundle Walker	3	
5	Windeatts	2	
6	Stones	1	
= 7	Michelmores	0	
= 7	Over Taylor Biggs	0	
= 7	Trowers & Hamlins	0	

The solution to January's crossword is below.

Many congratulations to our winner, John Hawkins of Everys

B	R	I	G	H	T	O	N		R	O	C	K	
U		M		I		U		H		U		N	
R	E	P	E	L		S	H	U	T	T	L	E	
N				L	O	T		M		A		A	
H	E	L	P	S				M	A	N	N	E	D
A		I			I	C	O	N		D			
M	A	T	T	E	D		D	E	F	O	R	M	
		H		E	L	S	E			U		A	
O	E	U	V	R	E			E	N	T	E	R	
N		A		I		I	C	Y				C	
S	I	N	G	L	E	S		R	E	A	C	H	
E		I		Y		I		I		L		E	
A	L	A	S		A	S	W	E	L	L	A	S	

WHAT IS MEDIATION? DOES



An Overview of Mediation

By Paul Derbyshire, Mediator and Recorder

Mediation has been around now for several years. However the uptake of those using mediation as a form of alternative dispute resolution has been slow. Professor Hazel Genn in 2004/05 criticised the legal profession for not just a lack of interest in mediation, but an ingrained tendency to dismiss it out of hand.

More recently the Lord Chief Justice, Lord Phillips, said that it was "madness" to resort to the considerable cost of litigation in the UK without trying mediation first. He also recommended building mediation into the court process.

Of course, few practitioners in Devon and Somerset will now be unaware of its availability. Jeremy Ferguson, more than anyone, has been responsible for DASLS being at the heart of new initiatives both in the field of small claims and fast-track/multi-track cases. He was certainly ahead of his time. Both the government and the senior judiciary are now catching up.

Why Mediate?

I have often heard lawyers express concern about mediation because they are worried that their clients will see it as some kind of capitulation or at least a lack of confidence in their case. I tell them my story. I acted for a defendant lorry driver in a personal injury action – instructed by an insurance company. The claimant car driver had been badly injured and there was no issue on liability. The claimant refused 2 Part 36 offers and the litigation rolled on. I advised insurers that we should offer mediation rather than wait for yet another court-door negotiation. The court agreed and stayed the action for six weeks. The claimant attended and spoke eloquently about how the accident had changed her life. We were

able to apologise directly to her, something a court could not order. It was a watershed and freed the way to a settlement.

My insurer client was delighted and referred extra work to my firm.

Mediation and DASLS

Although in the past DASLS has been involved in small claims mediation, the Ministry of Justice is currently experimenting with an "in-house" telephone scheme. This article therefore concentrates on the use of mediation in fast-track/multi-track claims. Usually the process starts with a telephone call by the advocates to Rebecca Hill at DASLS asking her to appoint a mediator. The parties or their solicitors sign a mediation agreement and pay the fee. A date is appointed for the parties to attend with their lawyers, usually at a neutral location, but there are no hard and fast rules.

The whole process is "owned" by the litigants themselves. Sometimes a mediator will feel it useful to have an initial joint session with each side presenting an opening statement to explain the issues. In other cases (e.g. where the parties cannot bear to be in the same room) they are kept apart. These are the fundamentals of any mediation: -

1. It is voluntary – no one can be compelled to mediate or stay once a mediation has started.
2. All that is said or disclosed at a mediation is "without prejudice". If it does not succeed neither party may refer to it in subsequent proceedings.
3. The mediator is neutral. Anything said to the mediator is held in strict

confidence and information is only released to the other side if permission is given.

4. The mediator does not advise on matters of law nor legal practice. That is the job for the parties' lawyers.

Cost

The current rates for DASLS mediations are set out on the opposite page.

These rates compare very favourably with those quoted by national bodies such as ADR Group and CEDR.

Each party is responsible for paying one half of the mediator's fee in advance and for paying their own legal costs. This gives both sides a financial incentive to make it work.

Success Rates

Nationally success rates average 65-70%. DASLS however boasts a 100% success rate in cases referred to it under the fast-track/multi-track scheme over the last two years (14 cases).

Professional Conduct

The leading case on whether parties should mediate is *Halsey v Milton Keynes General NHS Trust* (2004) 1WLR 3002. The Court of Appeal laid down guidance as to when parties may be penalised in costs if they unreasonably refuse to mediate. That case is now 5 years old and the anticipation is that we could see an even more forceful position taken after the costs review ordered by the Master of the Rolls in November.

Dismiss mediation at your peril!

Would you like to know more?

For further information about mediation contact Rebecca at Devon & Somerset Law Society on 01392 411585 or rebecca@dasls.com

A booklet containing details of the mediation scheme and profiles of all DASLS mediators can be found at www.dasls.com

IT WORK? ... AND IS IT THE FUTURE?

DASLS is a recognised trainer in mediation and an accredited member of the Civil Mediation Council.

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

Current rates for services:

Case Level	Duration	Fee
Up to £5,000	1 Hour	£117.50 inc VAT
Up to £5,000	2 Hours	£235.00 inc VAT
£5,000 to £15,000	3 Hours	£650.00 inc VAT
£15,000 to £50,000	4 Hours	£850.00 inc VAT
£50,000 +	Negotiable	Negotiable

NB: Parties will be responsible for the venue and its costs.

Meet the Mediator

An Interview with Angus McNicol, Chair of the DASLS Mediation Sub-Committee

Why did you join the Devon & Somerset Law Society?

My firm has always supported the Society by paying our subscriptions and I like to try to do my bit for the Society.

Why did you become involved in mediation?

In about 1991 I and various partners at the firm, then called Anstey Sargent and Probert, were invited to train as mediators by ADR Net (which included the well known mediator, Andrew Fraley). Following on from my training, I became convinced that mediation was invariably the best way to sort cases quickly and cost effectively. Since then, I have been involved in over 100 mediations, acting for participants and acting as Mediator as well.

What is your dream job?

Job share as ferryman at Topsham, so I could do the winter ski season.

What has been your most embarrassing moment?

Losing my glasses at my wedding in 1982, just before we left for our honeymoon, which resulted in many ribald comments.

What work gives you the most job satisfaction?

Work where you can measure results and earn the appreciation of your clients. Good long term client relationships are what matters to me.

What do you do in your spare time?

Running, sailing – in cruisers and dinghies, tennis, and generally having a good time with friends and family.

What book are you reading at the moment?

Dreams of my Father by Barack Obama; a very honest account written in 1994, years before he set his sights on the White House.

What is your favourite food?

Thai food



What is the most recent film you have seen?

Slumdog Millionaire – vivid and uplifting.

What is your favourite restaurant?

The Turf Locks Inn at Exminster and the Winking Prawn at North Sands, Salcombe.

Where is your favourite holiday destination?

Salcombe where I go and have met up with the same friends, on holiday, for 45 years running. Going to Vietnam over New Year 2007/2008 was my most inspiring holiday ever.

What is your favourite pet?

My daughter's pet duck, Quackers (who shares a pen with three chickens).

HIPS Update

Patricia Durham Hall (Chair) and Ashley Bevans (Vice-Chair),
Non-Contentious Business Sub-Committee

The recently introduced Home Information Pack (Amendment) (No. 3) Regulations 2008 ("the 2008 Regulations") amend and make further additions to the 2007 Regulations, which for the most part confirm concessions previously made. The following is a brief note on the salient changes which member practitioners should be made aware of:

Residential Leasehold Properties

From 1 January 2009, the only additional mandatory documents required in a HIP for leasehold sales are a copy of the actual lease (within 28 days from the point of marketing) and a summary of its details as set out in the Property Information Questionnaire. This obligation however will not extend to situations where the lease is registered but the executed lease itself has been lost or destroyed.

May we take this opportunity to remind all members to utilise the **FREE** DASLS Enquiries of Managing Agents/Freeholders Questionnaire available on the DASLS website, which is recommended by ARMA.

Property Information Questionnaires ("PIQ")

For freehold and leasehold properties marketed on or after 6 April 2009, the HIP must include a PIQ containing information about the property and, in the case of leasehold properties, the lease. The aim of the PIQ is for the seller to provide the buyer with enough basic information to enable them to form a view as to whether to make a purchase offer. It should be noted that there are 2 types of PIQ that are used in cases of existing and new build property sales.



A Non-Contentious Business Sub-Committee Working Group is about to conduct a survey of its conveyancing members to establish whether or not the PIQs are thought comprehensive enough and whether members send out the Protocol TA series questionnaires in addition. Depending on the results of this we are likely to be advising members not to respond to any other list of pre-contract enquiries that are not particularly addressed to the idiosyncrasies of the property in question.

Energy Documents

The concession introduced by the 2007 Regulations (allowing properties to be marketed in certain circumstances without having the appropriate energy documents at the point of marketing) will continue until 6 April 2009. This concession will only apply where this document has been commissioned before marketing the property.

Mandatory documents

The 2008 Regulations retain the concession introduced by the 2007 Regulations to permit certain documents not available at the time of marketing the property (but requested before such marketing) to be produced within 28 days of that time.

Personal search insurance

Personal search companies can continue to use insurance where certain information is unavailable from Local Authorities until 6 April 2009.

HIP Exclusion

Subject to specified conditions and in the case of portfolio sales, the 2008 Regulations retain and develop the concession introduced by the 2007 Regulations by removing the legal requirement for sellers to provide a HIP in such circumstances. As from 6 April 2009, this will also include removal of the vacant possession condition.



New Members

We would like to welcome the following new members to the Society:

Mr Ashley Bevans
Ford Simey, Exeter

Mrs Lucie Biddick
Kitson Hutchings, Exeter

Mr Michael Blackmore
Milford & Dormor, Chard

Mrs Judith Bosworth
Crosse & Crosse, Exeter

Mr Niall Brooks
Nunn Rickard, Exeter

Mr Steven Came
Ford Simey, Exeter

Miss Sarah Carson
WBW, Torquay

Mrs Sandra Emery
FDC Law, Frome

Miss Lucy Fisher
WBW, Newton Abbot

Mrs Lesley Gaskell
Porter Dodson, Taunton

Mr Michael Giles
Stones, Exeter

Mrs Alexandra Howard
Stones, Exeter

Mr Nicholas Huddert
Trowers & Hamblins, Exeter

Mr Paul Kibbler
Ford Simey, Exeter

Miss Rebecca Marshall
Porter Dodson, Yeovil

Mr Robin Moiser
Ford Simey, Exeter

Ms Kit O'Brien
Porter Dodson, Taunton

Miss Victoria Oerton
Stones, Exeter

Mrs Michelle Prosser
Scott Rowe, Chard

Mr Nicholas Rex
Milford & Dormor, Chard

Mr Stephen Richards-Bond
Alletsons, Bridgwater

Mrs Gloria Ryden
Everys, Honiton

Miss Nadine Seymour
Stones, Exeter

Mr Karl Taylor
Over Taylor Biggs, Exeter

Miss Caroline Veale
WBW, Torquay

Miss Isabel Warne
Gilbert Stephens, Exeter

Mr Peter Woodley
Nunn Rickard, Exeter

Mrs Claire Woolsey
Peter Peter & Wright, Holsworthy



Living Sober

By Mary Jackson, LawCare

In 1997, LawCare was set up with the aim of helping lawyers who were drinking to excess. Since then, however, LawCare has

grown and developed into a service that helps lawyers across the British Isles with confidential support and help in relation to health problems that are affecting them, including issues such as stress caused by workplace bullying, depression, and substance abuse. Nevertheless, many callers to the LawCare helpline have an alcohol problem.

At LawCare we listen, we try to help, and we may make suggestions. What we do not do is to sit in judgment, make knee-jerk pronouncements, or tell a caller what to do. However, depression, alcohol misuse and drug abuse are all medical issues, so we do usually suggest a visit to the GP in the first instance, and we may go on to suggest private sources of help. A helpful and knowledgeable GP, if fully apprised of the situation, will often recommend the local Community Alcohol Team (CAT) or Alcohol Treatment Agencies, but there can be long waiting lists and we can often put a caller in touch with a range of private treatment facilities from which they can choose. We can also facilitate assessment and try and assist with arranging funding through, for example, the Solicitors Benevolent Association, if private funding is not available.

Usually, those who have an alcohol abuse habit are not able simply to quit and never drink again without help and support. Once regular and excessive alcohol intake has been taking place for a period of time, the body comes to rely on the alcohol. "Habit is a great deadener" as Samuel Beckett said. In some ways habits are essential - brushing teeth, waking up to an alarm clock, dealing with case files in a particular way - a tick box mentality takes us a long way through most office-based workload. But when it comes to addiction, they do not help because old habits die hard.

Over the Christmas break, I picked up a short book called *Living Sober*, a publication produced by Alcoholics Anonymous. It was in the bargain basket, which says something in itself. Christmas is a tough time of year for many and the temptations to drink are huge. I was struck by a quote from the poet Rumi, something along the lines of "the only time we have is now" which ties in with the AA idea that life is daily, today is all we have, and surely anybody can go one day without drinking.

It is worth remembering that alcoholism is an incurable, progressive, and potentially fatal disease. This is a cold, hard fact. The alcoholic cannot change his or her body chemistry and go back to being a normal, moderate, social drinker. If an alcoholic ceases to drink for a period but then starts again, their body does not start afresh in the way that it deals with the alcohol. It immediately returns to the point it was at when the drinking stopped. Recovering alcoholics have to find enjoyable ways of living without alcohol. One of the best ways is by becoming active, keeping engaged with life outside work (and making sure there is some balance too). I list below some ideas:-

- Walk, especially to new places - parks, squares, etc. Find the forgotten green lung in your city or town. Even a graveyard can offer great solace and peace.
- Buy and read a paper you never have read before - it's an education
- Go to a free museum or art gallery
- Do some kind of exercise
- Start on a long-neglected chore, e.g. tidying up all the family photos, clearing out the shed, answering letters
- Try out a new hobby.
- Revisit an old pastime
- Sign up for a course
- Volunteer to do something useful - there are endless opportunities to do pro bono work in any community
- Do something about your personal appearance that makes you feel better - new haircut, new glasses, new clothes
- Try and find something to make you laugh.

If you (or someone you care about) are having a bad day, or even if you are having a good day and are afraid that you will not be able to keep up the impetus, ring LawCare's free and confidential helpline.

0800 279 6888

Monday to Friday 9am to 7:30pm,
Weekends/Public Holidays 10am to 4pm.
365 days of the year.

Alternatively, visit our website
www.lawcare.org.uk for lots of really helpful information.

The Law Society Leadership Summit

By Tony Spiers, Honorary Secretary

The President and the Honorary Secretary attended this grandiloquently named event in February 2009.

It was organised by the Law Society to facilitate discussion about how the Law Society can "support our members and lead the profession through a time of immense change".

On the evening before the meeting, there was an address by Lord Hunt of Wirral about his independent review of the regulation of law firms. This review has been commissioned by the Law Society to identify the way in which regulation should be imposed on the profession. Lord Hunt told us that he had been much involved in the consideration of this question during the passage of the Legal Services Act. His appointment follows the allegation by the SRA that the Law Society was seeking to interfere with its regulatory remit. The Law Society, the SRA said, appeared to be "confusing representative and regulatory functions".

The Lawyer commented that in making this appointment the Law Society acted shrewdly by recognising that an olive branch needed to be offered to the SRA and, by putting in place an independent chairman of the review, it created some distance between itself and the future role of regulation. It went on in the same

article to say that "This should go some way towards appeasing the SRA, but if it does not, the strength of the review should force the regulator to listen."

Lord Hunt was at pains to emphasise to us that the SRA is, in fact, the Law Society, albeit in different guise.

Your officers wonder whether those firms that have had a formal SRA visit would agree with this?

The following day saw a programme of plenary sessions and smaller meetings dealing with some of the current issues facing the profession.

Your Honorary Secretary was, this year, as last year, very impressed by the incisive analysis by Michael Roch of Kerma Partners of some of the difficulties facing the profession and how outside investment may affect us.

He confidently asserted that "no-one has the solution to the recession" but that there is a need for decisions to be made by (the leaders of) firms of solicitors despite the fact that the future is unclear: the real enemy of solicitors' firms, he said, is *decision paralysis*. He surveyed the areas that, in his view needed reviewing.

Last year (before the recession) his theme was the "Race to the Bottom" in which many solicitors' firms were then engaged. This year he discussed sustainability and survival. He identified the clarity that outside investors will bring to the profession in separating the functions of ownership of firms from the provision and selling of legal services. This is something that is confused in many firms presently.

His central message was that successful firms will be those whose leaders have made decisions that concentrate on sustainability, pricing and service delivery. Achieving good cash flow and having the right partners and staff in place were two of the key elements to survival.

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 2008 to 31 May 2009, for consideration by the Trustees at their next meeting in June 2009.

Please return your nominations to the DASLS office by Friday 29 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.



Solicitors Support Network

For confidential help ring

0800 328 4203

FREE & CONFIDENTIAL SUPPORT FOR SOLICITORS

ARE YOU EXPERIENCING PERSONAL OR PROFESSIONAL PROBLEMS?

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

Support groups exist to assist you.

Events and Networks at the School of Law and University of Exeter

By Julia Paci, Business and Outreach Co-ordinator, School of Law, University of Exeter

Events, lectures and seminars play an important role in the School of Law. Presentations by staff are delivered all over the world and guest speakers invited in to talk about various topics.

Subjects ranging from international law in the contemporary world to food marketing to children have recently been covered by two of Exeter's law lecturers. These papers were delivered in New Delhi and Boston, respectively. Details of visits made by lecturers are regularly posted on our website under 'Latest News and Events'.

Here in Exeter, several annual events take place as well as one-off guest lectures.

The annual Lasok lecture "Institutional change in the European Union: its mechanisms and its nature" was delivered by Professor Bruno De Witte (European University Institute, Florence, Italy) on 9 March 2009. For more information on the annual Lasok lectures, see: <http://law.exeter.ac.uk/cels/lasoklectures.shtml>.

The Lectures are named after Dominic Lasok QC (1921-2000), Emeritus Professor of European Law and the first Director of the University's Centre for European Legal Studies. They focus on aspects of European Union law of current and significant interest to a wide public audience; they are not intended exclusively for EU law specialists.

Professor Chantal Stebbings, along with colleague Professor Anthony Musson, is currently organising the Nineteenth British Legal History Conference entitled Making Legal History: Methodologies, Sources and Substance, to be held from Wednesday 8 July to Saturday 11 July 2009 at the University of Exeter.

This conference addresses the two components of legal history research – its methodology and its substance - and papers reflecting both facets are most welcome. The conference primarily considers the approaches, perspectives and methodologies of legal history. By drawing together the leading scholars in the field it seeks to stimulate debate and to analyse and highlight the fundamental processes in the researching and writing of legal history. It will identify and explore both traditional and novel approaches to the use of diverse source materials, and discuss their nature, relative value and issues of interpretation.

Bookings can be made by going to:

<http://law.exeter.ac.uk/BritishLegalHistoryConference.shtml>

The Law School is also responsible for the administration of The Hamlyn Trust. Since 1949 the Trust's primary objective has been achieved through an annual series of public lectures by distinguished judges, legal practitioners, academic lawyers and other eminent speakers that has become known as the Hamlyn Lectures.

In 2004 the Trust returned to its roots in Devon and is now administered from the University of Exeter where a complete set of the lectures and the Trust Archive is held in the Lasok Law Library. Enquiries should be directed either the Clerk to the Trustees, Sarah Roberts (S.L.Roberts@exeter.ac.uk) or the Chairman of Trustees, Kim Economides (K.M.Economides@exeter.ac.uk).

If you are interested in keeping up to date with events, or would like to support the school in a different way, we are re-

launching Friends of Exeter Law School, making it a more web based service for a small annual fee. The Friends organisation will hold regular events and "meet the academic" lunches to facilitate opportunities for law practitioners to meet university lecturers.

To find out more visit: www.exeter.ac.uk/law/friends

The University of Exeter has a dedicated business-facing team who run innovative projects and events. The Shaping the Future lectures are a series of public events held at the University of Exeter to provide a forum for distinguished speakers to present to South West opinion formers their views on major public issues which will shape our lives, both economically and socially. There are opportunities to get involved with ground-breaking research projects, as well as offering placements on the Shell Step programme.

The University of Exeter's Business Leaders Forum aims to bring together the best of business and academia in the South West in order to exchange ideas, knowledge and experience at a friendly, stimulating and neutral venue. The Forum is aimed at Chief Executives and senior managers in Devon, Cornwall and Somerset. It attracts the region's top business people, meets approximately four times per year and is an invite only network

For more information about all these events and opportunities, visit www.exeter.ac.uk/businessandcommunity/

J.C.Paci@exeter.ac.uk
01392 263372

Photos of Somerset

The DASLS website features a slideshow of photos of local views and landscapes.

We would like to include some images of Somerset so, if any member has any photos they would like to be included, please could they email them to mail@dasls.com.

All photographers will be credited in the DASLS newsletter.



Heard it on the Grapevine: China and India

By Andrew Ford, Quay West Wines



The vine was first introduced to China following the mission of General Chan K'ien to Iran circa 128 B.C. during the reign of the Emperor Wu of the Han dynasty. Seeds of the *vinifera* vine were sent from

Uzbekistan to the Emperor and planted in Xinjiang and what is now Xian. After the Chinese conquest of Turpan (an important stop on the silk route), in the 7th century A.D. vines with the improbable names of snake, dragon pearl and mare's nipple were imported and successfully cultivated.

Asia has some vine varieties of its own, including *Vitis Amurensis*, the grape from the Amur Valley that flourishes furthest north, and whose winter hardiness is often used for crossing to improve the relevant characteristics of other species of vine.

Many of the early references to the vine however are to grapes grown for eating or for raisins. Moreover, a tradition of making "wine" from rice or wheat was also well established from early on. Today although China has extensive vineyard plantings, most of the grapes are table grapes and raisins. It is hard to be precise about the extent, but in 1997 official statistics claimed 310,000 acres (124,000 ha) under cultivation.

The most suitable area for wine grapes is the Shandong Peninsula north of Shanghai and south of Beijing. This is on the same latitude as California with south-facing slopes and a maritime climate which would be almost Mediterranean if it were not for the monsoon winds and storms which come from the direction of the South China Sea. Most vineyards are state or collectively owned and subdivided into individual units of less than

half a hectare.

Historically, wine has played only a minor role in India because of the ambivalence surrounding its consumption, but the aristocratic Ksatriya caste consumed wine although the majority of Indian people drank a beverage made from wheat and barley.

In the 1890s the vineyards succumbed to phylloxera like their European counterparts. Since the middle of the last century varieties including Chardonnay, Pinot Blanc, Cabernet Sauvignon, Merlot and Syrah have been planted along with indigenous varieties.

Quality sparkling wines are produced and the famous winery set up in 1982 at Narayangaon 68 miles from Poona with the assistance of the champagne house, Piper Heidsieck, makes a sparkling wine called Omar Khayyam using the champagne method of production. It was originally made from Thompson's seedless grapes, but has increasingly incorporated Chardonnay and a small amount of Pinot Noir.

Should you require any information regarding any particular wine we would be happy to discuss this and please do not hesitate to contact us.

Delivery is free throughout Devon and Somerset 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**

Associate Membership for Trainee Solicitors

Associate Membership of DASLS is available for all trainee solicitors in the area.

Associate membership is free and forms can be found at www.dasls.com

Devon & Somerset Law Society now have a group on Facebook.

If you are on Facebook, please search for us and join!

Our group includes details of social events, photos, and a space to chat with other members.

DO YOU ENJOY THE CUT AND THRUST OF THE POLITICAL SCENE?

CALLING SOMERSET MEMBERS

The Society has sought to forge links with the local MPs through a small group of members – Parliamentary Liaison Officers (PLO). At present there are PLOs for all of the Devon MPs and one Somerset MP but none covering the following four Somerset Constituencies:



Bridgwater – Ian Liddell-Grainger *Con*
Taunton – Jeremy Browne *Lib Dem*
Wells – David Heathcott-Amory *Con*
Yeovil – David Laws *Lib Dem*

Anyone interested in becoming a PLO to any of these constituencies please contact Tony Steiner at DASLS on 01392 494110 to discuss.

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.

You can now sign up for the monthly training e-bulletin containing details of all our courses and links to online flyers. Simply e-mail charlotte@dasls.com to subscribe.



Don't forget ...

All DASLS members receive a discount when booking courses.

Probate for Paralegals and Support Staff

Wednesday 25th March 2009:
9.45am – 5.15pm
John Thurston

Business Property Relief and Agricultural Property Relief

Thursday 26th March 2009:
9.45am – 1.00pm 3 hours CPD
John Thurston

Post-Death Problems and Pitfalls

Thursday 26th March 2009:
2.00pm – 5.15pm 3 hours CPD
John Thurston

Managing People in an Economic Downturn: Part One - Motivation, Development and Teams

Wednesday 1st April 2009:
9.45am - 1.00pm 3 hours CPD
Keith Harper

Managing People in an Economic Downturn: Part Two - Delegation and Performance Management

Wednesday 1st April 2009:
2.00 - 5.15pm 3 hours CPD
Keith Harper

Working Early to Save Indemnity Premiums

Wednesday 22nd April 2009:
2.00—5.15pm 3 Hours CPD

Family Advocacy Training

Thursday 23rd April 2009:
9.30am—5.00pm 6 Hours CPD
Nicola Isaacs

Ancillary Relief and Insolvency

Wednesday 29th April 2009:
6.00—8.00pm 2 hours CPD
HHJ Stephen Wildblood QC and Stephen Lawson

Introduction to Agricultural Law (Tiverton)

Tuesday 12th May 2009:
2.00pm – 5.15pm 3 hours CPD
Nigel Davis

Residential Conveyancing Update (Yeovil)

Tuesday 12th May 2009:
9.45am – 1.00pm 3 hours CPD
Richard Snape

Commercial Leases Update (Yeovil)

Tuesday 12th May 2009:
2.00pm – 5.15pm 3 hours CPD
Richard Snape

Children Law Day

Wednesday 13th May 2009:
10.00am - 4.30pm 5 Hours CPD
Susan Campbell and Christopher Naish

Wills and Probate - General Review 2009 (Tiverton)

Thursday 14th May 2009:
9.45am - 1.00pm 3 hours CPD
Gill Steel

TBA

Tuesday 19th May 2009:
2.00 - 5.15pm 3 Hours CPD
Andrew Knox

TBA (Yeovil)

Monday 8th June 2009:
9.45am – 1.00pm 3 hours CPD
John Thurston

TBA (Yeovil)

Monday 8th June 2009:
2.00pm – 5.15pm 3 hours CPD
John Thurston

Conveyancing of Flats - The Problems and Pitfalls

Tuesday 9th June 2009:
9.45am – 1.00pm 3 hours CPD
Richard Snape

Commercial Leases Update

Tuesday 9th June 2009:
2.00pm – 5.15pm 3 hours CPD
Richard Snape

Pitfalls of Conveyancing an Insolvent Property

Wednesday 10th June 2009:
4.00pm — 6.15pm 2 Hours CPD
Stephen Lawson, *Michelmores*

Civil Litigation for Paralegals and Support Staff

Monday 15th June 2009:
9.45am – 4.30pm
Maggie Hemsworth

Conveyancing for Paralegals and Support Staff

Tuesday 16th June 2009:
9.45am – 5.00pm
Alastair Teague

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

Book via the website or phone Charlotte on 01392 411585

All courses are held in the Exeter area unless otherwise indicated