

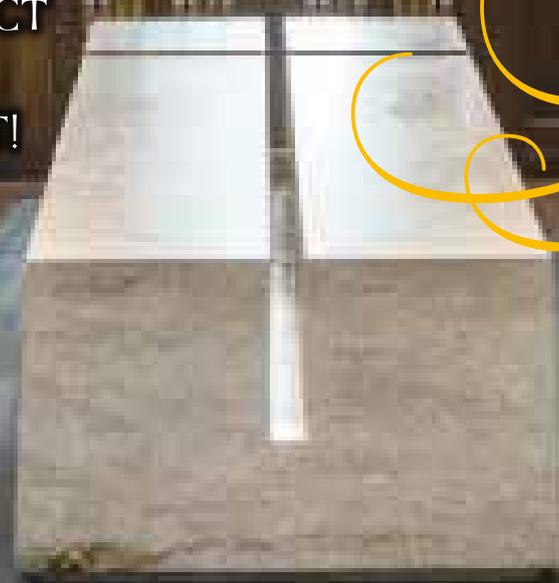
# Leicestershire Law Society magazine

## King on Trial!

TRIAL HELD, VERDICT  
ANNOUNCED...  
READ ALL ABOUT IT!



TOMB OF KING  
RICHARD III,  
LAID TO REST  
AT LEICESTER  
CATHEDRAL  
26.3.15



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## WELCOME/CONTENTS WINTER 2016/17



### Editor's Intro

Welcome to the winter edition of the LLS Magazine. A very busy 3 months has passed since our last edition and there have been some spectacular events organised by the Society which have already taken place. Read further to see if King Richard was found guilty or not guilty at his trial on 03/11/2016. What was the Networking Lunch like, which was held at More Restaurant on 31/10/2016.

Our President, Imogen Cox, held a Christmas event in aid of her chosen charity LOROS on 01/12/2016 at the Wistow Rural Centre and this was Simone Bell's first solo event since she took over from Kauser Patel as manager of the Leicestershire Law Society, who is now on maternity leave. We all at the LLS wish Kauser all the best in her own forthcoming event.

I would like to take this opportunity on behalf of the Leicestershire Law Society to wish the legal profession and all at Leicestershire Law Society and our Patrons, a very happy seasonal holiday and new year.

Regards

Adam Markillie, Editor  
adam.markillie@cartwrightking.co.uk

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**JEFFREY C. ROSENTHAL**  
FCIArb FCCA MAE  
•  
CHARTERED ARBITRATOR  
CHARTERED CERTIFIED ACCOUNTANT  
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## Using Alternative Dispute Resolution for Commercial Disputes

Alternative Dispute Resolution encompasses resolving disputes by Arbitration or Expert Determination, or encouraging the parties to settle by Mediation. These processes are encouraged by the Courts, and are sometimes referred to as Private Dispute Resolution because of the privacy and confidentiality provided to the parties.

With my background as an accountant and adviser to numerous SMEs, and many years' experience in dispute resolution, I can provide these services to resolve commercial disputes. I can also offer a hybrid of Med/Arb which starts as a Mediation and evolves into Arbitration if the parties are unable to settle. This is very cost-effective as there is no need to find a second neutral appointee.

As you will see from my advertisement, I am a Chartered Certified Accountant, Chartered Arbitrator, Member of the Academy of Experts and a CEDR Accredited Mediator.

**Jeffrey C Rosenthal**  
FCCA, FCIArb, MAE

# PRESIDENT'S REPORT



I cannot believe that my year is over half way through! It seems to be going so quickly. Before we know it, we will be welcoming Jonathan Foster as our new President.

In the meantime though, it has been a very busy few months. You may recall when I started my year that I said that I really wanted my events to have a Leicester theme. As a Leicester girl born, bred and educated, I wanted to support locally run businesses, venues and iconic buildings, as well as having specific events to raise money for my Leicester charity LOROS.



The LANSKA and LLS joint lunch on 31st October at More restaurant was really well attended and was a great event.

Then, (and you may have noticed a slight mention of this in other parts of the magazine!) the long awaited trial of King Richard III at the Town Hall, Leicester.

I have to admit that this event caused me a few sleepless nights! I soon realised

the strength of feeling and passion over events that occurred centuries ago and realised that it was a mammoth task to make the event historically accurate but also entertaining.. It was however very well received. Please read all about it at page 10, and thank you again to those of you that helped me pull it off! You know who you are.

We then all got really Christmassy at the gorgeous Wistow Rural Centre. Hosted by Jane Clifford from the Café Bistro, Jane also provided the gorgeous food for all attendees.



My friend Charlotte Thompson assisted with the organisation and the event was attended by LOROS who signed up a number of people for the lottery which will give this amazing charity much needed long term support. The whole event was my second one of my year in support of LOROS. I will let you know the total raised when we have it. Thanks also to the Spectaculars Choir who were amazing and gave their time and talent free of charge.

Welcome to the new LLS manager Simone Bell who has settled in very well after a seamless handover from Kauser Patel. The Wistow Bistro event was her first "solo" one and she did a great job.

As well as providing you members with networking and training events to enjoy you will also know that our main and sub committees have an important role to play in responding to consultations and proposals made by the government which affect the working practices and sometimes the jobs of our members.



We were recently approached by our members from Affinity Law Solicitors on the widely reported matter that currently the government are proposing to ban all personal injury claims with a value of under£5000. They believe that this will combat fraudulent claims.

Affinity Law wanted to send a letter to all 650 MP's and to the Prime Minister. We have offered to assist them in this.

**Imogen Cox**  
President, LLS

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# NETWORKING WITH ACCOUNTANTS

The 'Networking With Accountants' lunch was held at More Restaurant, Leicester on 31st October 2016 and was very well attended. All in attendance at the Lunch enjoyed the event and also the food which is prepared in a kitchen within the restaurant to give everyone an opportunity to watch how the food is prepared by skilled chefs. The Event was held in conjunction with LANSCA and The Miller Partnership.



# HOW MANY NEW CUSTOMERS MUST YOU ACQUIRE TO PAY FOR UNNECESSARY ENERGY AND OTHER BUSINESS COSTS?



One is too many isn't it? Unfortunately many firms are still being overcharged for their electricity, gas, phones, broadband and merchant services. When you think about how hard we work to grow our business and achieve the service levels we aspire towards, it is little wonder that comparing utilities often sits low on the priorities. The difference between a good and a bad deal can add up to thousands of pounds but many firms are paying more without realising. We are delighted to offer a free business MOT through our Patron Jonstar, whilst most of us don't like dealing with bills, Jonstar love looking at bills for their customers and finding savings and sometimes refunds! Here are what some of their happy customers had to say:

*"Thanks to Jonstar for a fantastic service*

*on our office utilities! Job well done giving valued advice and peace of mind"*

**Bushra Ali**, Bushra Ali Solicitors.

*"Our experience of Jonstar Energy Brokers was excellent and completely 'hassle free' in terms of our input as they took the initiative, led all the relevant dialogue with the companies and fed back to us with a very simple and clear answer as to the options that we had available to us. The reality is that the service was without any charge to us at all and of course with no commitment to have to alter a supplier if we did not wish to do so. In our case the involvement led to a saving of money and we would be very happy to recommend them and will be retaining their help and support going*

*forward. In terms of any Commercial energy cost savings I would thoroughly recommend that you take them up on a free no obligation comparison. There is literally nothing to lose and potentially everything to gain!"*

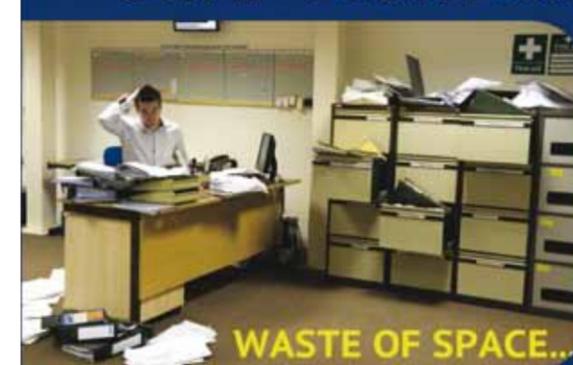
**Ranjit Thaliwal**, Thaliwal & Co Solicitors

It could not have been simpler - Jonstar took the hard work out of it and took care of everything; the savings we have made are considerable and we could not achieved them without Jonstar's help.

**Mehmooda Duke**, Moosa-Duke Solicitors.

To contact Jonstar  
Call 01162704686 or  
Email [info@jonstarenergybrokers.co.uk](mailto:info@jonstarenergybrokers.co.uk)

## SWAP YOUR BOXES FOR DESKS



And office space is expensive. What to do?

**WELL AN INCREASINGLY POPULAR SOLUTION IS TO STORE YOUR DOCUMENTS OFF-SITE.**

James McColl of Anglian Archives based on Moulton Park in Northampton explains how it works...

*"Our customers improve their working environment and free up space taken up by filling cabinets and documents by storing them off site. And 'off site' doesn't mean 'out of mind' as we offer clients a document collection and delivery service, with 1-hour urgent retrievals if required.*

*With storage costs per box from as little as 1p per day, why would anyone take up valuable office space to store boxes? Especially paper-intensive businesses with statutory requirements to store information, such as accountants, law*

*firms, recruitment companies, estate agents and doctors.*

*I advise business owners to look around their office and count up the amount of space being permanently dedicated to storing something rarely used and think how much money you are wasting. Never has the phrase 'what a waste of space' been so apt!*

*It's even more acute for growing businesses that are struggling to find space for new employees. We can manage, store and retrieve your documents at low cost - why wouldn't you store off site? Think of us as an additional department."*

So the next time your boss comes in to the office and says 'please sort out this mess' just give James a call.

**James McColl**  
Anglian Archives  
Tel: 01603 766404  
Mob: 07875 234931  
[info@anglianarchives.co.uk](mailto:info@anglianarchives.co.uk)  
[anglianarchives.co.uk](http://anglianarchives.co.uk)

A cluttered office or messy desk can look inefficient, even lazy. We may not agree, but a tidy office does look organised, efficient and pleasant to its occupants and visitors.

Studies show that a tidy workspace gives a positive mind set and motivation to work. So tidy is good, and it's easy because we can all file our paper documents neatly in cabinets and boxes, but that presents another problem - we're using up valuable office space to store something that's used infrequently.

# MEMBERSHIP OF LEICESTERSHIRE LAW SOCIETY 2017



If you are interested in becoming a member of the fantastic Leicestershire Law Society (LLS) then please contact either Bushra Ali or Daniel O'Keefe, who make up the membership team. Bushra Ali is the founding/sole Director of Bushra Ali Solicitors which is a specialist immigration practice. Bushra became Leicestershire Law Society Solicitor of the Year in 2012 and again received the award in May 2016. Daniel O'Keefe is a Senior Solicitor at clinical negligence firm Moosa-Duke Solicitors.

We feel that the Leicestershire Law Society 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 very keen 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.

## WHAT IS THE LEICESTERSHIRE LAW SOCIETY ALL ABOUT?

The Leicestershire Law Society is one of the most active regional Law Societies in the country. During each year we have lots of great networking and social events including a garden party, annual ball/awards ceremony, networking lunches. We also put on lots of excellent professional development courses, run by members across many different practice areas.

This year we ran a mock trial of Richard III at Town Hall, with Barristers, Actors and a Jury. We have also just had the LLS Christmas drinks at Wistow Garden Centre which was a great success, raising money for LOROS, who are the local charity the LLS has chosen to support this year.

The next event for members to put in their diary is the Awards short listing event on 15 March 2017 at the Grand Hotel. This starts the build up to our main event of the year, our annual Ball and Awards ceremony which will be at Athena on 19 May 2017. More news on these events to follow in future editions of the Magazine.



Masquerade Ball 13/05/2016

## BRAND NEW MEMBERSHIP PACK



Bushra Ali and Daniel O'Keefe

We are currently putting together a new membership pack which will be emailed to all members for the start of 2017. We see the pack as an important way of showing what the Society has to offer and the fantastic value for money that membership gives you. In addition to highlighting the various courses and events we have going on, we are also using the membership pack to strengthen our links with local businesses. We have been delighted to see that there are lots of local businesses are keen to join forces with the Leicestershire Law Society and we have some fantastic offers and discounts for members included within the membership pack. Full details will be provided in the membership pack when it comes out in January 2017. However, we can confirm that we have managed to secure discounts at numerous restaurants, hairdressers and clothing shops. In addition, David Lloyd Sports Club in Narborough has agreed to offer a 14 day free membership trial to all LLS members and their families. Carisbrooke Tennis Club is offering a 50% discount to all LLS members on full membership. We are working hard to secure further deals with local businesses for our members and it is great to see that people are really keen to build a relationship with us.

*We are always looking for new members and feedback from existing members in relation to courses, events and how they feel membership could be improved. If you have any queries please contact Bushra Ali at bushra@bushraalisolicitors.co.uk or Daniel O'Keefe at dokeefe@moosaduke.com. We look forward to meeting as many of you as possible in 2017.*

## WHATS ON

**27/01/2017**  
**CIVIC DINNER**  
Time: 7pm – 11pm  
Venue: Grand Mercure Hotel, Leicester.  
Tickets: By Invitation Only.

**15/03/2017**  
**LLS AWARDS SHORTLISTING EVENT**  
Time: To be announced  
Venue: Grand Mercure Hotel Leicester  
Tickets: Leicestershire Law Society

**19/05/2017**  
**LLS AWARDS CEREMONY**  
Time: To be announced  
Venue: Athena, Queen Street Leicester  
Tickets: Leicestershire Law Society

## LEICESTER LAWYER RECOGNISED WITH CONTENTIOUS PROBATE ACCREDITATION



A SPECIALIST contentious trusts and probate lawyer in Leicester's Nelsons Solicitors' dispute resolution team has been awarded accreditation from the Association of Contentious Trust and Probate Specialists (ACTAPS).

Associate and solicitor Lewis Addison received full membership with the body in October, illustrating his expertise in the area.

He said: "I am very proud to have achieved full membership of ACTAPS. It is an industry benchmark which signposts clients to firms who have this specialism, making it easily recognisable for our clients."

"Contentious trusts and probate is a complex issue and it is important to obtain specialist advice. The accreditation not only recognises our specialist knowledge but also sees us follow a moral code of conduct."

ACTAPS was established to provide a forum for contentious trust and probate specialists to exchange experience, know-how and best practice. Membership is open to solicitors, barristers and legal executives.

Lewis joined Nelsons in 2008 after qualifying in 2006. With more than ten years of experience, he has worked on numerous contentious probate and inheritance cases and was able to gain full membership of ACTAPS by demonstrating his specialist knowledge and expertise in this area.

Lewis added: "To receive the full ACTAPS accreditation is a huge achievement for me."

"Nelsons has two ACTAPS members within our East Midlands based offices which shows the experience the team has in this complex area."



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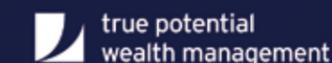
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# THE TRIAL OF KING RICHARD III



In a joint event between Leicestershire Law Society and The 36 Group (previously 36 Bedford Row Chambers) on 3rd November 2016 at Leicester Town Hall a "mock trial" was held to decide the guilt or innocence of King Richard III.

**T**he trial was set against the historical assumption that King Richard III locked up his nephews, Richard and Edward and then killed or had them killed so that he would be next in line to inherit the throne from his dead brother, Edward IV.

The event was also sponsored by the Grand Hotel and Estate Research with on-going support from the Leicestershire Law Society Patrons.

King Richard III faced an indictment alleging two counts of murder.



**Prosecution:** David Herbert QC, Leading Counsel  
Queens Counsel at The 36 Group

Imogen Cox, Junior  
Rita Kojecica, Instructing Solicitor for  
The Crown.



**The Defence:** William Harbage QC, Leading Counsel  
Joint Head of Chambers at The 36 Group

Helen Johnson, Junior  
Sajeela Hussain, Instructing Solicitor for  
Richard III

The Jury was made up of the Audience of 100 people. Foreman of the Jury was the Lord Mayor of Leicester Councillor Stephen Corraff.

**His Honour Judge Simon Hammond** (retired) was the Presiding Judge over the proceedings.

The narrators for the event were:

**Christl Hughes**, Chair of the SBA, Solicitors Charity and retired Solicitor and past president of the Leicestershire Law Society.

**David Lee**, Counsel and member of the Bar for over 40 years.

## Indictment

In the Great Hall at Leicester  
The Crown  
- v -  
Richard Plantagenet (aka Richard of Gloucester)

Count 1. Statement of Offence	Count 2. Statement of Offence
<b>MURDER</b>	<b>MURDER</b>
Particulars of Offence	Particulars of Offence
Richard Plantagenet on a day between 16th June 1483 and 31st December 1483 murdered Prince Richard.	Richard Plantagenet on a day between 16th June 1483 and 31st December 1483 murdered Prince Edward.

The witnesses for the Prosecution were:

**Dominic Mancini**, Played by Mr Benjamin Trott, Marketing Manager  
Cartwright King Solicitors.  
**Sir Thomas Moore**, Played by Mr Adam Markillie, Family Solicitor  
at Cartwright King Solicitors.

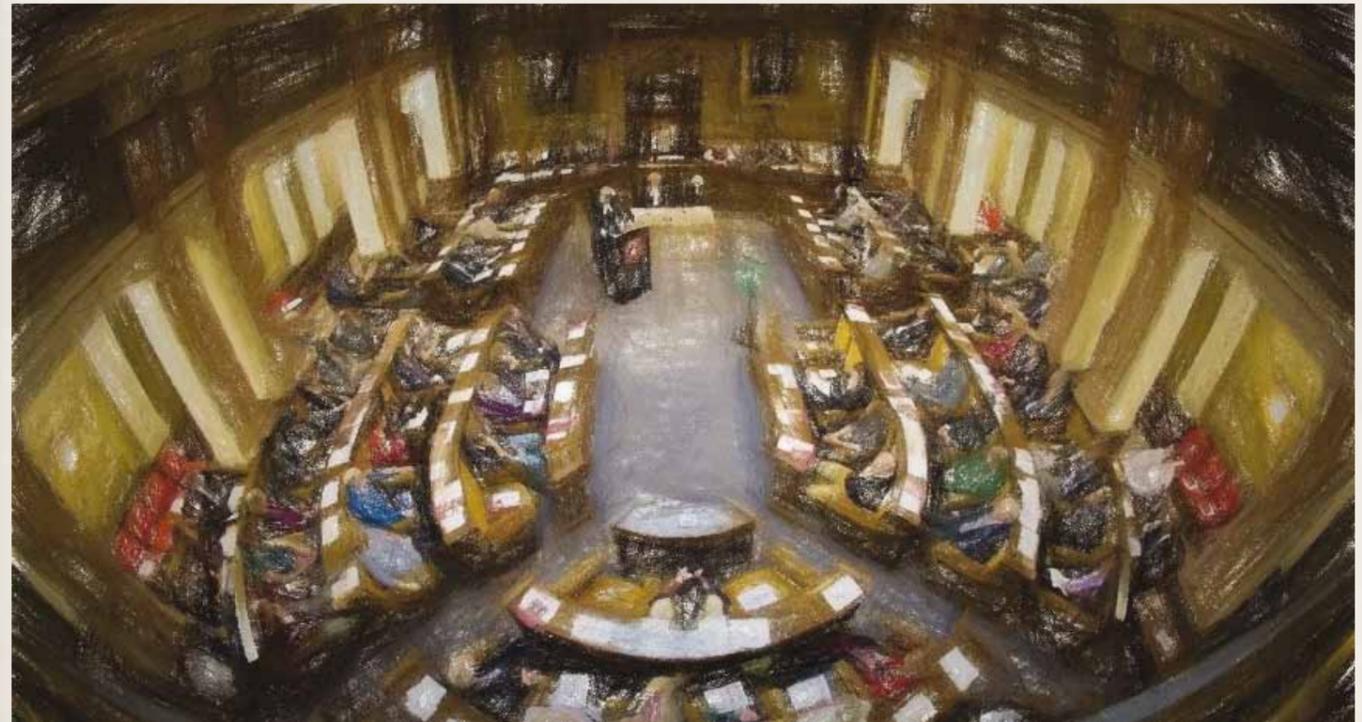
The witnesses for the Defence were:

**King Richard III**, Played by Mr James Collins, Barrister  
and head of the Immigration Team at  
The 36 Group  
**Bishop of Lincoln**, Played by Mark Benton, Private  
Client Immigration Solicitor at  
Cartwright King Solicitors.  
**Lady Margaret of Burgundy**, Played by Ms Jane Durant,  
Professional Introductions at  
Berkeley Burke.

## Proceedings

**Usher**, Played by Marianne Always  
**Court Clerk**, Played by Barry Kimberley.

The entire trial was held at Leicester Town Hall in the Chambers of Leicester City Council, which provided an ambience to the whole proceedings.



## The Trial

The Jury was sworn in and King Richard III was placed in the dock. He told the Court "I am King Richard III of England." The King was asked to enter pleas and remained silent. The Judge directed that pleas of not guilty be entered on the record.

The Jury was given a background around the history of the trials by Narrator Christl Hughes. Narrator David Lee gave the history of trial by jury. In the time period of Richard III there were few judges and the trial process was used to give an advantage to the Crown. The most serious offence at the time was Treason. The right to trial by Jury became an explicit right in the Magna Carta.



David Herbert QC giving his opening statement to the Court.

David Herbert QC (Lord Herbert) told the Jury in his opening statement that King Richard locked the princes Edward and Richard in the Tower of London and then killed or had them killed. David Herbert QC said, "They were murdered by this man, Richard III, in his quest for power." He then described to the Jury how Richard III had the princes declared illegitimate so that he could claim the throne before killing them. David Herbert QC stated that the princes alive represented opposition to his rule as well as a focus for it and that is the reason he had them brutally murdered.

The prosecution claimed that the lack of a funeral for the princes points to the Guilt of King Richard. Lord Herbert said that the bones found in the tower must have been the princes as they were bones of two boys. Lord Herbert said "If they weren't secretly killed, why where they secretly buried? It was as if they had vanished."

Lord Herbert concluded his opening comments, by telling the Jury, "Drawing the strands of evidence there is in this case, the evidence is formidable. It will show the princes were killed and Richard had the motive to kill them. He showed he had a propensity to dispose of those who stood in his way."

Lord Herbert then called his first witness, Dominic Mancini. In his evidence Mancini stated, "I think Richard was very ambitious, very deceitful. He would not let anyone stand in his way."

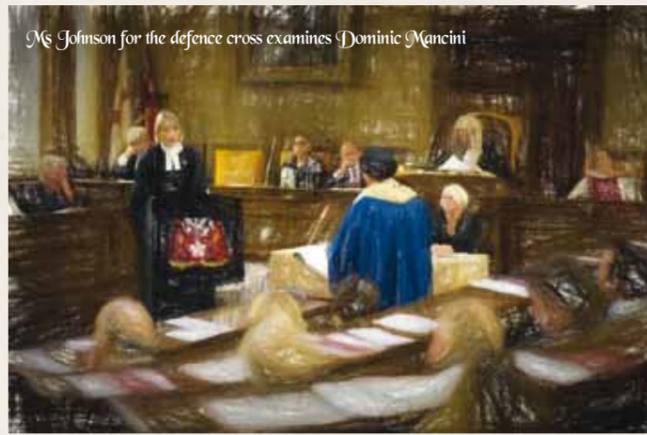


Dominic Mancini giving his evidence

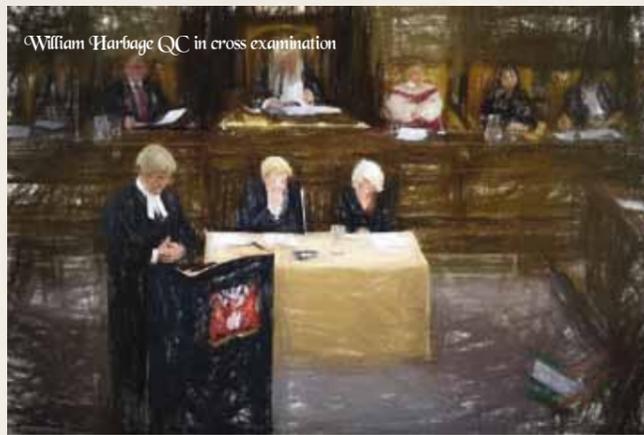
Helen Johnson in cross examination asked about Elizabeth Woodville's efforts to get her son crowned Edward V despite him being only 14 at the time. Mancini confirmed that the Queen and her supporters attempted to raise an army against Richard and that her actions had no public support.



Ms Johnson then asked about the rumours concerning plans that Richard III was to marry the sister of the princes, Elizabeth of York. Mancini stated "That there were rumours all over England." Completing his evidence Mancini stated "there is no hard evidence but I believe he did kill them."



Ms Johnson for the defence cross examines Dominic Mancini



Lord Harbage stated that the information put forward about the death of the princes is based upon a confession by Tyrell. Sir Thomas replied that this was correct and at the time of his execution Tyrell confessed to causing the deaths. An allegation of torture was raised and that is the reason Tyrell said what he said and Sir Thomas stated "I am unable to comment."

Lord Harbage concluded that there was no direct evidence that the princes were murdered and the conclusions given by Sir Thomas were based on a hostile view held by Sir Thomas against King Richard.

King Richard III then gave evidence.



The defence case opened and the King was asked by Lord Harbage if he believes he is accountable to the court. The King responded by saying "I am accountable only to God." The King then said, "I do not need to answer questions in this trial, I am accountable to God. I deny any wrongdoing and that's all I propose to say."

Under cross examination by Lord Herbert, the King refused to answer any questions and responded to the questions put to him by saying "Questions like these are treason." Lord Herbert continued with his cross examination and King Richard sat silent throughout. Lord Herbert, having had no response to his questions asks "Are we going to see any flash of honesty today?" Again no response was given.

John Russell, Bishop of Lincoln was called to the stand. He told the court the Tower of London was "luxurious." He said that during the time the princes were at the tower it was a palace and not a prison and had some 70 members of staff, with palatial suites contained within.



Sir Thomas Moore giving evidence

Sir Thomas Moore explained that the plot to gain the crown had been in place for a long time and that Richard III had begun his claim before the death of his brother King Edward IV. He told the court that the princes were declared illegitimate at Speakers Corner in London. Sir Thomas explained that King Richard had grounds for declaring the princes illegitimate as King Edward IV had a previous contract of marriage to Elizabeth Woodville. Sir Thomas went on to say that King Richard had men smother the princes and then buried them at foot of the White Tower stairs in the Tower of London.

Sir Thomas was cross examined by William Harbage QC (Lord Harbage). During the cross examination Lord Harbage challenged Sir Thomas on the evidence, in that the account Sir Thomas was giving was not first hand but based on information given to Sir Thomas. Sir Thomas stated "It is based on knowledge brought to my attention." Lord Harbage stated "Our interpretation of events is not a search for the truth is it, you condemn Richard from the outset?" Sir Thomas responded, "Is that a question or a statement? If it's a question it's a moot point, if it's a statement, a matter of opinion."

Lord Harbage asked, "Richard was appointed protector by Edward IV on his death bed wasn't he?" Sir Thomas replied, "Yes." Lord Harbage went further to say that at the time Richard was made protector he was 200 miles away in Yorkshire and therefore could not have exerted any undue influence over his brother in this regard.



The Bishop stated that the King had "no motive" to kill the princes. In further examination, Lord Harbage raised the issue of the claim to the throne by King Richard due to the illegitimacy of the Princes following the declaration at Speakers Corner. Lord Harbage went further to ask whether there was any motive to kill the Princes and the response from the Bishop was "Absolutely not."

King Richards Sister, Lady Margaret of Burgundy was called to the stand and sworn in.



Lady Margaret of Burgundy exclaims in evidence, "my brother is innocent".

During examination in chief she told the court "My brother is innocent... you have no evidence he killed the Princes." She knew him to be alive and "that her dear brother, the King, was innocent of crimes alleged against him."

Lord Herbert cross examines Lady Margaret and during the cross examination she told the court that Henry Tudor had no right to the Crown. She went further to say that she financed her nephew when he arrived in England and did so for some time. She further stated that she was aware people were referring to him as the Pretender but she knows only that the Prince she protects and finances is her nephew.

Lord Harbage, in his closing, recaps on the evidence presented to the Court. He tells the court that there are "...no hard facts." There is no proof that the King murdered the princes or had them killed and there is no proof the Princes were murdered at all. The Princes were seen playing on the green and the King provided medical care for the Princes.



Lord Harbage concluded in his closing speech that "Even though history is written by victors, Henry VII did not accuse Richard of murdering the princes."

His Honour Judge Hammond then instructed the Jury that they must reach their decision only on the evidence heard in court today. The prosecution must have proven that it was "more likely than not" that the King had played a part in the Princes murder.



His Honour Judge Hammond instructs the Jury

Judge Hammond confirmed to the Jury that they do not have to believe that King Richard murdered the Princes personally. He said "If the defendant gave the orders to underlings, that is sufficient evidence of participation."

Jury retired.

The Jury returned to the Court room and the Jury Foreman. The Lord Mayor of Leicester, Councillor Stephen Corral was asked if the Jury had reached a verdict and the Foreman said "yes."



King Richard stands to hear verdict.



Foreman stands to give verdict. Not Guilty on both counts.



His Honour Judge Hammond tells the King he is free to leave the Court.

The Foreman was then asked in regards to:

Count 1 that Richard Plantagenet on a day between 16th June 1483 and 31st December 1483 murdered Prince Edward, how do you find the defendant and the Foreman replied, "Not guilty."

The Foreman was then asked in regards to:

Count 2 that Richard Plantagenet on a day between 16th June 1483 and 31st December 1483 murdered Prince Richard, how do you find the defendant and the Foreman replied, "Not guilty."

His Honour Judge Hammond thanked the Jury for their work and released them from any further duties.

Judge Hammond then told King Richard that he was free to leave the Court.

Reporter  
Adam Markillie.

Pictorial impressions  
by the Court Scrivener.



## Networking after The Trial



# CHRISTMAS WITH LEICESTERSHIRE LAW SOCIETY - 1 DECEMBER 2016 AT WISTOW RURAL CENTRE



This was my first event organised for Leicestershire Law Society and I am glad to say it was a huge success and a great way to begin life at LLS.

The event was held at the Wistow Café Bistro set in the Wistow Rural Centre which has such lovely surroundings and the aim of the event was to raise

funds for LOROS.

We had adults and children alike come out to enjoy the festivities which included Santa's grotto, the beautiful sounds of the choir 'The Spectaculars', mulled wine and nibbles and the gift tree raffle where everyone that took part got a prize. There were also stalls featuring the products of local stores, allowing attendees to continue (or begin!) their Christmas shopping.

The venue had been totally transformed and got everyone into the Christmas spirit; there was a real festive cheer in the air and the atmosphere was awesome. I believe a great evening was had by all and got everyone ready for the 25th December ©

**Simone Bell**  
Manager  
Leicestershire Law Society.



# EWI CONFERENCE 2016

## Insight and Controversy: Expert Witnesses Kick Off Autumn Conferencing at the Cutting Edge

Elizabeth Robson Taylor and Phillip Taylor MBE of Richmond Green Chambers review one of the highlights of the recent conference season... the 20th Annual Expert Witness Conference at Church House, Westminster.

For lawyers in England and Wales, autumn is the contemplative 'season of mists and mellow fruitfulness' that also heralds the advent of what is becoming known as "The Conference Season", during which time there are conferences galore.

For at least the last couple of decades, these annual events have become almost an essential part of a well-rounded, grounded - and well-informed professional life. So political animals generally gravitate to the various party conferences - Labour, Tory, LibDem, Green - take your pick. And for members of the Bar, there's the must-go to Bar and Young Bar Conference in London.

If you're a keen conference goer, you're the sort who inevitably appreciates the opportunities to tap into what's happening now in your field... what's happening next... what should be happening, but isn't - and why and what you can do, or should do, or shouldn't do about it. And generally you have opportunities to meet many of the main players in your areas of interest and participate (or not) in the usually sharp controversies of question and answer sessions.

However, there is one conference that often doesn't turn up all that prominently in the purview of the typical reader of 'The Barrister' and that is the annual Expert Witness Institute (EWI) Conference. Held in the central but sequestered and leafy, rather collegiate-ish location of Church House in London - a stone's throw from Parliament - this conference is where lawyers can garner important insights into the role and challenges facing the expert witness in court and where expert witnesses can meet and greet each other as well as the lawyers who instruct them.

This article is written in the hope and expectation that the profile of the EWI will be significantly raised. If you are a lawyer frequently (or even infrequently) engaged in trials requiring expert evidence, you need to know more about the EWI - and attendance at this conference does provide the ideal opportunity to do so, and it is a fun event.

### A DEEP POOL OF TALENT

The recent EWI Conference of 2016 marked the 20th anniversary of the EWI Conference, and very well attended it was. It was in effect a demonstration of its standing, its burgeoning influence and the pool of talent that sustains it. The roster of distinguished speakers consisted mainly of lawyers, (some transatlantic) legal advisers and members of the judiciary, including for example, Supreme Court Justice, Lord Kerr.

Amanda Stevens



Amiably chaired by EWI Governor Amanda Stevens, the Conference proceeded apace, with speaker after speaker imparting much useful, insightful and sometimes controversial comment on the future of the justice system in general and the varied role of the expert witness in particular.

### LORD KERR

Lord Kerr and Dr John Sorabji, who can reasonably be referred to as the keynote speakers, made some memorable points. 'It is a given' remarked Kerr, 'that the role of experts in our legal system is indispensable', later adding that 'the relationship between the decision maker and the expert witness can be a delicate and difficult one!'

He went on to say that 'there are many spheres of legal activity where expert evidence



has been pivotal to the outcome of contested and even compromised, litigation. In over twenty years as a judge, I have heard countless cases in which the result has been heavily influenced by the evidence given by impartial, distinguished experts, either in written reports or in oral testimony.'

He elaborated further on the complementary nature of the respective roles played by the expert and the tribunal of fact and (where possible) those roles must be clearly defined. Interestingly, he quoted Lord Phillips in a 1997 case in which he observed that 'when the scientist gives evidence, it is important that he should not overstep the line which separates his province from that of the Jury.'

Finally, Kerr reminded judges and jurors as well as experts, of the need to combine humility and assertiveness. 'Humility' he said 'will lead them to defer to each other when appropriate, while assertiveness should ensure they do so only when appropriate.'

### DR. JOHN SORABJI - 'EWI in an Era of Reform.'

Another significant speech was delivered by John Sorabji, a regular friend to the Institute. As Senior Fellow UCL, Judicial Institute - and Principal Legal Adviser to the Lord Chief Justice and the Master of the Rolls, Sorabji covered a number of important points.



Dr John Sorabji

'There are plenty of challenges and opportunities for all experts ahead of us because we're still in an era of reform,' he said, referring to the paper from the Lord Thomas and others, entitled 'Transforming the Justice System.' A document much discussed at all the recent legal conferences, it follows on from the 'Reshaping Justice' paper of two years ago on which Sorabji has acted as an adviser and commentator.

Sorabji also dealt with two further issues of contemporary note: the fixed costs regime and 'hot tubbing' - the latter being the hot topic du

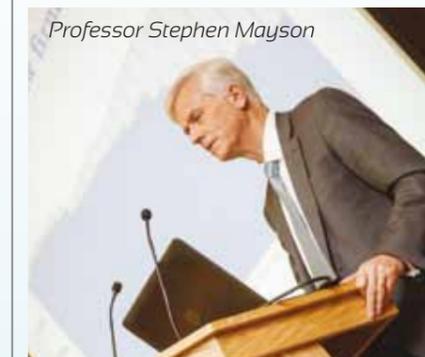
jour of last year's EWI conference (and before). It may have cooled down a bit since then, but it does refer to the use of concurrent evidence, which appeared in England and Wales around 2005, having originated as an import from Australia the same year. 'It does not save costs' warned Sorabji, even though, in the experience of most of the delegates, it does make the proceedings of the court easier to follow.

All the speakers who followed touched on a number of the core issues involved in identifying - and elaborating on - a number of pitfalls inherent in the role of expert witnesses and their relationship with the lawyers who instruct them. For example, Professor Stephen Mayson, of the Centre for Ethics and Law at the Faculty of Laws, University College London, spoke on the ever-changing face of the legal profession - in which practitioners must contend with national and global as well as local, competition... plus the new regulatory framework created by the Legal Services Act... and the relentless rise of the consumer - and more.

Having advised barristers' chambers, law firms and government departments worldwide, Mayson has also appeared as an expert witness himself on law firm management in proceedings before the Solicitors Disciplinary Tribunal. All

this and the impact of alternative business structures has created tensions, but it's not all bad out there. The market for legal services is huge and continually expanding with a total value of £30bn annually, which apparently is no more than a mere estimate.

Professor Stephen Mayson



**'TWO YEARS OLDER THAN GOOGLE'**  
- some words from EWI's fourth Chair

What followed on from this cautionary yet optimistic message were some words from Sir Anthony Hooper QC, who is the EWI's fourth Chair. In celebration of the EWI's twentieth anniversary, he encouraged members to raise the profile of EWI for members present and future.

Continues over page

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*'What a Year!' he declared, 'twenty years old -- we're two years older than Google! And we are doing what we should be doing as an Institute.'*



Sir Anthony Hooper QC

Sir Anthony also mentioned the increase in online teaching carried out by the EWI in such jurisdictions as Singapore and remarked about the fact that EWI membership has now 'topped the thousand mark', although the EWI still actively seeks new members particularly in forensic science as it grows.

As a final point, Sir Anthony referred to the decision in *Kennedy v. Cordia* heard on 10th February 2016, a leading case heard recently in the Supreme Court. Regarded as pivotal, the case highlighted and examined the role of the expert, thus creating a singularly important statement on the role and duties of expert witnesses. As Sir Anthony reminded delegates,

the primary duty of the expert is to the court, but there is also the duty to the client. Furthermore, the issue of impartiality should always be uppermost.

**EAT THE FROG FIRST:**  
a Plea from Across the Pond



Alan Anderson and Carol Ludington

Make what you will of the whimsical title, but this speech was deadly serious and presented with verve and vigour by the transatlantic duo of Alan Anderson and his forensic accountant associate Carol Ludington. Having acquired degrees from Cornell University also a PhD from King's College, London, Minnesota-based trial lawyer, Alan Anderson has been – among his lengthy list of credentials – included in The Best Lawyers in America in intellectual property litigation since 2010 and there are a number of other strings to his formidable bow.

Basically their presentation centered on the warning that *'questions that fall within the purview of experts often are left until the*

*end of preparations, or deferred entirely'* – and that *'a reluctance to engage expert witnesses early in the dispute resolution process... often results in poor decisions or a less than desirable outcome.'* In other words, brief your expert witness sooner than later, or you might be in for a spot of bother. You have been warned.

**LAWYERLY DEBATE**

Sadly, space limitations rather rule out further detailed descriptions here of many of the other conference speeches, some of which dealt with highly specialised topics. Suffice to say, however, that the EWI Conference as a whole was distinguished in particular, by useful, organized, highly professional and high quality debate, lawyerly in tone and content because it was led largely by lawyers - and punctuated with question and answer sessions that were illuminating and challenging.

So later this year - only a few months hence - when autumn leaves drift past your window – and the start of the legal term looms - plan to take in a conference or two. The networking opportunities are first class and the food isn't bad either, especially at the EWI Conference, which you really must make a note of in your Chambers diary.

In the august yet convivial precincts of Church House, there will be much that you can learn to your advantage, so do come next year!

In order to establish parenthood using the social mirror, fathers must rely upon the faithfulness of the mother. As a result, fathers tend to place credence upon the physical likenesses and behavioural similarities that they believe they share with their child to affirm their biological relationship. These claimed resemblances impact the father's parental investment decisions, as he is more likely to invest in a child to whom he believes he is genetically related or with whom he shares similar characteristics.

Mothers are less dependent on physical cues as an indicator of biological relatedness as in general, they do not need to be convinced of maternity. Instead, mothers tend to notice psychological similarities with their child such as likenesses in personality and are inclined to use family resemblances to their own evolutionary advantage. They may for example, use the presumed likenesses and similarities between alleged father and child to reinforce discussions surrounding paternal certainty. These claimed resemblances then serve to persuade the father of

parenthood, which in turn ensures paternal investment for the child, thus increasing both the child's chances of success (vs. peers) and the mother's reproductive success. Unfortunately, this also has undesirable consequences for the male who has been cuckolded into raising another man's child since it has the effect of reducing or indeed eradicating, their own genes from the gene pool.

This issue has never been more alive than it is today, as there has been a shift from social affirmation to social non-affirmation largely as a result of the use of social media. For example, comments posted on Facebook make the social non-affirmation very public, whereas before the advent of social media it was more likely contained to a close group of friends or family. This public display of clues to either paternity or non-paternity has the effect of raising the stakes for mother, alleged father, rival males and associated social destabilisers (who may have a variety of motives). To gain certainty and quell rumours, individuals often turn to a DNA test as the only means of delivering parental certainty.

The question of paternity may then spill over into the legal/social services sphere as a tactic in family disputes, where one or more party is trying to reduce their responsibilities or undermine another's position with respect to parental investment or indeed, vice versa. "More or less" parental investment is a key driver in the resolution of the dispute and a DNA based paternity test becomes a crucial piece of evidence providing clarity where only doubt existed before.

The social mirror in the context of today's society can be a dangerous weapon, but is one that can be effectively countered by use of an unequivocal paternity test from an accredited DNA testing company such as our own.

**Ms Kate Donkin** (Psychology Intern) and **Dr Neil Sullivan**, General Manager. Both of Complement Genomics Ltd, trading as dadcheck®.

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# HE HAS HIS FATHER'S NOSE...

**"You have your dad's eye's", "your mums smile", "and your grandfather's ears"... We've all heard comments such as these; but do they have any basis in fact when attempting to assert paternity? As a leading DNA testing company dealing with hundreds of paternity cases every year, these types of comments often are posed to us. These are generally by associated adults (parents and grandparents) who wish to emphasise a connection with a particular child. But can physical resemblances or indeed personality similarities be a reliable indicator of a biological relationship or is it just a case of "seeing what we want to see"?**

Upon the arrival of a new born baby or seeing a young child out with a parent,

family and friends will often instinctively mention resemblances between parent and child. This deeply engrained "social mirror" enables parents to rely upon the resemblances seen by others as a reassurance of parenthood. It leads to varying degrees of parental investment: the expenditure and resources parents invest in their offspring to ensure their survival and success, which can often be at the cost of their own reproductive success.

First to note is that this is not a new approach to the paternity issue. Questions of "likeness" amongst kin were considered by Pythagoras, Plato and Aristotle; the latter first noted bilateral heredity (that characteristics can come from mother and father) and interestingly,

that characteristics could also skip a generation. These likenesses between parent and offspring help to reaffirm parental certainty, the degree to which you believe you and your child to be biologically related.

In general, mothers are more certain of paternity than are fathers. Before the advent of paternity testing (historically using blood typing through to today's sophisticated and highly accurate DNA testing), alleged fathers could only rely upon the social mirror to establish paternity, which of course is fraught with potential arguments and doubts. Mothers, in general, are keen to affirm the social mirror, whereas fathers are programmed to question it.



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# RESEARCH SHEDS NEW LIGHT ON CHARITABLE LEGACIES

New research launched today at the Law Society provides valuable insights into how solicitors can help their clients use their wills to support charities.

Commissioned by Remember A Charity and conducted by the Behavioural Insights Team ('Nudge Unit') and the University of Bristol, the research has examined the way that solicitors raise the issue of clients leaving money to charity in their wills. It highlights the impact of different approaches and how these produce different results in charitable giving.

'Writing a will is an important step in ensuring that the people, and causes, we have cared about will be properly looked after when we pass away,' said Law Society president **Robert Bourns**.

'Solicitors have a vital role to play in this process, using our legal knowledge and experience to give our clients the reassurance that their wishes will be properly carried out. This research makes an important contribution in helping solicitors think about how we give our clients the best possible support and service in the will-writing process.'

The research was conducted using randomised control trials in eight firms of solicitors around the United Kingdom. It tested a range of ways of raising the subject of charitable giving, and shows the different results that each produces.

**Findings of note from the report include that:**

- Solicitors felt able to raise the issue of leaving money to charity in discussions with their clients comfortably and appropriately
- Clients who were told that many people bequest money to charity in their wills were 40 per cent more likely to do so themselves when writing their first will, and

- Clients with families may be more inclined to leave a legacy when asked if they wanted to leave to charities that their family had previously supported or benefitted from.

**Rob Cope**, director of Remember A Charity, said: 'Legacy giving has become increasingly important to UK charities in recent years, generating around £2.5 billion for good causes annually and its impact on charitable services is immense. But, despite being a highly philanthropic nation, a relatively small proportion of people leave a charitable bequest in their will.'

'Many simply don't realise that legacy giving is an option for them; that they can provide for family and friends and still have the opportunity of including a charity if they wish to do so. The role of legal professionals is crucial in making clients aware of all the opportunities they might want to consider when writing a will.'

The research also surveyed the public on their views about solicitors raising the issue of leaving to charity when helping a client write their will. This survey showed 69 per cent of people indicated that they would be happy for their solicitor to raise the issue, and 46 per cent thought a solicitor had 'a duty' to raise the option of such a legacy giving when discussing a will.

'We know that there's a big gap between the 35 per cent of people who say they want to leave a charitable legacy in their will and the around six per cent of people actually do,' said Robert Bourns.

'By improving our understanding of how to raise this important question, solicitors will be better equipped to assist our clients in drafting a will that properly reflects their wishes.'



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**FOR FURTHER INFORMATION VISIT:**  
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# CYBER CRIME – WHAT IS OUR EXPOSURE?



For many Law firms across the UK, the first quarter of 2017 will be a time for budgeting and reviewing the opportunities and threats presented to the firm. One

such threat which continues to be reviewed by many firms is the risk of a "Cyber-attack".

The threat of a Cyber incident is current and it is real. Should you become a victim of an attack it will have a financial impact to your business, so why not hope for the best, prepare for the worst!

Whilst we can't always predict the future, we can plan and make preventive steps. Dependent on your attitude to risk, the inevitable cost to your business would be either pre-emptive or reactive:-

#### PRE-EMPTIVE;

- Cyber Crime Insurance Premium?
- IT Protection Cost?
- Fraud Prevention Training?

#### REACTIVE:

- Cost of IT Specialists??
- Cost of Ransoms through Ransomware??
- Cost of Reputational Damage??
- Cost of Business Interruption??

Each of the above have a varying financial impact, however it is only the pre-emptive measures that you can financially control.

The fact remains, most Law Firms are dependant on their IT providers to ensure they have adequate security, but do they guarantee support if your systems are breached? Is it complimentary, or would they charge? We have seen scenarios where a firm has to spend tens of thousands on recovery. The effort and, most crucially, the time involved to retrieve, repair and cleanse your system could be severe.

Should you take the decision to transfer some of the risk via a Cyber insurance policy, it is vitally important that you are fully aware of exactly what is covered and, crucially, what needs to happen to "trigger" that coverage. There are various policies within the market-place, not all necessarily provide the protection the policyholder believes they do.

Certain Cyber insurance policies are structured to offer a suite of breach response services that are so crucial when the firm falls prey to a Cyber incident. The policies will pay for the IT forensic investigation costs needed to determine what information has been compromised and look to remediate the problem. Furthermore, there is also the support of a PR company, they serve the purpose of helping the firm manage any adverse media that may occur – this is becoming far more pertinent in the ever-increasing social media world in which we live.

Access to specialist legal advice should also be available. This will help in the process of deciding whether or not you should notify affected clients, the regulator and the police. Extending Privilege to the proceedings is vital, as well as preserving evidence for any future criminal investigation.

Look at the period of Insurance and whether it covers prior incidents. Malware and other Viruses can sit in your systems for weeks, months or even years. Have your systems already been breached? How would you know? Look for retroactive cover. This would give you the comfort that the unknown is covered.

In our opinion relying on your Professional Indemnity to respond appropriately to a modern Cyber-attack may not be the best approach as the policy was not designed to respond in this way. A specialist Cyber insurance policy should be considered and potentially structured to sit as First Response or Primary Layer cover to not only first party claims but also third party, if possible.

Have you asked yourself these questions?:-

- Are you ready for a breach – do you know how you'll respond?

• Do you have a Business Continuity Plan and a Cyber Plan – have you tested it?

• Have you considered what to do in the event of a ransom demand?

• Would you know what to do to preserve the scene ahead of any police criminal investigation?

• Do you know how the GDPR will affect your business in 2018?

At the other end of the size scale is the ongoing "phishing" and "whaling" fraud through the use of Social Engineering which continues to burden finance teams in all organisations. Professional Service firms have suffered heavily from this type of attack vector. This was highlighted by a recent survey undertaken by the UK accountancy firm, Hazlewoods. The survey concluded that "phishing attacks" against professional service firms were up 40% in the past 12 months.

Cover for Cyber theft of money from "phishing" and "whaling", such as highlighted above, is still available from some Cyber insurers however it is generally sub-limited and remains under review.

With all of these questions, you should be seriously considering purchasing a Cyber insurance policy. At the very least, you should complete a Cyber insurance Proposal Form, as it would provide a good gap analysis to your business.

#### Lee Catling

Vice President, Professions/Risk Solutions  
A division of Lockton Companies LLP

*Lee provides day to day guidance on all issues affecting Law firms from PI insurance to other related topics. LC has over 25 years' experience in the industry having come from the Solicitors Indemnity Fund. Lee joined Lockton, formerly Alexander Forbes in 2003 in the Professions Division and is an Vice President with the Solicitors team. Specialist Experience - Professional Indemnity, Cyber Liability, D&O, Keyman, Contingency Insurances.*

## FLOOD RISK – ARE YOU GETTING THE FULL PICTURE?

The risk of property flooding often crops up in conveyancing articles but, when we look at the pattern of conveyancing searches our clients are ordering, we notice that around 80% of orders we receive do not include a thorough flood assessment and details on insurability.

### Law Society Practice Note

The Practice Note on flood risk was updated recently (February 2016) and full details can be found on the Law Society website. The Practice Note highlights that different parties will have different appetites for risk, but that conveyancers should consider:

1. advising the client to establish the terms on which buildings insurance, including flood risk cover, is available;
2. advising the client to discuss the level of risk with a building surveyor or flood risk assessment consultant.

### Ensuring that you have the full picture on flood

Confusion about the thoroughness of information can arise because a number of different searches include details on property flooding. The information provided ranges from *basic* flood screening as part of an automated environmental report, through to a *full* assessment, insurability and consultant opinion in some of the standalone flood reports and more comprehensive environmental reports.

Please see the table below for a summary of coverage in a number of different residential conveyancing searches:

SEARCH	FLOOD SCREEN	FLOOD RISK ASSESSMENT	INSURABILITY STATEMENT	CONSULTANT OPINION
Landmark Homecheck Pro Environmental	✓			
Landmark Envirosearch Residential	✓			
Landmark Homecheck Professional Flood		✓	✓	✓ (risk model)
Landmark RiskView Residential		✓	✓	✓ (risk model)
Argyll SiteSolutions Residence		✓	✓	✓ (fully manual)
Groundsure HomeScreen	✓			
Groundsure Homebuyers		✓	✓	✓ (risk model)
Groundsure Flood		✓	✓	✓ (risk model)

*Note: risk model opinions are automated, whereas a fully manual opinion denotes that the information is manually reviewed by a consultant.*

### Identifying the likelihood of risk

The Geodesys website provides you with a search alert tool that screens properties and land for all conveyancing risks. If there is a likelihood of flooding, then suitable recommended searches will be highlighted within the Geodesys product list to aid conveyancers in their choice of search.

For further details on the different levels of residential and commercial flood information available please talk to Geodesys Customer Services on **0845 070 9109**.

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# LEGAL UPDATE FROM ROBERT WALTERS - THE CHANGING NATURE OF THE UK LEGAL PROFESSION

In light of the historic announcement of the pending and rather daring merger between 3 International Law Firms, CMS Cameron McKenna, Nabarro and Olswang we look to assess the changing nature of the UK legal market and examine how law firms are adapting to those challenges.

### NEAR-SHORING:

One particular trend over the past couple of years is the increasing number of UK based law firms 'on-shoring' to major cities outside of London, such as Birmingham, Bristol and Manchester. Firms such as Hogan Lovells, Simmons & Simmons and Freshfields have all made moves to these cities respectively. There are obvious cost benefits for those firms, with reduced property and salary costs compared to those in London. This has opened up a number of new opportunities for junior/mid level solicitors to gain exposure to International Law Firms and the opportunities they can offer. Equally, it will provide LPC students/paralegals with greater options to gain legal experience assisting with large scale projects/document review and the slightly more commoditised areas of such matters. In addition, we have seen these firms have a significant impact on where the bar is set in terms of remuneration, with other top tier firms reviewing their own salaries to retain their best talent.

### BREXIT:

At this stage the mid-long term effects of the recent decision to leave the EU remain unclear. In the short-term the majority of most regional firms continue to recruit having largely avoided any negative impact from the outcome of the referendum. That said, firms are leaning towards a more stringent approach to recruitment and analysing department needs a little more closely than they did prior to the referendum. Certain types of Real Estate have been affected, however, if work levels remain the same across other transactional markets the demand for junior solicitors will remain high. Demand for regulatory lawyers is also expected to rise over the next two to three years.

Longer term, will the decision to leave the EU have an adverse effect on the London legal market with US firms/banks possibly seeking to downgrade their operations there? How this will affect junior solicitors across the various sectors is again largely unknown but the legal market has changed and adapted from previous financial uncertainty so the profession will again adapt accordingly if required. It may mean there is greater cross qualification into different areas than before.

### GLOBAL MERGERS:

While the announcement of the CMS merger has caused shockwaves through the City, the number of global law firm mergers has increased substantially over the past couple of years, with Globalisation becoming a key factor for clients. A number of UK law firms are attempting to join forces with firms in either Asia-Pacific or the US, with both regions being increasingly important for international clients. Any such global merger can offer opportunities to junior solicitors and trainees. The merged firm may have greater resources from a training perspective and greater scope to offer work in different practice areas and sectors. It is also likely that the firm will be able to offer a greater number of secondments whether Nationally or Internationally.

### TEMPORARY SUPPORT:

While already very common place in the London market, we are seeing an increased demand from regional law firms for temporary/contract solicitors to assist with increased work demands. This is often a better option financially for firms, allowing them to avoid costs of recruiting professionals on a permanent basis. Certain firms are also seeking to service clients with temporary solicitors in a similar way in a cost effective way and to avoid losing members of the team on secondments when work levels remain high.

It is clear that we are in a time of great and unprecedented change for the legal sector as a whole over the next few years. We have seen multiple law firm mergers and this trend will no doubt continue with the increasingly competitive nature of the UK legal market, the decision to leave the EU and the number of firms setting up offices in regional cities.

For further information on the above or if you would like a confidential discussion regarding your career, please do not hesitate to contact Laura Gripton, Legal Recruitment Consultant at Robert Walters, on 0121 260 2512 or email [laura.gripton@robertwalters.com](mailto:laura.gripton@robertwalters.com)

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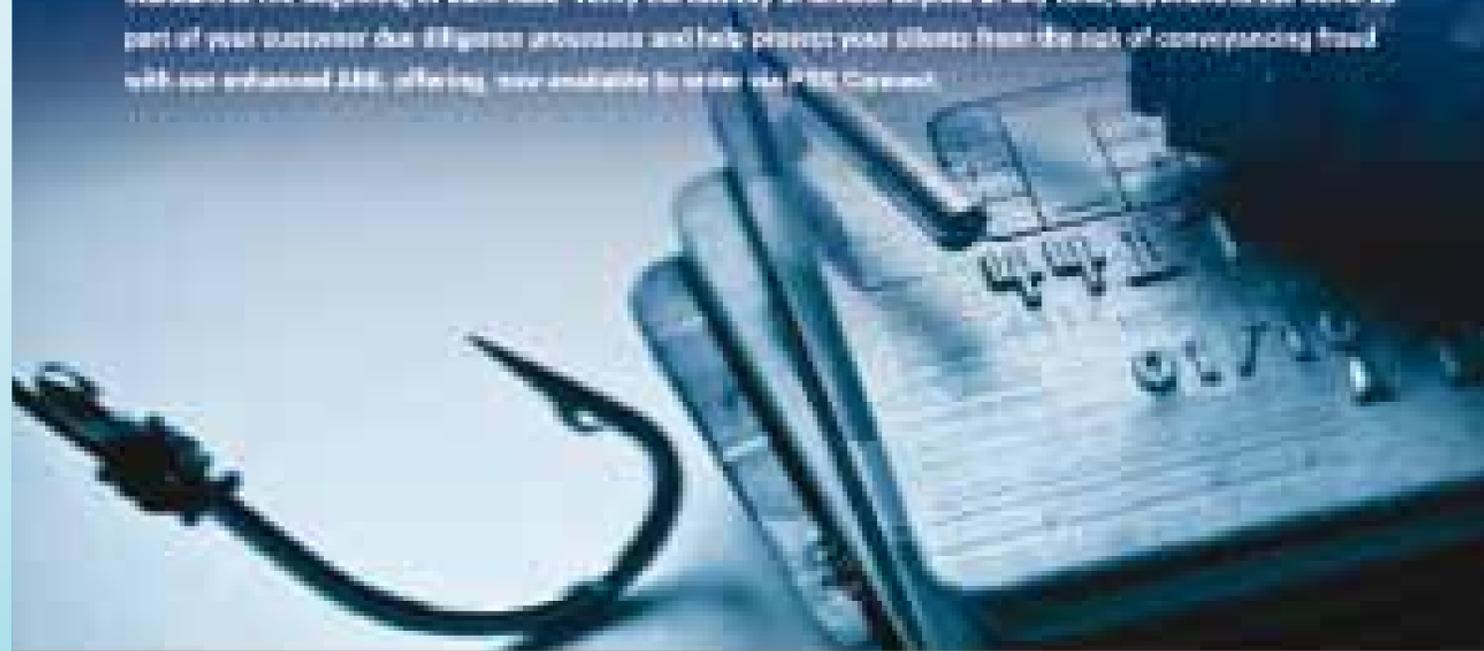
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The screenshot shows a legal software interface with a sidebar on the left containing options like 'Save & Close', 'New Letter', and 'New Email'. The main area displays 'DETAILS' for a matter 'Jones/0012/AJC/2016' with fields for Buyer, Matter Type, Compliance, and Seller. A 'CORRESPONDENCE' list on the right includes items like 'Application to change the register' and 'Letter to Solicitors confirming instructions'. A callout box 'Share via LawConnect' points to a document icon with a lock. Another callout 'Scanned Property Plans' points to a PDF icon in the correspondence list. An email notification window in the foreground shows a message from James Levington to Ivor Jones with a 'VIEW' button for the scanned property plans.

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