

Leicestershire Law Society magazine ne

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WELCOME/CONTENTS WINTER 2017/8



Editor's Intro

As I sit here preparing the Magazine for the 2017 Winter Edition, I am looking out of my window to a scene of white covered gardens and roofs. Snow has arrived. Xmas tree decorations glisten against the white backdrop. The central heating boiler is working overtime and the Sunday roast is cooking away nicely. I have even lit an Xmas spice burner to add to the ambience.

Where did 2017 go?

This edition concentrates on the work of the Society and what has been happening in 2017. LLS, guided by the President, works very hard behind the scenes to further the profession and the Society as a whole. We live in a constantly changing world that brings new challenges almost on a day by day basis. Leicestershire Law Society prides itself on being a centre of legal excellence in Leicester, Leicestershire and Rutland and this is not possible without the Committees and Sub Boards of the Society working closely together in the best interests of the Profession and the Society.

The Committee and Sub Boards are always on the lookout for new blood to support them and bring fresh ideas to the table for all to consider. Your input, for your Society.

Each edition will focus on a particular Sub Board to bring to the fore the work they are doing in their particular field. This edition concentrates on the Litigation Sub Board, chaired by Mr Matthew Olnier.

We also recognise in this edition, the success of members of the Society and the achievements of three members in particular, Mehmooda Duke, Helen Johnson and Glynis Wright.

I cannot believe I am writing this, but the 2018 LLS Awards Ceremony is just round the corner, happening on 27th April 2018. Full details are to be announced shortly. The awards categories are now OPEN for nominations. Take a look at the article on page 9 for details of how to apply/nominate. May I be the first to wish you all good luck. Standards last year were exceptionally high and likely to get even higher, judging by the standards and quality of members of the Society, delivering the highest of excellence in their chosen field within the legal profession.

November saw the Accountants and Lawyers Quiz night at the Belmont Hotel, with yours truly, acting as Quizmaster. You might want to remember the name of the Quizmaster, for when you read the article about the event.

We have the Civic Dinner in January 2018 and invitations are now on their way for the event. Details about the Civic Dinner can be obtained by contacting the Leicestershire Law Society. Tickets for this event are by invitation only.

Well, time to get on with the Magazine, deadline looming. Still time to send all good wishes and happy holidays and a safe and peaceful new year to all our Sponsors, Working Partners and especially to you, our members, from all at Leicestershire Law Society.

Adam Marillie, Editor
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PRESIDENT'S REPORT



As we move into 2018 we, as a profession continue to face the ongoing challenges of changes from all angles. Various consultations are putting forward the views of the profession as a whole not only at national level but also through local Law Societies such as Leicestershire.

You will be aware that the SRA Handbook, our regulatory guidance is being reformed and it seems, downsized. Certain proposals, however are currently the subject of much discussion and are causing concern.

Are we going to be faced with an obligation to publish price and service information on our websites, for example? Is that necessary and the main persuasive factor of the potential client for the choice of legal service provider? The Law Society has responded in detail to the various proposals and the outcome is still uncertain. Linda Lee, our Council member is our local authority on all these issues and helpfully reports as to the progression of discussions at national level and assists our responses at local level.

Your local Law Society is here to voice your concerns not only if these relate to the profession as a whole but also in relation to particular issues for each area of specialism. Our sub-committees respond to consultations and I would urge you to make contact

to enable them to accurately voice local opinions. We are, of course, your Society and are here, as nationally, to Represent, Promote and Support. We should all be proud of our profession and be active in developing the profession as we move into the future.

Also, do not forget the implementation of GDPR in May. I am sure that you all have this in mind but please ensure that you and your firms take all the necessary steps in time.

Moving on, you will no doubt have noticed that LLS did not host a Christmas reception. We decided that a New Year welcome and celebration would ease the pressures of everyone's abundance of Christmas invites and provide for a more relaxed start to 2018. Keep an eye on the website for further social events, including a fashion show.

I am also delighted to advise that LLS has a new Patron from January 2018. They are JLT, "Leaders in Professional Indemnity Insurance". We welcome them and look forward to their involvement with the Society. We will be hearing further from them in due course; I believe with various seminars they would wish to present to us.

Of particular note also is that LLS was successful recently in bidding to host the 2018 National Local Law Societies' Conference. In 2017 it was held in London but in 2018 representatives from societies all over England and Wales will be hosted by LLS for a conference and dinner. We are, of course excited by the prospect of placing LLS at the forefront nationally.

Finally, I would like to take this opportunity personally to wish each and every one of you a very happy, healthy and prosperous 2018.

Jonathan Foster
President LLS



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BEHIND THE SCENES AT LEICESTERSHIRE LAW SOCIETY



Leicestershire Law Society was established in 1890 and has built a reputation as being a centre of legal excellence.

Electricity, first discovered in 1752 by Benjamin Franklin was not a common form of fuel or power in 1890 and in fact it was not until 1879, 11 years before the Society was established, that Thomas Edison invented the light bulb. Candles were still the most common form of light available to the legal profession. Some would argue, with all the cuts to public funding and the austerity measures endured by all within the profession, candles may well be the only affordable form of light available for the future.

The Society has, over the years, faced many challenges. Its history has witnessed two world wars and six monarchs have reigned since the Society was established in 1890. Queen Victoria, Edward VII, George V, Edward VIII, (albeit not actually crowned King) George VI and Elizabeth II.

The Society, along with its practitioners, has had to learn to adapt to ever changing attitudes, laws, practice and media to keep itself at the forefront of the profession. Indeed, we now see more electronically managed court files and cases than ever before. The days of the quill and article clerks are, sadly some would say, long behind us all. In 1890 news was written on paper, radio had not made it to airwaves and TV yet to be invented.

As for the computer and the telephone, well what can be said? Lawyers have had to move with the times and the days of a lawyer being unable to be contacted, due to being on the golf course, long gone. Now it's all mobiles and laptops.

So what of the Society and 2018?

Leicestershire Law Society (LLS) has about 500 members who are solicitors practising in Leicester, Leicestershire & Rutland. It also has a rapidly growing number of associate members from sets of Barristers Chambers.

KEY OBJECTIVES

What are the key objectives of today's Leicestershire Law Society?

- i) *Encourage a diverse mix of people at events that reflect the local legal profession in Leicestershire and more interaction between members.*
- ii) *Maintain and develop a healthy financial position to enable the Society to continue evolve and develop.*
- iii) *Strengthen and develop relationship with local universities and professional bodies.*
- iv) *Improve the Society's profile in the local media.*
- v) *Promote Leicester and Leicestershire as a centre of legal excellence.*
- vi) *Increase membership and involvement of the members.*

To achieve its objectives the Society has an Executive Committee which manages the Society as a whole and 9 sub boards created to assist the Executive Committee with its work.

EXECUTIVE COMMITTEE

In 2016/17 the Society held a number of successful social and networking events throughout the year. Whilst full details including photographs can be found on the website of note were the Awards Dinner, Christmas event at Wistow and the excellent King on Trial.

The Society has continued to drive its close ties with De Montfort and Leicester Universities as well as schools and colleges, with a range of events involving both the academic and student population and supporting their work with local practitioners. Of note is the annual School Courts Competition which continues to go from strength to strength.

Relations with the National Law Society, local professional bodies and other organisations remain strong underpinned by events to include Civic Dinner and networking lunches.

The Parliamentary Dinner previously a standard within the Society's calendar has

been replaced by bespoke events with politicians. Sub-boards have responded to discussion papers or lobbied individual politicians where appropriate. The Society remains committed to lobby and form relationships with local politicians to influence legislation, funding and all issues which may impact on the profession in Leicestershire.

The Executive Committee also oversees the work of the Sub Boards. The Sub-Boards meet regularly, actively represent and make a valuable contribution to the Society. Perhaps more could be done particularly through the newsletter and Main Committee reports in keeping members abreast of the sub-boards' hard work, particularly when representing LLS through responses to consultations, lobbying and meetings with politicians.

THE SUB BOARDS

So what have they all been doing over the last 12 months?

CRIME SUB BOARD

The Crime sub Board has been very busy over the last year and has held meetings with Leicester Magistrates Courts over various issues.

Having spent sometime last year dealing with the issue of virtual courts, these then disappeared but are shortly due to return once again. There is also further potential for use of video link technology for police officers to give their evidence by way of such means during trials etc., and this is being kept under review by the Sub-Board.

There are still on-going issues with the Criminal Legal Aid contracts. New contracts came into force as of April 2017 and it is pleasing to note that the number of persons now appearing on the Leicester duty rota has diminished. This is mainly due to "ghost" members of the scheme having been removed although there does appear to still be a number of names that some people do not appear to recognise!

There are on-going issues in regard to a threat to further reduce the fees via an across the board figure of 8.75%. However, there

is the promise that this might not happen if further other concessions are made by criminal solicitors. This mainly involves changes to the system for calculating litigator standard fees and advocates standard fees at the Crown Court. Having reviewed the proposed changes and discussed them with Crown Court practitioners it appears that the top end type of case, ie., murders, attempted murders, serious sexual offences etc., will be remunerated more generously (presumably because it will be members of the bar dealing with the cases!) whereas lesser cases will not be quite so well rewarded. The intention is to reduce the reliance upon the page count to determine the seriousness of the offence. Whilst this in itself makes some sense some of the other fee reductions seem somewhat arbitrary. As is always the case with such proposals it would appear to be a case of "swings and round-a-bouts". This will be kept under review by the Sub-Board.

EDUCATION AND TRAINING SUB BOARD

The past twelve months has been an interesting time for the Education and Training Sub-Board. In previous years we have run a number of courses in conjunction with CLT, and although we had a meeting with them when various course topics were agreed for courses to be held in Leicester, very little materialised. We have therefore concentrated in running our own courses locally.

Leicestershire Law Society is fortunate in having a good relationship with a number of local Barristers Chambers, some of whom are generous Patrons or Sponsors of our events. They have also offered training to our members, which have provided practical and relevant information at minimal cost.

The Education and Training Sub-Board have also provided courses, and in particular the Criminal Law updates lead by Olwen Davies have proved to be as popular as always.

The Sub-Board are committed to providing practical training, locally at reasonable cost. The majority of courses are run at lunchtimes, often accompanied by a light lunch, and provide an excellent opportunity for members to meet up and chat. This is very important as we are now all working in environments where face to face contact with colleagues occurs less often.

EQUALITY & DIVERSITY SUB BOARD

Over this past academic year Leicestershire Law Society has continued to engage with law students from all socio-

economic backgrounds through the two Universities with Committee members supervising advice clinics, judging mooted competitions, presenting prizes etc. Attendance by established solicitors at such events provides invaluable opportunities for aspirant practitioners to meet with experienced professionals for informal mentoring and they do appreciate it – at the Pro Bono evening our representative was presented with a beautiful bunch of flowers! The Society was also represented at the celebrations for the 50th Anniversary of the opening of Leicester University Law School.

The Women in Business and Law afternoon tea event set up by Mehmooda Duke during her year of office was repeated in July at the Marco Restaurant in the Grand Mercure Hotel and again it was well attended and a good time had by all. This calendar year 2017 is both the centenary of the Solicitors (Qualification of Women) Bill 1917 (which failed after opposition from national and provincial law societies only to be resurrected two years later) and in real time the year in which the number of ladies with practising certificates was expected to overtake the number of gentlemen. Although issues such as the gender pay gap and a high attrition rate are still with us the gradual feminisation of the profession continues.

Leicestershire Law Society has continued to maintain links with recently qualified solicitors both as members and through the Leicestershire branch of their own Junior Lawyers' Division. At the panel discussion put on by the Solicitors' Regulation Authority at The City Rooms on the "Looking to the Future -Flexibility and Public Protection" Consultation the Society expressed concern about the position of young and inexperienced solicitors as sole lawyers in the proposed new unregulated firms.

Moving forward over 2017 – 18 the Equality & Diversity sub board plans to look at both physical disability and mental health within the profession following the recent survey by Chancery Lane and whether more can be done to increase awareness of the support available to affected solicitors.

MEDIA SUB BOARD

In the last 18 months the Media Sub Board has seen a change of Editor for the Society's quarterly magazine and also a change of Chair Person. Manbir Thandi was the original Editor of the magazine having the arduous task of creating a

magazine from nothing and then building on his creation to allow the Magazine to go from strength to strength. He was also Chair of the Media Sub-board until October 2017, when he handed the reigns to Adam Markillie.

Media has also been working very hard in regard to the Society's website to bring life to the pages and the Society into the 21st century with technology available at everyone's fingertips.

Both the magazine and the website continue to provide patrons with an editorial platform to promote themselves which is important to retention and expansion of the patron portfolio, gives the other sub groups an opportunity to highlight their work, promotes events organised by the Society and champions the worthwhile cause(s) of the Society's nominated charity/charities.

NON-CONTENTIOUS BUSINESS SUB BOARD

The main duties of Non-Contentious Business consist of responding to consultation papers submitted by the Solicitors Regulation Authority, on regulations and anything topical relating to our areas of work which we feel will be of interest to our members.

During the past year the sub board has responded to a number of Solicitor Regulation Authority (SRA) and Ministry of Justice consultations relating to the proposed increase in Probate Court Fees, a review of Accounts Rules and a paper relating to Consumer Choice in Legal Services.

MEMBERSHIP SUB BOARD

The membership Sub Board team is overseen by Daniel O'Keefe and Bushra Ali. They have worked tirelessly to promote membership and to provide offers to all members of the Society from sponsors and commercial companies wishing to promote their services to the Society members. They have developed a separate member's page in the Magazine over the last 12 months which has been well received by all Members. Take a look at the Members Page in this edition for all the latest offers available to you. The Membership Sub Board also deal with the issue of the magazines being received by Members so if you have not received a copy then contact either Daniel or Bushra who will check to ensure you are listed and will then look to see why you have not received your copy.

PATRONAGE SUB-BOARD

LLS are pleased to receive the support from six Patrons, De Montfort University, Jon Star Commercial Energy Specialists, Bircher Jennings, Severn Trent Searches, Finance Lab and Leicester University. The Society is grateful for the continuing support of these Patrons.

During the current year, Leicester High School, RHMA and Aon ceased to be Patrons of the Society. I would like to publicly record

my thanks on behalf of the Society for their past support. During the current year, we are pleased to introduce Niche Magazine and Easyinternet (formerly FVS Hosting) as new Business Partners, the former providing publicity services to the Society and Easyinternet providing the new website, which is soon to be launched.

The on-going support of both our Patrons and Business Partners is greatly appreciated and vital to the on-going and future financial viability of the Society.

LITIGATION SUB BOARD

The Litigation Sub Board is this editions focused Sub Board. Please see the separate article in this edition below regarding the work they are currently doing behind the Scenes.

Adam Markillie
Editor
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LITIGATION SUB BOARD



THIS EDITIONS FOCUSED SUB-BOARD.

Matthew Olnier. Chair. *I write as chair of the LLS Litigation Sub Board.*

The Litigation sub board has six members representing a range of different litigation specialties.

We held a very informative seminar in November of this year dealing with the proposed new Bill of Costs and with the Costs Budgeting regime. We will be holding other seminars in 2018 on subjects of interest to local litigators.

A member of the board continues to attend at the Leicester Court Users Group.

The Board has formally responded to the following Consultations on behalf of LLS since my last magazine update:

Consultation on increase in Asylum first tier Tribunal fees. We argued that the increase would be counterproductive, was unnecessary and would be a bar on access to justice.

Consultation on "safe space" for medical professionals to be able to discuss adverse incidents without the need to disclose same to the patient/family without a Court Order. This proposal sought to emulate the way no fault investigations were undertaken in the airline industry We argued that this proposal was a retrograde step, flew in the face of the recently introduced duty of candor and that patients and their families should always be at the heart of any such process. We argued that the airline industry was not a good or meaningful comparator.

Consultation on removal of General Damages in low value "whiplash" claims and an increase to the small claims limit. We argued that this move would deny ordinary

people the ability to secure the services of a solicitor when bringing a claim. Such claims often involve significant injuries that have a serious impact on Claimants and their families. We argued that it is entirely unrealistic to expect people to represent themselves in such claims when faced with the might of the Insurance Sector. We argued that the move would lead to a great many people being denied justice at their expense and at the expense of the public sector whilst being a windfall for the Insurance sector. We argued that the reason for the proposed reforms — ie to stop fraudulent claims - was misconceived and without any sound evidential basis.

In September of this year, ex Leicestershire Law Society President Mehmooda Duke and I along with other clinical negligence claimant specialists from around the country attended at Parliament. We took part in a lobbying day concerning the proposed fixed fee scheme in clinical negligence cases.

We continue to monitor the progress of Lord Jackson's proposals on fixed fees for all civil claims.

In July of this year the Supreme Court ruled that the increased employment tribunal fee introduced in April 2013 was unlawful. As stated in the **Judgement [R (on the application of UNISON) v Lord Chancellor]** : "...The Fees Order is unlawful under both domestic and EU law because it has the effect of preventing access to justice. Since it had that effect as soon as it was made, it was therefore unlawful ab initio, and must be quashed..."

Here is another paragraph from the Judgement:

"At the heart of the concept of the rule of law is the idea that society is governed

by law. Parliament exists primarily in order to make laws for society in this country. Democratic procedures exist primarily in order to ensure that the Parliament which makes those laws includes Members of Parliament who are chosen by the people of this country and are accountable to them. Courts exist in order to ensure that the laws made by Parliament, and the common law created by the courts themselves, are applied and enforced. That role includes ensuring that the executive branch of government carries out its functions in accordance with the law. In order for the courts to perform that role, people must in principle have unimpeded access to them. Without such access, laws are liable to become a dead letter, the work done by Parliament may be rendered nugatory, and the democratic election of Members of Parliament may become a meaningless charade. That is why the courts do not merely provide a public service like any other..."

As **Joe Egan**, Law Society President at the time said:

"This decision is a triumph for access to justice and a resounding blow against attempts to treat justice as a commodity rather than the right it is."

While the Judgement will be seen by many as welcome, it could reasonably be argued that a great deal of damage has already been done.

The litigation sub board welcomes any input, views and suggestions from the Leicestershire Legal Community. If there are suggestions on seminar topics, for example, please contact me. My e mail is below.

matthew.olnier@nelsonslaw.co.uk

LLS AWARDS 2018 NOMINATIONS OPEN!!!

The Leicestershire Law Society Awards give us the opportunity to highlight key individuals and firms in Leicester, Leicestershire and Rutland who stand out as ambassadors for the industry

The Awards have become a permanent fixture in the legal and business calendar, with the event attracting a capacity crowd year-on-year to celebrate the success and achievements of both individuals and firms over the last 12 months

- Trainee / Paralegal of the Year
- Large Law Firm of the Year
- Small Law Firm of the Year

This Year's Categories Include:

- Solicitor of the Year
- Junior Solicitor of the Year
- Chambers of the Year

Nomination forms and the guidance and rules for each category can be found by visiting www.leicestershirelawsociety.org.uk and selecting the corresponding category above.

The winners will be announced at the awards ceremony on Friday 27th April 2018 at Athena Leicester. Get your entries in early and good luck to everyone.

ACCOUNTANTS & LAWYERS QUIZ

November 2017 saw Lawyers and Accountants lock heads together in a Quiz night held at The Belmont Hotel, Leicester. 12 Teams gathered to test their general knowledge skills. They also came for the excellent food served at the event.



The Winners - Shaken, Not Stirred



TEAM NAME	FIRM
Bushra Ali Solicitors	Bushra Ali Solicitors
Illegal Eagles	Lawson West
John Star John Star	(LLS)
Legally Green	Affinity
Network Connect	Bushra Ali Solicitors
New Rules	CBA & G2
Norfolk n Chance	K4 Law Solicitors
Quizzzy Rascals	MDS Solicitors
Shaken Not Stirred	Shakespeares
Table One	Spearing Waite
To Affinity and Beyond	Affinity
Unversally Challenged	Newby Castleman

The event was won by the team "Shaken Not Stirred" with 105 points and 2nd place went to team, Illegal Eagles with 97 points. The Wooden Spoon (if there had been one) went to team Bushra Ali Solicitors with a score of 52.

It was a great event and was enjoyed by all who attended. A slight error from the Quizmaster of the evening did cause a gasp from the entrants - mixing up "Baseball" and "Basketball" as the answer to a sports question. The gasp from the entrants was sufficient to spot, somebody had gaffed and despite wearing glasses the Quizmaster read the wrong answer. So who was the Quizmaster?

Our thanks must go to the organisers of the event.

WOMEN in LAW



SUCCESS IN 2017: Awards and Achievements.

The LLS is proud to congratulate 3 female members of the Leicestershire Law Society on their outstanding achievements in 2017.

Mehmooda Duke,
Helen Johnson
and Glynis Wright.

Mehmooda Duke



Helen Johnson



Glynis Wright

MEHMOODA DUKE

Past President of the LLS (2015/16), Mehmooda Duke of Moosa-Duke Solicitors has been appointed Deputy Lieutenant of Leicestershire and Rutland and is only the 2nd Asian female to be recognised for this prestigious honour. In addition to this achievement, Mehmooda has also won Leicester Mercury 2017 Business Woman of the year. In 2015, Mehmooda became the Leicestershire Law Society first female Asian President and only the 7th woman to hold the position at that time.

HELEN JOHNSON

Past President of the LLS (2012/13), Helen Johnson of Emery Johnson Astills Solicitors has been appointed Under Sheriff of Leicestershire. Helen's career in law has also seen past success in that Helen won the Leicestershire Law Society Solicitor

of the Year award in 2007. In 2012 she became the President of the Leicestershire Law Society and was also a finalist for the Leicester Mercury Business Executive of the Year Award. Helen was also awarded an "Inspirational Woman" award by Leicestershire Asian Business Association and awarded Solicitor Advocate of the Year in the national Law Society Excellence awards 2015/16.

GLYNIS WRIGHT

Incoming Vice President (2018/19) of the LLS, Glynis Wright of Glynis Wright and Co Solicitors and Mediators has won not one but two of the East Midlands Women's Awards (EMWA) that took place in Uppingham on 10 October 2017.

Glynis was awarded "Outstanding Female Entrepreneur" at the ceremony for her achievements in growing a thriving and

successful law firm. Glynis then went on to take the last and overall award of "East Midlands Inspirational Female Leader 2017" which recognised not only Glynis's business development skills but the work she has done helping other women and inspiring them to go into business along with her substantial work in the local community.



LLS Magazine spoke to President of the LLS Mr **Jonathan Foster** about the achievements of Mehmooda, Helen and Glynis and he told

the Magazine:

"This is a fantastic achievement for all 3 members of the Society; The LLS congratulates all 3 of them on their achievements. This level of success shows the calibre of people engaged in the profession and acknowledges the hard work all 3 of them have committed to their career in their chosen professions. LLS are fortunate to have all 3 as members of the society."

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Are you a decision maker for your business? Are you responsible for procurement, facilities management or just administering the business energy bills? If so, then help us help you and also support the LLS Charity of the year ProstateAID. It couldn't be easier, however successful business energy optimisation is not a one size fits all conundrum! At Jonstar

we understand that each business is different and trying to cover all of the various scenarios and considerations in an editorial is likely to fill up far too much space and send most of you to sleep!

So, to keep things simple we have put together a challenge that really is a win-win for all, a free review to make sure your business energy costs are optimised and we will donate to ProstateAID for every entry!

Firstly and for a start, it will not take up much of your time, 10 minutes, perhaps for smaller businesses, for larger businesses with more complex needs, it may take a little longer but in such cases the rewards and potential pitfalls for not getting your

energy optimised are potentially tens of thousands!

Secondly there is nothing to lose and no obligation to proceed with any of our findings - we do not charge a fee to provide a review and the worst that can happen is we confirm you are already optimised, just look at this as an extra layer of due diligence for your business.

To enter, please call Ben Stocking on 01162704686 or email a recent bill for each meter to info@jonstarenergybrokers.co.uk

We will donate £10 for each entry to ProstateAID

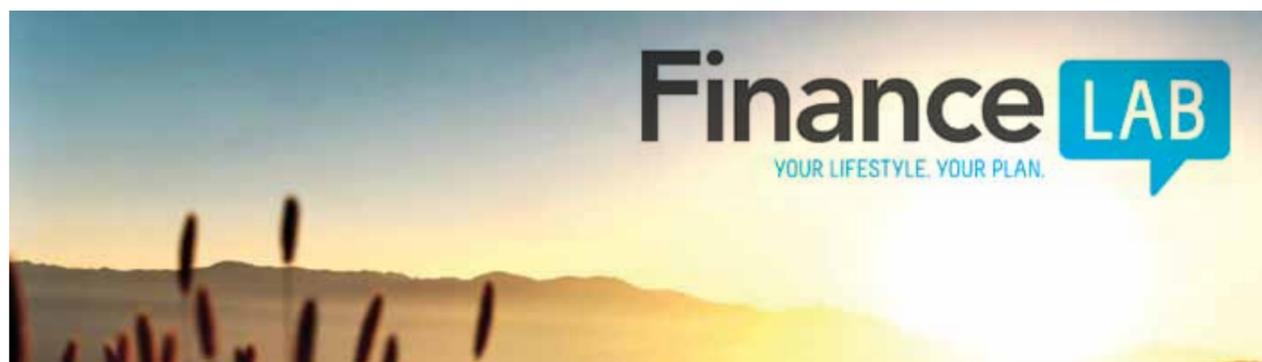
We specialise in sourcing the lowest business energy deals and energy management - it is a very different market to domestic energy - we all pay energy bills at home and a majority are on expensive variable rates - this is an indictment of the energy industry, but also a testament to the fact that many of us just 'don't get time'. Whilst business energy is very different, it also has different pitfalls and with a rapidly changing industry, please find the time to get your business energy checked, there are new penalties that could affect certain businesses kicking in from April 2018 and the last year has also seen certain meters undergo industry changes that are leaving many customers worse off, but many are not aware of this.

Whether you have a complex multi site arrangement or just a one office set up, we can assist you accordingly with information and options and from there, the choice is down to you.

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A POTENTIAL NEW DAWN FOR SOLICITORS & FINANCIAL ADVISERS



The SRA has set in motion new rules to be introduced in the autumn of 2018 regarding referrals to IFAs. It has commented that these changes should provide the basis for increased cooperation between the legal & financial services professions. This article will highlight what these expected changes are and the opportunities for solicitors.

On the 1st December 2013, the SRA implemented the controversial decision to abandon the long-standing principle that solicitors should only refer clients to independent advisers for financial advice. The Law Society's immediate response was to advise solicitors to ignore the SRA and abide by the principle of independence.

The SRA's caveat was to introduce a new provision, its Outcomes Focused (= Principle Based) Code of Conduct which in Outcome 6 imposes on members of solicitor firms an obligation when making a referral:

- to ensure that this will be in the client's best interests, &
- the client has been able to make an informed decision to proceed.

The solicitor must present to the client sufficient information about the proposed referee to enable the client to make his/her judgement. Now this can only be done if the solicitor /fee-earner in the law firm has conducted due-diligence.

The suggested new rules to be introduced in autumn 2018 take this one stage further. Typically, IFAs receive referrals by individual solicitors within a practice. Seldom are decisions taken on a firm wide basis nor is any referral process formulated. Consequently, there is no authenticated due diligence and the law firm is exposed to the risk of client complaints for inappropriate advice from their referral.

The new draft SRA rules state that referrals must be based on written agreements and on a firm-to-firm basis. Individual solicitors within a firm will no longer be able to refer to a pet adviser.

As Sifa put it in its recent briefing note: "This [the new rule] represents an important departure because it encourages solicitors to adopt a corporate mentality and to move away from the 'confederation of sole practitioners' syndrome which militates against the organisation of law firms on a commercial basis."

In a typical situation it would be expected that most law firms would need to have referral agreements with a number of IFA firms, based on the specialist expertise and qualifications of those firms; and Lexcel, the Law Society's quality standards body, recommends that in this situation a panel should be created and kept under periodic review. From the IFA firm's point of view, this provides the opportunity to spell out its areas of expertise and the skill sets of its advisers and planners in a due diligence document.

In my opinion, this provides an enormous opportunity for solicitors at a time when there is increasing pressure on firms' margins. The Legal Services Act, which effectively abolished solicitors' monopoly of the retail legal services market, is leading to increased entrants into the market (especially from accountants). In addition, advice is becoming commoditised.

The SRA are encouraging member firms to take a more holistic view towards clients, moving away from the traditional transactional client relationship. This potentially involves moving towards a 'relationship' based approach, which will increase opportunities across all departments for the same client. In addition, as the solicitor is now integral to the process they can receive payment from the IFA. Another option is creating a joint venture with an IFA, where profits are shared.

If you would like assistance with the development of a 'relationship' based model, and understanding the due diligence required on assessing an IFA please get in touch.

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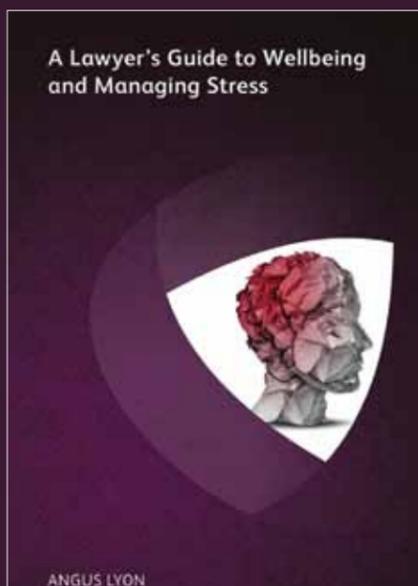
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BOOK REVIEW

A LAWYER'S GUIDE TO WELLBEING AND MANAGING STRESS



A Lawyer's Guide to Wellbeing and Managing Stress by Angus Lyon ISBN: 9781783582211

Following Ranjit Thaliwal's piece in Issue 5 on Mental Health within our wider local community this is our own book.

Attitudes to mental illness have improved over recent years (remember the local expression "a Towers case" referring to the former asylum) but there remains more to be done.

Angus Lyon was admitted as a solicitor in 1980 and now works as a Consultant at Mears Hobbs & Durrant in Lowestoft after 35 years practice specialising in civil litigation. He is also a qualified psychodynamic counsellor. In this short and easily readable manual he examines stress within the legal profession, the subject of 75% of calls to Law Care* the confidential helpline for lawyers.

The Equality Act 2010 defines the protected category of disability as a "physical or mental impairment that has a substantial and long-term adverse effect on ability to carry out normal day-to-day activities," but stress is wider than that. Recent statistics published by the Health and Safety Executive place legal practice as one of the most stressful jobs in the UK and in 2016 24%

www.leicestershirelawyersociety.org.uk

of those assisted by SBA- The Solicitors' Charity** reported poor mental health. Barristers at Garden Court Chambers have recently launched an initiative for new measures to combat bullying by the Judiciary.

The author takes the reader slowly through four Parts respectively headed "So What?" "Me" "You" and "Do" starting with reciting what we know about how lawyers come to be stressed (highly complex matters/long hours/ tight deadlines/ pressure to get it perfect every time/, clashing professional and pastoral roles and absolutely last but not least getting the Invoices out and paid) but he does then go on to the existing remedies. His recommendations include breathing exercises, eating properly, getting sufficient sleep and the currently fashionable mindfulness method but he does offer other solutions. There are also lists of recommended further reading and sources of advice and support.

So I recommend this book to all practitioners and particularly to any aspiring solicitor. Under the current training system entrants move on to a training contract only after studying for a degree and LPC. It will be interesting to see whether under the new SQE route the requirement to experience two years of practice prior to taking the final exams does



result in some would be solicitors deciding at that point on another career. Or will they go ahead and steel themselves for what the author refers to as "bouncebackability".

Christl Hughes
Chairman SBA -The Solicitors' Charity
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*<https://www.lawcare.org.uk/>

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COUNCIL MEMBER'S REPORT

DECEMBER 2017

Linda Lee has been Council Member for Leicestershire, Northamptonshire and Rutland since 2003. She is a past President of the Law Society of England and Wales and is the current Chair of the Regulatory Processes Committee and a member of the Regulatory Affairs Board, Access to Justice Committee and the Audit Committee. She is current Chair of the Solicitors Assistance Scheme. Linda is an experienced litigation solicitor and is a Consultant at RadcliffeBrasseur where she specialises in solicitors' disciplinary, compliance and regulatory work. She can be contacted by email at: lindahlee@aol.com



Looking back at Council Member reports published in 2017, the focus has been almost entirely on the Solicitors Regulation Authority (SRA) and their

plans to completely change the way in which solicitors qualify, the way in which they practice (allowing possibilities such as newly qualified to set up their own firms or newly qualified and others acting as 'freelancers' allowed to offer services direct to the public without a regulated firm in support) or seeking to dictate the way in which sanctions are given, suggesting that the Solicitors Disciplinary Tribunal should change the standard of proof to the civil standard or could be dispensed with entirely.

The Legal Ombudsman Service (LeO) in comparison has been somewhat quieter and received less attention despite its recent turnover of Chief Executives and Chief Ombudsmen. Since January 2015 it has also been given the somewhat difficult task of handling complaints made against Claims Management Companies (CMCs) who are regulated by the Ministry of Justice as well as those who have become solicitors' firms, regulated by the SRA, following the decision by the SRA to authorise firms that do not offer any reserved legal services.

It is not known how many firms that operate solely as CMCs are regulated by the SRA as they are given full authorisation rights by the SRA and are thus indistinguishable from other firms. However, the number of CMCs authorised by the Ministry of Justice fell from 3,213 CMCs in 2011 to 1,388 CMCs in 2017. This is a difficult area to regulate, the number of staff required to regulate the CMCs had grown from 15 in 2007 to 139 in 2017¹ and has resulted in 1,387 licenses being cancelled². The turnover for such a niche industry is vast, in the ten-year period 2007 to 2017 the total turnover by sector was topped by financial products and services at £3.4 billion, followed by personal injury £2.8 billion, employment matters £50.3 million, industrial injuries £12.9 million, Criminal injuries £10.2 million and housing disrepair £5.5 million³. The early days when CMCs simply sold claims on are long gone and most CMCs now handle the claims, some for

upfront fees although they are required to have professional indemnity insurance (a minimum of £250,000 for any one claim to £500,000 in the aggregate) if they do so in personal injury cases. The percentage of damages they take can be very high and some ask for upfront fees from the client.

The Legal Ombudsman Service has done a great deal of work on first tier complaints (those handled by solicitors' firms and CMCs in recent years) although it is often not clear who the advice is directed to and whether the concerns relate to solicitors or CMCs.

LeO highlighted two pieces of research in November 2017.

The latest is a rather odd piece of research published by YouGov (an international Internet-based market research and data analytics firm, a public company with no known connection with the UK government) entitled Claims Management Company (CMC) Users. The research was based on a sample of 2,827 individuals in Great Britain who had personally used and/or paid for a claims management company (CMC Users) in the last two years. The report focused on demographics, general media and lifestyle.

Amongst its findings were that:

- CMC Users tend to be older, white and from lower social grades
- CMC Users tend to be spread across Britain and roughly a third have a gross household income below £25,000
- CMC Users are generally low radio listeners, with roughly two thirds using car radios to listen mostly to music
- CMC Users are generally low TV watchers, but documentary, drama and news are the most popular genres
- top programmes CMC Users have most recently watched on TV are Regional News & Weather, BBC News and Strictly Come Dancing
- majority of CMC Users do not read magazines via apps or online, but of those who do, most read magazines on women's interests/lifestyle or food/cooking
- The majority are medium internet users and three quarters have used Facebook in the last 30 days
- CMC Users are significantly more likely than

the national population to have used a price comparison site like Money Supermarket in the last two years

Younger users (age 18 to 39) were underrepresented in the group but were found to be more likely than the overall population of CMC Users to...

- Use a smartphone as their main device for accessing the internet
- Use Whatsapp
- Watch Aljazeera and MTV
- Use food delivery services (e.g. Deliveroo, HungryHouse, Uberets, etc.)

Although this is probably more a function of their age group than being a CMC user!

The Legal Ombudsman says it has highlighted the research to help the CMC industry provide a better service to its customers and reduce complaints.

Probably of more use will be LeO's own research 'The Language of Complaints Research'⁴ described as 'new research and top tips that can help legal and claims management professionals prevent complaints escalating'⁵. It was not made clear how many of the complainants who took part in the research had been clients of solicitors or CMCs. However, given the examples of complaints responses which found favour with those who took part one suspects that solicitors have more to learn than CMCs from this evidence.

The top tips are as follows:

1. Keep it simple - Avoid jargon, pretentious language and using legal / technical terms. They may seem common place to you but they can be confusing and intimidating to customers. If you need to use legal / technical terms, you need to explain what they are
2. Be timely - Give a timeframe for how long you will take to investigate and respond. This will reassure the customer that the complaints process will not go on indefinitely. It would also be useful to note how you will respond so that the customer doesn't have to check for letters / emails.
3. Take it seriously - Ensure that it is clear that you are taking the complaint seriously. Overly informal language or poor grammar / processes

can suggest that no formal investigation is underway.

4. Acknowledge stress or inconvenience caused - For many, the decision to make a complaint is not taken lightly. Complaining is seen as negative activity and people lack confidence in the process and fear jeopardising their relationship with the service provider. It is therefore important to empathise with the situation they are in and reassure them that you understand their position.

5. Don't be afraid to apologise - Start with a proper apology and avoid burying it at the end of lengthy letters. If you've made a mistake say 'sorry' without caveats and conditions. Justifying what has happened can play to customers' fears that the complaint handling stage will be subject to the same negativity as the original transaction.

6. Appreciate feedback - Demonstrate to the customer that you appreciate their feedback and the opportunity to improve your service. There can be positive aspects of complaining, this can also reassure the customer that their complaint is being taken seriously.

7. Be clear - When responding, detail the customer's concerns one by one. Use bold headings to structure the response around the details of the complaint. It is also important to give an explanation of what evidence you have looked at and what your conclusions are. Ensure that, when you signpost a customer to the Legal

Ombudsman, the information is clear and easy to find. This will reassure complainants and give them a sense of security that there are other avenues.

Reading the top tips before reading the full research paper was somewhat reassuring but reading the full research was far more unnerving. LeO looked at ways of improving their own complaints handling but it was the description of the consumer/client complaint journey and the lengthy responses that were clearly written by solicitors that caused one to pause. The research subjects were asked to comment on different styles of complaints handling. The cheerier 'good' examples favoured by the research subjects, thanking the person for bringing the complaint to their attention and welcoming the opportunity to improve their services were one suspects, written by CMCs.

The legal market has changed rapidly in the last ten years, it has been assumed by many that the High Street was losing work to large Alternative Business Structures, particularly in the area of personal injury litigation but it is clear that many who would previously have used solicitors are now being captured by CMCs and remaining there. This is despite warnings of the disadvantages of using a CMC by the Citizens advice website that CMCs cannot take a case to court and this may risk cases settling at a lower figure and warnings

about the impact of high levels of success fees charged by CMCs, the example quoted being 50% far more than a solicitor would be permitted to charge. The research on the users of CMCs provides a snap shot of a group of clients lost to the High Street and if solicitors want to reclaim them there is much useful data in the YouGov research as to how to market to this group. However, a far more fundamental shift may well be required in the presentation of services and new styles of communicating will need to be adopted, as evidenced by the examples in 'The Language of Complaints Research'.

Seasons greetings to you all!

Linda Lee

NOTES

¹ Claims Management Regulator: 10th anniversary report-Celebrating 10 years Protecting Consumers / Curbing Malpractice Ministry of Justice Published: 19 July 2017

² *ibid* ³ *ibid* ⁴ *ibid*

⁵ http://www.legalombudsman.org.uk/wp-content/uploads/2017/11/Legal-Ombudsman-claims-management_Profiles-report-FINAL.pdf

⁶ Published by the Legal Ombudsman dated 1 August 2017

⁷ Legal ombudsman press release 2 November 2017

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LEICESTERSHIRE LAW SOCIETY
MEMBERSHIP PAGE

Welcome to this edition's members' page. You will find this section in every edition of the magazine, to provide you with information about what you get for your membership.

We feel that the Leicestershire Law Society (LLS) is a fantastic organisation offering great value to its members and we are very keen to make sure that we tell you about all the society has to offer. We are always looking to hear from members with any comments they have about their membership and particularly about any suggestions they have about how they feel the Society could be improved.

The Next Generation of LLS Members

We are delighted that this edition of the magazine will be available to all law students in the University of Leicester and De Montfort University. Both universities are patrons of the society and we hope that getting an insight into the work of the Leicestershire Law Society will encourage the students to become active members of the society as they progress through their legal careers.

Many of the current members of the Leicestershire Law Society are alumni of these 2 universities and we look forward to getting the next generation involved in our programme of events.

THE MEMBERSHIP TEAM

Daniel O'Keeffe and Bushra Ali

Bushra Ali and Daniel O'Keeffe make up the membership team. Bushra Ali is the founding/sole Director of Bushra Ali Solicitors, which is a specialist immigration practice, albeit with a brand new family law department. Bushra has twice been awarded Leicestershire Law Society Solicitor of the Year. Daniel O'Keeffe is a Senior Solicitor at the specialist clinical negligence firm Moosa-Duke Solicitors.

If you have any queries or comments to make regarding membership, please contact us at Bushra@bushraalisolicitors.co.uk and dokeeffe@moosaduke.com

LATEST LLS EVENTS

We held a very successful quiz night at the Belmont Hotel on 16 November 2017 in conjunction with the Leicestershire and Northamptonshire Society of Chartered

Accountants. After a very competitive battle, eventually the quiz was won by the team from Shakespeares, Shaken Not Stirred with a very impressive display of all round general knowledge.

Narrowly beaten into second place was the team from Lawson West, the Illegal Eagles.



Shaken Not Stirred



The Illegal Eagles

We do hope that any members who were attending an LLS event for the first time will come again throughout 2018. Details of our upcoming events for 2018 are available on our website.

A Date For Your Diary

11 January 2018 - Drinks Reception with MALA at the Parcel Yard

Due to the packed Christmas events calendar, we decided that we will have a January drinks reception instead, for a change. This event will be run in conjunction with MALA -The Midlands Asian Lawyers Association. It will be held at Parcel Yard on 11 January 2018 and should be a great night for socialising and networking. Further details will be circulated to members very shortly.

We do hope that as many of you as possible can make our events, which should be fun, sociable and also a great networking opportunity.

We are constantly looking at the LLS events programme to ensure our events appeal to membership. We are always keen to hear feedback from our members on the LLS events and receive suggestions for future events. As always, please contact Bushra or Dan with any feedback.

TYPES OF MEMBERSHIP

There are different ways of becoming a member of the society. However, all members are entitled to attend our social and networking events and can take advantage of our membership benefits.

- **CORPORATE MEMBERSHIP**
This is for firms of solicitors. You only pay for the Partners in the firm. Corporate membership covers all solicitors, trainees and paralegals in the firm, so it is a great way of enabling the whole firm to make use of Law Society membership.
- **ASSOCIATE MEMBERSHIP**
This is for barrister's chambers. It is really important that we have a significant presence from the Bar in the Society and our social events are a great opportunity for networking with the legal community.
- **INDIVIDUAL MEMBERSHIP**
Individuals can become members of the LLS. This is available for all current and former legal professionals.
- For further details please email us at the addresses above or visit the website: <https://www.leicestershirellsociety.org.uk/become-a-member/>

Special General Meeting 10 January 2018

It is extremely important that the membership of the LLS meets the needs of its members and we are currently looking closely at how membership is organised and categorised at the LLS.

We have a Special General Meeting on 10 January 2018 to consider the current membership categories. We shall be updating you with any developments in the next edition of the LLS magazine.

SPECIAL MEMBERSHIP BENEFITS

We are delighted to have secured some excellent deals with local businesses and the membership team are working hard to get even better value for our members.

Free Jonstar Energy Review

We are very grateful to Jonstar, one of our patrons, as they have agreed to offer a free initial energy review to all LLS member firms. Jonstar are energy brokers who specialise in sourcing the lowest business energy deals and energy management.

To take advantage of this offer, please call Ben Stocking or Jonathan Harris on 01162704686 or email a recent bill for each meter to info@jonstarenergybrokers.co.uk

Even better, Jonstar will give £10 to Prost Aid, the LLS Charity of the year, for each energy review performed, so what are you waiting for?

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WATCH THIS SPACE

We hope to have more deals and discounts with local businesses every month. Please look out for the membership page in every edition of the magazine, where we will show you all the latest membership benefits.

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ANTI-MONEY LAUNDERING: WHAT'S CHANGED AND WHAT THIS MEANS FOR UK CONVEYANCERS

The European Union's Fourth Anti-Money Laundering Directive was implemented into UK law on June 26th. As a result there are changes to how law firms must conduct customer due diligence and an increased focus on the need to incorporate ongoing and documented risk assessment.

WHAT'S THE RISK?

There are regulatory and legal / criminal penalties in place for non-compliance. This includes fines of up to £1 million and prison

WHAT'S CHANGED?

1. Customer due diligence and risk assessment

Under the new legislation the choice regarding level of due diligence is more limited. There is no longer any automatic exemption from enhanced due diligence. A decision to apply simplified due diligence needs to be evidenced by a documented risk assessment. In simple terms, this means that all conveyancing clients must be risk-assessed, regardless of country of origin, services purchased or delivery channels. Moreover, the risk assessment now needs to include Politically Exposed Persons (PEPs) and Financial Sanctions screening.

2. Ongoing record-keeping and transparency

Risk assessments must be kept and made available to regulators. This is worth noting as it is the first time that firms are explicitly being told to document and file risks in this way.

HOW AN ELECTRONIC AML SEARCH CAN HELP

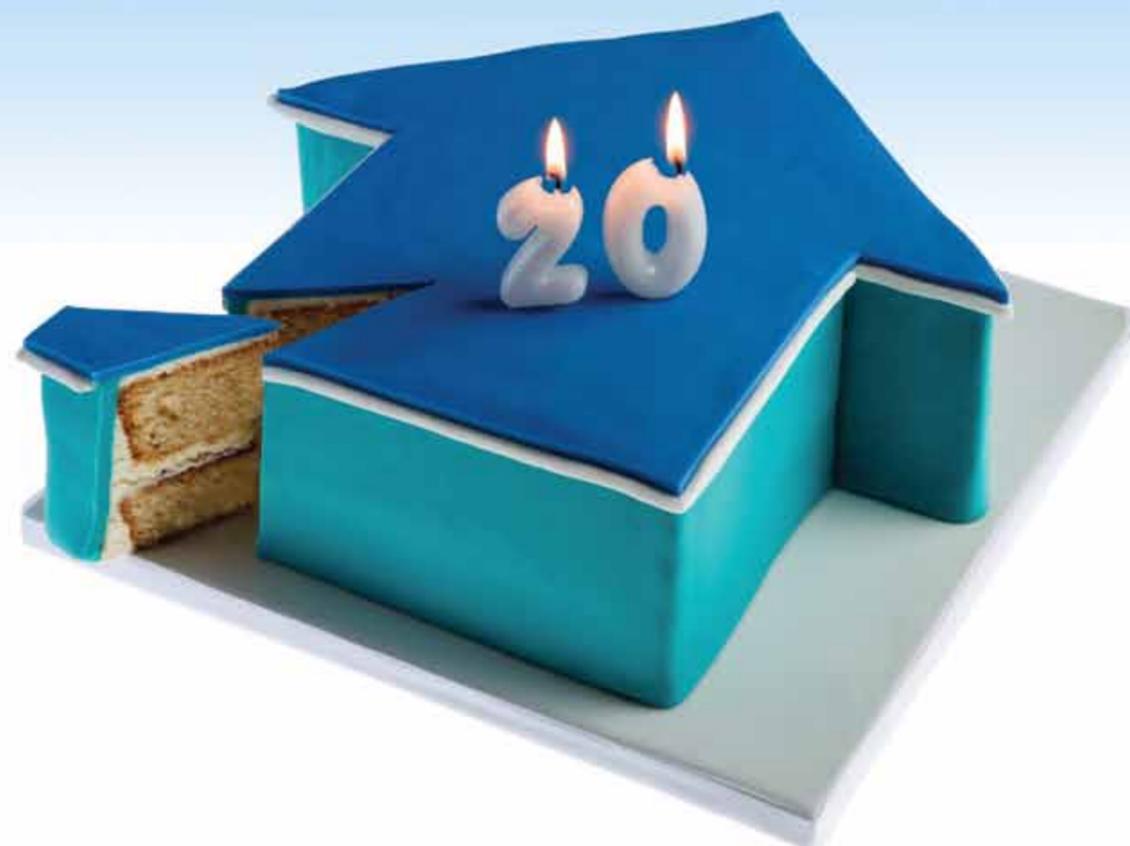
An AML search facilitates risk assessment by combining all processes and records in one automated system. It enables firms to search for adverse information on a client more thoroughly than they would be able to do manually, and it ensures that compliance procedures are adopted firm-wide.

A TYPICAL AML SEARCH OFFERS:

AUTOMATED RISK ASSESSMENT	This includes automated screening of Sanctions, PEPs and alert lists and multiple confirmation of identity, address and birth.
CHOICE OF DUE DILIGENCE LEVEL	Users can opt for either simplified or enhanced due diligence. Simplified due diligence is typically for "low risk" transactions whereas enhanced due diligence is for "medium or high risk work".
ON-GOING COMPLIANCE	The system continues to monitor risk-assessed clients, alerting you if documentation or data may affect the result of the original assessment.
AUTOMATED RECORD KEEPING	An AML search also automates record-keeping and audit. Users have the option to add, certify and manage customer documents within the due diligence record.

Geodesys offers an AML search at a cost of £6 (inc VAT) for enhanced due diligence. For more information please see our frequently-asked questions on AML for conveyancers at www.geodesys.com/aml-directive-faq

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FIVE REASONS TO OUTSOURCE YOUR PAYROLL

By **Julian Bryan**, Managing Director, Quill



The clock is ticking for UK employers who haven't yet gone live with auto enrolment workplace pensions. The final staging dates are imminent and The Pensions Regulator is now routinely publishing details of employers who've been ordered to pay fines for ignoring new pension rules.

new pension rules.

If you're not compliant already, now's the time to act. However, if you're battling to get to grips with auto enrolment (and we wouldn't be surprised; it hasn't been labelled "the biggest shake up of pension reform for a generation" for nothing!), there's never been a better time to outsource the increasingly burdensome payroll function.

"You're bound to say that!" we hear you shout. And, yes, we agree with you. As an outsourced service supplier, it's in our best interests to promote outsourcing at every opportunity. But, we anticipate some scepticism which is why we've helpfully compiled a compelling list of five good reasons in our attempt to convince you that we're not being entirely selfish. We're actually doing our bit to help you cope with mandatory pension reform and avoid costly financial penalties or irreversible reputational damage.

So, without further delay, let the five reasons begin:-

1. AUTO ENROLMENT APPLIES TO EVERYONE

Even if you employ just one person, you're still obliged to provide a workplace pension. In other words, there's no avoiding it. It's the law. Whether you're a small, medium or large-sized business, you have a legal requirement to comply by your allocated staging date.

We strongly recommend checking your staging date as soon as practicably possible. It's easy to do. First, hunt out your PAYE reference. This is conveniently located on all your company's HMRC documents. It takes a 3-digit, 7-character format, for example, 913 / WZ5121A. Armed with your unique identifier, go to the online staging date tool at www.thepensionsregulator.gov.uk/employers/staging-date.aspx, enter your PAYE code, complete the captcha box and click the 'Show my staging date' button.

2. PUNISHMENTS ARE ENFORCED

Just as with any breaches of the law, there are punishments for non-compliance. The Pensions Regulator is empowered by the UK Government to regulate and fine businesses who don't comply, whether deliberately or unintentionally. Financial penalties range from £400 fixed penalty notices right up to £50,000 civil penalties for companies failing to engage with auto enrolment or pay contributions due.

And it's not just the financial cost, although this is obviously deterrent enough. The negative publicity surrounding your unlawful activity may cause irreparable damage to your professional reputation. As a legal service provider, this is extremely embarrassing. Even worse, you may lose clients as their trust in you becomes questionable and, as a result, they begin to conduct their legal affairs elsewhere with one of your (delighted!) competitors.

3. MANAGING WORK-BASED PENSIONS IS DEMANDING AND COMPLICATED

Even before your staging date arrives, there's a lot to do. This includes assessing your workforce to see who's eligible (against defined criteria), choosing a pension scheme (from an auto enrolment ready pension provider) and communicating with your staff regarding their options.

One of your earliest decisions relates to the individual pay components which determine your employees' qualifying earnings, for example overtime, commission and bonuses. It's up to you to make a reasonable judgement as to whether each element fits within the definition of qualifying earnings.

All this lengthy preparation is stressful enough without a last-minute rush by businesses who've left it until the eleventh hour to prepare. Much more so, if you have!

And, even when you've reached your staging date, your responsibilities don't end there. Employees must be re-assessed, contributions re-calculated, opt-ins added, opt-outs removed with refunds given each payroll cycle. Not forgetting general record keeping and reporting which is part-and-parcel of maintaining a clear audit trail of transactions. It's a mammoth task and one which needs tackled every few weeks ad infinitum.

The main reason cited by businesses postponing their staging date is an inability to cope with the excessive amount of prescribed paperwork. Despite being on the horizon for years, firms are continually caught unawares by the sheer volume of work involved preparing for auto enrolment.

4. SELECTING A PENSION PROVIDER IS A DIFFICULT DECISION

Pension providers are much of a muchness, offering the same service for the same fee, right? Wrong! With no restrictions on charges, some providers are applying additional administration costs. Providers' benefits, such as range of investment options and web-based software support, vary drastically too.

Your choice of pension provider will influence the costs to your business of auto enrolment as well as determine the administrative processes involved. So, the small print matters and needs to be carefully checked, compared and questioned before you sign on the dotted line.

5. THERE ARE OTHER PAYROLL DUTIES TO MANAGE TOO

To top it all, your payroll clerk (who may also be your business manager, accounts clerk, general administration assistant, receptionist or everything combined!) has all his / her existing responsibilities to take care of. Your employees' salaries, for instance. After all, unless they're working on a voluntary basis, at the end of each month, your employees have to get paid.

On a standalone basis, payroll management can be a full time job, covering salary processing, SMP, SPP and PAYE payments, payslip production, in-year and year-end reporting, as stipulated by ever-changing HMRC legislation.

A heavier workload resulting from the introduction of auto enrolment pensions and, suddenly, the role assumes unmanageable proportions. The net result of overwork is often stress at work. This isn't pleasant for your struggling employee, who may require long-term sickness leave for recovery purposes, or for you dealing with the fallout, sharing your absent staff member's duties between present employees or recruiting temporary stand-ins.

As a Bacs-authorized bureau (more on this later), we're permitted to perform your payroll function on your behalf, including transferring money from your business bank account directly into your employees' bank accounts to pay their monthly salaries, thus significantly lightening the load on you.

These five reasons are specifically related to payroll and pensions. There are, of course, many other reasons to outsource complex, heavily regulated back office business functions. For example, lower operational costs, enhanced risk management, compliance

assurance, availability of value-added support, automatic emergency planning, built-in disaster recovery, scalability, healthier cash flow and business development assistance... to name a few.

Read our earlier "Ten reasons to outsource your cashiering" guide at www.quill.co.uk/10-reasons for full details because, although specifically related to outsourced legal cashiering, the substantial list of benefits is equally resonant when the topic's focused on outsourced payroll.

To wind up, then, hopefully by now you've gained a better understanding of what's demanded by auto enrolment. You may also have come to the conclusion that you simply don't have the capacity to cope in house with your already-stretched human resources. In which case, our Quill Payroll outsourcing service is an increasingly appealing option.

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Julian Bryan joined Quill as Managing Director in 2012 and is also the Chair of the Legal Software Suppliers Association. Quill is the UK's largest outsourced legal cashiering provider with 40 years' experience supplying outsourced services and software to the legal profession.

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ANNUAL BAR & YOUNG BAR CONFERENCE 2017 ONE BAR: THREATS, OPPORTUNITIES AND STRENGTHS



The Tragedy of the Young Bar Uncovered

As assessment by Phillip Taylor MBE, Reviews editor, "The Barrister", and Head, Richmond Green Chambers



The annual Bar Conference never disappoints and this year's 32nd get-together in London was no exception. For readers

who have never attended the event, it is organised to cover high-profile key note speakers and a series of "break out" sessions to cover specific areas of practice.

Described as a "flagship event", both the Bar and Young Bar now hold their Conferences together. Not surprising really because the state of the Young Bar remains perilous! The Chairman of the Bar, Andrew Langdon QC, opened proceedings with a hard-hitting series of statements. Langdon began on a reasonably optimistic note about our future, but it did not take long before we got to the heart of the current agenda- the threats to our existence.

"Our demise has been prophesied since I was called 31 years ago", he said. "But you cannot keep a good idea down" referring to the tripling in the size of the Bar during those three decades. Langdon went on to cover the big current issues of the moment: 'flexible operating hours'; women in practice; technology; and judicial morale.

But worse was to come – the shrinking of the junior Bar, with Langdon saying, "we are currently losing young barristers who see how hard it will be to pay back the debts they incur in training". A conclusion which ran through the entire day was the event's peroration with many attendees believing that "the lack of confidence in public funding is partly what has caused chambers to recruit fewer members."

Which brings us to Duncan McCombe, chair of the Young Barristers' Committee, who presented a message "of hope tinged with caution" according to one commentator although behind the public face there remains a deep-rooted concern at the huge drop in younger people attending the Conferences and being able to stay the course of early years at the Bar.



McCombe was impressive and did not rock the boat, but the tragedy of the Young Bar is upon us unless action is taken. And that applies also to training contracts for trainee solicitors. He finished with these words: "The practice of farming out junior practitioners for heavily reduced rates or nothing at all, so that larger Crown Court briefs can be brought in for those higher up in Chambers is exploitative. It must stop." He is right, and sadly it is not just about the Junior Bar, either. When we all started as lawyers we needed the initial work experience which is more difficult to get today (because of legal aid cuts) so we need such exploitation to stop or there will not be new people following us in the profession.

Of course, we received the most welcome Susskind treatment as well. Now Richard Susskind can be misunderstood but his keynote to the Young Bar was unmistakable- assessing how technology can make access to justice more accessible, so it will be a choice of whether to compete or embrace new technology for the excellent Heather Hallett reminded us "having highly skilled specialist advocates is a good idea... and you cannot keep a good idea down". Thank you, Heather, for that very positive sound bite which ran through all the sessions.

We are, of course, keeping the best moment to last although if you have not been to this Annual event before do come next time. There is so much to offer from the top of the profession because there is normally at least one treat in store- this year it was the indefatigable Henry Brooke who never fails to surprise us.



We don't get many standing ovations, that is for political Conferences which are normally fixed. However, Henry Brooke got one for a most passionate speech. Readers will be familiar with Henry from his time on the Bench and his courage in fighting for a cause, whether prison reform or legal aid. It was legal aid this time and his quiet and carefully constructed delivery made the Conference.

The final word will go to the Bach Commission report. We had both the Attorney General and Solicitor General present at the event - they treat our deliberations very seriously, so we know the message gets back to the top. The point from 2017 onwards is that legal aid has wreaked havoc, especially in lower proceedings where the savings have been big but not as brilliant as the Treasury (and some MPs- we know who you are) hoped.

As Brooke indicated referring to a letter from a district judge who wrote, the day in court "is a long nightmare", for "so very many have mental health problems, drugs, language, learning difficulties". That unnamed DJ said, "I cannot no longer do justice or protect the vulnerable child or adult". He wrote - "I am in despair".

It doesn't have to be like this and that is the message from these Conference sessions for me for we can go forward being positive and avoid what could be big tragedies for the future as the legal agenda changes in post-Brexit Britain. Thank you to everyone for making this event so memorable at a clear turning point for the profession.



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DATA PROTECTION LAW EVOLVES INTO A NEW NICHE



We are at present seemingly swamped by marketing materials which are keen to point out the financial consequences of non

compliance with the new EU wide data protection regulation, the GDPR¹, which is due to come into force on 25th May 2018. This legislation, despite the inevitable cost to business in terms of change to process and procedure, is badly needed for the protection of all of us. The stealing of personal data for nefarious reasons is becoming more and more common and it is right that the law evolves to protect its citizens. Hailed by many as a "revolution", we prefer to think of it as an "evolution" to fill a niche largely created by e-communication.

For those of us involved in resolving family law cases using DNA testing technology, there are now some additional considerations, notably those relating to genetic information that could have derived from, say, a paternity test. For the first time, these data, along with biometric data are specifically mentioned in the legislation and are classified as sensitive personal information, along with religious beliefs, physical and mental health and ethnic origin. This is long overdue. Nothing is closer to your very being than your own unique genetic code. Analysis of your genes can already tell a lot about you, in the future this will be substantially more. Predicting (yes predicting, not just diagnosing) diseases, abilities or preferences all come under the spotlight. For those of you that think that the ability of ISPs to present advertisements based on your surfing activity is bad enough, it is truly little compared to what could be done with access to your genetic data.

The key to unlocking your code is the physical DNA itself, which can be isolated from a bodily sample, most simply a cheek swab or saliva sample to collect some cells from inside the mouth. In a paternity test we look at regions of DNA that are to be found throughout your personal DNA code (your genome). For the most part, these regions (the DNA profile) have no functional consequence, they are just markers in the sand. They are powerful enough though, to identify your immediate family and who is, or is not, the father of a child. It is this DNA profile that you may hear about as being stored on DNA databases and retrieved for example, in connection with a crime.

More imperative to consider is the rise of companies which obtain your DNA

sample and sequence the entire genome or make a detailed map, thus providing you with a report on say, your distant ancestry or changes in your genome which relate to disease pre-disposition or other characteristics. These data are necessarily far from complete and conclusions are far from absolute, yet these providers often continue to hold the DNA, sample and data. Consumers may find that they have agreed to retention of their DNA and the sharing of their genetic data (sometimes with payment) with third parties for other purposes. The consent these companies have obtained from consumers is not a fully informed consent as there may be risks and consequences that currently cannot be foreseen. The retention of genetic information is in fact broader than that too... such information is being held by healthcare providers and by universities and indeed, sometimes without limitation of time. You may have heard of "biobanks", where genetic information is held for the purpose of "research"...i.e. DNA data mining, which is often carrying a tenuous rationality.

This is precisely why GDPR is needed, consent buried in T&Cs is not a fair consent and the explicit "opt-in" required under GDPR will mean that consumers genetic data cannot now just be held in the expectation that an opportunity will arise for the testing company, without the consent of the donor to the use of their data in the new circumstances. GDPR also means that there will need to be accountability for the genetic data stored and how it is used. This

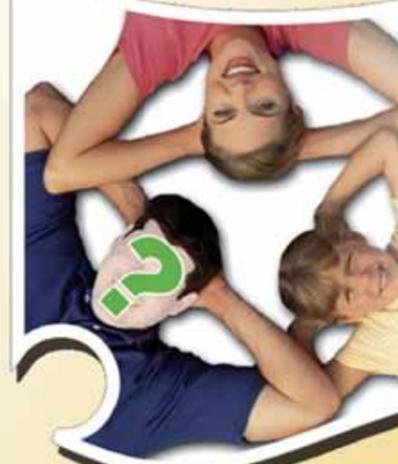
is in no part a complete block on important genetic developments; GDPR is quite rightly asking for accountability for the DNA data, as it does with other pieces of Personally Identifiable Information (PII).

In family law cases, which generally involve DNA profiling, reasonable steps must be taken to protect clients' data. Given the complexity of the cases we generally have to deal with, e.g. multiple solicitors representing different clients, the involvement of social services and local authorities, court orders, private individuals and international cases (including immigration), there is a veritable minefield of responsibility which must be attended to under GDPR. Coupled with the need of many to improve general internal practices (location of data, how it is used and shared, accessing from off site, cloud storage) GDPR will bring significant audit responsibility to the legal profession and its subcontractors.

We stand ready to work with you on these complex issues. What will arise will be a better system where genetic and other data is properly accounted for.

Dr Neil Sullivan, BSc, MBA (DIC), LL.M, PhD.
General Manager,
Complement Genomics Ltd.
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¹The General Data Protection Regulation see <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/>



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DR DAWN BAILHAM CONSULTANT CLINICAL PSYCHOLOGIST



Dr Dawn Bailham is a Consultant Clinical Psychologist with over 16 years experience working in the NHS, forensic mental health inpatient hospitals with adolescents. Covering child and adolescent mental health inpatient and community settings, forensic mental health with adolescents, adolescents with learning disabilities, and younger adult males.

In her current position Dr Bailham is Lead Psychologist working in CAMHS and Children's Services working with children with histories of abuse. She can do forensic assessments of adolescents and younger adults and has expertise in emerging personality disorder and working with children with attachment disorders and complex trauma.

She has training in DDP level 1, CBT, DISCO, AIM 2 and structured risk assessments and is a DBT therapist and CAT Practitioner.

She has attended court as an expert witness on numerous occasions giving evidence in the family courts, and on a number of criminal law and personal injury cases. She completed the University of Cardiff Bond Solon Certificate for expert witnesses working in criminal law in September 2013, as well as additional modules in family law.

Contact Dr Dawn Bailham
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LH is a registered member of the HCPC and the Association of Speech and Language Therapists in Private Practice, both are members of the Royal College of Speech & Language Therapists. LH is also a member of North West Special Interest Group for Adult Acquired Disorders & Headway.

BENDING OVER BACKWARDS

EXPERT WITNESSES CONFER AND CONVENE WITH LEGAL HIGH FLIERS ON COSTS AND OTHER AWKWARD QUESTIONS

Elizabeth Robson Taylor and Phillip Taylor MBE of Richmond Green Chambers review the highlights of the 2017 EWI conference.

You always know it's autumn when the conference season kicks off. And it is usually the Conference of the Expert Witness Institute (EWI) that starts it in considerable style.

This year, on 21st September 2017, over 100 EWI members made their annual pilgrimage, as it were, to their usual conference venue of Church House, looking customarily impressive in its leafy, campus-like location in Westminster, not far from Westminster Abbey and Parliament.

As in previous years, the Conference was notable for its roster of distinguished speakers, from Lord Justice Rupert Jackson, who gave the keynote speech -- to the inaugural address delivered by Martin Spencer QC (now Mr Justice Spencer) who, in addition to his role as a High Court judge, has assumed the chairmanship of the EWI.

Presided over by EWI Governor and Conference Chair, Amanda Stevens, this is a gathering where lawyers are well placed to garner important insights into the role of the expert witness in court -- and where expert witnesses can meet, greet and compare notes with each other, as well as with the lawyers whom they might possibly advise, or for whom they might well receive instructions.

Expecting an especially memorable conference this last year, the delegates were not disappointed.

THE KEYNOTE

Lawyers of course will need no reminder that it was Jackson who, in 2009, accepted the monumental task of constructing the famed and often controversial 'Jackson Reforms' on the vexed question of costs, implemented finally in 2013. His keynote speech referred throughout to his latest supplemental report published on 31st July 2017. The title -- 'Review of Civil Litigation Costs: Supplemental Report Fixed Recoverable Costs' -- is self-explanatory.

Interviewed just prior to his keynote address, Jackson mentioned that his reforms have been the subject of some negative comment. The criticisms in his original report were aimed primarily at legal fees of the exorbitant, outrageous and disproportionate variety. Many have argued of course that what is termed disproportionate by the consumer of legal services is not necessarily considered so by the legal team which provides them.

CONTROVERSIES ON COSTS

Herein lie the seeds of controversy, not surprisingly, which have been germinating for some time. Meanwhile -- especially transatlantically -- the matter of 'pricing' legal services has become almost

a separate discipline, presided over by consultants -- not necessarily lawyers -- who claim special expertise in this area. It's equally unsurprising that these and related developments have pointed up the need once again, for Jackson's latest Report.

Affable and erudite -- note that he has been editor-in-chief of The White Book since 2010 -- Jackson explored more than a few key areas of scrutiny on fixed recoverable costs. As expert witnesses can and do provide testimony in court which can turn the course of a case one way or another, they do expect to get paid -- proportionately and preferably on time. Judging by certain searching questions from members of the audience, issues of costs at this conference began to emerge as a major concern.

Jackson therefore referred to the causes of excessive costs identified in his initial costs review. While most of his recommendations have been, in his words, 'bedded in' following their implementation in 2013, there are six remaining that haven't -- and in which apparently little or no progress has been made.

In response to the obvious need for a further review, the Lord Chief Justice and the Master of the Rolls commissioned Jackson in November 2016 to develop proposals for extending the principle of FRC -- Fixed Recoverable Costs.

AN EWI FIRST

Judging from Jackson's additional remarks just prior to the speech, the EWI members attending this conference were among the first to have sight of -- or at least detailed information about -- the latest recommendations in his supplemental report.

As the Report was first published in July of 2017, government ministers who were to be its first recipients, were all away on their hols and therefore not available for comment. However, by the time this article sees the light of day, they will indeed have seen the Report, one hopes, and noted its contents. But considered in the light of experience, it is not even remotely possible that the newly published recommendations will be implemented before Jackson's retirement in March 2018.

His wide-ranging speech to Conference, however, covered many more issues, including matters such as guideline hourly rates... 'not satisfactorily controlled', and inadequate numbers of staff and IT facilities in the civil courts.

He pointed a critical finger at other factors that bump up costs: 'time consuming court procedures' are one example -- and 'the complexity of the law' another, in certain areas of litigation. The obvious remedy, which again is hardly likely to come to pass

all that soon, is simplification, which would certainly benefit bemused members of the public and the growing numbers of litigants in person.

It would seem, however, that his criticisms of 'too high' court fees, have been met with indifference. 'I might as well bleat at the sea like King Canute,' he said. 'Instead of being reduced, they've gone up. I've made harsh comments about that, but no one has taken any notice!'

[Sorry, we can't help mentioning here that King Canute gets a bad press on this one. What he was really trying to do was convince his sycophantic courtiers that even he, with all his earthly power, couldn't control the sea -- any more than anyone can turn back the rising tide of new and ever-evolving legislation, as well as burgeoning costs.]

Turning his attention to matters of medical negligence -- 'a very difficult subject' -- Jackson expressed the view that most such cases worth up to £100,000 were not suitable either for the fast track, or even the new 'intermediate' track which he has recently proposed for other matters. However, other medical negligence claims of under £25,000 could -- or might -- be dealt with by a 'bespoke process' and a grid of fixed costs.

THE EXECUTIVE SUMMARY

As for the Supplemental Report itself, 'read my Executive Summary,' is Jackson's best advice -- and a good suggestion too, as it functions as a precis and guide to the main document, while reiterating crucial points.

The first of these is a reminder that 'In England and Wales, the winning party is entitled to receive costs from the losing party.' Now there's a grim reality that many overseas/transatlantic clients (you've probably got at least some of those) just simply don't get. In their view it is: (a) incomprehensible; (b) unbelievable and (c) grossly and manifestly unfair.

A FLAWED RECIPE

The consensus here is that each side should jolly well pay its own costs, thank you very much -- which is not out of line with Jackson's considered opinion that this winner-takes-all policy is quite simply 'a recipe for runaway costs.' Now though, it appears that the 'recipe' isn't going to be changed in a large hurry.

Jackson nonetheless retains his staunch belief in fixed recoverable costs, stating unequivocally that 'the only way to control costs effectively is to do so in advance.' Agreed fees up-front...or in advance -- or whichever way you want to put it -- should in most circumstances, be the order of the day.



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Joanne Caffrey is a former police officer with 24 years experience. She specialised in custody duties and designed national custody training programmes for Safer Detention. She worked on police and prison custody settings.

National award winner for Safer Custody training initiatives.

She also provides Expert Witness services for the use of physical intervention in the education sector.

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UNDERSTANDING BUSINESS ACCOUNTS – WHAT TO LOOK OUT FOR



Lawyers are good with words, and accountants are good with figures. What a pity they don't

talk the same language! Now meet an accountant who is good with words – I have to be, as an experienced expert witness – which means that I must be weak with figures. True? Not really! It's a pity that so many people, some lawyers included, are frightened of figures, because the principles really are quite simple; they have to be, for me to understand them! Many accountants like to keep the mystique of business accounts to themselves, but I am happy to share.

An understanding of business accounts is important in so many aspects of the lawyer's work:

- A self-employed man is seriously handicapped after an operation went wrong; what would he have earned but for his disabilities?
- A company director is killed in an RTA; but for his death, how much of his earnings would his dependents have received?
- A couple seek a clean break divorce. The husband has a limited company; what is it worth, and what cash could be withdrawn to assist in the settlement?
- A factory burns down. What would the future profits have been?
- A factory burns down, and a false claim is suspected. Was the business really earning as much as claimed?
- The directors of a company can't get on, and a Section 994 claim is made. How much should the Court order that the unfairly prejudiced shareholder receives for his shares?
- ...and so on. In all these situations, and more, you the lawyer need to know what the past business accounts show, how reliable they are, and how they may be used as a basis for projecting future profits.

How do you begin? Well, you could of course instruct an accountant to advise on every case where business accounts are involved; but in these days of stringent costs, that can't happen. So how do you gain an understanding of which cases do need an expert accountant's help, and which you, as a wordsmith but perhaps not a figure-smith, can handle yourself?

The first thing is to get a simple guide to business and company accounts. I can help. For some years up to the death of David Kemp QC I had a short chapter (9 pages) in Kemp & Kemp

which gave this guidance. After Mr Kemp's death the work was re-written, and my simple guide is subsumed in the work of others. So it is out of print, but still highly relevant to lawyers dealing with all the kinds of cases I list above, and not just personal injury. I would be happy to send a copy, without charge, to whoever asks for it.

The second is to have a friendly relationship with a forensic accountant who will perform an initial review of any case, and give his views, without charge if not appointed. I do this frequently; I don't sulk if not appointed, and I tell you if I consider that an expert accountant is not needed. It's good business for both of us: I am appointed only on worthwhile cases, and you have the assurance that someone who understands business accounts, and their relevance to your case, has considered them. If nothing else, it saves negligence claims!

Thirdly, let us have a very brief look at what to watch out for. Once you have my Kemp & Kemp chapter you will be half-way there. But I will finish with some quick tips on what to look out for in limited company accounts:

- The audit report: does it use standard wording for a "clean" report, or is the auditor trying to tell you something?
- A qualified audit report (no "true and fair view" or a true and fair view "except") is serious. Beware of what the auditor clearly is trying to tell you!
- If there is no audit report, it may simply be because the company is too small to require one. But then there can be no assurance that a qualified accountant has looked at the books independently.
- Even then, good accountants would not put their name to accounts which they knew to be wrong, so speak to someone who knows the good or bad reputation of the accountant.
- Look at the Profit & Loss Account. Are dividends being paid even if a loss is suffered? Does that lead one to believe that matters are not so bad as the directors would have one believe?
- Look at the Balance Sheet, and remember that the total (Shareholders' Funds) is not the worth of the business. If that comes as a surprise, I will explain if you give me a ring when you have a spare half hour!
- Is Net Current Assets a positive or a negative figure? If the latter, is there fear that the company will not be able to pay its debts as they fall due?

- Ensure that you receive a copy of the detailed trading accounts, usually headed "Trading and Profit & Loss Account for Management Information only". These do not form part of the statutory accounts, but they are essential to an understanding of the business. I insist on seeing these for several years, and I always start by charting them in Excel, to see whether turnover is going up or down, the rate of gross profit, whether expenses have any "quirks", and so on. Seek explanations.
- Consultancy fees are usually interesting. What assistance was given? Was it to someone close to the directors? Was it at a market rate? Will the benefit of the consultancy be reflected in future profits?
- Directors' remuneration: has it varied much? With a family company, the proprietors will take out salary, fees, benefits in kind, pension contributions, dividends, in a tax-efficient way. The salary will seldom be at a commercial rate.
- Depreciation: have the rates changed? Is there a suspicion that this is to increase (insurance claim) or reduce (divorce) profits?
- Fixed assets: after depreciation,

are they shown at a realistic value? Remember that fixed assets are to be shown at historic cost (unless revalued) less depreciation, which can give a false indication of the value of the company. Is freehold property undervalued?

There is much more, but in this short article I trust I have provided something of value, so that you can decide with your many types of cases when a forensic accountant is needed, and when not to waste his time. But as a final point, if you wish to send me your key documents for a free initial review without obligation, that would never be a waste of time!

Biog: Chris Makin was one of the first 30 or so chartered accountants to become an Accredited Forensic Accountant and Expert Witness. He is also an accredited civil & commercial mediator and an accredited expert determiner. He has given expert evidence at least 100 times and worked on a vast range of cases over the last 30 years. For CV, war stories and much more, go to his newly relaunched www.chrismakin.co.uk - with videos!

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Google rings the changes – will your law firm's website suffer?

In the modern era, your website is your firm's shop window. The question is, how often do potential clients look in?

That's largely down to how your site is performing in search engine rankings. If you aren't near the top of page one on Google, no-one will see you. So, when Google decides to mix things up a little, you need to pay attention.

WHAT IS GOOGLE UP TO?

Google commits itself to making your online security its main priority. Since October of this year, version 62 of Google's Chrome browser will display a "Not secure" warning in the address bar at the top of the page if you enter data into a form on an HTTP website.

So, what are HTTP and HTTPS? The former stands for Hypertext Transfer Protocol. It defines how messages are formatted and transmitted, and what actions web servers and browsers take in

response to various commands. Many of the websites you visit, particularly online shopping sites, run the alternative HTTPS system. Google is now encouraging everyone to move to HTTPS. The extra "S" standing for "Secure".

In addition, if you don't have an HTTPS website, Google will penalise you in search page rankings. You may just not appear at all.

WHAT DOES THIS MEAN FOR YOUR BUSINESS?

Any sign that your site is insecure will make potential clients think twice before contacting you. In addition, if your non-secure site means you are not listed in search results, new business enquiries will take a hit.

According to a recent article in **Today's Wills and Probate News**,

an estimated 80% of all law firms will be affected by the changes. Clearly, these are changes that you should not take lightly. You are always only one click away from losing a potential new client. It doesn't make sense to do nothing as, effectively, you are sending an enquirer direct to one of your competitors.

HOW TO FIX THE PROBLEM.

Fortunately, this is an issue that you can easily rectify. Contact your web hosting company and seek their advice about the best way to move to HTTPS.

HTTPS pages typically use one of two secure protocols to encrypt communications – SSL (Secure Sockets Layer) or TLS (Transport Layer Security).

Whatever the case, a good web hosting company should be

able to make the change for you with little fuss. If this isn't the case, consider moving your site to a reputable host.

When we made the change at LawWare, the whole job was completed by our **web hosting company** in a matter of an hour.

You may have to redirect a few of your key URLs on your site. However, your hosting company can help with this too. For most modern websites built on the WordPress platform, this is not necessary.

When LawWare moved its website over to HTTPS, we noticed a slight dip, followed by a marked improvement in our Google rankings. It was well worth the effort in terms of hits to the site and enquiries generated.

Mike O'Donnell,
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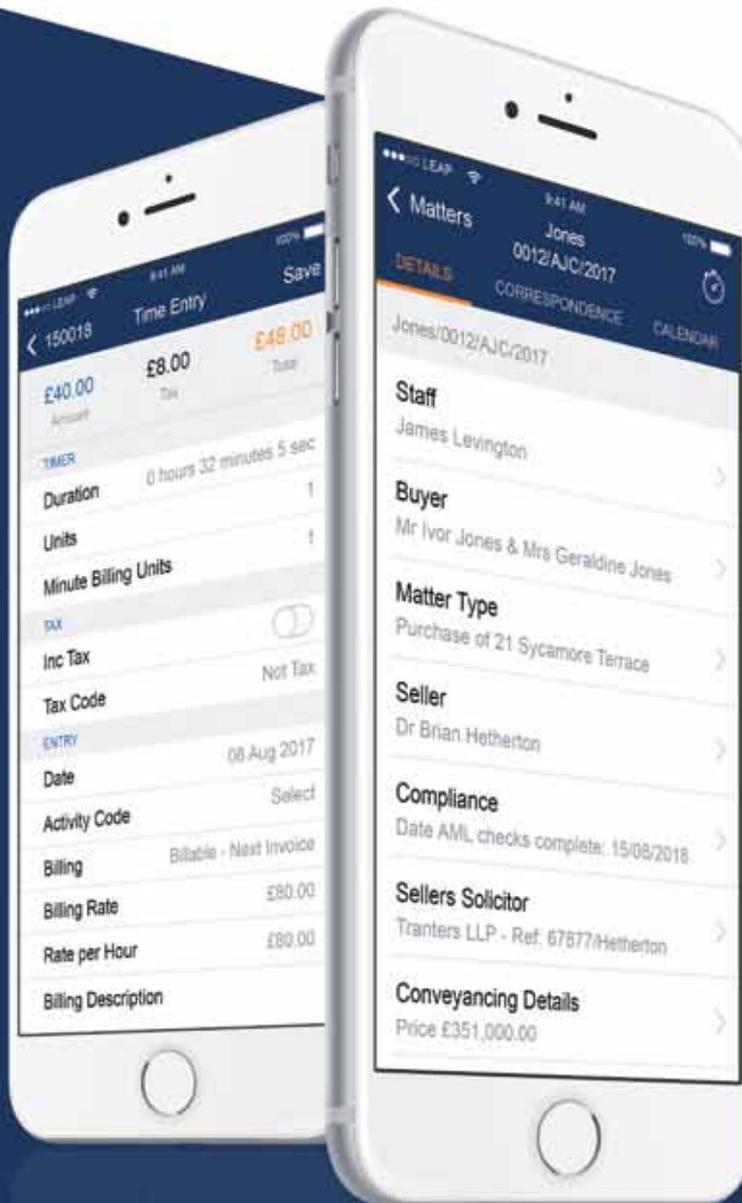
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