

D&DLS Bulletin

Derby & District Law Society



www.derbylaw.net

Jan/Feb 2019

'IP Intellectuals' from Swindell & Pearson retain pole position!

Annual Quiz results on page 14



Also in this issue: Schools Debate Competition • Bar Conference Review

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Contents

3 - Contents & Editorial	17 - Relaxing Care
4 - List of Officers	19 - Expert Witnesses - Impartiality and Balance
5 - President's Page	20 - Understanding Business Accounts
6 - Council Member's Report	22 - Bar & Young Bar Conference Review
6 - SPG Sub-Committee Report	22 - Building Robust Relationships with your Suppliers
11 - Schools Debate Competition	26 - Legalex
12 - Situations Vacant	30 - Quill's Software Development team's heavy investment in Interactive Documents
14 - D&DLS Annual Quiz Results	

Editorial



Thank goodness – back into some sort of routine. Time to read all those healthy recipes and watch some exercise DVD's in the vain hope that by just showing willing those extra Christmas pounds will just melt away. I have also discovered the meaning of true terror as the newly 17 year old grumpy teenager takes to the roads. I have been mainly trying not to look alarmed whilst he takes his eyes off the road for what seems like an eternity to look at the gear stick to find third gear and trying not to let him see me pumping that imaginary brake with my right foot whilst complimenting him on how close he is to the parked car.

The Quiz (sponsored by Severn Trent Searches) was a huge success – a near sell out. Sad to say that Peter and Christine will not be setting the Quiz this year – perhaps they will put in a team? Be assured however that plans are in place to retain this popular event.

Nomination forms have been sent out for the DDLS Legal Awards. If you have any questions or need the forms re-sending then please e-mail me. The Annual Dinner will take place on Friday 26th April 2019 at Pride Park so get the date into your diary. We have the budget for a speaker this year and I can confidently say that it will be entertaining.

The Debate Competition is underway. The Derby University law student mentors have certainly had an impact this year as the standard of the debates has been incredible. The Final is on the 6th March 2019 from 4pm at the Copperbox Building. Please make a note to attend if you can.

We are hoping to re-arrange the visit from Christina Blacklaws for April. As soon as arrangements are in place I will e-mail details round to members.

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President's Page



A very Happy New Year. I hope you all had an enjoyable break and welcome to 2019.

We entered this year without two family law greats. In late December, I received the sad news that both Sir Peter Singer and Valentine Le Grice QC had passed away. Sir Peter was a former High Court Judge and more recently an independent mediator, author and legal commentator. Whilst I had not had the pleasure of meeting Sir Peter, like most family practitioners I had read many an article, book or training note of his. I had on numerous occasions had the pleasure of both meeting and instructing Val. He was a superb barrister and a lovely man. Both will be missed by the family law community but I am sure remembered for many years.

From a work point of view, this year has started as last year finished, very very busy. As a family solicitor, January is typically a busy month, although I would like to pour cold water over the myth that is "Divorce Day". As family solicitors, we should be helping people during difficult times, assisting them to steer through relationship breakdowns and to reduce conflict, not promoting it like it is a 'national' day.

My new year as President has also been a busy one. We had our first committee meeting during which we discussed the upcoming events like our Charity Cycle ride and the Annual Dinner and I was honoured once again to act as a judge for the Inner-City Schools Debating competition held at Derby Law School. 2018 saw the first year of this competition which, in association with Enterprise for Education (e4e), was a huge success with school children offered the opportunity to learn and practice debating skills. Throughout last year's competition we saw the standard of debating increase with each round and I was amazed again at the quality of debating by all three schools. The final of the competition will take place on 6th March.

On a personal note, I have commenced my training for the cycle around Derbyshire on 29 March 2019. I have so far managed to cycle 18 miles without a break which is approximately 25% of our route around the County. I found those 18 miles very tough and so lots more training is needed. The cycle will start in Derby before heading to Ashbourne, Matlock, Ripley and Heanor before we return to Derby. I am grateful to all of those who have already agreed to take part and my thanks in advance for all those who donate and/or support the event now and on the day. If we have any other cyclists who are

interested in taking part, we could accommodate a few more so please get in touch.

Our plans for the Annual Dinner are also well underway and the nominations are now open for our first Derby and District Law Society Legal Awards. If you know someone who you believe deserves a special mention or praise for their efforts, please nominate them. The categories are:

1. *Lawyer of the Year: more than 5 years PQE;*
2. *Junior Lawyer of the Year;*
3. *Small Firm of the Year; and*
4. *Large Firm of the Year.*

As a Society, our member firms undertake work across the UK in a wide range of legal disciplines. We should all take pride in the work we do and the excellent service we offer to our clients. The Derby and District Law Society Legal Awards will be a celebration of our work and efforts and recognition for those who are nominated.

We also look forward to this year's Legal Skills Triathlon which will take place at the Derby Law School on 20th March. Please encourage any trainees or newly qualified solicitors to apply to take part. Having taken part in the competition many years ago, I know how interesting and fun it is. Not only does it offer valuable experience, there are a number of prizes for participants and winners.

Once again, I wish you all a very Happy New Year.

Ben Lawson,
President, 2018-19

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Council Member's Report

I am writing this with December's Council meeting fresh in my mind in the midst of the Brexit turmoil. Whether this will have abated by the time you read this is very much open to question. Certainly there is great concern in the legal profession about the erosion of the position of England and Wales as the jurisdiction of choice internationally and this presents a threat to the legal profession generally. Of course this will be felt more keenly in London but even in Buxton or Burton on Trent we must recognise that any diminution in the standing of the profession affects everyone.

Despite the Law Society's best efforts the Legal Services Board has approved the Solicitors' Regulation Authority's plan to allow solicitors to operate outside the normal regulatory framework which covers us now (either working for non-regulated entities or "freelancing"). I think they have taken leave of their senses. How on earth are members of the public to distinguish between different sorts of solicitors? More importantly for us how do we know if the person we are dealing with has proper Indemnity Insurance for it to be safe for example to accept an undertaking? Once again the SRA and the LSB have made the mistake of being obsessed with competition (by which they mean cheapness) to the exclusion of the other objectives of section 1 of the Legal Services Act.

There are 8 regulatory objectives in that section the first three of which are:-

- (i) Protecting and promoting the public interest.
- (ii) Supporting the constitutional principle of rule of law.
- (iii) Improving access to justice.

What is of great concern (and the Law Society has repeatedly pointed this out) is that the regulators are giving greater prominence to certain objectives irrespective of the others. An opportunity to try and influence things arises in the profession's response to a review currently being conducted by Professor Stephen Mayson. In July 2018 University College London took it upon itself to launch an independent review of legal services led by Professor Mayson. Its report is due to be delivered to the Government in January 2020. Although this is a freelance operation it has some heavyweights on board and is likely to be influential.

At Council we split in to small groups to discuss all this. Every group came up with more or less the same conclusions. There was a strong view that what makes us a profession is the fact that we place the public interest above that of ourselves. The purpose of regulation is to protect the public and to enable solicitors acting for clients to carry out the transactions they enter in to with a minimum of risk. Professor Mayson has already stated that it is open to question whether regulators should be trying to promote reform modernisation and competition as opposed to regulating lawyers. I think this is a line which needs pressing because this is precisely where the SRA and the LSB have missed the point. What comes out of this remains to be seen but everyone is on the case.

The other very relevant issue that cropped up at Council was the continual erosion of the Criminal Justice System to the point that there is great danger that the whole thing will collapse. We

are not just talking about closing local courts but (although that is bad enough) but the fact remains that before long there will not be competent advocates in our criminal courts because no one will be able to afford to work in them.

What we need to do is find ways of getting across to the public that this matters. At present I suspect the public does not care because people do not think it is going to affect them. What they should reflect is anyone who drives a car, for example, could be involved in an accident where unfortunately someone is killed and that person could find himself charged with death by dangerous driving because of the lies that the other driver and his friends are telling. One would want to be able to get proper representation in court without having to mortgage ones house. Unfortunately until there is enough public pressure to stop the way things are going it is unlikely that anything will happen, so anyone who can think of ways to spread the gospel on this point should come forward immediately and also preach the gospel themselves.

Although I am dictating this before Christmas by the time you get it will be in to 2019 and I hope you all have a very prosperous New Year.

Michael Williams

Sole Practitioner Group Sub-Committee Report – 5th December 2018

1. Last/Next Local Meeting:

Despite the report given for the AGM, The East Midlands SP Group have since met twice; on 20th September and on 22nd November 2018.

At the September meeting Louise Sacky from Else Law gave us an update on GDPR and David Bowler presented an update on digital HMRC.

At the November meeting the SRA's Richard Williams gave us a presentation on the new Transparency Rules.

Both meetings were very well attended and well received. Sibbalds Accountants, Ashbourne Road, Derby have kindly offered their boardroom for us to meet.

Going forward we will aim to meet quarterly and so our next meeting will be in the New Year and we have asked the SRA to come along and give us a talk on the new Handbook once it's been published.

Tina Attenborough

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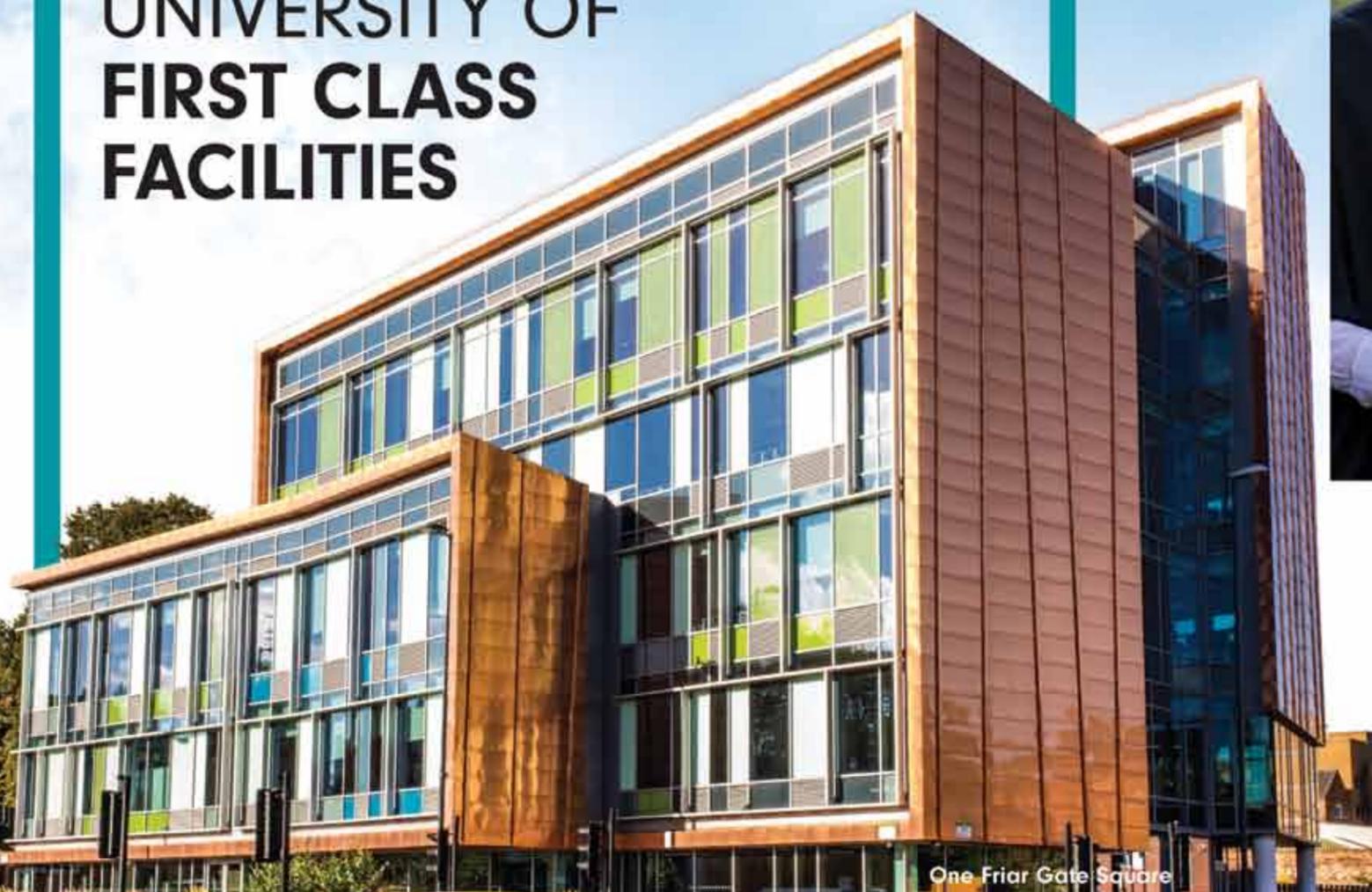
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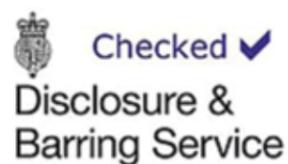
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Derby City Schools Debate Competition 2019



Following on from the success of last's years competition and the Mock Debate put on by University of Derby students in October we have been waiting for the actual school debates themselves to start.

As the schools return after Christmas the debates have got underway and the Judges have been very complimentary about the standard of the children's arguments and presentation.

The first evening of debates saw a University of Derby team made up of Darcy Blaney, Laura Runcak, Harry Astill and Max Mitchelmore, step into the breach following a last minute withdrawal to propose that the UK's drugs policy be liberalised. All the students and children in both debates made effective and confident arguments for their cases and we look forward to the competition developing over the next couple of months.

The competition has once again been organised by the DDLS, E4E and the University of Derby Law School. The Final will be on Wednesday 6th March at 4pm in the Court Room at the Law School, HHJ Bennett is among the judges on that evening so put the date in your diary to come along.





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D&DLS Annual Quiz 22nd November 2018

Sponsored by Severn Trent Searches



A minor miracle occurred for the Quiz this year – it was almost a sell out!! A memorable evening as it was also to be the last Quiz set by Peter Ball who, after many years of setting an ingenious and challenging Quiz for the DDLS, has now hung up his microphone! Huge thanks to Peter and Christine for many entertaining (and frustrating) years.

The night was won for the second year running by IP Intellectuals from Swindell & Pearson. A team made up of Katy Fuggle, Stephen Jackson, Kieron Taylor and Henry Makings walked off with the trophy and the wine. They were hotly pursued by Sue Woodall's team of Short Planks and the Professor, two misfits and a dunce from Broadbents.

The wooden spoons went to the aptly named Here for the Beer from Freeths.

The team sheet is opposite so you can see where your team/ firm finished.

Thank you to the generous support of our sponsor for the night Severn Trent Searches – this enabled the return of the cheeses and biscuits!

Please be assured that plans are in place for this year and that the Annual DDLS Quiz will return...



THE RESULTS				
1	IP Intellectuals	Swindell & Pearson	145	
2	Short Planks	Sue Woodall	139.5	
3	The Professor, 2 Misfits & a Dunce	Broadbents	139	
4=	CK Remainers	Cartwright King	135	
4=	Always the Bridesmaids	Derby City Council	135	
6	WOW	Wykes O'Donnell	132.5	
7=	For Freeth's Sake	Freeths	132	
7=	Search Us	Severn Trent	132	
9	Mather Force be with You	Elliot Mather	128.5	
10	Stumped!	Derby City Council	127.5	
11	To Affinity & Beyond	Severn Trent	120.5	
12	Geldards Gifted	Geldards	120	
13	Quizzie Rascals	Freeths	113.5	
14	There's Only One 'F' in Fishers	Fishers	110.5	
15	Alexanders' Allstars	Alexander & Co	108	
16	Broadbents Misfits	Broadbents	106.5	
17	The Unsure Insurers	Derby City Council	104	
18	Here for the Beer	Freeths	99	



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The first significant change was in December 2014 and a subsequent change came into effect in April 2016 when the 3% surcharge on the purchase of second homes and buy-to-let investments was introduced. These changes have created uncertainty and complexity when calculating the duty due and so overpayments arise. Overpayments can be recovered from HM Revenue & Customs ("HMRC") provided a claim is submitted within the required time frame which is generally 13 months after the purchase date.

What if one house has an annexe, or detached property in the grounds?

There are complex rules surrounding the purchase of properties that include an annexe, basement flat, or other residential property in the grounds such as a detached holiday cottage, an apartment above a garage or even staff accommodation. Therefore, mistakes with the calculation are made and opportunities to claim statutory reliefs and allowances are overlooked. Take the following example:

Mr & Mrs Davies purchased a 3-bedroom house in June 2017 for £675,000. Attached to the house was a garage; the upper floor of which had been converted into a bedsit. The bedsit was not occupied on the purchase date but was suitable for use as self contained living accommodation. The couple did not own any other residential property and were advised to pay Stamp Duty of £23,750 on their purchase. We subsequently reviewed the purchase for them and confirmed the Stamp Duty charge should have been £13,750. Statutory reliefs and allowances were overlooked, and we were able to help the couple claim a £10,000 refund from HMRC.

We are more than happy to have a conversation with those that fear their clients have overpaid and want our help to assist with claiming a refund on their behalf. If you also have clients that are about to embark on a similar purchase please get in touch so we can ensure you advise your clients to pay the right amount of Stamp Duty. Not too much and not too little.

Stephen Griffiths, Griffiths Allen Stamp Duty Advisers
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Relaxing Care



When you see those words, holidays, reading a good book, sitting in the garden on a sunny day, a spa day at a local centre, etc. may come to mind.

However, relaxing care can be viewed in a different, not often used mindset, but one that has special significance in the care sector.

Care provision for people who must rely on a care support service to enable them to get through each day of their lives, need relaxing care.

Individuals and families are seeking a care service that will be a comfort, delivered in a stress free and soothing manner, delivered by appropriate carers who by the way they offer their support will reduce any anxiety, loss of dignity and worries that the recipient and their families have.

In this world of 'training' understanding and compassion of the position of a person who needs care is relegated to a few words at the end of a training course or possibly not mentioned at all. Everyone responds to kindness, to someone who empathizes with the situation someone else other than themselves is in.

Having been providing care services for nearly four decades, the compliments we receive about care workers are almost always based

not on the ability that they have with reference to practical tasks, but as to how kind, lovely, cheerful, respectful, calm and reliable they are.

In 2019, we should all make sure, that the thought of 'relaxing' care gains significance.

Angela Gifford
MD, Able Community Care Ltd

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Expert witnesses – impartiality and balance



In two recent but very different cases, there have been unusually strong criticisms of expert witnesses. They highlight the need for any expert witness to be seen to be independent and impartial and for their evidence to be balanced and not one-sided.

Evidence from expert witnesses plays a crucial role in determining many disputes in different fields. For example, in personal injury cases, evidence from a medical practitioner will be required. Or in a commercial action where there are technical issues in question, the court may need evidence from an expert in the relevant field. Without experts to explain the medical, scientific or technical matters, a judge may be unable to understand properly significant aspects of the case and make appropriate findings about them.

In our adversarial system of litigation, it is for each party to choose and instruct their own experts and adduce evidence from them. A party will naturally want their own expert's evidence to support their position. Therefore, a party will generally only produce expert reports and call as witnesses, experts whose evidence is going to help that party's position. However, if an expert is not impartial or gives evidence that appears one-sided, the evidence, although supportive of the party's position, may turn out to be little or no worth, as demonstrated by two recent cases.

Armstrong v ERS Syndicate Management Ltd – independence and impartiality

The first case, *Armstrong v ERS Syndicate Management Ltd*, was a low value personal injury claim. The pursuers relied on the evidence of a medical expert with respect to the extent of their injuries. They were awarded damages based on that evidence. The defenders appealed, arguing that the expert evidence should have been found inadmissible or, alternatively, should have been given no weight. The main reason was that the expert's independence and impartiality was questionable because he had agreed to act of contingency basis, meaning that he would only get paid if the claims were successful. The Sheriff Appeal Court had little hesitation upholding this appeal and finding the expert's lack of independence and impartiality rendered their evidence inadmissible.

This resulted in the pursuers losing those elements of the damages awarded to them that were reliant on the expert's evidence.

Agilisys Ltd v CGI IT UK Ltd – balanced approach

The case of *Agilisys Ltd v CGI IT UK Ltd* was a very different type of case. A commercial action in the Court of Session, it concerned the termination of a subcontract for the provision of information technology services to a significant public sector client.

The parties, the main contractor and sub-contractor, were in

dispute about a number of issues that boiled down, broadly speaking, to which party was in breach of its obligations and responsible for various delays. Each party relied on the evidence of an expert witness. Neither expert's independence was in question. However, the judge, Lord Bannatyne, formed a markedly different view of the two experts and their evidence.

Lord Bannatyne criticised the evidence of CGI's expert witness in unusually direct terms. He stated: "I have come to the view that his evidence was one-sided. His approach was I believe not balanced. In addition for various other reasons I believe his evidence was not acceptable." Over the subsequent eight pages of his opinion, the judge set out numerous matters that had led him to that conclusion. He highlighted, in particular, the expert's failure to consider whether CGI might have breached any of its obligations. It is also noted that, on one occasion, when faced with the realisation during cross-examination that part of his evidence had not in fact helped CGI, the expert switched from one position to another. This was described as "highly unimpressive in the context of someone who is being offered as giving expert evidence."

By contrast, Lord Bannatyne noted that Agilisys's expert "looked at the responsibilities of both CGI and Agilisys" and was "prepared to make criticisms of Agilisys", which he said were "examples of the essential balance in her approach". Given his contrasting impressions of the two experts, it is unsurprising that, where their evidence differed, the judge largely accepted the evidence of Agilisys's expert and rejected that of CGI's.

Conclusions

Expert evidence is critically important to many cases. When that is the case, parties need to make sure they have experts whose evidence supports their case. However, as these two cases show, it is not enough to have an expert who will give helpful evidence. The expert must be independent and impartial and their evidence should be balanced and not one-sided. Otherwise, the expert's evidence may be given little credence or even, if the expert lacks independence, be held inadmissible.

Ben Zielinski
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Ben is an associate in our dispute resolution and compliance team. Ben specialises in commercial disputes and is based in our Edinburgh office. He is qualified as a solicitor in both Scotland and England & Wales. Ben advises on a wide variety of commercial disputes including, in particular, information technology and energy sector matters.

Disclaimer

This document is for informational purposes only and does not constitute legal advice. It is recommended that specific professional advice is sought before acting on any of the information given.

Understanding business accounts – what to look out for



Chris Makin

Lawyers are good with words, and accountants are good with figures. What a pity they don't talk the same language! Now meet an accountant who

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

The first thing is to get a simple guide to business and company accounts. I can help. For some years up to the death of David Kemp QC I had a short chapter (9 pages) in Kemp & Kemp which gave this guidance. After Mr Kemp's death the work was re-written, and my simple guide is subsumed in the work of others. So it is out of print, but still highly relevant to lawyers dealing with all the kinds of cases I list above, and not just personal injury. I would be happy to send a copy, without charge, to whoever asks for it.

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

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

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

figure? If the latter, is there fear that the company will not be able to pay its debts as they fall due?

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

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

Biog: Chris Makin is one of only 100 or so chartered accountants to become an Accredited Forensic Accountant and Expert Witness – www.icaew.com/forensicaccreditation/register. He is also an accredited civil & commercial mediator and an accredited expert determiner. He has given expert evidence at least 100 times and worked on a vast range of cases over the last 28 years. For CV, war stories and much more, go to www.chrismakin.co.uk.

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

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

...and so on. In all these situations, and more, you the lawyer need to know what the past business accounts show, how reliable they are, and how they may be used as a basis for projecting future profits.

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

Chris Makin

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“The Rise of the Solicitors”... Just a Thought!

Phillip Taylor MBE reviews this year’s Bar and Young Bar Conferences 2018



No questions about it, of the many themes at this year’s Conferences, at the centre lurked the rise of the solicitor as both lawyer and advocate to compliment the senior branch of the legal profession, of course.

Themed as “All Bar None: Access... Development... Diversification”, the topics indicated current content and the approach of the Bar Council to our professional issues - the speeches were all good. Both events took place at the Connaught Rooms in London at the end of November 2018 to a well-attended, polite and receptive audience.

The main Conference was chaired by Lucinda Orr who began proceedings introducing Andrew Walker QC, Chair of the Bar of England and Wales, for his annual address. As with all the main speakers, the speeches are available on the web, so this review looks at what the event achieved this year. Walker’s speech condensed much of what he has said throughout his year which has been quite successful for him and his team at a difficult time.

Our keynote speaker was Lord Sumption, just before retirement. He gave an illuminating biography of his early years at the Bar, saying “I wish that I could say that I became a lawyer out of a burning desire to right the injustices of the world and help my fellow citizens”.

He went on “There are lawyers who can honestly say that, and I take my hat off to them. My own motives were more mixed, more mundane and perhaps more typical. Top of the list, I am ashamed to admit, was money”.

So, let’s get straight to the real theme because he was followed by several ex-solicitors whose contributions were illuminating. We are noticing changes in way solicitors now work, by the advice they offer today as the lawyers whom clients first meet.

The most revealing (and political) speech was delivered by Shami Chakrabarti, Shadow Attorney General (and ex solicitor). She set out some policy objectives for the next Labour government including a sustained attack on the way barristers are trained through the vocational course “racket” as she called it, to some applause which was generally muted throughout the day.

David Gauke, Lord Chancellor (and ex solicitor), who couldn’t stay long with us, like Shami, gave us a very civil service speech. Probably it was more relevant to solicitors, but he did announce that he was give us a little bit of extra money for legal aid to help the Young Bar, but not a lot if one is charitable. Of the 150 or so attendees there was not much to smile about including these Treasury crumbs of comfort although the Gauke money made that day’s press headlines.

The stands were a bit thinner this time round, but it’s always good to see OUP and LexisNexis exhibiting new books and journals. Inner Temple maintained their excellent public relations record with their record on scholarships at their stand.

What are called “break-out” sessions were all well attended in generally an even split of those attending what are, effectively, specialist areas to cater for what the Bar now does as highly specialist lawyers.

The Attorney General, Geoffrey “The Voice” Cox, gave a particularly delightful speech ticking all boxes on either side of the Brexit divide, and he never disappoints - he remains very much “our practitioner politician” when so many at the Bar leave once they reach Westminster.

The afternoon is always tiring but no-one was asleep - there was no booze this year! But that did not make much difference as the subject-matter of the sessions, as always, is so relevant to our practices.

The final discussion session reverted to our solicitor theme once more with contributions from Lord Justice Hickinbottom, HHJ Anne Molyneux MBE and Jonathan Ames from our sponsors “The Times”. It did sum up what we saw as a modest recognition that the Bar is changing, not just technologically, but practically in front of us.

The role of the solicitor, and the Bar’s direct access continue to impact slowly for an altered client-base who seek different things in future. Whether that is with solicitors or barristers in the changed legal aid world we will wait to see. Do come next year and see what we get up to post-Brexit in a changed world!

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How to build **robust relationships** with your suppliers

Regardless of the sector you are working in, relationships with your suppliers are essential to your business's health, reputation and growth. Lauren Lieser, account manager at Geodesys, discusses how to form relationships which are robust and last a lifetime.

The selection and building of your supplier relationships is a continuous process that strives to balance your business needs with the needs of the supplier. In today's market, where businesses are consistently prospected, using people and organisations that you can trust and rely on to provide a high-quality service is of critical importance.

Choosing a supplier can often be the toughest decision so look for one(s), where they can demonstrate expertise and longevity within the industry. Research the array of products the supplier can offer, compare them to competitors and invest time to meet with them.

Price will always be a factor, but the cheapest provider is not always the right one so clearly define what it is you are looking for and do your research into what solution accommodates this need.

At the top of the agenda for a strong relationship is communication. If this aspect of the process is neglected, then you could risk complications arising which will lengthen the transaction process and potentially be costlier.

Having been an account manager for the past 15 years, I cannot emphasise the importance of the relationship being two-way. If the

supplier does not know about a certain issue, how can they assist in addressing it?

Regular interaction will build a trustworthy relationship which allows for open and honest discussions on product and progress updates, as well as the opportunity to demystify regulation updates, compliance, etc. Geodesys hosts a series of topical CPD workshops at various UK locations throughout the year.

These well-attended events provide a platform for our clients to hear from industry experts like Kate Faulkner, mingle with like-minded people and touch base with their account managers.

As the relationship and the communication between the organisation and the supplier develops, you will find efficiency will improve and potentially increase operational value too.

Offering feedback to the supplier is key in ensuring they can provide a service that meets your expectations and drives continuous improvement. Geodesys offers their customers for example, multiple mechanisms for gaining feedback including surveys, meetings and seminars, which helps us continually improve our systems and service.

Conclusion

Developing good relationships with your suppliers is not a complicated process. Be communicative, tell them your needs and expectations, treat them fairly, be demanding and be loyal. It's that simple.

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Legalex is designed to help the business behind the solicitor. If you're looking for the most effective ways to increase the profit of your legal practice, step up your marketing efforts, increase client retention, and increase your billable hours, then this is the must-attend event for you.

With a focus on the innovations in Artificial Intelligence for legal firms, how the implementation of GDPR is affecting the efficiency of solicitors, the rise in Cyber Terrorism creating an expansion in the market for Cyber Security Firms and how the Conveyancing sectors are expanding and developing as a key feature of the show.

Over 3,000 legal professionals will come together at the ExCeL

to discover the latest tools, products, services, resources and innovations that are changing the game in legal business growth and data security. Aside from the 200 industry leading exhibitors, visitors will also benefit from the expert-led seminar schedule, and the sophistication of the keynote line that gets better every year.

Exclusive masterclasses from cloud storage experts, Tresorit and solutions provider, ME Group Holdings are set to bring in the crowds with exclusive educational content and unmissable opportunities to meet with and network with the experts that are taking the session.

With exhibitors from across the many legal sectors all coming together under one roof, it is hard to find a reason not to attend. This approach creates an efficient solution to your legal problems. Instead of spending hours looking at companies on the internet, speak to the people behind the solution face to face and choose what you can be sure is the best option for your specific firm and needs.

For full details and to register for your free ticket to attend please visit www.legalex.co.uk.

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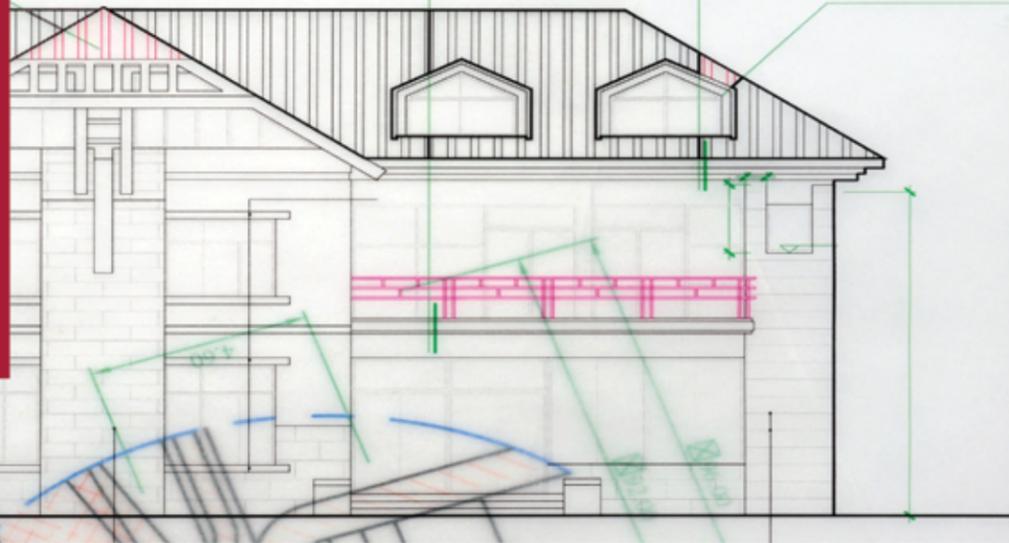
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Deliberate Breach of Restrictive Covenants May Not Always Be Forgiven



In light of recent court decisions, Stewart Title's Commercial Business Development Manager, Robert Kelly, considers how to protect your clients against losses arising from restrictive covenants.

A recent decision of the Court of Appeal shows that Courts will give equal weight to the need to uphold contractual rights, like restrictive covenants, and any public interest reasons for releasing covenants.

The Alexander Devine Children's Cancer Trust ("Trust") v Millgate Developments Limited ("Millgate") and Others [2018] EWCA Civ 2679 concerned a development of luxury housing by Millgate on unencumbered land, but the planning permission granted required the building of social housing on land which was subject to a restrictive covenant in favour of the Trust prohibiting residential development. Millgate was aware of this covenant and negotiated a variation of the planning permission allowing payment of a commuted sum of £1,639,904 to the planning authority in lieu of the requirement to build the social housing. Millgate then proceeded with the original development and it was only after completing the social housing that they made an application to the Upper Tribunal (Lands Chamber) under s84 of the Law of Property Act 1925 ("s84") to release the covenants.

The Upper Tribunal found in their favour saying that the provision of social housing pursuant to a planning permission was in the public interest and that the covenant should be released. The Trust appealed and the Court of Appeal issued its judgment in December 2018 rejecting the Upper Tribunal decision and reinstating the covenants. This means that the Trust can now apply for an injunction requiring demolition of the housing. Lawyers need to take note, as the Court held that:

- the requirement to provide social housing did not automatically mean that the development was "in the public interest"
- the preservation and enforcement of private contractual rights like the covenant was also "in the public interest"
- a developer must use the rights granted by s84 fairly and where a prospective application to release covenants could have been made before a development commenced, the Upper Tribunal should consider why a developer chose not to do so
- where there was an alternative way to allow the planning permission to be implemented (such as by payment of a commuted sum) then this should be taken into account

All of these factors need to be considered when advising a client on how to deal with covenants hindering a proposed development even if planning has been obtained. If there are commercial reasons why a prospective s84 application can't be made, then consideration should be given to obtaining a Restrictive Covenant Indemnity Policy which will provide cover for the developer, their lenders and any occupiers against losses arising from the enforcement of the covenants in the future.

Stewart Title has wide experience underwriting this type of risk and our growing Underwriting Team can be contacted for more information: brokers@stewart.com or 02070107820.

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Why Quill's software development team invests heavily in Interactive Documents

By Julian Bryan, Managing Director, Quill

The legal profession is never static. With always-evolving legislation, increasingly demanding clients and growing numbers of aggressive competitors, change is never far afoot. To thrive in such challenging conditions, law firms rely more than ever before upon technology.

One constant thread in this sea of change is the written word. You see, the law is all about the written word. Every single task performed by a solicitor involves the written word in some form. Law firms are document-intensive by nature and every fee earner is a content factory generating document after document as they progress through live matters, be it a client care letter sent to a new customer, completion statement in a commercial conveyancing matter, divorce petition for a matrimonial case, last will and testament for a private client or anything in between.

It thus follows that the primary role of technology is to help legal practices manage the written word effectively. Software's role is to apply as much automation as possible to generating, storing, transmitting and finding the written word including time recording throughout each of these stages. Speed and accuracy are absolutely essential.

The quicker and easier it is to produce, save, share and locate this expanding library of documents, the better for everyone, from the lawyer who can concentrate on client-facing work thereby boosting earning capacity to the compliance officer who can plan for business continuity thereby meeting Code of Conduct obligations.

Because of this, no legal software supplier can afford to be complacent about development. At Quill, software development is something we take really seriously and invest considerable resources in doing. We have 12 dedicated employees in our software development team. Led by our IT Director, Richard Salt, it's their responsibility to research new technologies and industry trends then develop our applications in order to keep Quill at the forefront of innovation and enable our clients to control the written word to the best of their ability.

Our R&D staff understand the pressures faced by today's law firms and continually enhance our Interactive Cloud and Interactive Documents software – comprising case management, legal accounts and document management features – to empower them to work more efficiently, save administration time, spend longer earning fees, reduce operating costs and a whole raft of other benefits which drive both greater productivity (so your clients are happy!) and profitability (so your partners and investors are happy too!).

With regards to the written word, Interactive Documents – our intuitive document management module – provides tight integration between Interactive, Word and Outlook – called our Add-Ins – which allows you to spend your working day in familiar Microsoft applications with full links to Interactive's database, templates and document store.

Technology that constantly advances is a must-have tool for any forward-thinking law firm. Not only because of the productivity advantages delivered, but also for safety reasons. Without ongoing security patches and bug fixes, you're vulnerable to the rising volumes of threats from hackers and cybercriminals whose sole purpose it is to disrupt (even ruin) your business. Software development, then, is a future-proofing promise that, whatever changes and challenges come your way, your software supplier's got your back.

At its core, our Interactive Documents gives unique integration between Interactive Cloud, Word and Outlook saving users re-entering data as a key, but by no means only, benefit. But more recently a myriad of new features have been introduced to Interactive Documents and we're going to describe just a few of them here.

We've created conversion to PDF and attachment as PDF functionality. As you'll no doubt know, PDF is a secure file format. Documents of this type can't be edited by recipients. In Interactive, it's a one button task; job done.

Using the Interactive Add-Ins in Outlook makes tasks such as this really straightforward. By simply hitting the 'New Quill Email' then 'Attach From Quill' buttons located in the top toolbar of Outlook, single or multiple documents can be attached as PDFs even if you haven't previously converted files to PDF format. At this point, you haven't formally logged in to Interactive itself either; you're using the well-known Microsoft interface instead which you're at liberty to do all day long, should you please.

We've established an entire series of document and precedent templates comprising everything from credit control letters and identification forms to requests to extend time and receipt of money acknowledgements. These templates are supplied as standard with Interactive Documents. You can also choose to set up your own bespoke templates, link to merge fields in Interactive then auto-populate content direct from your database.

In the same vein, popular forms packs can be purchased too as an optional extra. Linked closely to Interactive, these forms offer even more auto-database population for documents related to each of the common steps in particular matters.

This has to be one of the biggest draws of document management software – the ability to generate documents and letters in minutes. Where Interactive Documents is concerned, the same applies to emails. Ready-made email templates allow emails to be written, recipients selected from handy drop-down lists, documents attached and the entire communication saved straight back to case effortlessly, all from within Outlook itself.

In fact, you can even now do so from within Word. Auto-email the document you've been working on directly to the client, opposition, expert witness

or any combination without switching between systems.

Integrated attendance notes are another enhancement. Either when saving a just-completed document, receiving a document or later, the notes field permits the addition of attendance notes – that's a description of discussions, meetings or events that have taken place – relating to that specific document.

There are two main advantages of attendance notes. One, the important notes are logged both for future reference and to support your accompanying time record so there's no chance of forgetting further down the line. Two, entering your attendance notes as you go along saves you an extra task and negates the need for double billing which assists with client satisfaction.

Time recording generally is worth a mention. Our overhauled Interactive Documents lets you make time entries at various touchpoints when writing, uploading or dispatching case-related documentation and correspondence. With the ability to perform these stages quickly, you can record more units of time than the task has actually taken to bill clients appropriately for actions completed and boost chargeable time in the process. In other words, do less and earn more.

These are just a few of many improvements to Interactive Documents. To refer to some others, you can set up calendar events from Word and Outlook with reminders to ensure defined milestones are met; maintain a full audit trail with version-control-stamped documents; assign colours, labels and preview before opening to locate the right documents with ease; access your cloud-stored documents from anywhere with an internet connection to become more mobile; tailor sub folders to your preferences so Interactive mirrors how you work; store unlimited quantities of documents, emails and images without taking up valuable space on your own servers; protect your vital records with industrial-strength security measures and in-built disaster recovery planning; and much, much more besides.

The combination of these multiple features means you can run your legal practice competitively, with minimum support staff, at low cost. A 'Lite' version of Interactive Documents is provided as part of your Interactive licence fee. Alternatively, an advanced 'Professional' version is charged at just £17 per user per month for full integration with the Microsoft Office suite. Exploit our heavy financial investment in Interactive Documents without breaking your bank. The written word; sorted.



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

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