

Leicestershire Law Society

# magazine



LEICESTERSHIRE LAW SOCIETY PRESENTS



# A Night at the Movies

LLS Patrons:



# Flexible solutions to suit customers' needs



Here to meet your needs

With our extensive knowledge and expertise in the ATE market, we provide innovative and flexible solutions to meet your needs.



Call us on  
0117 917 1680

Twitter.com/arag\_uk

www.arag.co.uk

## WELCOME/CONTENTS SPRING 2017



### Editor's Intro

Welcome to the spring edition of the LLS Magazine. Where has the last year gone? We are fast approaching our Annual Awards Ceremony and this year we are returning to Athena with the theme, "A Night At The Movies."

The shortlisting has been completed and those shortlisted will now know who they are. We wish all shortlisted nominees all the best.

The Civic Dinner was held in January and is an invitation only event which was very well attended. The speaker for the event was His Honour Judge Hammond (Retired). Take a look at the pictures of the event.

Membership is on the agenda and the Law Society needs your help to boost the membership, if you know of any law firms or solicitors who are not yet members give them a nudge.

Well, so much to do to get the magazine ready, so will sign off and I look forward to seeing you all at the 2017 LLS Awards Ceremony.

Regards

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

Leicestershire Law Society, Horsefair House,  
5th Floor, Horsefair Street, Leicester LE1 5BP

- 4 President's Report
- 6 CALS - The Community Advice & Law Service
- 8 Book Review - Sex & The Office
- 10 Civic Dinner 2017
- 12 Council Members Report
- 14 Membership - Your Law Society Needs You!
- 15 A Night at the Movies
- 16 LLS Awards 2017
- 20 Iott v Mitson - The role of insurance
- 21 A new approach to genealogical research
- 22 Geodesys - 20 Years in the Conveyancing Industry
- 24 Disaster recovery and business continuity planning tips
- 26 LawWare joins the LSSA
- 28 Book Review - 'St. George in a Wig'
- 30 Chancel Repair Liability: Safely Ignored?

## REPORTERS WANTED!

### YOUR MAGAZINE NEEDS YOUR HELP....



Ever thought that you would like the opportunity to be a press reporter? Well, now you can turn those thoughts into reality. The LLS Magazine is looking for people who attend any Law Society Events to submit a short piece about the event. Photographs can also be submitted and any help needed to get you started can be provided by contacting the Editor or the Law Society Media Team. Your report could appear alongside official photographs of the event and would contain your name and a photograph of yourself.

The Magazine is also looking for reviews of books you have read and films/theatre events you have attended. These do carry a word limit of 200 per review and every effort will be made to add the cover/poster from the book or event to your piece to lift the review from the page. If you would like to submit a review but are unsure about how to go about this, then contact the Editor or the Law Society Media Team who can offer guidance and support for your article.

Is your firm attending a charity event that you would like to promote? Maybe you are raising funds for the LLS Presidents nominated charity and need to publicise the fund raiser, then contact the Editor and tell him about your event. Or write a short piece and submit this with some photographs of those taking part and leave the rest to the Magazine.

Would your firm like to tell the Magazine about any promotions within your firm or to congratulate a member of staff on work they have done, then contact the Editor who can guide you through the process of submitting an article.

Submitting an article to the magazine is very simple. You write your piece and remember to keep within the 200 word limit and submit to the Editor by email along with any pictures or photographs and the Magazine will do the rest. The Magazine does have a deadline copy date for each edition and the Magazine appears quarterly. Please be aware that when submitting the piece, it may not make the final copy and could be held over to the next edition dependant on how much content has submitted. The Magazine only has a set number of pages and occasionally, despite every effort an article or piece may need to be dropped to make way for an important announcement.

So, now it's your turn to put pen to paper, or fingers to keyboards and start writing.

Adam Markillie,  
Editor.  
adam.markillie@cartwrightking.co.uk  
T: 0116 261 6285



# PRESIDENT'S REPORT

Time really is going quickly as here we are with the next instalment of the LLS magazine.

Since my last report it has continued to be a very busy time for the society with the launch of the 2017 Awards, the shortlisting event and an event put on specifically for students from the University of Leicester.

On 9th January we launched the Awards and the calibre of entrants was of a really high standard each demonstrating their hard work and dedication to the legal profession. National Law Society Council Member, Linda Lee, had the challenging task of shortlisting the nominees which really stood out and deserved to be named as finalists. One of the objectives of the Leicestershire Law Society is to promote Leicestershire as a centre of legal excellence and this was certainly reflected in the submissions.

This year the shortlisted entrants were announced by Vice President Jonathan Foster at the Grand Mercure Hotel on 15th March 2017. Those in attendance included the hopeful entrants, colleagues, supporters and Society patrons; as well as a selection of University of Leicester students who had earlier visited the Society, which I will go into more detail of later.

During the evening, drinks and canapes were enjoyed as the lucky finalists in each category were announced to rapturous applause and lots of camera flashes.

The finalists will now be considered by

an independent judging panel comprising of David Simms, publisher and managing director of the Leicester Mercury, David Monk of New Walk Chambers and University of Leicester, Steve Evans from Leicester University Law School and Kerrie Deakin from De Montfort University Law School. With the standard of entrants, deciding on a winner is not going to be easy and I certainly do not envy our judges.

### Good luck to all the nominees.

Also on the 15th March, we welcomed 15 University of Leicester students to the Leicestershire Law Society for an event called 'Law in Leicester: Uncovered'. During the event, students listened to presentations given by solicitors from various firms based on a day in the life in the industry relating to their individual specialism. The students were also given the opportunity to ask questions and learn more during the Q+A session.

It was a really great day and we were advised by the university that all of the students found the event very useful and gained a massive amount of insight from it. I would like to thank Emery Johnson Astills, Spearing Waite LLP, Moosa Duke Solicitors, Glynis Wright & Co Solicitors, Bushra Ali Solicitors and Cartwright King Solicitors for their contributions and for helping to make the event a success.

So here we are preparing for the 2017 LLS Awards; the event will be held on 19th May and we will be returning to Athena, in keeping with my aim of using iconic Leicester buildings. The theme this year is 'A Night at the Movies' and we are looking forward to a 'star-studded' night as attendees are welcome to come dressed as their favourite movie star :-)

I am delighted that our headline sponsors for the Awards are Graypaul Maserati and Lumbers Jewellers and we certainly have some treats in store for the evening. I am also grateful to our category sponsors, Finance Lab, University of Leicester, De Montfort University, The Miller Partnership, The 36 Group and KCH Garden Square. And of course thanks to our Patrons and Business Partners for their continued support.

Tickets for the event are £55.00 or £500.00 for a table of 10 and can be purchased by visiting [www.leicestershirelawsociety.org.uk](http://www.leicestershirelawsociety.org.uk) or emailing [office@leicestershirelawsociety.org.uk](mailto:office@leicestershirelawsociety.org.uk). We are expecting a really big turnout and so I encourage everyone to book your tickets early and get ready for a night to be remembered.

**Imogen Cox**  
President, LLS

**Legal Notice**  
© East Park Communications Ltd.

None of the editorial or photographs may be reproduced without prior written permission from the publishers. East Park Communications Ltd would like to point out that all editorial comment and articles are the responsibility of the originators and may or may not reflect the opinions of East Park Communications Ltd. Correct at time of going to press.

## magazine contact

**Published by:**  
EAST PARK COMMUNICATIONS Ltd.  
Maritime House,  
Balls Road,  
Birkenhead,  
Wirral CH43 5RE

Tel: 0151 651 2776  
[simon@epc.gb.com](mailto:simon@epc.gb.com)  
[www.epc.gb.com](http://www.epc.gb.com)

**Advertising**  
Simon Castell

**Managing Editor**  
Adam Markillie  
[adam.markillie@cartwrightking.co.uk](mailto:adam.markillie@cartwrightking.co.uk)

**Design**  
David Coffey  
East Park Studio

**Marketing**  
Ifi Ahmed

**Published Spring 2017**

**Accounts**  
Tony Kay



# ADD MILES. ADD EXPLORING. ADD STORIES.

THE NEW BIGGER MINI COUNTRYMAN.

Visit our showroom to explore our biggest, boldest model to date, or call 0116 282 7717 to book your test drive\*.

Sytner Leicester  
Meridian East, Meridian Business Park  
Leicester LE19 1UY  
[www.sytnerleicestermini.co.uk](http://www.sytnerleicestermini.co.uk)



Official Fuel Economy Figures for the new MINI Countryman range: Urban 30.1-58.9 mpg (9.4-4.8 l/100km). Extra Urban 45.6-68.9 mpg (6.2-4.1 l/100km). Combined 38.2-65.7 mpg (7.4-4.3 l/100km). CO<sub>2</sub> Emissions 113-169 g/km. Figures are obtained in a standardised test cycle. They are intended for comparisons between vehicles and may not be representative of what a user achieves under usual driving conditions. \*Test drive subject to applicant status and availability.

## DRIVEN BY AMBITION. FUELLED BY INNOVATION.

THE NEW BMW 5 SERIES.

To find out more or to book a test drive\*, please visit [www.sytnerleicesterbmw.co.uk](http://www.sytnerleicesterbmw.co.uk) or call 0116 282 7700.

**Sytner Leicester**  
Meridian East, Meridian Business Park  
Leicester LE19 1UY

Official fuel economy figures for the new BMW 5 Series Saloon: Urban 29.7-64.2mpg (9.7-4.4l/100km). Extra Urban 47.8-78.4mpg (5.9-3.6l/100km). Combined 39.2-141.2mpg (7.2-2 l/100km) incl PHEV. CO<sub>2</sub> emissions: 164-46g/km incl PHEV. Figures are obtained in a standardised test cycle. They are intended for comparisons between vehicles and may not be representative of what a user achieves under usual driving conditions. \*Test drive subject to applicant status and availability.



# CALS - THE COMMUNITY ADVICE & LAW SERVICE



An insight into the work of the Community Advice Law Service (CALs) based in Leicester. A not for profit organisation that offers free, expert advice & legal representation in social welfare law – debt, welfare benefits, and housing law. - Kathryn Burgess, Executive Director CALS

**Kathryn spoke to the Law Society Magazine about the work that the Community Advice Law Service does.**

*Kathryn, please can you tell us who you are?*

**KB** We are the Community Advice and Law Service, which started its life as Leicester Money Advice. We re-branded as Community Advice and Law Service (CALs) in 2011 to reflect the range of services we offer. We have had a presence in the Leicester City since 1980 when our parent organisation, Leicester Charity Organisation Society (now Charity Link) found that an increasing number of individuals and families they assisted with applications to charitable funds were facing problems with debts. We are a charity and a limited company.

We have a distinguished track record stretching over those 36 years, a few examples of our achievements include:

- since 1992, we have delivered a Housing Possession Court Duty Scheme from our permanent office at Leicester County Court
- in 1998 we were the first not-for-profit advice provider in Leicester and Leicestershire to secure a franchise with the Legal Services Commission; we have held contracts with the Legal Aid Agency as it is now called, continuously since that date – at various times for work in the debt, housing, welfare benefits, employment and family categories;
- in 2000 Leicester City Council's in-house debt unit was merged with our service and their advice staff transferred, forming a new company limited by guarantee, making us the largest specialist debt advice service in the city.
- in 2006, we won a contract with the then Dti to deliver and manage a debt advice service across the East Midlands (EMMA) – now

transferred to the Money Advice Service – we have managed this service through sub-contracts with 23 partners across the region for 10 years.

We know that people in Leicester and the surrounding areas need high-quality, accessible advice and representation in social welfare law and that is what we provide through our team of solicitors and specialist caseworkers. I will say more later about how we can help your clients.

*What does CALS do?*

**KB** Our service has evolved over many years. We have always sought to respond to changes in the supply of and demand for advice services. It became clear some years ago that if we were to achieve our aim of making lasting changes to clients' lives, we would have to address the range of problems that they presented to us. Housing and Welfare Benefits are inextricably linked with debt, and we have succeeded in retaining those categories of work despite loss of services and reduction in scope following LASPO. Our most recent success was to secure funding from the Severn-Trust Fund to support our welfare benefits service.

In debt matters, our advisers are authorised to undertake Debt Relief Orders – an alternative to bankruptcy for people with debts below £20,000. We can and do prepare bankruptcy petitions as well. We will check liability for debt and challenge where necessary.

Housing is covered by our legal aid contract – little remains in scope other than action to avert possession and serious disrepair. The Housing Possession Court Duty Scheme assists around 900 people per year, of which around 50% attend without appointment and are often represented at their hearing.

Our Welfare Benefits provision includes a

form-filling service (always very popular) as well as casework and representation at the first- and second-tier tribunals.

We assist over 2,500 people each year and raise over £1.5 million per year in income that helps alleviate the poverty that affects so many people in the City.

*Can you explain what CALS role within the advice sector is?*

**KB** We don't just provide advice. As the largest advice service within the City's VCS sector, Community Advice and Law Service seeks to influence the commissioning and delivery of social welfare law advice; to act as an advocate for access to justice; to link advice provision with the range of support services that help our clients to make real and lasting changes in their circumstances.

We manage the contract with the Money Advice Service (MAS) for the delivery of debt advice throughout the East Midlands region. In this role, we introduced a peer review system to monitor and check the quality of the services provided by all our sub-contractors – and this system has now been adopted on a national basis by MAS.

We are the lead agency for the Advice Leicester Partnership – a group of 10 VCS advice agencies in the city. Under our leadership, the Partnership recently collaborated within a Lottery-funded project to improve access to advice for "hard to serve" clients. This project resulted in an on-line referral system, a consultancy service (provided by CALS) for other ALP members, outreach services in schools and GPs' surgeries.

Until recently, we chaired the city's Social Welfare Advice Providers' (SWAP) Forum which is co-ordinated by Leicester City Council and includes all the VCS and statutory advice services in the city. In that

role, we have been able to raise matters of practice and procedure with senior DWP personnel and local authority officials.

We are founding members of the Reaching People Consortium of VCS organisations in Leicestershire and Rutland. As you can imagine, we are a strident voice for access to justice and have had several successes in securing funding for advice services within collaborative projects.

*Why is an organisation such as CALS needed?*

**KB** A few facts and figures, although I am sure that the general scene will be familiar to readers.

The national picture:

- The UK has seen an unprecedented decline in living standards over the past five years, with earnings falling in real terms and increased levels of un- and under-employment
- Since the start of the recession (2009), there has been an increase in the incidence of zero hours and temporary contracts, which tend to bring with them low pay and insecurity
- for the first time on record, the majority of people in poverty have at least one person working in their household, rather than being in households comprising retired people or non-working people of working age
- higher unemployment, job insecurity and falling real-terms incomes - have all contributed to the difficulties many households face in terms of making ends meet.
- fiscal constraints have reduced support at a national and local level – bringing real terms reductions in the value of many benefits and tax credits on which low-income households depend.

In combination, these factors have contributed to an increase in the number of households across the income range, which are struggling to achieve an acceptable standard of living. A recent report by the Joseph Rowntree Foundation ("Destitution in the UK" April 2016") found that 184,500 destitute households contacted voluntary sector crisis services in a typical week in 2015.

The report also corroborates our own experience as advice providers - that poverty takes a toll on people's mental health, and also sometimes their physical health; that there is a strong association between families' socio-economic circumstances and the chances that their children will experience child abuse and neglect (JR report "Destitution in the UK" April 2016").

*What about Leicester?*

**KB** Take a look at the following:

- Office of National Statistics data for 2015 shows that 67% of households in Leicester City experience at least one form of deprivation: that is: no qualifications, a limiting long-term illness, unemployment, and overcrowded housing
- 28% of Leicester households require Housing Benefit, significantly more than in England overall
- (19%), and rent shortfalls affect about 4,500 out of 8,000 private tenants receiving Housing Benefit in Leicester.
- One in five workers in Leicester earn less than the Living Wage, a figure calculated with reference to the Minimum Income Standard to represent a minimum adequate level of pay: average earnings in Leicester are more than 22% below the national average
- The bedroom tax affects about 13% of social tenants receiving Housing Benefit.
- Leicester Child Poverty Commission report (2013) found that over a third of children in Leicester are growing up in poverty - that is in families struggling to make ends meet on benefit rates that typically pay less than two thirds of what a family requires for a minimum acceptable standard of living.
- The English Indices of Deprivation 2015 (Dept. for Communities & Local Government) Leicester ranks 17th out of the 20 local authority districts with the highest levels of income deprivation
- And a glimpse into the future... Leicester ranks fourth of the 20 worst-affected districts in terms of loss of income in 2020/21 for working-age households in the social rented sector; showing an anticipated loss of £2,600 per household per year.

*Can you tell us what these changes mean for the advice sector?*

**KB** In a nutshell - there is a huge increase in people needing assistance on matters of social welfare law at a time when supply is diminishing. This assistance ranges from help in actually making claims through to representation at court and tribunals.

Changes in the administration of disability benefits – in particular the transition from Disability Living Allowance to Personal Independence Payments – have resulted in many people with long-term health conditions and disabilities losing income – hence an increase in the demand for appeals for this particularly vulnerable client group.

The harsher welfare benefits regime applicable to EEA nationals has also generated a need for appeals in order to overturn decisions which often leave people without any source of income.

In the past year, at CALS alone, we have seen a 20% increase in the total amount of debt presented by clients, compared with previous year, and an increase of over 200% in the level of rent arrears presented.

Making referrals for food parcels for clients who are destitute is now a standard procedure for us at CALS.

*Where are you based and how can people make contact?*

**KB** We are very easy to find: CALS is at Epic House – just opposite the new Haymarket Bus Station and round the corner from Wilkinsons. Our telephone number is 0116 242 1120. Our Website is <http://www.cals.uk.net/>

*What can CALS do for the legal profession in Leicester, Leicestershire and Rutland?*

**KB** We know that many of the people who come to CALS for advice and assistance with their debt, welfare benefits and housing problems are also in contact with the criminal justice system and the family law system; are social housing tenants and are known to a range of organisations.

We believe that we can be more effective and a stronger force for social justice if we work together than if we all plough our separate furrows, trying to do our best for people who find themselves in desperate circumstances. Many people going through divorce and family breakdown will have debts or may need to claim benefits. Increasing clients' income and reducing debt means also that they are better able to afford the legal services they need.

This is what we can offer you and your clients:

- free, expert advice & legal representation in social welfare law – debt, welfare benefits, housing
- partnership – we can't replace the legal aid system but we can work together more effectively to secure access to justice for people who can't afford to pay. Talk to us about how we can help you and your clients.

*Thank you Kathryn for taking the time to talk with the Leicestershire Law Society Magazine.*

# BOOK REVIEW

# SEX AND THE OFFICE

by Kim Elsesser PhD

*If you want to advance, to be fantastic is only half the job - you also have to be known to be fantastic. One way to bring that about is to network - but how?*

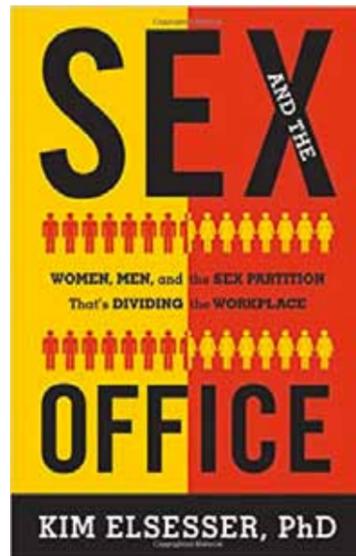
Chicago, mid 1980s. Lawyer Michelle Robinson was assigned to mentor a male intern. They got on but he kept pestering her for a date until the inevitable happened. A career damaging investigation? No - not on this occasion. They married, her surname became Obama and the rest as they say is history but not all cross-sex workplace relationships end so happily.



Kim Elsesser (pictured) is a research scholar at the Center for the Study of Women at the University of California but her findings are just as relevant over here. The SRA Handbook is under review but the proposed new draft reiterates the principle that a solicitor should "act in a way that encourages equality, diversity and inclusion". At the same time though just last year the Employment Appeal Tribunal upheld an award of £20,000 to a female LPC graduate against her male solicitor boss in respect of sexual harassment\*. The Bar Standards Board also published its research, Women at the Bar, which found that 2 in 5 respondents said they had experienced sexual harassment and of the minority who did report it half were not satisfied with the outcome.\*\*

On the other hand Dr Elsesser reports that senior male executives are now so afraid that an offhand remark for example or accidental touching could be misinterpreted that they are reluctant to have a one to one meeting with a female. Instead men in influential positions prefer to have the after work drinks, late night meetings etc with other chaps and to mentor the new boy. Then when pay rises and promotions are under discussion they support the young man they know.

[www.leicestershirelawsociety.org.uk](http://www.leicestershirelawsociety.org.uk)



The book covers both the true office romance (don't try to keep it a secret, remain fully professional both throughout and afterwards) and the purely business cross-sex friendship which must both actually be and be perceived to be just that.

The author offers advice on ascertaining romantic interest - ask "Are you OK to take our relationship outside the professional realm?" The option of the Victorian lady dropping her handkerchief sadly no longer applies. Getting it in writing does not sound very romantic but like a

Pre Nup it can save a lot of problems later on.

My preferred recommendation was very simple: more use of formal, official, cross-sex pairings between senior managers and junior employees for socialising and mentoring, and thus developing strong support networks based on much more than the proverbial chatting at the water cooler.

One of the strengths of Leicestershire Law Society is that it offers young members the opportunity to meet others who are not direct competitors in a comfortable environment and outside their usual circle. Very often the first contact for a new opportunity is not an existing colleague or friend but an acquaintance or 'weak tie' as the author describes it. But the ambitious solicitor needs strong contacts within the current workplace as well. As in 2017 the number of women solicitors with practising certificates is predicted to overtake the number of men, and with the centenary of the Sex Disqualification (Removal) Act 1919 permitting women to become solicitors approaching any other suggestions as to how best to achieve that?

**Christl Hughes**

Equality & Diversity sub Board

\*[http://www.bailii.org/uk/cases/UKCAT/2016/0217\\_15\\_2306.html](http://www.bailii.org/uk/cases/UKCAT/2016/0217_15_2306.html)

\*\*[https://www.barstandardsboard.org.uk/media/1773934/women\\_at\\_the\\_bar\\_-\\_full\\_report\\_-\\_final\\_12\\_07\\_16.pdf](https://www.barstandardsboard.org.uk/media/1773934/women_at_the_bar_-_full_report_-_final_12_07_16.pdf)

**together.**  
Commercial finance

Bridging finance  
Auction finance  
Commercial mortgages  
Buy-to-Let mortgages  
Development funding

## Are your clients property investors who need funding?



Mark Finucane  
Regional Development Director

As a principal lender, with over 40 years' experience, we're dedicated to working closely with our professional sector partners. Mark is here to support you and your clients in a range of short-term property funding requirements.

We aim to put your clients in the best position to complete on residential investment, commercial property or land purchases.

Call Mark on  
0121 396 1453 or visit  
[togethermoney.com/midlands](http://togethermoney.com/midlands)

# CIVIC DINNER 2017



The Leicestershire Law Society held its annual Civic Dinner at the Grand Mercure Hotel, Leicester on 27th January 2017. The event was hosted by our President, Imogen Cox and attendance at the event was by invitation of the President and Leicestershire Law Society.

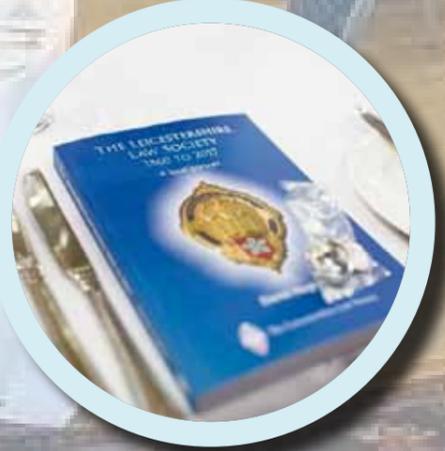
The Guest Speaker was His Honour Judge Hammond (Retired) and his presentation was very well received by all who attended.

In attendance at the event, was Baroness Gretton DSU JP DL who is the current Lord Lieutenant of Leicestershire,

the Lord and Lady Mayor of Leicester, Mr and Mrs John Waite and past President of the Leicestershire Law Society Ms Mehmooda Duke.

Every guest was presented with a copy of the newly updated Leicestershire Law Society book "A Local Portrait." The book covers the life of the Leicestershire Law Society from 1860 – 2017. The book can be purchased from the Leicestershire Law Society and costs £10.00 per copy.

The guests were also all given a copy of the Leicestershire Law Society Winter Edition Magazine which received very positive reviews from all that attended. The Richard III article prompted much discussion amongst guests during the evening.



# COUNCIL MEMBER'S REPORT

## FEBRUARY 2017

Linda Lee is the Law Society Council Member for Leicestershire, Northamptonshire and Rutland. As a Council Member she is also the elected Chair of the Regulatory Affairs Board and a member of the Audit Committee, Regulatory Processes Committee and the Access to Justice Committee. She is also Chair of the Solicitors Assistance Scheme. Linda attends all Leicestershire Law Society Council meetings and is a member of the Non-contentious sub-committee as an advisor on regulatory matters. Please contact her at [lindahlee@aol.com](mailto:lindahlee@aol.com)



On December 2015 the Competition and Markets Authority (CMA) published the final report on its Market Study on legal services.

It focussed its research on three 'theories of harm'

1) **Consumers' inability to assess value for money (price and quality) leads to ineffective competition between service providers (e.g. barriers to search/switch)**

2) **Consumers are inadequately protected by existing regulations and redress mechanisms**

3) **Regulations lead to barriers to entry or unnecessary costs**

It concludes that currently, the sector shows poor quality outcomes, high prices, stifled demand, reduced innovation and few new market entrants, a lack of consumer trust and a lack of redress.

These conclusions are not aimed solely at the solicitor's profession or to other regulated lawyers such as the Bar but looks at a wider market than those who are subject to statutory regulation and that is part of the reports weaknesses -it is selective in how and when it differentiates between the regulated and the unregulated.

The findings are surprising to many for example, it considered a range of types of divorce cases ranging from an uncontested divorce to divorces involving children or complex assets and concluded that although there was a lack of evidence on the 'unauthorised' ie unregulated part of the sector, the limited evidence available did not suggest unregulated providers raised greater quality concerns than regulated providers. The CMA was concerned that customers of unregulated providers did not benefit from the redress mechanisms enjoyed by 'customers of authorised providers'.

Indeed, it is hard to reconcile many of the findings with the market perceived by those on the frontline who give advice directly to ordinary people with problems who may or may not become our clients.

The CMA has a primary duty to seek to promote competition, both within and outside the United Kingdom, for the benefit of consumers. And its mission statement is 'The CMA makes markets work well in the interests of consumers<sup>1</sup>, businesses and the economy<sup>2</sup>.' It therefore tackles every problem on the basis of these theories and does not attempt to test the theory itself in the particular environment it is addressing. It believes 'remedies' are required because 'competition in the legal services sector for consumers and small businesses is not working well'.

The CMA proposes a number of remedies to address the harm it perceives.

The CMA finds that the legal services sector is not working well for individual consumers and small businesses. It states that consumers find it hard to make informed choices because there is little transparency about price service and quality – it found that only 17% of legal services providers publish their prices online.

The CMA believes that increasing transparency of price, service and quality is necessary and will increase competition so that consumers get a better deal. It does not however provide any analysis or relevant market evidence comparable with the variety of issues that supports the hypothesis.

To improve transparency, it recommends:

1. Regulators to introduce new minimum standards on the information that lawyers provide to their customers on websites and in person to make shopping around easier. The report goes on to explain that, 'Providers will, for the first time, have to provide prospective clients information on the price and service they can expect, at the point it matters (the website).

2. Regulators both encourage providers to engage with quality signals, such as online reviews (comparison websites) and provide guidance on how to engage with online reviews.

3. Regulators work together to adopt a consistent approach with the potential for a single digital register across regulated professions.

4. Regulators develop the content of the existing Legal Choices website<sup>3</sup> and that more needs to be done to promote it. It also suggests that there is a role for consumer and business groups in providing guidance on how to develop content.

Interestingly the CMA has launched a market study into digital comparison tool after suggestions that they have in fact been used as a means of price fixing.

The CMA places great importance on helping consumers with their legal choices and sees this being achieved in 4 steps:

1. Ensuring consumers have relevant information
2. Encouraging providers to engage in quality signals
3. Facilitating comparison through open data
4. Ongoing regulatory changes

The CMA extended the remit of its review to look at the regulatory framework for legal services and whilst there was no finding of any major barrier to competition it expressed concerns about the sustainability of the current regulatory 2007 Act model which does not extend to unregulated markets where legal services are increasingly offered.

The solutions proposed aim to ensure better information for consumers, changes in regulation and the protection it gives and to remove market barriers. This continues long standing policy first set out in the 2001 Office of Fair Trading (OFT) report<sup>4</sup> which required

changes to be made on the basis that self-regulation by the professions imposed too many self-serving restrictions: *'Restrictions may be justified under competition law if they are in the public interest, if they serve economic progress, if the benefits are shared with consumers and if the restrictions do not go further than is necessary or eliminate competition.'*

The Clementi Report which developed the themes of the OFT report and the Legal Services Act 2007 which established a new regime with separation of regulation. It established the independent regulatory body the Solicitors Regulation Authority (SRA), whose separation from the profession was increasingly extended over time by Internal Governance Rules laid down by the Legal Services Board (LSB). The SRA encouraged by the LSB has followed a deregulatory agenda via changes to the Handbook twice yearly at great cost to the profession and their clients. However, the latest CMA study suggests not much has changed and indeed in some respects it might be argued that it might actually be worse, particularly given the proliferation of regulators which it now recommends should probably be reduced.

There is a strong recommendation for government to consult on the separation of legal services regulators from their representative bodies. *'Our main concern is that the current, title-based model is insufficiently flexible to apply proportionate, risk-based regulation which reflects differences across legal services areas and over time. We therefore propose that the government launches a review of the regulatory framework with the aim of making the regulatory regime more flexible and risk-based in the long term. We also consider that regulators should be independent from government and representative bodies. The number of regulators should be a consequence of the regulatory structure; moving from a model that is primarily title-based to a risk-based model is likely to lead to a reduction in the number of regulators.'*

Debate will focus around whether the SRA should operate as an independent

regulator or whether there should be a merger of regulators for many, if not all, of the legal professions.

The SRA wish to maintain their role in authorising the use of the solicitor title and extend their jurisdiction into the wider unregulated market where solicitors would be permitted to work under their new Code. The key change is to remove the current restrictions on solicitors delivering non-reserved legal services to the public or sections of the public through an alternative legal services provider, while using their solicitor title.

The SRA's proposal is that *'Solicitors who work in alternative legal services providers and decide to provide non-reserved legal services to the public will be subject to the new individual Code. They will be required to make sure that their clients understand whether and how the services the solicitor provides are regulated and about the protections available to them. This aligns with the proposed requirement placed on regulated firms where they will need to tell consumers that they will be covered by the SRA Compensation Fund and Professional Indemnity Insurance (PII) cover'*.

However, the CMA would require a market regulator to set the minimum necessary to provide consumer protection and could favour the award of professional titles to be given back to the professional bodies.

The SRA's position would not align to this view as it sees its reforms as paving a way forward to an extension of the reach of the profession. The SRA considers that its changes 'will help to strengthen the overall solicitor 'brand'. With increased visibility and accessibility to competent solicitors, consumers can choose a qualified professional when that is what they want or need. Ultimately, the solicitor brand will stand or fall on whether it remains relevant, and that brand will be strengthened if the reputation for excellence is matched by actual consumer experience.'

It now seems to be a feature of the legal profession in England and Wales that it faces constant disruption and major upheaval at

least every 5-10 years. Although the CMA is described as an independent non-ministerial department, there can be little doubt given the publications by the Treasury, the Ministry of Justice and Department for Business, Innovation and Skills (Department for Business, Energy & Industrial Strategy since July 2016) as to the 'interested parties' referred to in its report as triggering its market study.

Such intervention is viewed with incredulity by many of the competitor jurisdictions of England and Wales but the real tragedy is the lack of any study of the impact on the individuals we see daily. There has been no study or evidence to show any benefit arising from the changes brought about by the original OFT recommendations or to test the CMA theories of market change bringing about consumer benefit, indeed the current proposals to reduce or remove consumer protection in a manner that cannot be made easily visible to consumers will do the opposite.

The legal profession is not set against change and innovation but it seeks to do so in a manner that does not cause harm. I pray aid from Karl Popper the philosopher who was a great advocate for change but also said, *'If we are uncritical we shall always find what we want: we shall look for, and find, confirmations, and we shall look away from, and not see, whatever might be dangerous to our pet theories. In this way, it is only too easy to obtain what appears to be overwhelming evidence in favour of a theory which, if approached critically, would have been refuted'*. The CMA have held that mirror to the profession but I suggest that it should also hold it to itself.

<sup>1</sup> Enterprise and Regulatory Reform Act 2013 s25(3)

<sup>2</sup> Vision, values and strategy for the CMA January 2014

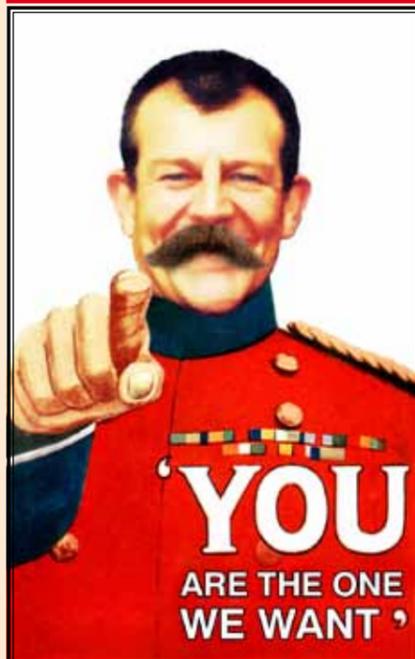
<sup>3</sup> <http://www.legalchoices.org.uk>

<sup>4</sup> Competition in professions A report by the Director General of Fair Trading (OFT 328)

<sup>5</sup> The Poverty of Historicism (1957) Ch. 29 The Unity of Method

# YOUR LAW SOCIETY NEEDS YOU!

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'Keeffe, 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'Keeffe 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.



Bushra Ali and Daniel O'Keeffe

### 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.

Last year we ran a mock trial of King Richard III at Leicester 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.

Our annual Ball and Awards ceremony which will be at Athena Leicester on 19 May 2017. The theme this year is "A Night At The Movies." Tickets go very fast for the awards event so you need to be booking your place now.

### Brand New Membership pack

We are currently putting together a new membership pack which will be emailed to all members. 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 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'Keeffe at dokeeffe@moosaduke.com. We look forward to meeting as many of you as possible in 2017.

# A Night at the Movies



## AWARDS CEREMONY

FRIDAY 19 MAY '17 7.30PM - 1AM

£55 each OR £500 FOR A TABLE OF 10  
ATHENA, QUEEN STREET LEICESTER LE1 1QD

DRESS CODE: FULL HOLLYWOOD GLAMOUR OR YOUR FAVOURITE FILM STAR

BOOK TICKETS AT [WWW.LEICESTERSHIRELAWSCOCIETY.ORG.UK](http://WWW.LEICESTERSHIRELAWSCOCIETY.ORG.UK)  
OR EMAIL [OFFICE@LEICESTERSHIRELAWSCOCIETY.ORG.UK](mailto:OFFICE@LEICESTERSHIRELAWSCOCIETY.ORG.UK)



# LEICESTERSHIRE LAW SOCIETY AWARDS 2017

Leicestershire Law Society is holding their annual awards dinner on Friday 19th May 2017.

The event brings together the legal community and other business professionals and allows LLS to give recognition to legal individuals in Leicester, Leicestershire and Rutland who stand out as outstanding ambassadors for the industry.

This year's theme is "A Night At The Movies" and "Oscar" could be making an appearance. This year's event returns to "Athena" at Queen Street, in Leicester and is an apt venue, considering in its past life Athena was the "Odeon Cinema." A movie connection.

You need to book early to avoid disappointment and bookings can be made by contacting the Leicestershire Law Society at [www.leicestershirelawsociety.org.uk](http://www.leicestershirelawsociety.org.uk) or by email to [office@leicestershirelawsociety.org.uk](mailto:office@leicestershirelawsociety.org.uk)



**SOLICITOR OF THE YEAR -**  
Sponsored by Finance Lab

- Hannah Walsh - *Weightmans LLP*
- Nicola Kitchener - *Affinity Law*



**JUNIOR LAWYER OF THE YEAR -**  
Sponsored by University of Leicester

- Holly Mayne - *Shakespeare Martineau*
- Stephanie Kyriacou - *Glynis Wright & Co*



**SMALL LAW FIRM OF THE YEAR -**  
Sponsored by KCH Garden Square

- Crystal Law Solicitors
- Emery Johnson Astills



**LARGE LAW FIRM OF THE YEAR -**  
Sponsored by De Montfort University

- Weightmans LLP
- Freeths LLP



**TRAINEE / PARALEGAL OF THE YEAR -**  
Sponsored by The 36 Group

- Miriam Njih Kathe - *Bushra Ali Solicitors*
- Myles Bennett - *Bobby Dhanjal Legal Services*



**CHAMBERS OF THE YEAR -**  
Sponsored by the Miller Partnership

- The 36 Group
- KCH Garden Square





**EVIDENCE  
MATTERS**

**24 Hour  
Nationwide  
Service**

## Digital Forensics & Cell Site Analysis

Defence Specialists in Child Pornography,  
Terrorism and Fraud

- Computer Forensics
- SatNav Forensics
- Mobile Phone Forensics
- E-Discovery & E-Disclosure
- Chip-off Forensics
- CCTV analysis
- Social Media Analysis

- Cell Site Analysis
- Data Recovery & Preservation



**0330 660 0052 or 07921 579910**

**sarah@evidence-matters.com**

**www.evidence-matters.com**



**E P C**  
PROFESSIONAL  
COMMUNICATIONS  
FOR PROFESSIONALS  
0 1 5 1 6 5 1 2 7 7 6  
EAST PARK COMMUNICATIONS

**ELIZABETH J. SOILLEUX**  
MA, MB, BChir, PhD, FRCPath  
**CONSULTANT PATHOLOGIST**  
Experienced Cambridge and Oxford-trained consultant pathologist with particular interests in haematopathology (lymphomas, leukaemias), cardiovascular pathology & autopsy pathology.  
Expert Witness Certificate (Civil Law), Bond Solon / Cardiff University  
• Biopsy Pathology (esp Lymphoma & Leukaemia)  
• Autopsy Pathology (esp Cardiovascular Pathology)  
• Professional Conduct (GMC work undertaken)  
Dept. of Cellular Pathology, John Radcliffe Hospital, Oxford OX3 9DU  
Tel: 07798 643879 Email: lizsoilleux@gmail.com  
www.expertwitnesspathologist.co.uk

**IGL Costs** 07905 894770  
**Specialist legal costs advice at IGL Costs**  
If legal fees are giving you a headache then contact IGL Costs for the solution. Let our team of experts in the field with over 14 years of experience assist in your expenditure management.  
We have extensive knowledge in all aspects of legal expenses especially in advocacy and litigation. We pride ourselves on not only giving professional advice but honest advice too.  
Based in Derbyshire with nationwide coverage, our services include but are not restricted to:  
• Advocacy  
• Bills of Costs  
• Preparation of Costs Budgets  
• Costs Management Conferences  
• In-house services  
• Detailed assessments  
• Points of Dispute  
**Our associates are ready to take your call**  
From individuals to large corporate companies our services are available to all. At IGL Costs no case is too big or too small for us to take on. Over the years we have dealt with varying cases taking on work from both claimants and defendants. Our team are accomplished from preparing Bills of Costs to representing our clients at court hearings. No wonder two of the top 25 UK law firms trust in IGL costs for our impartial advice.  
**IGL Costs • 25 SNITTERTON ROAD, MATLOCK, DERBYSHIRE DE4 3LZ**  
E: iain@iglcosts.co.uk • iglcostsderby.co.uk



## Do you have a client who's going through a major lifestyle change?

I provide financial planning and advice on:

- Marriage, Divorce, Bereavement and Retirement
- Mortgages - Moving House, Remortgages, Buy to Let, Let to Buy and First Time Buyers
- Protection - Life, Critical Illness, Income and Business Cover
- Tax Efficient Savings, Investment and Trusts
- Pension Provisions and Pension Sharing

I work with solicitors to make sure their clients have the right financial advice when they need it the most.

Please contact me today for more information.

**No fee for your client's first consultation**

**Julie Langton, Wealth Management Partner**  
E: julielangton@tpllp.com  
T: 0116 271 1031 M: 07753 190899  
www.julielangton.tpllp.com  
True Potential Wealth Management,  
The Bell Tower, 16 Stoughton Grange Farm,  
Gartree Road, Oadby, Leicester LE2 2FB



Disclaimer: Julie Langton is a Wealth Management Partner within True Potential Wealth Management LLP which is authorised and regulated by the Financial Conduct Authority. FNR Number 529810. Registered Head Office: Newburn House, Gateway West, Newburn Riverside, Newcastle upon Tyne, NE15 8NX. True Potential Wealth Management is a Limited Liability Partnership. OC356611. Your capital is at risk. Investments can fluctuate in value and you may get back less than you invest. Past performance is not a guide to future performance. Tax rules can change at any time. Please remember your home or property may be repossessed if you do not keep up repayments on your mortgage. We give clients the option to pay for mortgage advice by fee rather than commission. To understand the features and risks, ask for a personalised illustration. The guidance and/or advice contained within the website are subject to the UK regulatory regime and is therefore primarily targeted at customers in the UK.

## ILOTT V MITSON – THE ROLE OF INSURANCE



The landscape surrounding the legal framework that currently applies to disappointed beneficiaries has been the source of much recent media attention as a consequence of the landmark judgment from the Supreme Court in the Ilott v Mitson case.

While this case has been ongoing, there has been a noticeable increase in the number of Personal Representatives seeking insurance cover for potential claims under Inheritance (Provision for Family and Dependents) Act 1975 (the Act). So has the judgment from the Supreme Court clarified the position with regard to the application and scope of the Act and how will it affect insurers' willingness to offer this type of cover?

By way of an abridged reminder, Melita Jackson died in 2004, leaving the majority of her estate (approximate value of £500,000) to three charities – RSPCA, RSPB and Blue Cross. She was estranged from her daughter, Heather Ilott, and had omitted her from her will (leaving two side letters explaining her decision).

Consequently, Mrs Ilott made a claim under the Act and received £50,000. Mrs Ilott sought to appeal that decision and a cross-appeal by the charities quashed this award. Mrs Ilott took the case to the Court of Appeal, which overturned the judgment and eventually awarded her the funds to purchase her property and a capital sum on top (approximately £140,000 and £20,000 respectively). The Supreme Court has now set aside the Court of Appeal's decision and reinstated the original £50,000 award.

The repercussions of this latest decision will be far reaching and insurers, like many others will be considering the implications of the judgment. Previously, as a rule, insurers were wary of indemnifying estates where a known individual, in the specified classes of potential claimants under the Act, had been omitted from a will. This was especially true if the individual omitted is a child of the deceased. So, while this type of cover was difficult to arrange prior to the Ilott case, it has become even more difficult to secure since.

This is understandable, given that a policy will typically seek to protect the insured (normally the Personal Representatives but can be extended to include the residuary beneficiaries as well) from the moment a claim is received by the insurer, whether it has merit or not. As such, and as can be seen starkly in the Ilott case, the time involved and costs of defending such a claim are not insignificant. While this is the first claim under the Act to reach the Supreme Court, litigation and settlement costs can be financially onerous, especially after the distribution of the estate.

In light of the above, an insurer has to consider the approach in relation to the extent of cover a policy will provide. For example, if a deceased had remarried and the new spouse had children from a former marriage, might they be entitled to claim because they were treated as the deceased's child or were being maintained by them? Insurers might decide to exclude claims by them from the policy or if cover is required for such claims, extensive underwriting would need to take place and if the insurer is comfortable with the risk, it will have implications on the level of premium.

Consequently, most policies provide cover more for the comfort of the Personal Representatives ie where there are no known potential claimants but where there is a desire to distribute the estate more expediently and not to wait for the time for making claims under the Act to expire. Under the Act a potential claimant has six months from the date of the grant of representation to make their claim but also has an additional four months to serve papers on the Personal Representatives, so it could be up to ten months before an estate becomes aware of any claim. It is worth noting that the Court has discretionary powers to permit applications after the six-month period, so the potential period may be in excess of the ten months.

So what options are there now for the legal profession? It very much depends on whether there are known potential claimants under the Act

or not. While the Supreme Court's judgment provides some guidance regarding claims and quantum under the Act, the decision and the comments of the judges demonstrate just how wide the court's options are when considering such claims. In light of this uncertainty and what has been described as the unsatisfactory state of the present law, giving, as it does, no guidance as to the factors to be taken into account when considering such claims under the Act, insurers will continue to be cautious when considering cover in respect of known potential claimants.

Where there are no known potential claimants though, help is more readily available. In many instances it can be difficult for a Personal Representative, especially a professional one, to be certain that there are not individuals who would be entitled, or believe they should have been remembered, even if there is no suggestion of a potential claimant. As a result, some professional Personal Representatives in particular, can be reluctant to allow funds to be distributed within the ten-month period. Peace of mind policies that allow early release of funds to beneficiaries and remove the risk to Personal Representatives of personal liability in the event of a successful claim under the Act, can provide comfort and certainty in uncertain times. Insurers will continue to be relatively comfortable with this type of risk and such insurance solutions will continue to be available, notwithstanding the Supreme Court's judgment.

Neil Kevan

Trust & Probate Underwriter  
Legal & Contingency Limited





**Leicestershire's first Prep School  
Plus for Boys & Girls aged 4-16**  
Part of the Leicester Grammar School Trust



**Come and take a look at our school:**

- Book a private tour
- Come to Open Morning, 9am-12.30pm  
Saturday 6<sup>th</sup> May 2017

For more information or to book a visit, please contact  
Mrs Whittle on 0116 259 2282 or visit  
[www.stoneygateschool.co.uk](http://www.stoneygateschool.co.uk)

## THE INDUSTRY IS CHANGING - A NEW APPROACH TO GENEALOGICAL RESEARCH

Recent media coverage has seen a number of high profile cases reported which have highlighted how clients have paid more than they should have for legal services. This has resulted in growing pressure on legal firms to make their client proposition as transparent as possible and, where possible, to offer services on a fixed fee basis.

One such case saw the Legal Ombudsman rule that a solicitor should refund £34,000 of the £37,000 fee that their client signed under a contingency fee agreement (CFA). The Ombudsman ruled that the client had not been properly advised about the terms and effects of the CFA when signing a contract relating to work in a probate dispute case.

After a small amount of work had been completed and paid for, the client could not afford to pay any more upfront fees having been told that the litigation could cost up to £35,000. She then agreed to pay the firm 20% of any damages that they reclaimed on her behalf.

Following a settlement, the client was billed £37,608, which was deducted from her inheritance, leaving her with £25,000. The Ombudsman said that there was no evidence of the 'significant activity' required to justify the firm's charges in relation to the case.

Although this is an extreme case, reports of clients being overcharged as a result of firms not fully explaining their pricing structure are on the increase. This is one of the key drivers behind why clients are increasingly looking to firms to provide fixed fee services.

At Title Research we understand that this means that we need to adapt the way in which we offer our services as well, which is why we have listened to feedback from our clients and have introduced a new fixed fee pricing structure to deliver even better value for money.

We now offer fixed fees to locate missing beneficiaries and reconstruct family trees – not only in England and Wales, but also in overseas jurisdictions as well. If we are unable to locate a missing beneficiary, we will provide a quote for insurance to protect against future claims. In the unlikely event that we can't do this, we will waive our research fees completely so you won't pay anything.

Tom Curran, Chief Executive at Title Research said: "Unfortunately, cases of unclear fees and overcharging are still all too common and something which we would like to see eradicated altogether from the legal sector.

That's why we believe that any service we offer should be priced fairly, transparently and wherever possible, on a fixed fee basis. We will never charge contingency fees like many of our competitors as we feel this approach is unethical and unfair to the client.

Title Research always offers its services based on a price that is agreed before any work is undertaken – we believe this offers a clear solution and the best value for all involved."

For more information Title Research's services, visit [www.titleresearch.com](http://www.titleresearch.com) or call 0345 87 27 600.



**Title Research**

Bringing people and assets together for over 50 years

Title Research is one of the UK's leading specialists in people tracing and asset repatriation services. With over half a century of experience to call on, our team of specialists can assist you and your clients with a wide range of services:

- Administrator searches
- Client tracing
- Missing beneficiaries
- The valuation and sale of overseas assets
- Share valuations
- Medallion signature guarantee stamps
- Document and will searches
- Overseas Grant of Probate
- Family tree mapping

We work with thousands of legal and estate planning professionals each year, helping them to support their clients with fast, efficient and cost effective solutions.

Unlike many of our competitors, we do not work on a contingency basis as we feel this approach is unfair and immoral – the costs of any work we undertake will be agreed up front, ensuring a clear and transparent service for all involved.

Contact us today for a no obligation discussion to find out more about our services and learn how we can assist you and your clients.

Tel: 0345 87 27 600  
Email: [info@titleresearch.com](mailto:info@titleresearch.com)  
Web: [www.titleresearch.com](http://www.titleresearch.com)

# 20 years in the conveyancing industry

Kevin Brown, Director at Geodesys



## 20 years in the conveyancing industry

It has been two decades since the formation of Geodesys... and, coincidentally, 20 years since the property boom began in the UK! Geodesys came into being around

the same time as the early conveyancing searches were introduced and was instrumental in bringing some of these searches to the marketplace. Since 1997 there have been lots of changes in the searches industry and you could say that some of these changes have contributed to how conveyancing practices work today.

## Analogue to digital

In 1997 the world was still dealing with faxes, paper documents, order forms and cheques. In the conveyancing industry, solicitors and their assistants needed to spend a lot of time unearthing the important information they needed to support a property transaction. Twenty years on, search companies have very sophisticated processes in place to simplify the provision of property-related information and data. At Geodesys, for example, our website offers a simple ordering process to cut down on delays and an intuitive online mapping tool to facilitate the identification of particular properties. This benefits solicitors by giving them valuable time to focus on the due diligence aspects of the transaction for their clients.

## The evolution of searches

From 1997 early versions of the Local Authority search and the drainage and water search were available, but both were limited in terms of content. Geodesys worked closely with other water companies and the Law Society to develop the CON29DW. It launched in 2002, enhanced by the addition of several new pieces of information including location of sewer and water mains, the connection status of a property and billing information. Geodesys was also one of three companies involved in taking environmental

searches to the marketplace after the Government introduced contaminated land legislation in April 2000. Since then the market has seen some major developments with regard to environmental searches: searches are now available with different levels of screening and risk-specific assessments depending on the nature and location of the transaction. We have also seen a number of stand-alone reports come onto the market, such as energy and infrastructure, and ground stability searches.

## We can't forget Home Information Packs!

HIPs were introduced in 2007 when it became mandatory for all homeowners to have specific searches done before they could put their houses on the market. Specific components of the HIP included an Energy Performance Certificate, Land Registry official entry and title plan, a CON29DW and a Local Authority search. However, HIPs were not with us for very long, lasting for less than three years before the Government suspended the requirement!

## Looking ahead

The need for affordable housing has been a constant theme of recent years. The Government has recently responded with their Housing White Paper (February 2017), taking a first step towards tackling some of the complex causes. Alongside this, Land Registry will become 'a more digital, data-driven registration business'. Working together, they aim to have 'all publicly-held land in the areas of greatest housing need registered by 2020'. By providing transparency on land ownership and interests, it should become easier to identify land that may be suitable for development.

Geodesys has been at the forefront of the conveyancing industry for the last 20 years and, in 2017, we continue to innovate by ensuring we keep a close eye on housing industry trends. This is complemented by our commitment to our clients, listening to their feedback and developing systems and processes to make their lives easier. Here's to the next 20 years!



# Conveyancing searches?



## Geodesys. All you need to know.

For the past 20 years, Geodesys has provided a wide range of conveyancing searches and reports to clients nationwide.

Our dedicated team continue to offer our unique service, drawing on their extensive expertise and knowledge to meet all your needs while responding to evolving market requirements.

The result? Wherever you are in the UK, the indispensable peace of mind offered by Geodesys together with our unique insight and unparalleled customer service are at your disposal.

## Celebrating 20 years of excellence.

For information call 0800 085 8050  
or email [customer.services@geodesys.com](mailto:customer.services@geodesys.com)

[www.geodesys.com](http://www.geodesys.com)



# TOP TEN DISASTER RECOVERY AND BUSINESS CONTINUITY PLANNING TIPS



WHEN IT COMES TO BUSINESS, THERE'S NO POINT IN HAVING A PLAN A UNLESS YOU'VE GOT A PLAN B. WHILE PLAN A MIGHT BE THE ROUTE TO PROFITS, PLAN B IS THE MEANS OF SURVIVING, WHATEVER CHALLENGES YOU COME UP AGAINST.

Every business is at risk of potential natural or man-made disasters. Despite our wishful thinking, sometimes the dreaded 'what if' scenarios become a harsh reality. While we all hope for the best, it's essential to prepare for the worst. Then there are minor interruptions which, with adequate forethought, can be circumnavigated completely.

So, what's your plan to recover from disaster and get back on track to plan A? And, what's your plan for continuing running your business during lesser disturbances? These are your disaster recovery and business continuity plans respectively.

To clarify further, disaster recovery and business continuity plans are essential constituents of any business, not just technology companies. We all rely on technology to a greater or lesser extent. Power, phones and internet are now an everyday given. But, there's more than this to consider. Your workforce, for example. A norovirus could mean your business can't operate effectively for a few days. Without a plan, then, you're vulnerable and can easily be caught off guard, whatever your business type.

With a lot hinging on these two plans, it's important to get it right. To help you in this gargantuan task, here are ten top tips...

## #1: OUTLINE WHAT'S VITAL TO KEEP YOUR BUSINESS RUNNING

The first step is to detail the things you just couldn't operate without. In other words, if any one of these is missing due to circumstances beyond your control, you've got a potential grind-to-a-halt situation on your hands. Remember it's all about the basic elements: premises, power, internet, hardware, software, water, people etc.

## #2: CREATE A LIST OF DISASTER TYPES

This may sound pessimistic and defeatist, especially when you consider the rarity of most disaster situations, but catering for a multitude of catastrophic eventualities is actually a really positive

exercise. That's because you're better equipped to cope during a real disaster.

Looking at your essentials list (see #1 above), think about the reasons your critical systems and functions might stop working. Phones: could there be a line fault at the exchange? People: could a number of your staff have been struck down by a virus or could you have received resignations from key members? PCs and laptops: could you be facing the likes of a ransomware attack rendering your hardware useless? And so on and so forth.

Make a record and rank these disasters based on their likelihood as well as level of impact to your business.

## #3: DEFINE YOUR PLAN B

Taking things a step further, put pen to paper and determine what your plan B might look like. For example, if you run an in-house server which hosts your applications and stores your data, does this have a RAID configuration of hard disks? Do you have a UPS? Even with seemingly fool-proof cloud systems, it's still important to establish whether you have both main and emergency power supplies for your computer to access the cloud environment. Back-up generators and the like will usually feature here.

Similarly, if your phones are disconnected, do you have an arrangement in place to divert landline numbers straight through to corresponding mobiles, or even a second office? Do you have a pay-as-you-go spare mobile in the cupboard? This would allow those contacting you to still touch base, even if not straightaway with the intended individual.

Also, if you rely on internet banking for accounting purposes, and you lose your web connection, is there a telephone banking option? Where's the number stored?

The scenarios go on and on... the point is, try to conjure up the many possibilities and put into place a plan B alternative. This may necessitate involvement from your core suppliers.

## #4: SET YOUR RECOVERY OBJECTIVES

How long, realistically, can you manage in plan B? This is an oft quoted metric called your recovery time objective. Your figure will be based upon real calculations, for instance how much diesel is there in the tank to run the generator if there's a power cut? How long can you cope in the absence of departing staff before they need to be replaced? If your bank account's inaccessible via internet banking and you can't keep tabs on your finances, when will you run out of cash?

The difference here can be anything from an hour to several days. Knowing just how long you can last in plan B will help you prioritise the importance of putting new systems in place to preserve plan A or continue in a robust plan B mode.

## #5: ASSIGN ROLES AND RESPONSIBILITIES

Should disaster strike, which of your key personnel will initiate the plan task-by-task and who will take their place should they not be available at the time?

Similar in lots of ways to a military operation, your plan requires each participant to understand their job, who they need to interact with and the proper chain of command. Calm, confident, quick-thinking people are best placed to cope during the ensuing chaos. This should largely consist of your senior managers and compliance officers.

## #6: INCLUDE A DIRECTORY OF EMERGENCY CONTACTS

Write a list of contact names and phone numbers to be accessed instantly. Wasting time searching for this basic information during the catastrophe itself causes unnecessary delay and stress.

You'll want to cover organisations such as your bank's fraud report line, police national fraud and cybercrime centre, SRA fraud office (and other industry regulators), professional indemnity insurer, localised emergency services, utility providers, IT suppliers, building management team (if you rent office space), regional and legal press, and your PR agency, should you decide to submit a statement.

## #7: OUTLINE YOUR PREVENTATIVE MEASURES AND PHASES OF RECOVERY

Prevention is always better than cure. Your business continuity plan should cover a range of preventative and detective measures from SSL encryption and anti-virus software to CCTV surveillance and fire alarms.

In your disaster recovery plan, map out the various contingency phases – response, resumption, recovery and restoration. This is a co-ordinated effort between all parties involved which will ultimately set out how exactly you'll resume mission-critical operations in as short a time period as possible.

## #8: TEST THE PLANS

The only way to truly know if your plans are fit for purpose is to test them in as close to realistic conditions as possible. Regularly! An under-tested plan can actually be more of a hindrance than no plan at all. Rigorous testing enables your plan to stand up to the most disruptive events.

Of course, it's a major operational undertaking each time you perform a test but the up-side is that your employees are thoroughly trained on their function in executing the plan. Afterwards, you can

address any shortcomings or failures.

The details relating to tests should be well documented. You'll need to record the dates, scenarios and outcomes. This'll allow you to analyse properly and modify your plan accordingly.

## #9: KEEP YOUR PLANS UP-TO-DATE

These are living and breathing documents, so make sure they're current. Maintain and update them every time an element within your working environment or infrastructure changes and people with assigned responsibilities leave or join your business.

## #10: HIRE AN OUTSOURCING SERVICE AND MANAGED SERVICES PROVIDER (MSP)

As a leading supplier of cloud-hosted case management and legal accounts software, and outsourced legal cashiering and payroll services, we're bound to say this! But please hear us out...

Large organisations with big teams of in-house IT expertise can leverage their own technical professionals to facilitate effective planning. Those operating on a smaller scale simply don't have the same luxury and it can be cost-prohibitive to implement an effective plan because they lack the internal technical

resources to accomplish this.

In the same vein, bigger companies recruit teams of people nicely formed into departments ready-and-willing to cover for others' work when the going gets tough. Conversely, SMEs tend to employ individuals performing core functions single-handedly. In the absence of that particular individual, the work simply doesn't get done.

The solution is to instruct a third-party MSP, such as Quill. By becoming our client, you automatically inherit our business continuity and disaster recovery plans. Our software and outsourced services are delivered on a pay-as-you-go, software-as-a-service basis. You pay an easily affordable fixed monthly sum all-in with 24/7 data access and year-round uninterrupted support.

Talk to us about disaster recovery and business continuity planning to safeguard your company and operate on a 'business as usual' basis, whatever pitfalls come your way. With our input, you can quickly pick yourself up after the fallout. Email [info@quill.co.uk](mailto:info@quill.co.uk) or call 0161 236 2910.

Julian Bryan  
Managing Director  
Quill Pinpoint



# LAWWARE JOINS THE LSSA

The LSSA is delighted to announce its newest member is LawWare Ltd. LawWare is the third legal software firm to join the LSSA in 2016. As the UK's industry body for legal systems developers and vendors, the LSSA sets and maintains professional standards within the industry and manages areas of mutual interest between lawyers and software providers.

LawWare provides practice management technology to hundreds of legal practices in the UK. With offices in Edinburgh and Manchester LawWare improves the efficiency of law firm staff by making it quicker to achieve tasks.

LawWare Managing Director, Warren Wander comments: "Together with the LSSA, LawWare is about to celebrate

20 years in the legal software industry. To mark this key milestone, we are very pleased to join the LSSA to raise our profile even further in the English marketplace and enjoy the benefits of a close association with other likeminded legal technology providers. Over the last 5 years we have experienced tremendous growth and LSSA membership will add greater credibility and weight to our brand."

Chairman of the LSSA, Julian Bryan comments: "With its pedigree, LawWare is a very welcome addition to the LSSA membership. We are very much looking forward to working with the LawWare team to help shape the future of legal technology in the UK."

**lawware**  
software for the legal profession



The complete, integrated practice management system for law firms

0845 2020 577

innovate@lawware.co.uk

lawware.co.uk

Speak to us today and take the first steps to making your practice more efficient...

- Easy to use and flexible
- Fully integrated accounts & MS Office
- UK based support and training
- Minimise risk and repetition
- Onsite server or cloud based

LawWare Ltd  
5300 Lakeside  
Cheadle  
Manchester  
SK8 3GP



## Don't go round in circles!

Why over complicate things?

Legal Indemnity Insurance policies from GCS are comprehensive, easy to issue and cover your clients instantly.

Choose the direct route.  
Choose GCS.



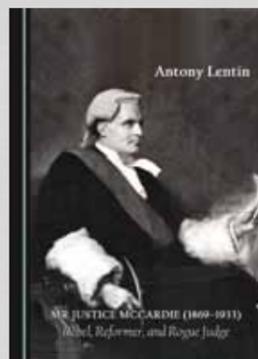
www.gcs-little.co.uk | 01435 868050 | underwriters@gcs-little.co.uk

Guaranteed Conveyancing Solutions Limited is authorised and regulated by the Financial Conduct Authority. Registered in England and Wales No. 3623950



# BOOK REVIEW

by Phillip Taylor MBE and Elizabeth Taylor of Richmond Green Chambers



**MR JUSTICE McCARDIE (1869-1933)**  
**Rebel, Reformer and Rogue Judge**  
By Antony Lentin

ISBN: 978 1 44389 780 8  
CAMBRIDGE SCHOLARS PUBLISHING  
[www.cambridgescholars.com](http://www.cambridgescholars.com)

'ST GEORGE IN A WIG' –  
A NEW BIOGRAPHY OF A 'JUDICIAL MAVERICK'

How fleeting is the fame of judges -- well known one day and consigned to obscurity the next -- a mere footnote in legal history. Such seems to have been the fate of Mr Justice McCardie, who if Antony Lentin's latest biography is anything to go by, was an especially notable and fiercely controversial judge.

A High Court judge from 1916 to 1933, McCardie was a household word in his day, a towering figure around whom clouds of controversy continually swirled. Almost like Lord Denning in the latter half of the twentieth century, the name of McCardie has undergone a sad eclipse, as evidenced rather poignantly by his bronze portrait bust in the Queen's Room at Middle Temple Hall, which inexplicably bears no plaque which identifies it. Also, it seems that there is no mention of him in the recently published 'History of Middle Temple' of which he was a member. Perhaps these oversights will eventually be redressed with the publication of this book.

This particular judicial biography grew out of an entry on Mr Justice McCardie which the author was asked to write for 'The Oxford Dictionary of National Biography' -- and a startling journey it has obviously been. Lawyers, academics and general readers interested in all things judicial -- and their effects on social change -- will be especially fascinated.

## 'ST. GEORGE IN A WIG'

McCardie was both lauded and denounced for his iconoclasm, says the author, notably on 'his insistence that 'the law must move with the times'. He deplored outdated laws and precedents which fell to him to administer -- and as Lentin also observes, 'he strove not merely to make the law comply with precedents, but beyond that, to make it answer the needs of the day.'

[www.leicestershirelawsociety.org.uk](http://www.leicestershirelawsociety.org.uk)

'Judicial creativity' like this, manifested in public statements widely reported in the press, incurred fury within a large cross-section of society scandalized by, for example, McCardie's heretical views on mid-Victorian divorce laws, abortion, contraception and eugenics. The 'Daily Express' called him a 'St. George in a Wig, a champion of women's rights' who 'turns his bench into a pulpit for Woman's cause.'

No wonder McCardie was popular with some and vilified by many others as a 'judicial maverick' and 'rogue judge.' But other voices like that of the Manchester Guardian predicted that 'history will give Henry McCardie his place in the succession of the great common-law judges of England.'



## FATAL FLAWS

In all, Antony Lentin paints a vivid picture of a courageous judge much ahead of his time. An assiduous scholar, McCardie was also a well known Latinist who for instance, founded the Horatian Society which even now continues to attract enthusiastic devotees of Horace. It is only when you get to the penultimate chapter of this book that you discover the personal flaws and failings that led to McCardie's eventual ruin.

Unknown to most of his contemporaries, McCardie was a compulsive gambler and kept two mistresses. One of them bore him a son of whom he was very fond, but to whom he never admitted paternity. Eventually debt-ridden and penniless, he ended his own life. For details read this book, which the author has copiously researched using many original sources. The result is an absorbing narrative which fills in any number of blanks in the story of Mr Justice McCardie and which therefore makes an important contribution to English legal history.

*The publication date is cited as at 2016.*

**San CARLO**

"SAN CARLO HAS THE INGREDIENTS OTHERS CAN ONLY DREAM OF"

*The Observer*

**WWW.SANCARLO.CO.UK**  
OPEN 7 DAYS A WEEK

38-40 GRANBY STREET, LEICESTER, LE1 1DE • +44 (0)116 251 9332

@SanCarlo\_Group facebook.com/SanCarloLeicester

**SAN CARLO'S TV CHEF & AUTHOR ALDO ZILLI**

## Commercial Title Insurance Solutions.

### Exclusively Online.

Instantly issue over 20 commercial title insurance policies online.  
No referral and no more waiting!  
Visit [www.ctis-title.co.uk](http://www.ctis-title.co.uk) for more details.

**CTIS**  
Commercial Title Insurance Solutions

[www.ctis-title.co.uk](http://www.ctis-title.co.uk)  
01435 868855  
[underwriters@ctis-title.co.uk](mailto:underwriters@ctis-title.co.uk)

**Commercial Title Insurance Specialists**

CTIS is a trading name of GCS Ltd. GCS is authorised and regulated by the Financial Conduct Authority. Registered in England and Wales No. 3623950

# CHANCEL REPAIR LIABILITY: SAFELY IGNORED?

ROBERT KELLY, STEWART TITLE'S COMMERCIAL BUSINESS DEVELOPMENT MANAGER CONSIDERS THE ONGOING THREAT OF CHANCEL REPAIR LIABILITY.

At a recent seminar, I talked about a claim that Stewart Title paid in respect of a chancel repair liability. Afterwards at least two of the delegates commented that it was a good thing chancel repair liability was no longer an issue. When I asked what they meant, they explained that after the Land Registration Act 2002 changes came into force, their firms didn't bother with insurance or chancel searches as the church could no longer enforce the liability.

Unfortunately, this is not correct and any firm that fails to consider the possibility of chancel repair liability for all commercial and residential properties is not protecting their clients adequately.

Put simply, after 13 October 2013 chancel repair liability ceased being an "overriding" interest and is only enforceable if it is registered against the registered title or as a caution against first registration in the case of unregistered land. Parochial Church Councils (PCC) did not lose their right to register these interests and can continue to register at any point up to completion of a registration

of a transfer for valuable consideration. This can happen even if you have a clear priority search.

The chance of a PCC registering against your client's intended property may be remote, but a new owner presented with a large bill for repairs to the church or discovering that the PCC has registered and encumbered the property will rightfully be angry and concerned about the advice given by the conveyancer.

Fortunately there is a simple, inexpensive and quick means through which the well advised conveyancer can protect their client and their firms P1 insurance.

Stewart Title offers a "No Search Chancel Indemnity" policy which can be ordered at the same time as searches are ordered in a transaction. The policy removes the need to do a "chancel check" search and protects against any possible liability.

Our new easy-to-use ordering application, Stewart Online Solution, allows you to order policies with cover up to £3,000,000 for residential properties

and £5,000,000 for commercial properties in three simple steps. Not only is this quicker than carrying out a search, but with premiums starting at £15.06 it is cost effective as well. Policies are available for all residential and commercial properties throughout the UK.

For additional information about our policies or Stewart Online Solution please contact me at: robert.kelly@stewart.com or our Telephone Solution Team on 02070107821.

See policy for terms and conditions.

Stewart Title Limited is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority. Registered in England and Wales No: 2770166. Registered office address: 6 Henrietta Street, London, UK, WC2E 8PS.

© Jan 2017 Stewart. All rights reserved.



You told us you wanted a system that makes ordering title indemnity insurance fast and easy. With Stewart Online Solution you can access over 150 policies, obtain a quote and receive cover in just three simple steps. In addition, our experienced underwriters and Telephone Solution Team can be contacted from the system and are ready to help when needed.

See for yourself. Visit [stewartsolution.com](http://stewartsolution.com), call 020 7010 7821 or email [solution@stewart.com](mailto:solution@stewart.com).

**stewart title**

Real partners. Real possibilities.™

© 2016 Stewart. All rights reserved.



The complete **SEARCH** service

## Protecting your PII, your panel status and your reputation

Did you know that approximately 71% of claims against a firms Professional Indemnity Insurance are conveyancing related?

PSG prides itself on its range of the latest, best in class conveyancing searches and reports to support your due diligence. Over the last twenty years we have developed a unique and comprehensive service to give you access to everything you need to enable you to act in the best interests of your client.

Our suite of Practice Support services assist in your legal compliance and training obligations, optimising best practice and performance whilst ensuring you are delivering exceptional customer service. We also offer a range of risk management services to protect against fraudulent activity and minimise risk, including:

- Enhanced AML Solutions and real time electronic identity checks including PEPs and Sanctions
- Consumer Bank Account Validation and Verification Software to safeguard client funds
- Lawyer Checker to protect against Vendor Conveyancer Fraud

What's more the PSG 'Search Alert' system provides you with a screening service which can identify areas of potential risk. A property specific report can then be purchased, allowing you to assess how real any risk is to your client's transaction. Get a little extra protection for you and your clients, partner with PSG today.

To find out more

Call 0116 254 3035

Email [ushisanghani@propertysearchgroup.co.uk](mailto:ushisanghani@propertysearchgroup.co.uk)

Visit [www.psgconnect.co.uk/leicesterandcoventry](http://www.psgconnect.co.uk/leicesterandcoventry)





# LEAP<sup>TM</sup> 365



Every device.  
The same information.



Work anywhere, anytime.

- Mobile** - Manage all your matters from the palm of your hand
- Web** - Accessible in any browser
- Tablet** - Everything available at your fingertips
- Desktop** - The power of Windows at the office



[leap.co.uk/leap365/](http://leap.co.uk/leap365/)