

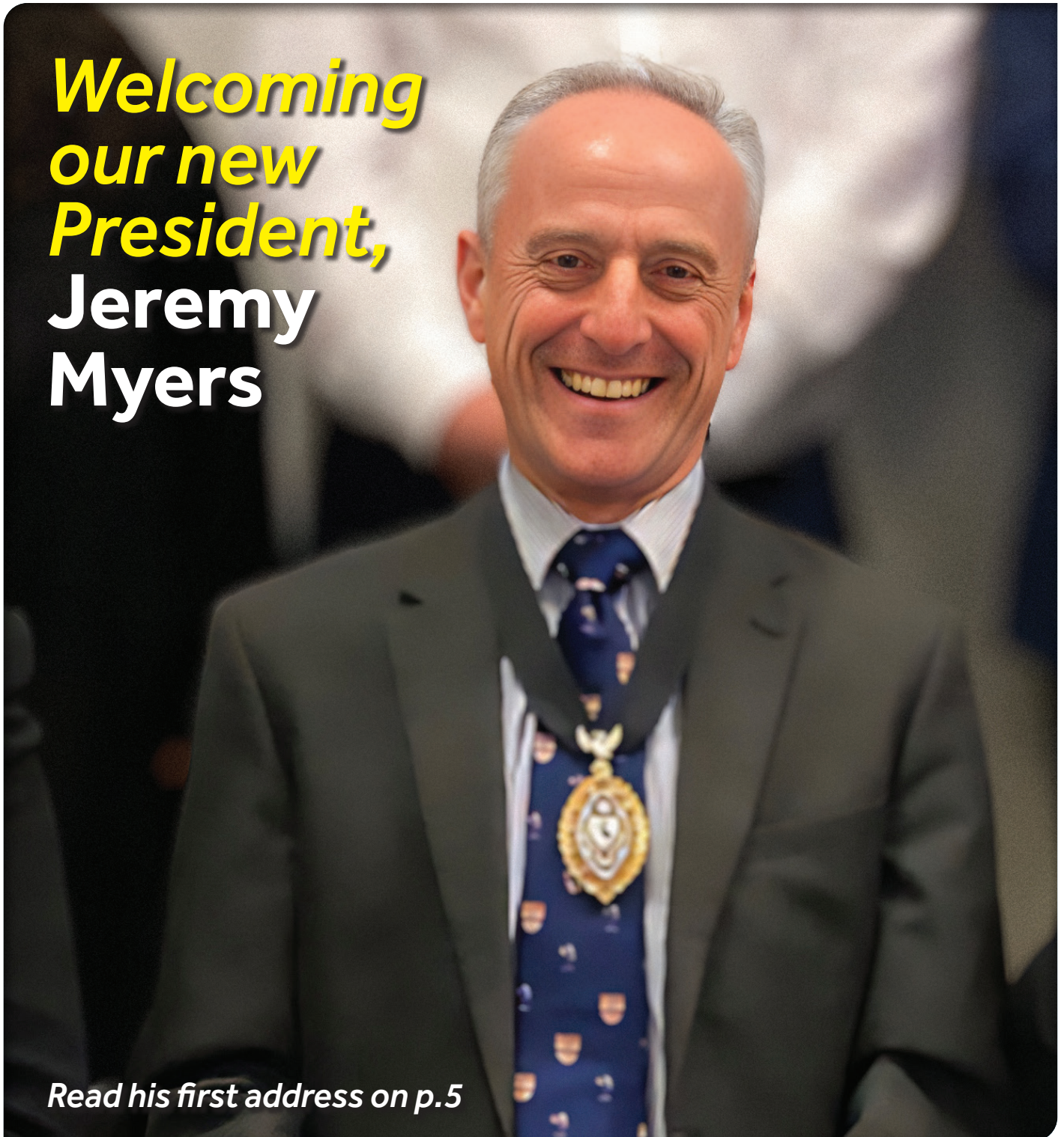
January 2023

# Liverpool Law

Liverpool  Law Society

THE MAGAZINE FOR THE LEGAL SECTOR IN  
MERSEYSIDE AND THE NORTH WEST

***Welcoming  
our new  
President,  
Jeremy  
Myers***



*Read his first address on p.5*

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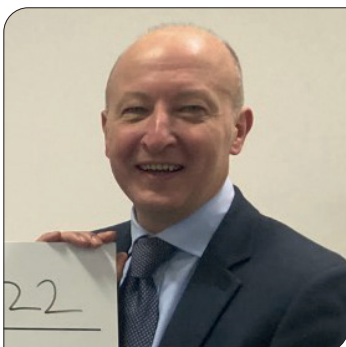


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# January 2023

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Wed, 25th January  
 Fri 24th February  
 Tue, 28th March  
 Wed, 26th April  
 Thu, 25th May  
 Tue, 27th June  
 Wed, 26th July  
 Fri, 25th August  
 Mon, 25th September  
 Tue, 24th October  
 Mon, 27th November



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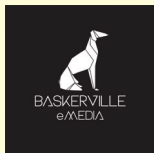
Liverpool Law Society Magazine is produced by and for Liverpool Law Society Members. This is our opportunity to share our news, events and celebrations with our friends in the legal community.

All members' contributions to Liverpool Law are warmly welcomed. Please send your article (and photo captions where possible) or request for further information, or assistance to the editor at [editor@liverpoollawsociety.org.uk](mailto:editor@liverpoollawsociety.org.uk)

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#### Editorial Committee Dates 2023

Meetings start at 01.00 pm on a Tuesday, except where noted.

17/01/2023\*  
15/02/2023\*\*  
21/03/2023  
18/04/2023  
16/05/2023  
20/06/2023  
18/07/2023  
15/08/2023  
19/09/2023  
17/10/2023  
21/11/2023

\* In person

\*\* Wednesday

## Welcome to the January edition of Liverpool Law



**Happy new year to you all, I hope you had a wonderful Christmas and managed to get some well earned rest.**

With the new year comes a new President and you will see Jeremy has set out his plans for his term on page 5. I'm sure you will join me in wishing Jeremy the best of luck and our thanks to Steven for his time as President.

There is also a full list of the Directors and how you can get involved with Liverpool Law Society and have your opinions heard. The magazine this month heavily features the SIF move and the thoughts of both the Joint V and our own Regulatory committee on the same. You will see from the articles the hard work your Society puts in to represent the view of our members and communities that we represent.

We have a wonderful review on the 100 years event held at Helix at the beginning of December, detailing just how far women have come in those 100 years and the staggering figures of women now practising. Some inspiring words from the President of the Law Society and our local representatives on how we need to get more women to the top and seek to prevent women leaving the profession. Being an Associate now myself and not long back from maternity leave I can see just how easily it is for women to leave the profession at this stage. I do hope those words can be put into practice to prevent this happening.

**Many thanks**

**Jennifer Powell, Editor**

**Weightmans**

[editor@liverpoollawsociety.org.uk](mailto:editor@liverpoollawsociety.org.uk)



# From the President

## The latest from the President, Jeremy Myers

It is very thrilling to me to be given the responsibility of leading our Liverpool Law Society (LLS) over the coming twelve months, and following in the steps of such respected predecessors. We have a cohesive group of Officers and - together with the team who run the LLS administration with our CEO, Sarah Poblete - we have an effective and adaptable force to bat for local practitioners and therefore our clients.

There have been a few events in my two months as Vice President when I have represented LLS in place of Steven Zdolny as President when he could not attend, and sometimes happily alongside Steven. This has helped to smooth the way and I appreciate how Steven and my friends in LLS have worked with me in preparing for this transition.

A little background about my connections with the Society is relevant. The vast bulk of my career has been spent in Liverpool. Whilst I have been a Director of LLS since 2014, in the Parliamentary Liaison Officer's role from 2015-20, and an Officer since 2019, my first serious involvement began in 2011. That was when I joined the Civil Litigation Committee, of which I remain a member.

My initial experience of LLS was as a Trainee Solicitor (1989-91). I often carried out research in LLS's library in the lower ground floor in Cook Street, getting to know LLS staff. In later years, occasionally I attended the AGM and other events and sometimes the Dinner. So, these were the experiences I had in mind when I accepted Glynis Hunt's suggestion to join the Civil Litigation committee, my first step up the ladder in LLS.

The main aim of the year must be to ensure that LLS continues to provide good value for subscriptions and an effective service to its members. This includes training, networking and interaction with wider society including fellow professionals and civic society.

I want to help to ensure that LLS can move effectively to its new existence when the office closes and our staff team and we run virtually. We shall hold several meetings and events in person at hired locations.

As well as vital task of helping LLS to look after its members, I would like to spearhead three lines in engaging with our members and the Merseyside community. This should benefit our current and future clients.

First, Communication. I would like to encourage us all to communicate with each other, within and outside our practices. There is so much we can learn from one



another. This I feel is a vital in helping to improve the service we each provide.

Second, the wider world. I hope to continue LLS's engagement with outside organisations and if possible to visit and confer with community services such as Merseyside Police, Probation officers, Welfare organisations and other essential actors. It should help us to relate to all types of people and clients.

Third, Charities. Many of us have done or continue to provide much valuable work without charge. I would like to see if LLS can help to facilitate links between members and Charities which might need legal advice. A first step is Local Solutions' advert for a legally qualified volunteer Trustee, after I represented LLS at its AGM.

I am very fortunate to enjoy the support of colleagues in Husband Forwood Morgan as I set out on LLS's 2022-23 year. Here, I hope I have set the scene. In future months, I shall keep you updated on actions and I would welcome your ideas and participation.

**Jeremy Myers**

President

[president@liverpoollawsociety.org.uk](mailto:president@liverpoollawsociety.org.uk)



# LLS Meetings & events – January 2023

These meetings and events will be held virtually unless notified otherwise (F2F):

Start Time	Meeting/Event
10/01/2023 12:00	General Committee
12/01/2023 13:00	Future Planning Sub-Committee
17/01/2023 13:00	Editorial Sub-Committee (in person)
19/01/2023 13:00	Directors and LCR Councillors' Meeting
23/01/2023 13:00	EDI Sub-Committee
24/01/2023 17:00	Celebration for new entrants into the law (in person)
25/01/2023 12:00	Joint V (hosted by Birmingham, hybrid)
26/01/2023 13:00	Civil Litigation Sub-Committee
26/01/2023 16:00	Criminal Practice Sub-Committee
31/01/2023 12:30	Finance & Policy Sub-Committee
02/02/2023 13:00	In-House Lawyers Sub-Committee (in person)
07/02/2023 13:00	Employment Law Sub-Committee
08/02/2023 13:00	Family Business Sub-Committee
09/02/2023 13:00	Access to Justice Sub-Committee
14/02/2023 12:30	General Committee

## Consultation Papers

Papers referred to committees:

The following sub-committees of Liverpool Law Society are considering responding to these consultation papers. If any member would like to send in a comment, please do so to [committees@liverpoollawsociety.org.uk](mailto:committees@liverpoollawsociety.org.uk)

A response to the Consumer protection for post six-year negligence consultation paper by the SRA was submitted by the Society's Regulatory Sub-Committee before the deadline of 3rd January 2023



# Bell Lamb & Joynson celebrate two wins at the Modern Law Conveyancing Awards



**Liverpool-based Bell Lamb & Joynson won two awards at the prestigious Modern Law Conveyancing awards on Thursday 24th of November, Conveyancing Firm of the Year North of England, and Property Team of the Year.**

Legal and conveyancing professionals from around the country came together for at the glamorous Titanic Hotel & Rum Warehouse in Liverpool.

The Conveyancing Firm of the Year North of England award focuses on a firm's approach to delivering outstanding customer service, their commitment to their staff, professional relationships, and to their contribution to their wider community.

The Property Team of the Year award highlights how the conveyancing team work together as a team and the tangible

benefits they provide for their firm, such as publicity, financial and reputational, etc.

It is great for the Bell Lamb & Joynson team to be recognised with two awards and a privilege to be honoured amongst such leading law firms and outstanding talent.

Managing Partner, **Mike Leeman** said: "Being shortlisted for industry awards is not easy. Winning an award when you are up against incredible talent and where the calibre of firms is so high, is an absolute honour. But we know our team are deserving. It is a testament to the hard work everyone at Bell Lamb & Joynson puts in to deliver exceptional service to our clients. As a firm, we also strive very hard to differentiate ourselves with the way we deliver our services, our expertise, and our use of technology that leads the way in the legal sector. I am extremely proud of our team, and we will continue to grow from

strength to strength and be there for our clients, by their side as we have done for over 200 years."

Head of Conveyancing, **Laura Cartwright** said: "It has been a difficult two years for the conveyancing sector, and it looks like it is going to continue to be a challenge for some time. We are exceptionally lucky to have an outstanding property team, and because of our ethos and our approach, we can attract great talent to work for us. Winning these two awards is a proud moment where we can stop and reflect on what we have achieved over the past year and is a benchmark we can use to continue to strive to do our best and make a mark in the property sector. Well done and thank you to my team especially, and congratulations to our fellow finalists."

Find out more about the award winners [here](https://www.liverpoollawsociety.org.uk).

# Real estate solicitor Amanda Hurst joins Excello Law in Liverpool



Amanda Hurst

Real estate specialist Amanda Hurst has joined national firm Excello Law based in Liverpool. Qualifying in 2002, she has a wide range of commercial property experience as well as specialisms in healthcare

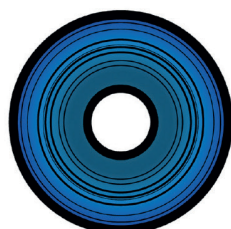
and education. Her focus lies with commercial landlord and tenant matters, as well as property acquisitions and disposals. She moved to Excello from Hill Dickinson, where she headed up the national healthcare property commercial team.

Amanda was recently listed in the Legal 500 2023 directory for both commercial property and public sector (health) in Liverpool as a 'Next-Generation Partner'.

On joining Excello, Amanda commented: "I am really excited to join other like-minded, experienced consultants and continue to provide an excellent service to clients whilst working flexibly."

Julie Mogan, regional director at Excello, said: "We are delighted to welcome Amanda to our real estate team in the north west. She is highly valued by her clients and joins at an exciting time in the firm's history in Liverpool, with a growing team across the region and the launch of our new office facilities in Derby Square. It's great to have her on board."

Jo Losty, director at Excello, said: "Amanda joins a successful national real estate team and her expertise is a valuable addition to the services we provide. We're always pleased to hear from lawyers looking to enjoy greater freedom to build their practice with all the infrastructure and regulatory support from an established consultant model firm like Excello."



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- Customers or clients with outstanding bills or invoices;
- People fleeing debt for another reason.

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- Freeholders whose leaseholders wish to purchase the freehold;
- Missing beneficiaries of estates, both testate and intestate;
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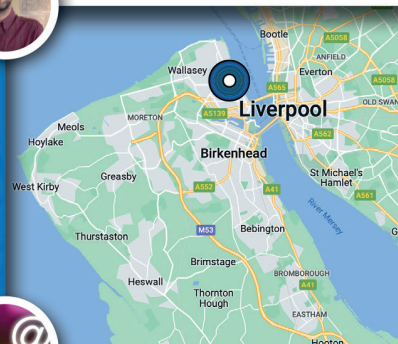
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- Missing shareholders, investors and policy holders;
- Former clients (such as to distribute monies in a client deposit account);
- Certificates of birth, adoption, marriage, civil partnership or death;
- Military service records (WWI and WWII);
- Evidence of (historic) immigration and naturalisation.

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- Tracing biological parents of adoptees and foundlings.



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# MPs Report



**Paddy Dwyer**

On Friday 14 October, LLS held its second zoom meeting of the year with local MPs. President Steven Zdolny chaired on behalf of LLS. Paula Barker MP (Wavertree), Maria Eagle MP (Garston & Halewood), Mark Hoskisson (Chief of Staff to Mick Whitley MP (Birkenhead)), Kim Johnson MP (Riverside), Justin Madders MP (Ellesmere Port & Neston) and Margaret Greenwood MP (Wirral West) all attended.

Chair of LLS's Access to Justice Committee, James Mannouch opened proceedings covering the recent Access to Justice Committee meetings and issues particularly related to breaches of housing injunctions and the Liverpool Access to Advice network. James highlighted that MPs surgeries should be involved with the new Liverpool Advice Strategy.

Sarah Mansfield, Civil Litigation Committee member, commented on cladding updates. It was noted that there is generally a lack of legal aid for tenants. Sarah and fellow committee member Nadya Makarova have been invited to contribute at a meeting by the Department of Communities and Housing by the London Law Society. Sarah will follow up individually with Marie Eagle MP, Kim Johnson MP and Paula Barker MPs for input ahead of such meeting as each have constituents affected by cladding issues

I provided an update starting with the Bill of Rights which at the time of this meeting was at the second reading at House of Commons. The aim is to repeal the Human Rights Act and replace it with the content of this bill. Government claims it *"reinforces our tradition of liberty whilst curtailing the abuses of human rights, restoring some common sense to our justice system, and ensuring that our human rights framework meets the needs of the society it serves"*. However, Council of Europe have commented that *"the proposed legal reforms might weaken human rights protections"*. From a rule of law perspective, the Bill is troubling in undermining the ECtHR (by giving domestic courts licence to depart from its case law) and domestic courts through the removal of section 3 interpretive power. Further, the scrutiny of parliament is diminished with the proportionality test being watered down so that the *"greatest possible weight [is given] to the principle that, in a Parliamentary democracy, decisions about how such a balance should be struck are properly made by Parliament"*.

We then turned to the Public Order Bill which at the time of this meeting was at the report stage of House of Commons. This bill introduces yet further restrictions on the right to protest and contains provisions which the Lords rejected to be included in the Police, Crime, Sentencing and Courts Act.

The National Security Bill was discussed which was at the committee stage of House of Commons. The most contentious content relates to broad interpretations of whistleblowing laws which could lead to life imprisonment for whistleblowing to foreign regulators or foreign media; expanding the application of the Official Secrets Act beyond those things that relate to security, intelligence, defence or international relations and giving Ministers the power to declare what information can be deemed *"legal to share"*.

Justin Madders MP raised a question about lawyers' views of the Revocation Bill (Retained EU Law (Revocation and Reform) Bill) and the measures proposed in it. I will look at this further and come back to all MPs with a report.

We did have one additional agenda item which related to SCCO delays. John-Paul Dennis, the Society's Non-Contentious Business Committee chair, outlined the current 12-month delay of payments in the Senior Courts Costs Office (SCCO). Summarily, where there is loss of capacity and an application to the Court of Protection is required for health and financial decisions for instance, this must then go to the SCCO for a Bill of Costs. Law firms face waits of 12 months, in some cases 18 months, for payment. As a result many law firms are not now taking on this sort of work because as businesses they cannot operate in this way. Local Authorities will increasingly have to deal with such cases and ultimately it is the vulnerable clients who will suffer and pay the price. It is a public policy issue.

John Paul explained that it is necessary for the SCCO to meet a reasonable turnaround time. Currently there are no deadlines or SLAs in place to deal with delays.

In terms of how MPs could assist with this, Maria Eagle MP mentioned she is on the Justice Select Committee and could mention it at a meeting. John-Paul will provide a briefing note and liaise with Maria Eagle MP outside today's meeting and keep Stephanie Kale (Professional Deputies Forum) in the loop.

*Our next meeting with MPs is scheduled for 17 March 2023. LLS Members are invited to contact the office with any suggestions for agenda items ahead of that event.*

**Paddy Dwyer**  
Parliamentary Liaison Officer



# Liverpool Law Society Celebrates 100 Years of Women Solicitors

7<sup>th</sup> December 2022 saw a first for Liverpool Law Society as we live streamed an event from The Law Society!

Guests were welcomed to Helix House to celebrate 100 years of female solicitors. The event not only allowed us to gather together to watch the delivery from Chancery Lane but also provided an opportunity to grab a drink and have a catch up with members that we may not have seen in person for some time!

The event may have highlighted how far

women have come (in such a relatively short period in modern legal history) but also served as a reminder for how we need to continue working towards being a fully inclusive profession!

As became evident from the speeches, we need to ensure that in order to fully support our colleagues in the present, and for all those yet to come, we need to reflect on the past!

The event, compered by **Amandeep Khasriya** (Vice Chair of the Women Solicitors Network Committee), saw addresses from:

The Attorney General, **The Rt. Hon. Victoria Prentis KC MP** (who reminded us that we need to focus on *"deeds and not words"*); The President of the Law Society of England and Wales, **Lubna Shuja** (*"We have clearly made great progress during this time, but we can we can always do more, and, we can do it better!"*); and The Founder of the First 100 Years, **Dana Denis-Smith**, CEO Obelisk Support and Council Member (*"women will rise; the pace is far too slow"*).

The event not only marked the Centenary of female solicitors but also signified another historic milestone... 2022 saw the first black President hand over to the first Asian, Muslim, President and to make it even more relevant to the evening both are women. Remarkable considering women were not even allowed in certain parts of the Law Society building until 1977!





Attendees were invited to consider how different the room would have looked 100 years ago. Almost certainly all of the guests would have been men. I can't speak for the makeup of the room in London but I can tell you that all, except one, of our attendees were women! Kudos to Jeremy Myers (Liverpool Law Society's newly elected President) who came along to show his support for the event, a true ally for equality in the profession. We were a little sad to not see more of our male counterparts as all members of profession were invited to the event - we are an inclusive bunch after-all!

We heard about the challenges that women faced, and still face, in the profession today and how we need to give our efforts to gender equality and, in particular, narrowing the gap at leadership level. Striving towards these goals are initiatives such as *"the Women in Law pledge"*, guidance on both hybrid working and gender pay gap reporting, mentoring and member engagement.

Some takeaway points from the night:

- Any flexible scheme cannot be detrimental to someone's career and some women have the fear of being *"out of sight, out of mind"* – we need to challenge this perspective.
- There is a pressing need for equal parental leave so that women feel that they can effectively return to the profession on her terms without sacrificing their careers (some exceptionally talented women leave the profession after starting a family).
- Creating equal opportunities at senior levels will increase retention (many women leave the profession at Associate level).

The President made it clear that one of her presidential priorities is to increase diversity in the profession. Having women well represented in all parts of the legal sector will take a lot of effort and we need to push through the agenda to see a tangible change. Lubna said *"while we are not where we need to be as yet, progress has been made and I am confident that we can keep up this pace of change and indeed, hopefully, speed it up!"* Later



adding *"being a lawyer is no longer seen as a man's job"*.

Lubna also raised the issue of how pay, retention and progression are still not equal across the profession asking why are not all firms creating action plans to address inequality? Firms not only need to change policies, they need to change workplace culture!

As a profession we are all responsible for equality, diversity and inclusion and we should be having open discussions as to the challenges that some members face. Remember, Liverpool Law Society has an EDI committee where some of the issues raised at the celebration are regularly on the agenda – if you have any ideas or concerns surrounding equality please do come along to one of our meetings and share your thoughts.

For those of you who did not catch the streamed event on the night I would encourage you to take some time to catch a recording (you will not be disappointed if you catch the subtitled version). You will hear all about the history of women in the profession, including a tale of initial objections to women being part of the profession, most notably from Lord Halsbury who commented that women could never write conciliatory letters and their employment would lead to more

litigation!

**Dana Denis-Smith** painted a picture of the *"First Four"*:

**Carrie Morrison.** Carrie broke the barriers and was the first admitted as a solicitor on 18 December 1922. Carrie was fast-tracked because of her service in the First World War. A first for equals, this right was bestowed on Carrie because the men serving had also been. Carrie, described as a *"poor man's lawyer"* dedicated her career to some of the most vulnerable members of society.

**Maud Crofts.** Maud was the voice of women in law of her time. She came from a legal family background (marrying a solicitor) and campaigned for women's rights writing *"Women under English Law"*. Invited to present on the BBC in 1928 she was featured on *"Law and the Home"*.

**Mary Elizabeth Pickup.** A mother of 2 and 41 years old at the time of qualification, Mary was encouraged to study Law by her father who was socially mobile. Mary's husband (a solicitor) put her on the training in 1919 as soon legislation opened the profession to women. Mary campaigned and encouraged women to change their own futures.



**Mary Elaine Sykes.** A political animal, Mary became the first female Lord Mayor in Huddersfield. Mary was interested in policy and law aligning to progress, and represent, women's equal rights. After standing down from Town Council, Mary headed up Huddersfield Law Society.

So, now on to some female facts and figures (in a professional context, of course):

- The modern legal system has been in place since the 12th century yet it took a further 400 years for the first female to be admitted as a solicitor in 1922 (after the profession became open to women by reason of the Sex Discrimination (Removal) Act 1919). Think of the talent pool that had overlooked until that point!
- By 1923 4 female solicitors had been admitted (compared to 4184 females admitted last year).
- In 1932 there were only 100 female solicitors recorded on the roll.
- 1933 saw the first all female

partnership.

- In 1960 (some 38 years after the first admission) only 500 women were on the roll.
- Fast forward to 2019 (100 years after the profession was opened to women) and we see an acceleration of women entering the profession. By this point 51% of entrants were female.
- Women now make up 63% of the profession (yet there is still disparity in senior positions with women taking only 35% of these roles).

The key message from the evening, both at Chancery Lane and in Liverpool, was women supporting and encouraging women. I think we are lucky as members of Liverpool Law Society as we have been clear in this message for some time. What was missing from the evening? Well, somewhat ironically, more men!

So, to all of those women, and their allies, in the profession congratulations on 100 years and here's to the next 100; lest we forget the 1919 club!



**Jeremy Myers**

*Thanks to Liverpool John Moores University for kindly sponsoring the event.*

**Julie O'Hare,**  
Solicitor at Carpenters, Past President and Founder of the EDI committee at Liverpool Law Society



# Directors of Liverpool Law Society for 2023



Front row, left to right: Steven Zdolny, Gaynor Williams, Jeremy Myers, Sarah Mansfield and Alum Ullah. Back row, left to right: Haley Farrell, Nicky Harris, Emma Palmer, Lorna Mitchell, Jonathan Berkson, Paul Kilty, David Tournafond and Nadya Makarova

The Society's main committee is made up of up to 27 directors, all practising lawyers or lecturers in law. We have a representative group of people from a range of small, medium and large firms and educational establishments around the table and we look forward to a busy 12 months under the helm of the president, Jeremy Myers.

Outside of the monthly meetings of the 'General Committee', the directors also meet twice a year with local MPs where there is exchange of information. News about bills going through parliament and constituent issues are also raised and discussed and parliamentary questions are put down on behalf of LLS members. Separately, the directors also meet with the nominated councillors from the Liverpool City Region local authorities. This again is a useful way of ensuring our members' concerns and issues, including those of their clients, can be raised at one of these meetings. The councillors also come to the Society with matters their constituents are facing and we work together on joint initiatives where there is a common aim.

The Society also has good communication channels with The Law Society, the SRA and the LeO, where members' issues can be raised and matters affecting the legal profession discussed.

On a regional level, Liverpool Law Society is a member of the Joint V, a grouping of autonomous local law societies that meet and discuss common issues affecting membership organisations for legal professionals, sharing best practice. The members of the Joint V are Birmingham, Bristol, Leeds, Liverpool and Manchester Law Societies. United the Joint V have a strong voice nationally, representing over 10,000 legal professionals.

The current directors of Liverpool Law Society who form the General Committee for 2023 are:

## Officers

**President** – Mr Jeremy Myers, *Husband Forwood Morgan*

**Vice President** – Ms Gaynor Williams, *Bennett Williams Solicitors*

**Deputy Vice President** – Mr James Mannouch, *University of Law*

**Honorary Treasurer** – Ms Emma Palmer, *MSB*

**Joint Honorary Secretary** – Ms Sarah Mansfield, *Cullimore Dutton*

**Joint Honorary Secretary** – Mr Alum Ullah, *Bond Turner*

**Immediate Past President** – Mr Steven Zdolny, *Kim Technologies*

## Sub-Committee Chairs

**Access to Justice Sub-Committee** – Mr James Mannouch, *University of Law*

## Charities & Education Sub-Committee

– Mr David Tournafond, *Morecrofts*

**Criminal Practice Sub-Committee** – Mr Paul Kilty, *DPP Ltd*

**Civil Litigation Sub-Committee** – Mr Alum Ullah, *Bond Turner*

**Editorial Sub-Committee** – Ms Jennifer Powell, *Weightmans*

**Employment Law Sub-Committee** – Ms Lindsey Knowles, *Brabners*

**Equality, Diversity & Inclusion Sub-Committee** – Ms Nina Sahu, *Hill Dickinson*

**Family Business Sub-Committee** – Ms Haley Farrell, *Jackson Lees Group*

**In-House Lawyers' Sub-Committee** – Ms Rachel Stalker, *LJMU*

**Non-Contentious Business Sub-Committee** – Mr John-Paul Dennis, *Astraea Linskills*

**Regulatory Sub-Committee** – Ms Mickaela Fox, *Weightmans*

## Other post holders

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**Public Relations Officer** – Ms Millie Hayden, *Brabners*

## Other Members of the Committee

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Ms Lauren Cannon, *In-House Legal Solutions*

Ms Nicola Harris, *MSB*

Ms Nadya Makarova, *Burd Ward*

Ms Lorna Mitchell, *University of Liverpool*

Miss Julie O'Hare, *Carpenters*

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# Important Update: Consumer protection for post six-year negligence

Below is the text of a letter to the SRA prepared by Frank Maher of Legal Risk LLP on behalf of Liverpool, Birmingham, Bristol, Leeds, and Manchester Law Societies, known collectively as the Joint V. Liverpool Law Society's Regulatory Committee has endorsed the points raised in that letter and elaborated further in our Society's response to the SRA Consultation document – Consumer protection for post six-year negligence. In summary, whilst the Society welcomes the decision of the SRA Board to preserve the indemnity scheme to provide consumer protection for post six-year negligence and to maintain the same level of cover as currently provided under the existing indemnity fund rules, it is concerning that the SRA has not consulted with the profession about how the scheme would operate going forward, instead electing for a scheme operating under the direct control of the SRA, which does not appear to have been properly thought through.

## Private and Confidential

By email only –  
[paul.philip@sra.org.uk](mailto:paul.philip@sra.org.uk)

**Mr Paul Philip**  
 Chief Executive  
 Solicitors Regulation Authority  
 The Cube  
 199 Wharfside Street  
 Birmingham B1 1RN

Dear Sir  
 Consumer protection for post six-  
 year negligence Solicitors Indemnity  
 Fund Ltd (SIF)

becky@birminghamlaw [society.co.uk](http://society.co.uk)  
 2 December 2022

1. This letter is written on behalf of the Law Societies of Birmingham, Bristol, Leeds, Liverpool and Manchester, known collectively as the Joint V.

2. We request that the SRA reverses the decision made at its Board meeting on 13 September 2022 to transfer the arrangements for Post Six Year Run Off Cover (PSYROC) from SIF to the SRA.

3. We are deeply concerned that the SRA has failed to consult on the options that it considered at its Board meeting and that, as a result, has made a hasty decision that could be regretted both by consumers and the profession alike.

4. We propose instead that further,

more detailed information and costings should be obtained on both (a) the proposed arrangement for transfer from SIF to the SRA, and (b) the alternative proposal of a reconfigured SIF to operate at a lower expense level, so that a full consultation can take place with the profession and other stakeholders before the Board makes a decision.

5. Our reasons are set out below.

## Summary

6. The decision was predicated on anticipated savings of £300,000-£400,000 apparently referred to in an unpublished analysis by Willis Towers Watson (WTW), which we assume is broadly reflected in the subsequent WTW report dated October 2022 (the October WTW Report).

7. We believe that the basis of the decision is flawed for the reasons identified in paragraph 9, and that this may result in significant additional and avoidable costs being passed on to the profession.

8. The current SIF arrangements have been in place for 22 years; new arrangements should be made in the expectation that they may be sustainable for a substantial period of time.

9. The flaws we identify, which are explained further below, are –  
 a) The anticipated saving is calculated

by reference to the costs of the Assigned Risks Pool (ARP), which do not form a realistic comparable;  
 b) The SRA is unlikely to have the required expertise in professional liability claims, which bear no comparison with Compensation Fund claims, lack of which contributed to the collapse of numerous insurers;

c) Consideration of the handling of residual liabilities within SIF, including pre 2000 firm closures and existing notified claims, was excluded from the October WTW Report and there is no indication of the potential scale of these;

d) The October WTW Report, replete as it is with warnings that it is based on limited data in a compressed timeframe, cannot provide the evidential basis for a decision which may have substantial financial consequences for the profession;

e) Either no or inadequate consideration appears to have been given to investigating the alternative of achieving costs savings within SIF;  
 f) The transfer from SIF to the SRA was raised in neither the November 2021 consultation nor the Discussion paper dated 3 August 2022.

10. The decision is not therefore compliant with section 28 of the Legal Services Act 2007 which requires that the SRA acts in a way which is transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed.



### Explanation of reasons

The anticipated saving is calculated by reference to the costs of the ARP, which do not form a realistic comparable

11. The ARP provided cover for firms unable to obtain insurance in the open market. Comparison of SIF's costs with the ARP is flawed, because the cost of defending ARP claims as a proportion of the whole would have been closer to those of open market insurers; SIF's costs will be disproportionately higher as a high proportion of claims are statute barred (meaning there will be no claims payment), or pursued by litigants in person where much of the costs burden falls on those defending claims.

12. A simple comparison of the proportion of defence costs to claims payments between the ARP and SIF is therefore fundamentally flawed. Higher defence costs are to be expected and are justified.

13. It is always possible, if undesirable, to adjust the balance by paying claims for which there is a good defence available rather than defending them. As the WTW

report dated 19 November 2021, published with the November 2021 consultation, noted, '...costs must be viewed in the context of value-add as there can be false economies if processes become inferior in quality because of cost-cutting which can lead to increases in claim costs for example'.

The SRA is unlikely to have the required expertise in professional liability claims, which bear no comparison with Compensation Fund claims, lack of which contributed to the collapse of numerous insurers;

14. The costs savings are predicated on claims being handled by the SRA's Client Protection Team. This Team's expertise is in the administration of a rules-based Compensation Fund.

15. The claims against SIF often involve complex issues of law, particularly in relation to limitation periods and trusts, and we understand that many are made by litigants in person which may require extensive investigation by SIF.

16. Professional liability claims

handling involves a very different skillset acquired through years of experience which will require recruitment and ongoing cost, yet the Willis report on which the SRA's proposals are predicated envisages the SRA utilising or reallocating existing resources.

17. After the global financial crisis, a large number of insurers entered the market without experience of solicitors' professional indemnity risks, including Alpha, Balva, Elite, Enterprise, ERIC, Lemma and Quinn among others, all of which became insolvent, the SRA should be cautious about assuming similar risks.

18. We strongly encourage the SRA to reconsider its position, to seek further analysis and to consult fully in order to ensure that a fully informed decision is made.

Yours sincerely,

**Tony McDaid**

President – Birmingham Law Society

On behalf of the Joint V Law Societies – Birmingham, Manchester, Liverpool, Leeds & Bristol

## Consumer protection for post six-year negligence – has the SRA gone too far?

The SRA's latest consultation about post six-year run-off cover (PSYROC) – Consumer protection for post six-year negligence - is due to close on 3 January 2023. Essentially, having already decided to deal with PSYROC in-house, the SRA are now seeking input on the draft rules and arrangements intended to implement the new scheme. This article explores why the Joint V Law Societies (Birmingham, Bristol, Leeds, Liverpool and Manchester) have

grave concerns about what is proposed and why they are urging the SRA to reverse their decision.

### The background

By way of recap, the Solicitors Indemnity Fund (SIF), managed by SIFL Ltd, currently indemnifies solicitors and their staff, once their mandatory six-year run-off cover, provided by their last insurer, has expired. The scheme is governed by the SRA Indemnity Rules 2012.

Driven by concerns that SIF was running out of money, in November 2021, the SRA launched the first in a series of consultation papers about the future of PSYROC, which was followed by a more targeted consultation in early 2022. From the outset, the SRA nailed its colours to the mast, stating that its preferred option was to exclude PSYROC from its future regulatory arrangements.

The SRA encountered significant pushback from the Law Society, the

legal profession, retired solicitors and consumer groups, who argued that consumer protection in this area should not be removed. In August 2022, the SRA published a discussion paper, saying that it, “...wished to explore the options for proportionate consumer protection...”, having expressed concern that the current cost of providing PSYROC is “...higher than it should be.” At that stage, the options on the table included retaining the SIF with changes to operating costs and setting up a new SRA consumer protection arrangement, such as a compensation fund.

### The current consultation

Upon launching the current consultation paper, the SRA presented their latest proposal as a done deal. The wording clearly assumes the transfer of arrangements for PSYROC to the SRA and respondents are simply being asked to comment on the wording and detail of the scheme. It is understood by the Joint V that the SRA Board actually made the decision to bring the post six-year arrangements in-house at a meeting on 13 September 2022.

On the plus side, the SRA now accepts that the appropriate way forward is an indemnity fund rather than a discretionary compensation fund, which would have provided inadequate protection to both the profession and consumers alike. The downside is that there appear to be a number of fundamental flaws in the underlying analysis.

The proposed scheme is predicated upon savings in annual running costs of £300,000 to £400,000 and annexed to the consultation paper is a report by Willis Towers Watson (the WTW Report), which underpins the figures. The WTW Report is, in essence, a comparison between a reconfiguration of the current scheme operated by SIFL and a new indemnity fund managed within the SRA, using the claims experience from the SRA Assigned Risks Pool (‘ARP’) as the comparator.

However, the ARP is not a realistic comparator, given that it handled claims against firms still in existence, who were unable to obtain insurance. PSYROC claims are, by their very nature, stale, by which we mean that there is a considerable lag time between the date of the negligent act or omission and the claim being made. Papers and relevant fee-earners from the closed firm have to be tracked down, which makes the investigation of these claims complex and time-consuming. The PSYROC claims are also often pursued by litigants in person, which means that much of the costs burden falls to SIFL.

One of the key criticisms levelled at the existing arrangement is that the costs of defending the claims are disproportionately high when compared with the claims paid figure. The imbalance is partly attributable to the reasons already identified. However, a further factor at play is the fact that a high proportion of claims are refuted – many because they are statute barred. It is always possible, if undesirable, to slash defence costs spend at the expense of proper enquiry into the claims. However, as an earlier report by WTW, published with the SRA’s November 2021 consultation noted,

*“...costs must be viewed in the context of value-add as there can be false economies if processes become inferior in quality because of cost-cutting which can lead to increases in claim costs for example.”*

In arriving at its headline-grabbing figures in respect of projected costs savings, the WTW Report suggests that the PSYROC claims could be handled by the SRA Client Protection Team. As such, the WTW Report makes no allowance for the recruitment of a specialised team by the SRA.

However, the skillset of the SRA’s existing staff, in the administration of a rules-based Compensation Fund, is very different from that required to defend professional liability claims, which are either litigated or subject to the Professional Negligence Pre-Action Protocol. PSYROC claims also often involve complex issues of law, particularly in relation to limitation periods and trusts. Replacing SIFL’s panel of seasoned professional indemnity practitioners, with staff inexperienced in this field, could either lead to an increase in defence costs or an increase in unjustified claims payments, neither of which is desirable. History has taught us that insurers such as Alpha, Balva and Elite, who entered the market without experience of solicitors’ professional indemnity risks, fared badly and became insolvent. In order to ensure consumer protection going forward, any scheme to replace SIFL needs to be fit for purpose.

On 2 December 2022, the Joint V wrote to the SRA expressing concern at the decision made by the SRA Board, to bring the PSYROC arrangements in-house within the SRA. In addition to outlining the concerns mentioned above, the letter identified the following issues in the SRA’s decision-making process, which, say the Joint V, “...may result in additional and avoidable costs being passed on to the profession”:

- Consideration of the handling of residual liabilities within SIF, including pre-2000 firm closures and existing notified claims, was excluded from the WTW Report and there is no indication of the potential scale of these.
- The WTW Report, replete as it is with warnings that it is based on limited data in a compressed timeframe, cannot provide the evidential basis for a decision which may have substantial financial consequences for the profession.
- Either no or inadequate consideration appears to have been given to investigating the alternative of

achieving costs savings within SIFL.

- The transfer from SIFL to the SRA was raised in neither the November 2021 consultation nor the discussion paper dated 3 August 2022.

The Joint V's letter also expressed deep concern that the SRA failed to consult on the options that it considered at its Board meeting on 13 September 2022. In seeking reversal of the decision, the Joint V opine that it is not compliant with section 28 of the Legal Services Act 2007, which requires that the SRA acts in a way which is "...transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed." Fearing that the SRA, "...may have made a hasty decision that could be regretted both by consumers and the profession alike...", the Joint V have called upon the SRA to obtain more detailed information and costings on the proposed transfer from SIFL to the SRA, as well as the alternative proposal of a reconfigured SIFL to operate at a lower expense level.

### What has Liverpool Law Society done?

Liverpool Law Society has already endorsed the Joint V's letter to the SRA and, in its own consultation response, has elaborated upon the concerns set out above. In the alternative, its consultation response also addresses some concerns about the wording of the proposed scheme if it goes ahead. A detailed analysis of those points is beyond the scope of this article but the key concerns are:

- The anticipated notification process for claims, at clauses 6.1(b), 6.1(c) (ii) and 6.5(a) of the draft new rules, is too rigid, including a retrospective requirement for the use of a prescribed form, which cannot be right.
- Clause 13.1 essentially provides that, if a dispute arises between the SRA and the person seeking indemnity and they cannot agree on an arbitrator, the SRA will make the decision anyway.
- Clause 16 of the new rules provides, in essence, that the fund shall be continued and administered by the

SRA for as long as the SRA considers necessary. As with the existing arrangement, our view is that the decision should remain within the remit of the Law Society.

### Key takeaway

There is a real risk that, if the SRA Board's decision is allowed to stand, the costs of the proposed, SRA-run scheme will escalate in years to come. Earlier in the consultation process, the need for PSYROC was argued convincingly and established. However, if overall claims costs spiral beyond the predictions in the heavily-caveated WTW Report, the sustainability of cover will once again come under scrutiny.

Liverpool Law Society and the Joint V have raised compelling arguments as to why the SRA's decision ought to be reversed. Only time will tell how the SRA will respond...

**Mickaela Fox**

## Conference for Legal Cashiers & Managers

**Back in November we held our annual Conference for Legal Cashiers & Managers, a 'must attend' event for; Cashiers, COFAs, Practice Managers, Solicitors, Finance Directors & Accountants.**

Returning as an in-person event for the first time since 2019, we were delighted to report it was a sell-out. Jenny Byfield of Weightmans LLP kindly chaired the event and it began with Brian Rogers from The Access Group discussing SRA Accounts: common risks & breaches. This was followed by Sean Hankin of the SRA providing a standards & regulations update.

Delegates then enjoyed refreshments and a good catch up before we recommenced with an essential session on VAT changes and the matters that you come across on a daily basis in your cashiering responsibilities from Jonathan Main on behalf of our kind sponsors MHA.

Next up was Rachel Lawrence of Legal Risk, who provide an Anti-Money Laundering Update followed by our final session on 'Fraud Awareness' from John Allcock of Nat West.

Thanks goes to Jenny for chairing, the speakers, the wonderful delegates for supporting and also our sponsors; MHA. Hopefully we will see you at the next one – pop Wednesday 15th November 2023 into your diary now.

**Jo Downey**

Director of Education & Training, Liverpool Law Society.



# New Year's resolution?

With 2023 now here, you may be inspired to go your own way and start your own law firm. If you are, it's worth taking a little time out both to plan and to look at the key decisions you need to make.



IN ASSOCIATION WITH LAWWARE

The benefits of running your own law firm are clear: you control your own destiny, reap your own rewards and determine your work / life balance. With these come clear responsibilities...

## **Always remember: you are running a business.**

Life in the legal world can be hectic. It's a demanding profession where day-to-day work can mean that business performance considerations can slip.

Being a great lawyer does not automatically mean you are a great business person. It's prudent to take on board the advice of professionals:

- Employ a good accountant who can take you through the key financial considerations.
- Focus on your profit and loss statement regularly.
- Get a firm grip on cashflow.
- Ease your burden by using the right practice management software.

Pay particular attention to cashflow. Businesses don't go bust due to a lack of profitability. They go bust because they can't pay the bills. You should know your precise cashflow position at the end of every working day.

## **Invoice regularly.**

The art of maintaining positive cashflow is to invoice clients regularly. If you do this each month, or even more often, you are more likely to get paid on time and in full. Don't be afraid to use interim billing. Clients find it easier to afford and pay for your services in bite-sized chunks – and it will keep your bank manager happy. The longer you wait before sending out the bill, the less likely you are to get paid.

## **Market yourself professionally.**

The starting point for all promotion is your website. It's your brochure, directory entry, online storefront, client care mechanism and your newsletter all rolled into one. Websites are not a one-off transaction. They require maintenance to maintain your position on Google.

That requires advice and input from web professionals who manage search engine optimisation on a daily basis and who can help you write blog articles that will generate traffic for your site.

Of course, it's not all just about e-marketing – the more traditional methods count too. Don't overlook these when developing your plan.

## **Top tips.**

- Contact the Law Society early, they have plenty of information to help your new start and will support you through the process.
- Contact your bank early as well, it can take a while to setup a new business bank account.

## **Invest in the right software.**

Keeping track of profit and loss, cashflow and managing your client marketing, time recording and billing is easy with the right practice management software.

It pays to opt for a PMS system where accounts and case management are in a single system and you can access all the relevant financials and case information without duplication of effort.

If you are thinking about striking out on your own, good luck, take care and contact us.

**0345 2020 578 or [innovate@lawware.co.uk](mailto:innovate@lawware.co.uk).**

**Mike O'Donnell.** lawware 

# Thinking about starting your own law firm?



If you are ready for lift off and seriously considering branching out on your own, please contact us. We have years of experience working with new start law firms and will be happy to provide practical advice and support.

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# lawstart



# Merseyside Junior Lawyers Division



Jemma Castell

Here at the MJLD, we have been working behind the scenes to pick our chosen charity for the upcoming year. We are very pleased to announce that

our Nominated Charity for 2022/23 is Maggie's Centre, which is based just next to the Clatterbridge Cancer Centre in the Wirral.

## Maggie's Story

Maggie's is a wonderful charity that provides free support to those suffering from cancer, at any stage of their illness. The first centre was opened in 1996 in Edinburgh, by Maggie Keswick Jencks. When Maggie was just 47 years of age, she was sadly diagnosed with breast cancer. After hearing this devastating news, Maggie and her husband Charles Jencks were moved to a windowless corridor where they were left to process the news on their own, with no one to turn to. In the light of their experience, they discussed the desperate need for somewhere that provided support, in a calm and friendly space. From this, Maggie's first centre was built.

Maggie's is one of the largest of its kind in the UK. The centre is a reflection and a response to the needs of its local community. The centre offers free practical, emotional and psychological support to not only those affected by cancer, but their family and friends. Not only this, their cancer support specialists, psychologists and benefit advisors are always on hand within the centre to provide advice or answers to any questions you may have. They offer an evidenced based programme which consists of support groups, relaxation classes and exercise sessions, which are not usually offered within typical hospital care. Maggie's also provides vital courses including

stress and sleep management, as well as classes to help those experiencing money worries, which again is so important to those going through such uncertain times. Unlike the cold and very much clinical corridors in a hospital, Maggie's is a peaceful haven, which is warm and vibrant. Anyone can drop in with no appointment or referral required and importantly, much needed respite for those suffering from cancer is just moments away from the ward.

## Our Visit to Maggie's



Jemma Castell, Sarah Burgess & David Tarttelin

Myself and our Chair, David Tarttelin, recently visited the centre to get a closer look at the important work that they do. Upon entering the centre, we met with Sarah Burgess, the Centre Fundraiser and Grace Bramham, the Centre Fundraising Organiser. Immediately, you felt a warm and welcoming feeling. The centre has been specifically designed to resemble a home away from home, in fact, the centre does not contain any sign posting and the staff do not wear any uniforms or lanyards, to provide visitors with an experience that feels just as welcoming as their home. In the heart of the centre is a kitchen, which includes a dining table, which again, adds to the home element. We received a tour of the building and were shown various rooms in which

the support and exercise sessions are held. Interestingly, a lot of the rooms contained abstract art. Sarah Burgess, the Centre Fundraiser, explained that there is no reasoning behind the art, except to give visitors something to try to take their mind off any worries that they may be experiencing. The centre also contains rooms in which families and friends can work, not to mention that the views from the floor to ceiling windows are simply breath-taking. It is clear to see just how much thought has been put into the centre, to make it as homely and relaxing as possible.

The centre receives no government funding and relies solely on the kindness of the community to enable them to run Maggie's Merseyside on a daily basis. We are so thrilled to be partnering with them.

Here is what Centre Fundraiser at Maggie's, **Sarah Burgess**, had to say about being chosen as our charity this year:

*"I am delighted that Maggie's Wirral have been selected as Merseyside Junior Lawyers Division charity of the year for 2023. It was great to meet Lauren and David in December to show them our beautiful centre and to give them an insight to the support we offer here at Maggie's. I am very much looking forward to working with the team at MJLD to help raise funds and awareness for Maggie's so that we can continue to support people affected by cancer in Merseyside."*

If anyone is interested in finding out more about Maggie's Centre and their services, please visit their website at [Maggie's – everyone's home of cancer care \(maggies.org\)](https://maggies.org)

Here at MJLD, we would like to take this opportunity to wish everyone a Merry Christmas and a Happy New Year. Please keep your eyes peeled on the MJLD socials to be the first to hear about our next social event which will be held in January 2023.

# Liverpool Chamber.

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## Astraea Linskills help raise £3,676 for the Love Wavertree Food Club

Astraea Linskills teamed up with Carolyn Hughes PR on December 2nd to ensure that the long established CHPR festive bash at Hilton Hotel Liverpool city centre supported the Love Wavertree Food Club throughout the Festive period and beyond. Astraea Linskills embraced the opportunity to host their staff Christmas party at the high profile event, working with the Love Wavertree team to ensure that funds raised on the day benefitted those who need it most during the festive period.

The annual event, which has become the hottest festive lunch ticket in town over the years hosted over 300 guests and many of the local legal community at a glitzy party to kick off the Christmas season. The party was superbly hosted on the day by Peter Price, with a DJ set from Simon

Ross, and entertainment throughout the afternoon from Gary Barker, Conor McKenna and Charlotte and Dixie Daye and Luisa Glen the non-stop fun kicked off at 12.30 and the high tempo party finished at 5.30 with an after party

in PIMA Bar With a DJ set from the legendary Charlie Cee.

DJ. Guests on the day included Jamie and Nicola Carragher, Coleen Rooney and friends, Davinia Taylor, Liz







**McLarnon** and celebrity stylist **Lorraine McCulloch** who all enjoyed a visit from **The Real Santa Liverpool!**

Astraea Linskills provided a selection of the raffle prizes on the day and the lunch raised £3,676 specifically for the Love Wavertree Food Club to stock the shelves as demand increases during the festive period and the winter months, with enough left for people to also enjoy some seasonal treats.

**Nama Zarroug**, founding director of Astraea Linskills who sponsored the event said *"Love Wavertree are absolutely thrilled with the sum raised at the CHPR Christmas Lunch in association with Astraea Linskills. This money will allow us to continue to support families in need throughout winter and the festive period. It is life changing money to help us to support those who need it the most in our community"*.

Event creator and organiser **Carolyn Hughes**, CHPR, said *"The CHPR Christmas Lunch has become a festive must in the Christmas calendar. I am delighted that the funds raised at this event are supporting the great work Love Wavertree do with the Food Club they provide. Times are hard for many people this winter and I am glad that as well as having a great day, we have helped those who need it most. I would like to thank the team at Astraea Linskills for their support"*.





# Charity Spotlight: Rainbow Hub - changing the lives of disabled children



## RAINBOW HUB

Rainbow Hub, based in Mawdesley, nr Ormskirk, supports children and young people with physical and neurological disabilities from across the Northwest. Our aim is to ensure that each child achieves his or her individual potential – in most cases, these are things most of us take for granted like walking, speaking, playing and feeding ourselves.



We want to improve the lives of children with complex needs and our team of highly trained specialists offer a holistic approach to the health and well-being of each disabled child, with a combination of therapies resulting in a higher level of independence. Imagine standing on your own two feet or climbing stairs independently; signing your first word or not always coming last.

And we support the families as well as the child to improve the quality of life for them all. Amongst the range of therapies and support services to meet their needs are conductive education, communication sessions, physio and rebound therapy and Break Time Clubs for children 5 -16 years with Break Time hours. Parents/cares can get advice and signposting for benefits and other services, how to obtain equipment and support with EHCP and DLA applications. Our Family Support Worker arranges outings, events at Rainbow Hub including Stay and Play sessions and Grandparents' coffee mornings - no one is left out and, if we can't help, we will find someone who can.

One of our core therapy programmes is Conductive education where repetition of physical learning exercises incorporating rhythm, song and phrases helps develop the necessary muscle control to carry out simple movements such as sitting, standing and walking - every day actions we take for granted. Whilst learning to be more active, independent and aiming to achieve their individual potential, our children also benefit from being in a group environment developing their social skills and participating in structured learning activities alongside their parent/guardian.

Parents, whose children have already benefitted from the specialist conductive education programme, are amazed and grateful for the help and support. Gemma McLoughlin from Euxton, whose daughter Amber (3) has cerebral palsy and attends Rainbow Hub, said, "Rainbow Hub has been fantastic supporting us ever since we had the diagnosis when Amber was around two. With

*other professionals they seem to put a lid on your child focusing on what your child might not be able to do. At Rainbow it's completely different and they flip it on its head. They focus on "your child will achieve her full potential and we are going to help you get there" and it's just positive from the word go. There is no limit or ceiling on what they can achieve and I really believe that, when Amber did take her first steps, it was because of the support we had at Rainbow Hub. There are no words to describe how amazing Rainbow Hub is."*

Rainbow Hub also opened a specialist nursery in October 2021 run by highly trained, experienced staff for children with special educational needs between 2 and 5 years. It only operates with small groups meaning that each child will have a greater chance and more time to develop and achieve life skills. As well as the opportunity to play and interact with their peers, the children are encouraged to develop life skills such as washing, dressing and undressing and communications – all of which can be more challenging for a child with special needs.

But Rainbow Hub has no statutory funding for our core services and raises money through grants, donations from businesses and individuals and fund-raising events. The pandemic made things much harder, but we have been able to run our most popular events like the Ramble and Annual Ball in 2022. However, the team constantly seek new ways of raising funds and are extremely grateful for the support they receive from local businesses and individuals.

If anyone would like more information about our work and how to support us, please visit our web site [www.rainbowhubnw.org](http://www.rainbowhubnw.org) or follow us on Facebook, Twitter or Instagram @rainbowhubnw

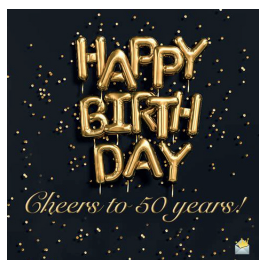
If you would like to see our centre and meet some of the children and parents, we would love to show you around.

Please email Emma Parish [e.parish@rainbowhub.org](mailto:e.parish@rainbowhub.org)









**Vauxhall Community  
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Centre**

**Our regular column from the team at Vauxhall Community Law and Information Centre who support the local community and promote access to justice.**

# Happy 50<sup>th</sup> Birthday Vauxhall Law Centre

Vauxhall Community Law & Information Centre is 50 years old this year on 1st June. The Centre was established as a law centre in 1973 and was a collaboration between the Scotland Road Community in Vauxhall, Liverpool Law Society, Liverpool John Moores Foundation and Liverpool City Council. In the early days of the Law Centre, Liverpool Law Society employed the solicitors and seconded them to the Law Centre.

Vauxhall Community Law & Information Centre plan a series of events in June to celebrate the Birthday. Please keep an eye on our column to see the planned events.

We will be establishing an organising group in the New Year, if you or anyone you know is interested in assisting us with the celebrations ask them to contact us at [alankelly@vauxhalllawcentre.org.uk](mailto:alankelly@vauxhalllawcentre.org.uk)

## Maghull Town Council Project



The Law Centre has been working with Maghull Town Council to develop an outreach hub in Maghull Town Square on a part-time basis.

The project will commence in mid-January 2023 and is expected to provide assistance to older people and local

vulnerable people, we are currently recruiting a worker to support this new project which we hope will develop further during the course of the year.



## Workers Disputes

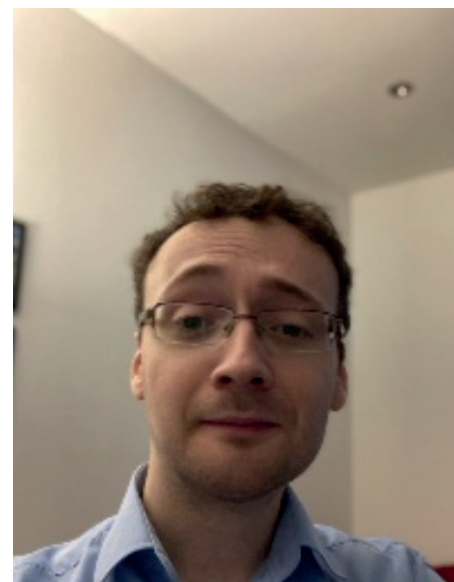
Unfortunately, the numbers of disputes affecting members of our communities increased massively during the course of the year. The Law Centre staff have supported many workers in dispute, including at Jacobs, the RMT, PCS, Shelter/Unite and the RCN and all other unions involved in the current NHS action provided.



**Shelter Dispute : Sheila Coleman (Unite) and Claire Jones (PCS) with Alan Kelly Vauxhall Law Centre**

Vauxhall Law Centre has a long history of supporting workers in struggle

and will continue our work with Trade Unions and communities who are struggling to obtain improved conditions and a better quality of life



## Justice First Fellow (JFF). Alex Feery

Vauxhall Community Law & Information Centre has been fortunate enough to have a Justice First Fellow at the Law Centre, supported by the Legal Education Foundation Alex Feery, who is completing his training contract continues to develop his skills at the Law Centre and has recently successfully completed an appeal tribunal hearing. Alex is fast becoming a valuable member of the team, supporting the advice provision surgery at Homebaked in Anfield in our partnership work with Spirit of Shankly. Alex will be supporting the work of our development workers in early 2023 before moving on to work with the Housing Team



### Feedback from clients

After recently being awarded Personal Independence Payment including a backdated payment of £10,746 our client recently got in touch with us to give us some amazing feedback shared below. Congratulations to our welfare rights caseworker Nancy for this excellent result.



Nancy whose post is funded by Liverpool City Council, specialises in supporting vulnerable people living in the community is a regular attendee at Tribunals in support of vulnerable

### Volunteers

At Vauxhall Community Law & Information Centre volunteers are the backbone of our organisation, their dedication to supporting our work and commitment to promote access to justice during has been immense over the past 50 years. We get support from our volunteers in many different ways: -

- Our Board are volunteers, providing support and strategic direction for the organisation
- Volunteers assist with our advice

provision and representation

- Volunteers help us with publicity, administration and fundraising, our legal walk was supported by many of our community supporters and helped us raise over £1,500

If you think you, or your company can support our work at Vauxhall please don't hesitate to contact us. We are looking for volunteers with skills in a wide range of areas such as Financial Management, HR, Technology, Fundraising, and Advice. If you have any skills and would like to get on board with us please drop us a line at:

[development@vauxhalllawcentre.org.uk](mailto:development@vauxhalllawcentre.org.uk)

We are also interested in developing our Board too. Drop us a line to this email address and we will call you for a chat.

*Please consider using volunteering as a means to meeting some of your company's Corporate Social Responsibility commitments.*

## Excello advises Caldeira on acquisition of new £3 million Merseyside HQ

**Peter McHugh, a Liverpool-based real estate partner at national firm Excello Law, has advised Caldeira, the UK's leading cushion company, on the acquisition of a new headquarters on the Knowsley Industrial Park in Merseyside in a £3m investment project.**

The 85,000 sq. ft. factory on a three-acre site, at 29 Lees Road, will contain manufacturing, warehousing, distribution, office and showroom facilities. The surplus space at the site, not yet required by Caldeira, is being developed and will be rented to other companies.

Peter commented: "Caldeira's acquisition and redevelopment of their new HQ

*will bring additional investment and job opportunities into Knowsley. It's also testament to a strong partnership and funding approach across the City which ensures successful local companies are able to grow their businesses in the heart of Merseyside."*

**Tony Caldeira**, founder and managing director of Caldeira, said: "We've been working with Peter over the last year on our property needs and we find in him, and Excello Law, a very knowledgeable and responsive real estate team. Peter's advice was key to ensuring a property that meets all our needs for future expansion of the business."

The significant renovation of the site

has involved a full refurbishment of the property. In addition, there have been adaptations to the factory, warehouse, offices and showroom space to enable the company to increase production to over a million cushions per year.

As part of the project, the company is investing in solar energy making Caldeira carbon negative in 2023.

Caldeira's purchase of the building has been supported by HSBC Bank in Liverpool, while the building renovation has been assisted by the Liverpool City Region Flexible Growth Fund via MSIF, and the Liverpool City Region Capital Grant Fund, which is delivered by St. Helens Chamber of Commerce.



# High Value Dealers & The Proceeds of Crime Act 2002

**Featured article by Sam Healey Partner of Business Crime, Regulation & Serious Driving Offences at JMW Solicitors**

High Value Dealers are defined by Section 14 (1)(a) of the Money Laundering, Terrorist Financing and Transfer of Funds Regulations 2017 (the 'Regulations') as: 'a firm or sole trader who by way of business trades in goods (including an auctioneer dealing in goods), when the trader makes or receives, in respect of any transaction, a payment or payments in cash of at least 10,000 euros in total'.

This means that any business that accepts a single cash transaction for goods in excess of 10,000 euros will be considered a High Value Dealer. In addition, a single transaction undertaken in several operations that appear to be linked will, for the purposes of the Regulations, exceed the 10,000 euros threshold.

Transactions that involve a part-exchange where the cash value is under the 10,000 euros threshold but the total transaction value exceeds the limit, will not be considered. Transactions for goods and services will also not be considered unless the value of the goods exceeds the 10,000 euros threshold.

As part of the Regulations, additional requirements have been placed on businesses that exceed the threshold. This is due to the increased risk of high value cash transactions to involve criminal property and influence. The following list of High Value Dealer sub-sectors has been provided by HMRC:

- alcohol
- antiques, art & music
- auction
- boats & yachts
- caravans
- cars
- cash & carry/wholesale
- electronics
- food
- gold
- household goods & furniture

- jewellery
- mobile phones
- plant, machinery & equipment
- recycling
- textiles & clothing
- vehicles other than cars

It should be noted that this list is not exhaustive and businesses outside of the list will be defined as a High Value Dealer if they accept a transaction that falls under the Section 14 definition.

## Requirement to Register

Under Section 54 (2)(a) of the Regulations, the Commissioners are required to maintain a register of High Value Dealers. The requirement to register as a High Value Dealer is a serious one and rests with the person or business themselves. Under Section 56 (1) (a) a person may not act as a High Value Dealer if they are not registered.

The registration process with HMRC can be completed online and will need to be renewed annually. Reminders will be sent to the registered High Valued Dealer to renew however the initial registration must be initiated by the person or business themselves.

## Criminal Offence

The seriousness of the requirement to register is reinforced by Section 86 of the Regulations. Under Section 86(1) it is a criminal offence to contravene a relevant requirement imposed under the Regulations. With regards to High Value Dealers, this would mean it would be a criminal offence to accept cash that exceeds 10,000 euros if they were not registered as per Section 56 (1)(a).

When considering whether a person has committed an offence, consideration will be given as to whether that person followed any relevant guidance issued by or approved by the Treasury as per Section 86 (2). The guidance for High Value Dealers can be found here: <https://www.gov.uk/government/publications/>

[anti-money-laundering-guidance-for-high-value-dealers](#)

## HMRC Guidance

The Guidance issued is designed to help comply with the Regulations and contains the following chapters:

1. Money Laundering and High Value Dealers
2. Responsibilities of senior managers
3. Risk assessment, policies, controls and procedures
4. Customer due diligence
5. Reporting suspicious activity
6. Record keeping
7. Staff awareness
8. High value dealer risk
9. High value dealers
10. Where to find more information

Without going into great detail for each chapter, High Value Dealers are held to a higher standard than normal businesses. They are required to have more stringent anti-money laundering controls and procedures in place and to conduct a significantly more thorough due diligence process. Minimum requirements are listed at the end of each chapter and offer a quick overview of what HMRC expect.

## Proceeds of Crime Act 2002 (POCA) and Impact on High Value Dealers

The importance of registering as a High Value Dealer and the possible consequences of a failure to register cannot be underestimated. Under the Proceeds of Crime Act 2002 ('POCA'), section 304 (1), it confirms that property obtained through 'unlawful conduct' is 'recoverable property'. Under section 241(1) conduct is unlawful conduct "if it is unlawful under the criminal law of that part" and under section 316(4), recoverable property is "all property wherever it is and includes money, all forms of real or personal property... and intangible property".

The impact of failing to register as a High Value Dealer but continuing to accept cash exceeding 10,000 euros in

transactions is therefore severe. As a criminal offence to continue operating as High Value Dealer without registering, it follows that enforcement bodies could apply to seize, detain and potentially forfeit any property obtained as a result of this. It could be viewed that by operating

without registering as a High Value Dealer would constitute unlawful conduct in contravention of the Regulations and in turn lead to cash received or assets being defined as recoverable property. If you or your business have concerns regarding your status as a High Value

Dealer, the regulations or the impact of POCA, it is important to seek specialist legal advice at the earliest possibility.

## Personal Injury Conference 2022

In December we held our annual PI Conference which was very kindly & expertly chaired by HHJ Howells.

The day began with the dynamic Donna Scully of Carpenters, providing an update on the OIC Portal/Whiplash Reforms. Glyn Thompson of Weightmans followed with a Defendant's Perspective. HHJ Howells then invited questions from the audience for Donna & Glyn to respond too.

Everyone enjoyed a short refreshment break before Jeff Zindani asked 'Shall I Stay or Shall I Go?' before discussing PI Caseload Sales, Acquisitions and Mergers.

Next up was Craig Dade on behalf of our sponsors LEAP, covering Digitalising your Personal injury matters. All then had the chance to network during the buffet lunch.

The afternoon then started with a bang as the wonderful Professor Dominic Regan provided a comprehensive update on reforms to damages and costs. Final session of the day was another comprehensive update on all things relating to QOCS and Fundamental Dishonesty by barrister David Pilling of Civil Law Chambers.

Our chairperson then brought the event to a close, thanking our sponsors; LEAP, all the wonderful speakers involved and each and every delegate who attended. Keep 6th December 2023 free in your diary, so you can save your seat for next time!

**Jo Downey**  
Director of Education & Training, Liverpool Law Society.

### What our delegates said:

"Really interesting & well organised event"

"An excellent event with knowledgeable speakers"

"Great venue & good range of speakers"

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# Regulation Update

The latest Regulation news from Andrea Cohen of Weightmans LLP



Andrea Cohen

**Happy New Year! Where did 2022 go? I hope you've had a good break and the resolutions haven't gone the way of all new year resolutions just yet. This month we've done a bit of crystal ball gazing, our usual look at what's been happening in the world of risk and compliance, and some recent disciplinary decisions.**

## Looking ahead

Article by Michelle Garlick for the Law Society Legal Compliance.

Horizon scanning is always a worthwhile risk management task to help firms plan, prepare and budget for the year ahead. There will inevitably be unexpected, unplanned for events –after all, who would have thought/predicted in December 2019/January 2020 that we were about to face a pandemic or at the start of 2022 that Russia would invade Ukraine with the resulting impact on the sanctions regime and the new Economic Crime (Transparency and Enforcement) Act 2022? So whilst none of us have a crystal ball to accurately forecast the future, there is a significant amount of information available from various sources including the SRA via its business plan, Risk Outlooks and consultations which will help firms to identify and manage risk effectively in the year ahead. If it is important to

the SRA, so will it be to all firms and individuals it regulates.

## AML, Sanctions and Economic Crime

In October 2022 the SRA published its annual AML report for 2021/22. It reported on the increased capacity and resource at the SRA to focus on desktop and in-person visits to supervise firms' compliance with the Money Laundering Regulations and it is clear from the SRA's business plan for 2022-23 that its anti-money laundering work will remain high priority in 2023 with an ever-expanding number of firm inspections and desk-based review activity. The annual report reiterated its previous guidance that most firms need to have an independent audit yet highlighted that this was an area of compliance which was still lacking. If your firm falls within the regulated sector for AML and hasn't yet had an independent audit (and in practice, it will be rare for any firm that isn't a sole practitioner to not need one), you should make this a priority for 2023.

Compliance with the sanctions regime has presented recent challenges, particularly following the invasion of Ukraine, and the consequences of non-compliance are high because of the strict liability enforcement by the Office of Financial Sanctions Implementation. The SRA said in its annual AML report that *"In the coming year, we will continue to work proactively to make sure we help firms we supervise to comply with sanctions legislation, stepping in to take action where they don't"* and the SRA has now published further guidance (28 November 2022) <https://www.sra.org.uk/sra/news/press/sanctions-regime-stay-compliant/> setting out what it expects from firms and providing advice on how best to meet these obligations.

## Proliferation financing

Also expect guidance from the SRA/ Legal Sector Affinity Group (LSAG)

on proliferation financing, the changes in relation to which came into effect through the Money Laundering and Terrorist Financing (Amendment) (No 2) Regulations 2022 on 1 September 2022. Proliferation financing is the provision of funds or financial services used, in whole or in part, for the manufacture, acquisition, development, transport, transfer etc. or possession or use of weapons (chemical, biological, radiological or nuclear), in contravention of a relevant financial sanctions obligation. The Act requires firms in scope to assess proliferation financing risks, in addition to combatting money laundering and terrorist financing and put in place policies, controls and procedures (PCPs) to mitigate and manage the risks. The regulatory requirements mirror those for AML, so regulated entities can either create a separate risk assessment and PCPs or incorporate it into the existing AML firm wide risk assessment (FWRA) and PCPs. The first National risk assessment of proliferation financing was published in September 2021 and must be taken into account in the FWRA.

## Economic Crime Levy

2023 will see the first economic crime levy being collected on all anti money laundering regulated businesses including law firms. The amount of the levy will be a fixed fee based on size as determined by UK revenue. Small firms (less than 10.2m) will be exempt with medium size firms (£10.2m - £36m) paying £10,000, large firms (£36m-£1bn) paying £36,000 with the very large businesses (>£1bn) paying £250,000 pa. HMRC will be starting to collect the levy from April 2023.

Whilst the SRA agrees that the vast majority of firms are doing their best to comply, keeping up to date with all these regulatory changes in relation to AML, sanctions and economic crime generally is time consuming and difficult.

Notwithstanding that, **Anna Bradley**, Chair of the SRA, has sent out a very clear message in the Foreword of the AML annual report when she said *“To those firms not doing enough to prevent money laundering, you need to take your obligations seriously and play your part. As we increase our inspection and desk-based review supervision now is the time to put your house in order.”*

With the Economic Crime and Corporate Transparency Bill currently going through Parliament which is likely to give the SRA unlimited fining powers for economic crime (and this will apply to all firms, not just those in the regulated sector), Anna Bradley’s warning is timely indeed!

### Fraud

As the country enters what is expected to be a long recession, the concern over fraud is high on the agenda. Whether through issues like vendor fraud and dubious investment schemes in conveyancing, or internal opportunistic fraud by employees struggling to pay their bills and finding ways to access the firm’s accounts, firms will need to be alert and ensure their systems and processes are robust enough to avoid breaches and falling victim to such criminal activity.

The economic climate may also see a downturn in certain practice areas and/or credit control issues with clients unable/refusing to pay their bills. Monitoring of financial stability will need to be high on COFAs agendas.

### Cyber

Cyber attacks are also on the increase and again, firms need to be comfortable that they have the robust layers of security in place which have been independently tested and improved where necessary with staff also being trained to recognise and avoid the common (and ever evolving) infiltration techniques being used by criminal gangs.

### SLAPPS

Strategic Lawsuits Against Public Participation (commonly known as SLAPPS) has featured a lot in the news

this year following the Russian invasion of Ukraine and the concern that certain (wealthy) clients will seek to abuse the legal system by using such tactics to harass or intimidate another person seeking to hold them to account. The SRA has made it very clear to firms through its warning notice issued on 28 November 2022 of the importance of ensuring that the duty to act in a client’s best interests does not override the wider public interest obligations and duties to the court and that litigation is conducted properly.

2023 is likely to see more investigations, potential disciplinary action and sanctions being imposed on firms/solicitors in breach. As **Paul Philip**, Chief executive of the SRA stated *“We are committed to cracking down on SLAPPS so that genuine and appropriate scrutiny can continue, while balancing that with the need for solicitors to be able to bring legitimate claims on behalf of their clients”*.

### Transparency Rules

In August 2022, the SRA announced that over the next few months they would be starting a rolling programme of checks on firms’ websites to ensure compliance with all aspects of the SRA’s Transparency Rules. The SRA will be checking all law firm sites, including those of firms who have previously filled in a self-declaration stating that they are fully compliant. Remember that any firm with a website which offers services in the areas of conveyancing, probate, immigration, employment tribunals or motoring offences, must publish certain information including details on the services offered, who delivers them and pricing.

In addition, all firms irrespective of the services offered, must publish details of their complaints procedure and the website must also include the SRA clickable logo.

### Professional Indemnity/Post-six year run off cover

After extensive consultations on what should happen with regard to the Solicitors Indemnity Fund and post-six year run off cover, the SRA has now decided that a scheme run by the

SRA offers the most cost-effective and proportionate solution to providing appropriate consumer protection. The details of the scheme rules are yet to be finalised (the consultation on this is open until 3 January 2023) but the scheme will come into effect from September 2023.

### SRA fining regime

With effect from 20 July 2022, the Ministry of Justice increased SRA fining powers from £2,000 to £25,000 for ‘traditional’ law firms and the solicitors who work in them. This does not impact on ABS’ and the individuals working for them, for which the SRA can impose fines of up to £250m and £50m.

The SRA’s aim is for cases to be resolved quicker as fewer of them will have to be referred to the SDT. We have already seen increased fines being imposed in recent SRA decisions but the latest consultation around issues such as how the SRA will improve its transparency of decision-making, the proposals for fixed penalty fines for lower level “technical” breaches (eg failures to ensure all necessary approvals have been obtained) and the proposed increased fining tables based on the seriousness of the breach and a firm’s turnover or individual’s gross income has only recently closed so at the time of writing this article, the detail is yet to be finalised. What is certain, though, is that we will see an increase in the fines being imposed in both traditional and ABS law firms.

Also in consultation is the proposal to pilot the use of victim impact statements for cases involving sexual misconduct, discrimination or any form of harassment.

### Rule changes on health and wellbeing in the workplace

Following a consultation in 2022, the SRA Board has approved changes to the Standards and Regulations to introduce new rules relating to the unfair treatment of colleagues and to a solicitor’s health and fitness to practise. The changes relating to the treatment of colleagues is designed to clamp down on unsupportive, bullying or toxic working environments and culture and will require individuals and firms to treat colleagues fairly and



with respect and for managers in firms to challenge unfair treatment. Guidance had already been published in February 2022 requiring firms to have effective systems and controls to supervise staff, monitor concerns which may affect their wellbeing and competence and provide a safe environment for employees to raise concerns and address them promptly and in a constructive manner so it is hoped that all firms will already have these processes in place to ensure compliance not just with the Code but also employment legislation. It will though be interesting to see how the SRA will deal with complaints that a manager has failed to challenge unfair treatment in the future.

## Legal Ombudsman Scheme (LeO) changes

Following a consultation by the LeO in February 2022, we will see some significant changes from April 2023 in its scheme rules and how it manages and deals with complaints. Some of the key changes include

1. Reducing time limits for complaints to LeO from six years to one year from the date of the act/omission/becoming aware of it.
2. Enabling LeO to exercise discretion to dismiss a complaint if specific criteria is met, without the need to first accept the case for investigation
3. Enabling LeO to consider whether a case should be dismissed if a reasonable revised / increased offer is made by the service provider during the course of an ongoing investigation.
4. Discretion to dismiss a complaint where the nature or scope of the complaint, the volume of evidence, or the conduct of the complainant is such that it would be disproportionate for an investigation to be carried out.
5. The changes will mean that firms will need to revise their Terms of Business/client engagement letters/final complaint response signposting clients to the timescales for complaining and further guidance will be issued ahead of the changes coming into effect.

The LSB is also likely to consult in 2023 on the complaints process including ways to make complaints signposting clearer, how a complaint is defined/interpreted,

and is also considering adopting the financial services approach to *“identify whether the root cause of complaints could have affected consumers who have not complained, and potentially offer redress to these consumers”*.

Whilst it is impossible to anticipate and cover everything that risk and compliance managers in firms will have to face in 2023, the above will hopefully give readers a taste of things to come. What I can safely predict is that we will all be kept very busy indeed!

## SRA consultation – amendments to SRA Standards and Regulations

The SRA are consulting on proposed minor amendments to the Standards and Regulations, including changes to SRA Accounts Rules, pro bono work, administering oaths or statutory declarations outside of employment and SRA Authorisation of Firms Rules. The consultation closes on 8 March 2023.

### SRA guidance

The SRA has published guidance for those undertaking immigration work, including supervision arrangements <https://www.sra.org.uk/solicitors/guidance/immigration-work-guidance/> following a thematic review which found areas of concern, including record keeping, reporting misconduct in other firms, and appropriate supervision of less senior staff. Ten firms were referred to disciplinary processes after finding significant shortcomings. The SRA will undertake a follow up review in 12 to 18 months.

The SRA also issued updated guidance for those undertaking regulated claims management and immigration services, <https://www.sra.org.uk/solicitors/guidance/undertaking-regulated-claims-management-immigration-activities/>

### Disciplinary decisions

Struck off for manifest incompetence  
The SDT struck off a solicitor who failed to take appropriate steps to ensure that there was no conflict of interest in acting for both parties in a transaction which led to one of the clients giving away his home. The matter concerned an older client wishing to transfer property to a significantly younger individual. It was

found by the SDT that there was very limited evidence that relevant information was obtained from the clients and the solicitor failed to pick up on any red flags, including the significant age difference between the parties; no family connection; no information in respect of the relationship, and the transfer was for nil consideration. The solicitor was struck off and ordered to pay costs of £20,000.

## Fined for failing to register client's interests

The SDT fined a solicitor £10,000 for misconduct for failing to register clients' interests with the Land Registry within the time limits and providing misleading information. Whilst it was accepted by the SDT that the first misleading email was a genuine error, the solicitor continued to make subsequent errors. In mitigation, it was accepted that the solicitor had made early admissions and had taken appropriate actions to ensure that this did not happen again, and on that basis the SDT refused to place restrictions on the solicitor's practicing certificate, as recommended by the SRA.

## Struck off for dishonesty

A solicitor has been struck off the roll following admissions that he dishonestly confirmed that he had witnessed a signature of a lease. The solicitor signed and stamped the lease to confirm that he had witnessed both signatures and was present at the time of signing, despite one of the witnesses not being present due to ill-health. Whilst there was no legal requirement for the solicitor to witness the signatures, the SDT ruled against the solicitor, stating that the misconduct was deliberate and in breach of the solicitor's professional obligations. The solicitor was struck off the roll and ordered to pay costs, which were reduced due to his means.

## How Compli can help...

The Compli team is able to provide expertise and advice in the areas of risk and compliance and disciplinary assistance. If we can help in any way, please do get in touch.

**Andrea Cohen**  
Compli,  
Weightmans LLP

## Trustee Opportunity



We are looking to recruit a new trustee with a legal background to this significant organization within the region. The role would particularly suit a recently qualified solicitor looking for non-executive director experience and to broaden their knowledge of the charitable sector. This is a voluntary role, although trustee expenses can be paid.

Local Solutions is a charity and

social enterprise working to empower individuals as and support communities across the Liverpool City Region and North Wales. Established in 1974, Local Solutions reaches over 30,000 people each year, and delivers a wide range of initiatives including social care, services for unpaid carers, support for victims of domestic abuse and accommodation and mentoring for homeless young people and families.

We are a Real Living Wage employer, and we are focused on innovation, early intervention, expert approaches and going beyond basic needs. With an annual turnover of £14M and over 500 employees we need a strong trustee board which represents a range of skills. There are opportunities to get involved more closely in specific services within Local Solutions.

Trustees are appointed for terms of three years, renewable to a maximum of nine years. Full Board meetings take place bi-monthly, and trustees usually service on a Board sub-committee which meets between Board meetings.

*For a conversation about this opportunity please contact Crispin Pailing [cpailing@localsolutions.org.uk](mailto:cpailing@localsolutions.org.uk) (Trustee and Chair of People & Culture Subcommittee)*

## Digital and Data Driven Innovation Adoption Accelerator Programme for Legal and Accountancy Professional Services

Liverpool Law Society has submitted a letter of support for the Liverpool City Region bid for grant funding for an exciting new innovation project targeted specifically at helping legal and professional services firms.

The focus of this bid on creating greater awareness of benefits of digital and data driven innovation, and then focussing innovation efforts where it is most likely to be successful creating a larger group of peers who can share and collaborate on all things innovation. It will further expand our innovation ecosystem by bringing together the expertise of Edge Hill University and the University of Liverpool in research, knowledge exchange and impact delivery of the business support ecosystem with national reach.

We will find out in the New Year whether we have been successful in moving to the next round, and shall keep our members updated on the progress of this opportunity.

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# Monthly Costs Update



Welcome to our monthly update in which we discuss recent trends and developments in Costs Law and Practice. If you feel that there are costs related issues of interest, please feel free to contact us.

One topic that keeps on giving is Fixed Recoverable Costs. Last month we talked about the delayed introduction of FRC in the Fast Track. What about Clinical Negligence? This seems to have rumbled on for years, particularly in relation to cases where damages are likely to be less than £25k. This has hit the legal press again this month as a group of families affected by the Shrewsbury and Telford cases have spoken out against plans to effectively cap recoverable costs –

[Maternity scandal victims join fight against fixed costs | News | Law Gazette](#)

The thinking behind a fixed costs regime was explained by the government in its January 2022 consultation document –

*Our policy intent in proposing implementation of an FRC scheme is to ensure claims are processed quickly, fairly, and cost-effectively, at a cost that is more proportionate to the value of the claim*

The full document can be seen here –

[Fixed recoverable costs in lower value clinical negligence claims: a consultation \(publishing.service.gov.uk\)](#)

We don't propose to analyse the entire document in this update, save to say that it is driven by an assumption that certain Clinical Negligence cases merit lower cost than others. And this is based entirely on monetary factors –

*Under the current system, in lower value clinical negligence claims (between £1,001 and £25,000) these legal costs often end up being disproportionately high relative to the overall value of the damages awarded, and in comparison with the defendant's legal costs*

Which brings us to the recent intervention from the Shrewsbury and Telford families. The families are more interested in accountability than cost. They talk about a 'wall of silence' from the Trusts and the role that lawyers played in breaking this down. The loss of a child might be of limited value in terms of the level of damages. But it raises issues of supreme importance to families and in the reduction of similar issues in the future. The problem that we have is that Clinical Negligence cases are expensive. Issues of Breach of Duty and Causation, let alone Informed Consent, can be hugely complex whether the eventual award is £20k or £200k. It is difficult to explain to a family why the loss of their child is not important enough to justify full investigation.

We expect that there will be some movement towards fixing costs but that there will be similar opposition and not, as we have seen here, only from lawyers.

In other news (!) we have seen more litigation about Qualified One Way Costs Shifting. This is the case of *Harrison v University Hospitals of Derby & Burton NHS Foundation Trust* [2022] EWCA Civ 1660 – APIL were interveners. Most Personal Injury Lawyers are familiar with the rules –

44.14

*(1) Subject to rules 44.15 and 44.16, orders for costs made against a claimant may be enforced without the permission of the court but only to the extent that the aggregate amount in money terms of such orders does not exceed the aggregate amount in money terms of any orders for damages and interest made in favour of the claimant.*

The Harrison case is all about the meaning of 'orders for damages', as opposed to an agreement to pay...

The facts are straightforward and familiar. The Claimant accepted a Part 36 Offer out of time. There was no dispute that the Claimant was entitled to costs up the end of 21 days and the Defendant was entitled to costs thereafter. QOCS then raised its head in relation to enforcement of the Defendant's costs. An unusual feature of this case was that permission was needed by way of a court order because of issues of ongoing benefits. The Defendants argued that this was an 'order for damages' enabling them to override QOCS and enforce their costs order. The Court of Appeal rejected this argument. An agreement to pay damages did not become an order to pay, just because some order was made to conclude the matter. That ended the Defendant's argument. Interestingly, Coulson LJ noted that the CPRC had agreed to amend the rules on QOCS to cover this type of situation –

*"(1) Subject to rules 44.15 and 44.16, orders for costs made against a claimant may be enforced without the permission of the court but only to the extent that the aggregate amount in money terms of such orders does not exceed the aggregate amount in money terms of any orders for or agreements to pay damages, costs and interest made in favour of the claimant. (My emphasis)."*

Coulson LJ noted that there would be no point in this proposed rule change if the Defendant's argument was correct and agreements were caught. What this also tells us is that we should expect this change in 2023. Many would say the rules around QOCS need a complete re-think!

Happy New Year!

**Robert Cook**  
Cook Legal

# Cullimore Dutton delivers Christmas gifts after successful KidsBank Appeal

Staff from Cullimore Dutton have been delivering presents to help some of the 9,000 children in Chester living in poverty.



Phil Wood Danielle Wright drop off Donations with Lisa at KidsBank

It follows a successful campaign to support KidsBank Chester's 'One More Gift Appeal'.

The Chester based law and financial services firm has been collecting donations of toys and gifts over the past few weeks.



Director Steve Roberts receives KidsBank donations from Sabrina of CRUFC

**Andrew Wright**, Managing Director of Cullimore Dutton, said: *"The appeal has been fabulously supported with donations from our clients, colleagues and the wider community and we have been able to contribute over 200 gifts."*

*"In addition, as sponsors of Chester Rugby Club, we were delighted that their members also got on board collecting an additional 150 plus toys and gifts, giving us a joint grand total of over 350 donations."*

*"In addition to the donated toys and gifts,*

*several of our colleagues volunteered time to help with the organising, packing and distribution of gifts across Cheshire."*

The Cullimore Dutton delivery team included Solicitor and Associate Director Louise Holmes, Solicitor Kainat Jones, Independent Financial Advisor David Gaweda and Marketing Manager Phil Wood.

KidsBank Chester was set up in 2019 by Cathy Pettingale based on the idea of food banks, but supplying toys, clothes and equipment to children within a 20-mile radius of Chester. To date they have supported more than 2,500 local children. It is the third year that KidsBank has run its Christmas donation appeal and this year they expect to donate to more than 750 children.



Lisa Metcalf KidsBank Office Manager

KidsBank Office Manager **Lisa Metcalfe** said: *"We can't thank the team at*



David Gaweda Packing with Katie of KidsBank

*Cullimore Dutton enough for their fantastic support, both in terms of the donated gifts, but also their help with packing and distribution."*

*"Their efforts will go a long way to ensuring that as many children as possible will receive a bundle of gifts this Christmas."*

**Louise Holmes**, Solicitor and Associate Director at Cullimore Dutton, said: *"To personally be involved with the packing and delivery of the donations was a wonderful experience and truly brought home to me the generosity of the people of Chester."*

*"I was also delighted to be able to help with the distribution of the gift packages to those in need across the city. This charity and its supporters make a real difference and help to change lives."*

[www.cullimoredutton.co.uk/kidsbank/](http://www.cullimoredutton.co.uk/kidsbank/)



Cullimore Dutton helping the KidsBank team



# When experts pay for their failings



Chris Makin

You may have read lots of articles and blogs from me about inadequate or incompetent experts, and having an expert who doesn't know his job doesn't help your case. There are often costs consequences, a strident example being *Patricia Andrews & Ors -v- Kronospan Ltd* [2022] EWHC 479 which I discuss at length in my blog at <https://chrismakin.co.uk/expert-meeting-leave-well-alone/>. There, you may remember, an expert had charged £225,000 (an enormous sum, far higher than I have ever charged!) but was over two years late in delivering a Joint Statement of Experts. Then, when enquiries were made, it was revealed that the expert had been in very frequent contact with instructing solicitor, who had played an active part in compiling the joint statement.

The outcome was that the judge decided the expert had no regard for their independent duty to the court. The instructing solicitor was permitted to appoint another expert to start the task again, £225,000 was wasted and there was probably an order for costs lodged by the other side.

But what we don't know in this and similar cases is who paid for the damage caused by the incompetent expert; we don't even know if the experts were paid for their misguided efforts. Now it's different, because now we do have a case where the expert was himself ordered to pay wasted costs.

## 1. Third party costs order

The case is against Dr Chris Mercier following *Martine Robinson -v- Liverpool University Hospital NHS Trust* in Liverpool County Court at reference F95Y511.

*Dr Mercier was an expert witness in a dental negligence case. An indication of his performance may be gleaned from the very first paragraph, Background, of the judgment in the costs order: "This was a claim for dental negligence brought by Mrs Robinson, against the Defendant hospital trust, for treatment she received at Aintree Hospital. At the conclusion of her evidence, Mr Gray on behalf of the Claimant withdrew her claim. [Mr Maddison for Defendant asked that a third party costs order be sought against Dr Mercier in view of the evidence he had given. I granted that application.] Unfortunately, Dr Mercier had blanked his screen at this stage in the proceedings having left to pick his son up from school. It is not clear how much he heard. In the same vein, his screen was blanked throughout much of the first day of the proceedings. His second witness statement suggests that he was similarly not present for some of the hearing prior to giving evidence."*

Pausing there, it is not wise for anyone to ignore a judge when he has the power to make an order against one, and an expert can arguably not do their job effectively if they have not heard the preceding evidence. A judge rightly gets upset when a witness

walks out of the courtroom at key stages, but it is just as offensive when a witness turns off Zoom during a remote hearing.

In the main trial, the matter in issue was confusion over the extraction of a molar. Mrs Robinson was a nervous patient, and had to have a molar extracted under general anaesthetic. References were made to UL7 and UL8. On the day of the operation, the oral surgeon had before him an early referral but not the record of a later referral, and it was admitted that this was a breach of duty. The surgeon did not extract UL7, believing it could be restored.

*"Dr Mercier for the Claimant argued that no reasonable dental surgeon could have concluded that the UL7 was restorable as at that date...Mr Webster for the Defendant disagreed as to restorability... and it would have been negligent to remove it."*

*So this was a clear conflict of expert evidence, as to whether the Defendant should have extracted UL7 as the Claimant contended. As the judge said, "...the Claimant's case in respect of breach of duty and causation rested solely on the expert evidence of Dr Mercier."*

The Defendant averred that Dr Mercier should not have been giving expert evidence at all, that he had an ongoing duty to assess whether he was an appropriate expert, and that he failed in that duty.

## 2. The law

In his review of the law, the judge made reference to *Philips -v- Symes (No 2)* [2004] EWHC 2330 (Ch) where Peter Smith J found that the court should not remove from itself the power to make a costs order against an expert who, by his own evidence, "...causes significant expense to be incurred, and does so in flagrant reckless disregard of his duties to the court." (My emphasis)

There was a reminder that the court, when making such an order, should report the matter to the expert's professional body; so this is another danger facing the incompetent expert, which could have serious adverse effects on their practice, and not just as experts.

## 3. Dr Mercier's oral evidence

The arguments focused on the limited experience of Dr Mercier, a general dental practitioner, compared with the defence expert Mr Keith Webster, an oral and maxillofacial surgeon. Dr Mercier's failings are illustrated in this exchange:

**Q.** Can you speak to the standards attributable to an oral/maxillofacial surgeon?

**A.** I believe so.

**Q.** You have never actually occupied that position having never actually been an oral and maxillofacial surgeon, have you, no?

**A.** No, that's correct.

**Q.** Since 2000 you have never had a patient on a table under general anaesthetic?

**A.** Correct.

**Q.** Would you say you are as well placed as Mr Webster to speak to the standards to be applied to the evidence of an oral and maxillofacial surgeon?

**A.** No, Mr Webster is an oral and maxillofacial surgeon so he is going to have more experience in a hospital setting that I have.

**Q.** My question was are you as well placed. Would you accept you are not as well placed to speak to-

**A.** Yes.

It is clear that Dr Mercier accepted he was outclassed when he didn't even wait to hear the whole of the last question. He clearly was the wrong expert.

There was then discussion of the *Bolam* test, yet *"That is the test that Dr Mercier is purporting to apply when he gives evidence before the court in relation to a claim of dental negligence. It is right that at no point in any of his written or oral evidence did he himself refer to that test."*

You will recall that the *Bolam* test asks the expert to say what, in his opinion, the reasonably competent professional would have done in the circumstances. By failing to make reference to *Bolam*, one must question whether Dr Mercier knew what was the fundamental test he was expected to apply to the evidence.

#### 4. The judge's view of the expert

There are disparaging remarks by the judge, such as:  
*"The report itself reaches wholly unsustainable conclusions."*

*"...what he does not do is address his mind in any way to the standards to be applied to an oral and maxillofacial surgeon."*

*"Dr Mercier's witness statement it seems to me entirely misses the point."*

*"His opinion fluctuates to whatever he feels will win the case."*

*"Dr Mercier's evidence is simply absurd and his inability to recognise that is extremely concerning."*

There is more, but you get the picture. It's all damning stuff.

#### 5. The outcome

It was clear which way the judge was thinking. Two sentences say it all:

*"The application before me is predicated on the specific assertion that it should have been obvious to Dr Mercier at the outset, and at various stages throughout the proceedings, that he was not the appropriate expert to opine on the management and treatment afforded to the claimant on 8 November 2016." and*

## Chris Makin

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- Professional Negligence
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- Personal Injury & Fatal Accident
- Drug Trafficking etc. Asset Tracing & Confiscation
- Section 994 Disputes
- Director Disqualification
- Expert Determinations



**N Christopher Makin** FCA FCMI FAE QDR MCIArb

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*"I conclude that Dr Mercier has shown a flagrant reckless disregard for his duties to the court and that he did so from the outset in preparing a report on subject matter in which he has no expertise."*

And therefore: *"All costs claimed within the Defendant's cost budget are therefore caused by Dr Mercier's flagrant disregard for his duty to the court..."* and the judge found that those costs, £50,543.85, must be paid by Dr Mercier.

#### 6. The moral

It is very simple; as so often, the answer is in CPR. At part 35.3(1), I emphasise the three key words: *"It is the duty of experts to help the court on matters within their expertise."*

It should have been apparent to this witness, and of course to the lawyers who instructed him, that oral and maxillofacial surgery is not within the expertise of a general dental practitioner.

Any expert, when offered an assignment, must think carefully whether they have appropriate expertise. The consequences of biting off more than one can chew can be grave.

[www.chrismakin.co.uk](http://www.chrismakin.co.uk)

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# Forthcoming Courses

DATE	TOPIC	SPEAKER
11/01/2023	Introduction to Wills & Probate, and Connection with Family Law	Safda Mahmood
18/01/2023	Commercial Leases Update	Richard Snape
19/01/2023	Costs, costs, and more costs!	Andrew McLoughlin
20/01/2023	Company Law: The Essentials	Chris Beanland
23/01/2023	Topical SDLT points with Hannah MacKinlay	Hannah MacKinlay
25/01/2023	<b>Staying ahead in law 2023: conference for law firm leaders</b>	Various
01/02/2023	<b>Domestic Abuse Conference</b>	Various
2-3/02/2023	The Complete Legal Aid Supervisor	Vicky Ling
07/02/2023	Conveyancing Update 2023	Lorraine Richardson
08/02/2023	<b>Housing Disrepair Conference</b>	Various
28/02/2023	Financial Orders: Law & Practice	Safda Mahmood
28/02/2023	Cohabitation: Law Practice	Safda Mahmood

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**Introduction to Wills & Probate,  
and Connection with Family Law with Safda Mahmood**

Wednesday 11th January, 10am - 4pm

**Online/recorded session**

This online course will equip you with the essentials in terms of principles of wills and probate, and as to how it links into other areas of law, particularly family law. It will be of benefit to those delegates who seek to get an understanding of this area of law.

The areas to be covered are:

- Requirements for a valid will
- Capacity and formalities
- Witnesses and types of gift
- Making changes to wills
- Revising and revoking wills
- Clauses to assist children
- Family provision claims
- Divorce, dissolution and wills
- Intestacy and contentious probate
- Introduction to probate and administration
- Grants and carrying out probate



Level: Introduction Competencies: B & C

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**Commercial Leases Update with Richard Snape**

Wednesday 18th January, 1.30pm - 4.30pm

**Online/recorded session**

Commercial leases are undergoing major changes, especially in the post pandemic era. In particular, the Commercial Rent (Coronavirus) Act 2022 which came into force on 24 March 2022.

Topics covered include:

- The latest on the Coronavirus Act 2020
- The Commercial Rent (Coronavirus) Act 2022
- Rent arrears and debt claims including the effects of the Coronavirus Act
- Lease renewals and the effect of Coronavirus
- Latest on energy performance of buildings

**& more...**

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**\*\* [CLICK HERE TO SEE FULL DETAILS](#) \*\***



**Costs, Costs & more Costs! With Andrew McLoughlin**

Thursday 19th January, 1.30pm - 4.30pm

**Online/recorded session**

Suitable for anyone who deals with costs in litigation from paralegals to partners.

*Who would have thought up there would be so much litigation about £295.50 Welcome to the Costs world of 2023.*

This course will cover key aspects concerning budgeting, recoverability, and client retainers.

- Costs budgeting Developments-the last 12 months
- Belsner v Cam Legal Services- the consequences
- Fixed Recoverable Costs-extensions
- Indemnity costs-how and why
- Maximising costs recovery
- Client retainers

**Competencies: B**

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**Company Law: The Essentials with Chris Beanland**

Friday 20th January, 2pm - 4pm

**Online/recorded session**

**Aimed at:**

**Any practitioner at any level who wants a reminder of or introduction to the principles of company law.**

*This course will provide practitioners with a refresher on company law principles. It will cover:*


- Forming a company
- Separate legal personality
- Types of director
- Directors' duties and restrictions on directors
- Shareholder rights
- Unfair prejudice
- Derivative claims

**Competencies: B**

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**Topical SDLT points with Hannah MacKinlay**  
 Monday 23rd January, 1pm - 2pm  
**Online/recorded session**

**SDLT is one of the most complex and constantly changing taxes on the statute book. Solicitors very frequently fail to carry out the required self assessment accurately, assuming it to be a simple duty on documents like the old Stamp Duty it replaced.**

**This course deals with the main issues misunderstood in relation to SDLT on commercial property.**

- Consideration – when might the figure on the transfer be the wrong amount?
- Residential or Commercial? Some easy mistakes to make – it's not just 'common sense'.
- Where are we now on the mixed-use/MDR conundrum and the self-assessment options?
- Commercial lease SDLT returns 101 – quick tips and mistakes to avoid.

**Competencies: B**

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**Staying ahead in law 2023:**  
**conference for law firm leaders**  
 Wednesday 25th January | 9.30am – 3pm | Taylor Wessing, Albert Dock  
*Designed SME's & sole practitioners and suitable for: practice managers, managing partners, Heads of HR, Finance and Innovation, CEOs and those with management responsibilities.*

**Growing Talent & Leadership**  
Joanna Kingston-Davies, The MAPD Group

**Surviving high pressure situations**  
Fran Costello, Aha Moment

**Building a Brand for Resilience**  
Michelle Howard, Michelle Howard Consulting Ltd

**Mindsets for Commercial Success in a Competitive Legal Sector**  
Kelsey Greenaway, Dale Carnegie

**Solicitor Professional Indemnity Insurance – Is the worst behind us?**  
Kerry Greenwood, Miller Insurance

**Equality, Diversity and Inclusion**  
Nina Sahu, Hill Dickinson LLP

**Legal tech, law tech & O shaped lawyers – what does the future look like?**  
Dr Catriona Wolfenden, Weightmans LLP

**Succession Planning**  
David Malone, O'Connors LLP

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**Housing Disrepair Conference (ONLINE)**  
 8th February 2023, 9.30am - 2.45pm\*  
**Welcome & introduction ~ DJ Baldwin**  
 with sessions:

**Disrepair & Access** - Louise Murphy, MSB

**Disrepair in long leasehold situations**  
Chris Larkin, 4-5 Gray's Inn Square Chambers

**Costs in Disrepair**  
Sarah Mansfield, Cullimore Dutton


**Social Housing Regulation bill and Awaab's Law**  
Kirsty Almond, Shelter

**Damp and Mould in Properties**  
Amy Cowap & Matthew Bown, Brabners LLP

**A Survey's Eye View** - Mike Franks, Franks Associates

*Can't make the date/time or need to revisit the training? No problem, booking onto this event means you will receive a link to access a recording of the event at your leisure! The link will be sent within approx 72hrs of live broadcast & be available for approx. 3 months, to view as many times as you wish.*

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**Conveyancing Update with Lorraine Richardson**  
 Tuesday 7th February, 9.30am - 12.30pm  
**Online/recorded session**

**Conveyancing is in a constant state of flux and busy practitioners can find it hard to stay up to date. This online course will cover some of the key hot topics and will cover:**

- Undertakings
- Cladding – where are we?
- New build – Help to Build, Consumer Code and the new Ombudsman
- HMLR changes and pitfalls
- AML key reminders
- Conduct update
- Recent cases
- As this is an update, other topics may be included.

**Competencies: B**

*Can't make the date/time or need to revisit the training? No problem, booking onto this event means you will receive a link to access a recording of the event at your leisure! The link will be sent within approx 72hrs of live broadcast & be available for approx. 3 months, to view as many times as you wish.*

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# 2022 Charity update and thank you!



It is my great pleasure to let you know that our Annual Dinner and Legal Awards 2022 raised an amazing £3,100 for the Liverpool Chest & Heart Hospital Charity! This was the nominated charity of Lord Burrows, our guest

speaker, and the funds raised will help support providing the latest and best equipment, additional family facilities and ground breaking research. This is one of the highest amounts ever raised at one of our dinners, and the charity is absolutely delighted and extremely grateful.

We have also raised a total of £1,190 given for a variety of charities during 2022, of which £430 has gone to Parkinson's, my nominated charity as President in 2022. Around 145,000 people live with Parkinson's in the UK, including my eldest brother, and it's the fastest growing neurological condition in the world.

Huge thank you to all your contributions, and to the kindness of speakers who have often made charity donations in lieu of speaker fee.

With best wishes for the festive season.

**Steven Zdolyny**  
Immediate Past President



**Save the date: Wednesday 1st February 2023**

**for the**

**Domestic Abuse Conference**

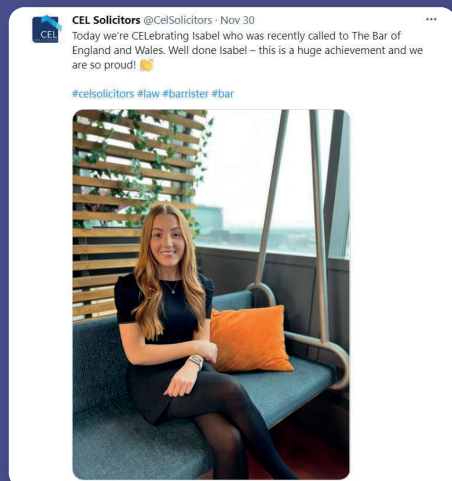
Speakers confirmed so far: HHJ Sharpe, Lisa Edmunds & Caroline Grant

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# Social Media Highlights

Each month we will be bringing you a selection of the latest social media posts by Liverpool Law Society and its members.



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