



THE REPORT

CITY OF WESTMINSTER AND HOLBORN LAW SOCIETY NEWS

NO.35 MAY/JUNE 2005

THE PRESIDENT'S COLUMN



JEFFREY FORREST

England has been in a dreadful state for some weeks. Lord Coodle would go out, Sir Thomas Doodle wouldn't come in, and there being nobody in Great Britain (to speak of) except Coodle and Doodle, there has been no government... England has been some weeks in the dismal strait of having no pilot (as was well observed by Sir Leicester Dedlock) to weather the storm; and the marvellous part of the matter is, that England has not appeared to care very much about it, but has gone on eating and drinking and marrying and giving in marriage, as the old world did in the days before the flood.

In my last report I indicated, with stunning psephological prescience, that there would be an early General Election, and my forecast proved to be 100% accurate. It was no surprise that Tony Blair's administration was re-elected for an *historic* (© BBC) third term, albeit with a sharply reduced majority. In the event, the hustings were not as sedate as those described in the foregoing Victorian quotation and the electorate was subjected to an unusual amount of name-calling and negativity.

The New Labour years have seen an acceleration of the dismantling of the legal aid system that was established after the Second World War, sixty years ago, at the same time as the National Health Service. We have seen what happens when conditional fee agreements replace legal aid certificates and when parts of London and other areas become legal advice deserts where help for those of limited means becomes almost unobtainable and CABs, law centres and other agencies struggle to meet the demand for their services. It is not surprising that newly qualified lawyers are not attracted to a career in publicly funded legal work. This is a problem the government will have to deal with, as more and more practitioners abandon

such work and many people become unable to enforce their basic rights.

The first *London Legal Walk*, organised by The London Legal Support Trust, took place on 18 April. The Trust was set up last year to raise funds for London's legal charities and voluntary agencies. The walk was a great success and seems likely to become a regular event. The walkers raised over £25,000 (and counting) and among them were the Lord Chief Justice and the Master of the Rolls, as well as the Junior Vice President and me. My special congratulations to Alison Parkinson, who raised over £1,300, on her own two feet.

Congratulations also to our distinguished colleague Robert Venables upon his appointment as Visiting Professor of Charity Law at London South Bank University. He marked his appointment with an erudite and typically lucid inaugural lecture on 12 May.

The City of Westminster and Holborn Law Society has existed since 2001. Even its two predecessors, the City of Westminster Law Society and Holborn Law Society, were each only established in 1962. By comparison, some other societies have been in existence much longer. Birmingham was established in 1818, Liverpool in 1827 and Bristol as long ago as 1770! Of course, we have the geographical advantage of being in the centre of London and whereas some provincial societies were formed to provide shared library facilities, we have all the amenities of the Law Society of England and Wales within our own boundaries.

A new chapter in our Society's comparatively short history began on 27 April, when an Extraordinary General Meeting resolved that the Society should become incorporated. The incorporation is projected to take effect in early June.

Our thanks are due to the incorporation task force, in particular its leader Arthur Weir, and to our legal advisers, Paul Voller and his colleagues at Bircham Dyson Bell.

Following the EGM on 27 April, we had a committee dinner at which our guest was Geoffrey Vos QC, and where the main topic of discussion was the Bar's proposed new standard contract between barristers and solicitors. Negotiations continue and we will keep an eye on the terms the Bar will seek to impose on a "default" basis.

National Pro Bono week takes place this year from 6 to 10 June. Our Society will be organising an event on Tuesday 7 June, at the Law Society, highlighting some of Pro Bono's international dimensions.

This year's Legal Charities Garden Party will be held on Wednesday 15 June, at Lincoln's Inn. This year's principal sponsor is The Royal Bank of Scotland. The Garden Party is always an enjoyable event and an opportunity to meet old friends. Please come and bring your colleagues.

DIARY 2005

JUNE

- 6 Pro Bono awards, including the Wig and Pen Prize
- 7 Pro Bono Seminar – The International Dimension
- 15 LEGAL CHARITIES GARDEN PARTY
- 22 Lecture: Probate and Tax Update
- 29 Committee meeting

JULY

- 5 INTERNATIONAL RECEPTION
- 6 Lecture: Judicial Review in the Era of Human Rights
- 11 Risk Management Seminar
- 20 Committee meeting

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Help & Support

SOLICITORS SUPPORT NETWORK

0800 328 4203

INTERNATIONAL RECEPTION

This year's International Lawyers Reception will be held on Tuesday, 5 July by this Society jointly with the Law Society at the Law Society's Hall.

For further information, please contact Debbie Kitchen or Sandra Pearce at the Law Society on 020 7320 5848.

THE LEGAL CHARITIES GARDEN PARTY

Wednesday, 15 June 2005
North Lawns, Lincoln's Inn

Members of CWHLs are encouraged to support this traditional annual fun event, the proceeds of which benefit all the principal legal charities (The Solicitors Benevolent Association, The Barristers Benevolent Association, The Institute of Barristers' Clerks, United Law Clerks Society, The Institute of Legal Executives Benevolent Fund and LawCare).

A poster is enclosed with this edition of The Report.

The deadline for all copy for the July edition of THE REPORT,
is **Monday, 20 June 2005**

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THE SOCIETY GOES CORPORATE

As from 1 June 2005 City of Westminster and Holborn Law Society, the unincorporated association, is replaced by City of Westminster and Holborn Law Society, a company incorporated by guarantee. The Extraordinary General Meeting on Wednesday 27 April approved the new rules to be embodied in the Memorandum and Articles of Association. That document, which has been posted in draft on the Society's

website since the end of March, will shortly be republished there as a permanent item.

This major constitutional change enables the Society and its officers and committee to meet modern risks and stresses. In that sense it is a landmark, marking the end of more than 42 years of activity by Holborn Law Society and by the City of Westminster Law Society and then by both of them merged. However the changes will scarcely be

perceptible by most people. The Society is not even 'under new management' because exactly the same people will be running it as before. The way in which the Society conducts its activities will be totally unchanged.

The Society acknowledges its gratitude to all in the team that has conducted this project, but most particularly to Paul Voller and his firm Bircham Dyson Bell who have provided their services free of charge.

CENTRAL LONDON COUNTY COURT

COURT USER FORUM

The future of the Court Service is in a state of flux at the moment because the Department for Constitutional Affairs has published a new consultation paper proposing "A single civil court".

Obviously part of the point of having a unified court system would be to try to make the courts at all levels work better.

Meanwhile the litigators in this society continue to struggle with a number of difficulties at their local county court, Central London. All the judges at CLCC are acutely aware of the difficulties and His Honour Judge Collins CBE has recently tried to find ways of improving the situation and has revived a Court Users Forum. It is intended that this be an informal forum, meeting quarterly throughout the year, to be attended by representatives of various relevant local bodies and by representatives of the staff of the Court.

I have been asked to attend the forum as a representative of both CWHLS and LSLA.

The first meeting was on 17 February and I was unable to attend but one of my partners went on my behalf. It was reported by Judge Collins that from 1 April 2005 there is to be amalgamation of Crown, County and Magistrates Courts across the country (this is happening in any event before any decision made on a single civil court). Shoreditch and Clerkenwell County Courts are to be combined and in due course Central London may move to another location, which would help with the administrative problems they suffer arising out of the fact that they are in two buildings.

Court waiting times have improved enormously but it was acknowledged that service at the counter is not good. It was also confirmed that the electronic systems available to the

court are not up to creating a fast track process for without notice applications.

There was discussion about whether clients could open running accounts with the court and this is currently being investigated. A new telephone answering system has been installed which should improve the level of service. Progress is being made with a system that will allow users to email the court.

There was discussion about whether the court should have its own website. It appears that no one there recalled that CWHLS has offered to have a section about the court on its website and I will be pursuing this at the next meeting.

The next meeting is on **23 June 2005**. I should be very grateful if anybody who has any comments to make, either good or bad, about Central London and/or any suggestions about how the service might be improved could let me know by email at joanna.kennedy@collyerbristow.com



JOANNA KENNEDY

NEW MEMBERS

Child & Child: Naim Qureshi
City Law Financial Solicitors: Allis Karim
Lawson-Cruttenden & Co: Rizwan Majid

Manches: Mrs A V Worwood
Pettman Smith: Miss A L Glaves-Smith
Royds Solicitors: Mrs V N Davies

ASSOCIATE MEMBER:
Legal Executive:
Child & Child: Mrs Anne Brown

REVENUE COMMITTEE

JEREMY DE SOUZA



The Committee has made representations in relation to three issues. Copies can be seen on the Society's website, www.cwhls.org.uk. Their content is summarised below:

TAX COLLECTION POWERS

HM Revenue and Customs are now up and running. The promised Consultation as to their future powers was issued rather late in the day and the Committee responded to it making the following points:

- As had been pointed out in our previous letter, historic powers such as Customs' right of entry without warrant had no place in the twenty first century. Where the powers of the Revenue had been less than those of Customs, those of the combined entity should be levelled down rather than up. The Commissioners' activities should also be confined to fiscal matters, with no independent power of authorisation under the Regulation of Investigatory Powers Act 2000.
- The relevant legislation should be by ordinary Bill, rather than (as proposed) part of a Finance Bill, which would not be subjected to full Parliamentary scrutiny.
- Since Enquiries could be a considerable burden for small businesses, a Scrutiny Authority should be set up to monitor them (and not just the "criminal" investigations for which provision has since been made in S.I. 2005/1133) and report, for an initial period, to the Treasury Select Committee.

Taxation of trusts

Two letters have been written in relation to the changes here:

- The first relates to practical problems in relation to the backdated vulnerable beneficiary reliefs which were enacted before the dissolution of Parliament (it should be noted that the clause numbers in that letter related to the original Bill).
- The second is in response to the discussion paper issued on Budget Day.

IHT AND PENSION SIMPLIFICATION

The Society has nominated John Owen, of Hunters, to represent it on this Consultation, which was announced by written Ministerial statement on 21 March.

VAT: THE OPTION TO TAX

I was disappointed to see that we were the only respondent to the 2003 Consultation on input recovery to emphasise the need for those dealing with waivers of the land exemption to be able to obtain clear proof as to the status of their vendor or landlord. Lack of clear rules which remain the same over the years can only lead to uncertainty, and no doubt claims against the solicitors to the members of some of the representative bodies which have been calling for a "flexible" approach. The same concerns were expressed in our response, last December, to the later, and more fundamental, Consultation of the future of the option to tax. Members' attention needs to be drawn to the changes to the circumstances in which permission to make the election is not required which took effect on 2 March. These are to be found in *Business Brief* 4/05. It is this sort of chop-and-change which will be very difficult to research 10 years down the line. No doubt those now advocating "flexibility" will then be amongst the loudest complainers about the additional legal costs this chaotic approach to status will necessarily have generated.

FRAUS LEGIS

In consistency with his previous views in *RAL* and *Bond House*, Advocate General Poiares Maduro has knocked both this Dutch/French doctrine and Customs' UK equivalent of economic "non"-activity on the head in his Opinion, delivered on 7 April, in *Halifax/BUPA/Huddersfield*, C-255/02, C-419/02 and C-223/03. If the Court upholds his view, the approach of the tribunal in *Halifax* will have been rejected.

But he has opened the way to the UK Courts countering input tax avoidance by suggesting that abuse may be invoked as a principle of interpretation of European law where both of two factors are present:

[A] the absence, determined objectively, of any other economic justification other than the creation of a tax advantage – any finding of duality of purpose will enable the taxpayer to escape disqualification; and

[B] comparison of the purpose and objectives of the Community rules, i.e. in this case that of proportionate recovery, with the purpose and results achieved by the set of facts under consideration.

SIPE

HMRC tax guidance was anticipated in April, but has now been delayed until June. In the meantime, the IHT position where farmers died between 28 October 2003 and 31 January 2005 remains unclear.

SDLT

The Committee continues to be concerned at the possibility of this tax being levied upon other taxes payable by the transferee under gratuitous transactions: see the copy letter on p.x. If the Policy Unit's provisional view is correct, this would amount to a surcharge on the rates of IHT and CGT voted by Parliament. The House of Commons was never alerted to this possibility by Ministers. One can only assume that this was because they were, themselves, unaware of it.

The draft Manual on the partnership code, released on 24 March, is also giving rise to concern in a number of areas. The "gem" is SDLTM33400, which suggests that where land owned by a person "connected with" a partner (e.g. wife or trust) is used by the firm without a (full) rent being charged the freehold is deemed to have become a partnership asset (and an appropriate entry charge payable). If that usage is temporary, presumably a withdrawal charge will then arise on its cessation.

Finally, those who have been experiencing a high percentage of rejections of fully completed SDLT 1s should look at page 2 of *Practitioners Newsletter, Issue 7*. It appears that the OCR machine at Netherton cannot cope with either partial postcodes or punctuation marks!

CITY OF WESTMINSTER AND HOLBORN LAW SOCIETY

REVENUE COMMITTEE

Crispin Taylor Esq
Inland Revenue
Room 116, New Wing
Somerset House
Strand
London WC2R 1LB

BY E-MAIL: crispin.taylor@ir.gsi.gov.uk

3 March 2005

Dear Crispin

Stamp Duty Land Tax where transferee pays other taxes

This is a partial reply to your letter of 23 February and uses the same numbering as my letter of 26 November.

1. Assents subject to payment of inheritance tax by the beneficiary in question

Gill Steel has written to you on this. All I would say is that:

[a] practitioners are finding it difficult to understand how a person co-liable for the tax, by reason of Inheritance Tax Act 1984, s.205, can provide "consideration" by making an arrangement as to who discharges it with the others equally "liable" for it; and

[b] how the example given by Gill, that of a residuary legatee of a single asset estate where there is *ex hypothesi* no money to pay the IHT, should differ in principle from that of a specific devisee who is responsible under the Will for bearing that tax.

2. Other situations

It may be necessary, here, to distinguish between:

[A] the position which pertains, under Schedule 4, paragraph 1(1), on the occasion of the transmission of the beneficial interest; and

[B] what happens under Schedule 4, paragraph 8 when the legal ownership is vested in the acquiring beneficiary subject to some form of indemnity, possibly arising from the fact that the figures have not been agreed with the District Valuer.

Turning, then, to each of the three scenarios postulated in my letter of 26 November:

(a) where a house was owned by a discretionary trust and it was appointed to a beneficiary subject to his defraying any inheritance tax and capital gains tax arising as a result of the Appointment

[A] In no sense could the sums payable by the appointee be treated as "consideration" (whether direct or indirect) within Schedule 4, paragraph 1. There is no bargain between the trustees and the appointee, the liability for taxes is merely the measure of what has been appointed.

I have not seen it suggested by the Revenue, and, indeed, does not seem to me to be the case, that any of the provisions in Schedule 16 take effect in substitution for Schedule 4, paragraph 1 in these circumstances.

I will, however, make no detailed comment on this point because I believe that the STPG may wish to address you at greater length on the various ramifications.

[B] That being the case, why, on the required purposive construction of paragraph 8 should it matter whether an indemnity is given as part of the vesting arrangements or, indeed, whether, before them, the appointee has discharged the taxes assessable upon the trustees with his own money?

(b) where the trust fund consisted principally of a house to which a sole contingent beneficiary became entitled upon attaining the age of 25, giving rise to a CGT deemed disposal returnable by the trustees

[A] The position under Schedule 4, paragraph 1(1) seems even clearer, because the trustees have taken no positive action to procure this state of affairs, they have, at most, failed to exercise a power of appointment to prolong the existing interest in possession of the beneficiary what has been his home in the final years of the trust's existence.

[B] The paragraph 8 position is the same as under (a), subject of course to the fact that there could not possibly have been an "event" under paragraph 1(1) when the beneficiary attained the relevant age.

(c) where inter vivos gifts are made under inheritance tax, they are usually PETs, which only give rise to a liability in the event of the donor failing to survive seven years – in this event the statutory provisions relating to accountability are very far from clear that the donee is the person primarily liable to pay the inheritance tax and for this reason it has been the practice, since 1986, for the donee to be asked to enter into a Deed of Indemnity at the time of the gift which will be enforceable in the event of the PET failing at the behest of the donor's Executors

[A] The PET concept means that the gift is treated, at the outset, as if free of inheritance tax. There can, therefore, be no contract between the donor and donee that the donee will indemnify the donor, because the PET only fails in the event of the donor's death within the specified period.

A Deed of Indemnity in favour of the donor could, arguably, be a reservation of benefit under Finance Act 1986, s.102(1)(b), but one is not required by virtue of Inheritance Tax Act 1984, s.99(2). In those circumstances, it is unclear how Finance Act 2003, Schedule 4, paragraph 1(1) could possibly be in point.

It has been accepted for many years by Inland Revenue Capital Taxes that a contemporaneous Deed of Indemnity expressed to be in favour of the donor's personal representatives does not breach the gift with reservation principle. Furthermore, the use of the present tense in Income and Corporation Taxes Act 1988, s.839 means that the donor's personal representatives cannot be treated as brought within Finance Act 2003, Schedule 4, paragraph 1(1) on the occasion of the gift.

By virtue of Inheritance Tax Act 1984, s.199(1)(b), the donee is liable for the inheritance tax in the event of the PET failing. Although this also appears to be the case for the donor's personal representatives by virtue of s.199(2), the

provisions of s.204(8)(b) limit that situation to where the tax remains unpaid after the first anniversary of death.

The reality is, therefore, that s.205 notwithstanding, the donee is primarily responsible for paying the tax. The Deeds of Indemnity are requested, however, because Chancery Counsel have not been willing to advise that, in the event of the personal representatives being called for the tax, they would definitely have a right of recovery from the donee.

The situation seems to me, therefore, to be similar to that which has been conceded in relation to a specific devise subject to inheritance tax, as to which see observation 1(b) above.

[B] No such event takes place because the vesting of the legal estate in the donee at the outset will have been required in order to comply with Finance Act 1986, s.102(1)(a).

By way of conclusion:

(1) It is difficult to understand why, on a purposive construction of a statute intended to address the transfers of beneficial interest, an event of charge should arise upon the subsequent transfer of the legal title where the beneficial vesting had not been the occasion of such a charge.

In this context it may be helpful to refer to the position of an appointment of new trustees where the trust property includes mortgaged property. On a literal reading of Schedule 4, paragraph 8(1A)(b), this appears to be an event of charge unless paragraph 8(1B) applies. The closing words of the latter suggest, of course, that it was intended to. But, read literally, paragraph 8(1B)(b) is not in point. It is, nevertheless, almost inconceivable that the Parliamentary draftsman intended such a situation to be the occasion of a charge to SDLT and one must assume that the Courts would use the purposive construction rule to achieve that end result.

The issue touched on in the preceding paragraph is, however, one which the STPG may wish to address you on at greater length.

(2) Where a charge had arisen on the beneficial vesting, it is not immediately obvious why the scheme of the tax could be called in aid to justify a second event of charge as being needed (let alone appropriate) upon the subsequent transfer of the legal title.

(3) While it is not immediately apparent why beneficial vesting should be thought to come within Schedule 4, paragraph 1(1) in scenario (a), it seems to me to be quite clear that neither of scenarios (b) or (c) could be brought within it on any permissible basis of statutory construction.

Yours sincerely

W J de Souza
Chairman

Any members who have experienced what they consider oppressive treatment in the above areas are invited to contact Jeremy de Souza at jeremy.desouza@wandb.co.uk.

COUNCIL MEMBER'S REPORT

OF THE MAY 2005 MEETING

PETER WILLIAMSON



The Council met on Wednesday 11 May and Thursday 12 May. At the beginning of the meeting the Chief Executive announced that Andrew Holroyd OBE has been chosen as Deputy Vice-President elect. Andrew specialises in immigration law and is a partner in Jackson & Canter, a nine partner legal aid practice in Liverpool. He joined the Council in 1996 and has served on many committees. He was Chair of the Training Committee and is currently Chair of the Standards Board and a member of the Main Board.

There was a very full agenda for the meeting and space will only permit me to refer in any detail to three of the most important matters discussed: models for the future organisation of the Law Society, the referral fees review and legal aid.

As readers will be aware, the Council had previously agreed to separate the governance of regulation from representation, to set up two new regulatory boards and to investigate new models for non-regulatory work. These decisions of principle raise practical questions, including the relationship between the two new boards, the relationship between the new boards and the non-regulatory arm and ownership of the Law Society brand. The Council was told that a decision on the future structure of the Law Society was needed to inform decisions about how to best fit the Law Society as a regulator for recognition by the Legal Services Board (LSB) and about how the non-regulatory arm best positions itself for the future, and what services it can offer its members.

Five models were presented for consideration:

- (1) The current model
- (2) The model that the Law Society is moving to prior to legislation – the new boards running in shadow

form and parallel with the existing boards from September until December 2005 and ring-fenced “for real” from January 2006 until legislation

- (3) A post-legislative model, with a ring-fenced regulatory board, a reporting line to the LSB and complaints responsibility moved to an Office for Legal Complaints (OLC)
- (4) A post-legislative model, with regulation being operated through a separate legal entity, a reporting line to the LSB and complaints responsibility moved to an OLC
- (5) A post-legislative model in which representation and regulation are carried out entirely separately of one another, by separate organisations.

The first two models were not for debate and the Council was invited to express a preference for one of the post-legislative models on the assumption that the implementation date will be 1 January 2008. Following a very high quality debate we decided by a large majority to adopt model 4.

The Council had before it a very long paper reporting on the review of the operation of the current provisions relating to referral fees. The Council was informed that the Standards Board was proposing additional research and a further report to Council in December 2005. Following an amendment, proposed by Past President Carolyn Kirby, the Council agreed to:

1. note the decisions the Standards Board has taken in relation to the existing rule,
2. instruct the Standards Board to carry out a regulatory impact assessment on the reinstatement of the ban on referral fees,

3. receive a further report in July 2005 and
4. notify the Master of the Rolls of progress made to date on the review.

The Council also considered a paper on a number of legal aid issues, including Price Competitive Tendering on criminal legal aid. We passed unanimously a resolution in the following terms: “The Council recognises that the decision on whether to bid for contracts is for individual firms. However, the Law Society takes the view that firms should not bid for contracts unless or until such time as, in the opinion of the Council of the Law Society, a scheme is proposed which does not risk reduced access to justice or the quality of advice and representation available to legally aided clients.”

Other matters discussed at the meeting included the Indemnity Insurance Rules, proposed minimum salaries for trainees, the Law Society Race Equality Scheme and the Accounts for the year ended 31 December 2004 which were all approved. The Council also received the Easter 2005 Report of the Independent Commissioner, Sir Stephen Lander, and reports on the Law Society Staff Pension Scheme and Programme Engineer. Finally, there was a debate on a paper on Council membership issues, to which the Council will return in due course.

The next meeting of the Council will be held on Wednesday 13 July and Thursday 14 July, to be followed immediately by the Society's Annual General Meeting.

Peter Williamson

Peter Williamson is the Immediate Past President of The Law Society

TRAINING FRAMEWORK REVIEW

The Law Society's third consultation on the review of solicitors' qualification requirements is under way and the consultation paper is on the Law Society's website (www.lawsociety.org.uk). The Chief Executive, Janet Paraskeva, has invited comments. She stresses that the Law Society's key role in education and

training is to ensure that only those with appropriately high levels of legal knowledge, the ability to apply it, essential professional skills and an understanding of and commitment to the profession's values and ethics are allowed to qualify.

The response date is 8 July. Any difficulties in downloading the consultation paper should

be referred to jo.welsh@lawsociety.org.uk or sue.parry@lawsociety.org.uk, or by telephone (020 7320 5882).

CWHLs' last formal response to consultation is on the CWHLs website (www.cwhls.org.uk). It is hoped to respond formally to the current consultation in June.

THE COLLEGE OF LAW'S DIVERSITY MENTORING PROGRAMME

The College of Law Careers Service is running a mentoring scheme aimed at students who have had little contact with the legal profession via work experience and who are either from a minority ethnic background or are mature (for the scheme's purpose this means over 31 years old) or have special needs, or who have poorer academic qualifications.

Mentoring involves a professional (they range from solicitors in firms to second year trainees or specialist solicitors working

in-house or for government departments, including the CPS) taking time out of their working life to discuss with an individual student issues relating to their careers application.

The scheme involves the student and the mentor being in contact at least four times between November and May to discuss negotiated topics such as C.V. layout, career planning and so on. These meetings normally take place in the mentor's place of work.

If you are interested in being a mentor to a College of Law student and would like further details, please contact your nearest branch of the college.

The College of Law – London:
Nanette Clarke
nanette.clarke@lawcol.co.uk
020 7291 1200

The College of Law – Guildford:
Veronica Oldfield
Veronica.oldfield@lawcol.co.uk
01483 460200

PRO BONO WEEK

This year's Pro Bono Week will be launched at the Law Society on Monday, 6 June at 6.00pm.

THE WIG AND PEN PRIZE

The Young Solicitors Group Pro Bono Awards will be presented that evening between 6.30pm and 7.30pm, when the winner of this year's Wig and Pen Prize will be announced.

SEMINAR – PRO BONO: THE INTERNATIONAL DIMENSION

The City of Westminster and Holborn Law Society
and
the Greater London Regional Office of the Law Society invite
you to a seminar and drinks reception

PRO BONO: THE INTERNATIONAL DIMENSION

Tuesday, 7 June 2005 – 6.00pm to 8.00pm
The Chancery Room at the Law Society

The evening will be chaired by Jeffrey Forrest. The speakers will include Alison Hook, the Law Society's Head of International, Sara Chandler on her recent trip to Zambia and speakers who have been involved in setting up international pro bono projects.

To book your place, please use the faxback form below to 020 7320 5971 or email: mercy.cefaz@lawsociety.org.uk by Thursday, 2 June.

I will attend : Pro Bono : The International Dimension at The Law Society, 113 Chancery Lane, London WC2A 1PL on Tuesday 7 June from: 6.00 pm to 8.00 pm

Surname: _____ First name: _____ Mr/Mrs/Ms _____

Firm: _____ Address/DX: _____

Tel No.: _____ Fax No.: _____

Email address _____

A confirmation letter or email will be sent to all delegates with the final programme.

KNOWLEDGE AND RISK

We all face a future of uncertainty. How will the new government perform? Will “RAC Law” threaten your livelihood? Any decisions we make about the future can only be based on a limited amount of knowledge and guesswork as to the circumstances that will prevail when the outcome of our decision is felt. Risk management aims to reduce those areas of uncertainty to a minimum so that solicitors can view the future of their businesses with a degree of confidence, knowing that they have foreseen what can be reasonably predicted and can therefore take steps to avoid losses. This includes making provisions in the form of insurance for those events that could not have been predicted or avoided.

So, good risk management requires a solid foundation of knowledge – of our businesses and the inherent risks they involve.

What sorts of information do firms and individual practitioners actually need?

- They need a thorough understanding of the external environment in which they operate and regular reviews of their business in the light of changing factors. How will developments in computerisation affect you? What is the real cost to the business of implementing anti-money laundering procedures? Are your staff equipped to cope with coming changes?
- What are the risk-challenges facing firms in your sector of work? Where do the common problems lie? Information from the Law Society, the insurance industry, and reported cases give clear indicators that certain areas of work are more prone to complaints and claims than others, and also the types of problems that commonly crop up.
- What does the history of your firm tell you? Are you collecting data on feedback from clients, complaints or claims? This is the most relevant source of information about how well your firm is operating for the future avoidance of problems. The data needs to look beyond who was involved and the work type being carried out. It needs to examine all possible reasons why the mistake occurred – when data is reviewed over a period of time patterns may emerge and they are extremely useful as indicators of weaknesses or strengths that need to be built upon.
- What are your own shortcomings? We all have them, and self-knowledge is one of the most important skills of the competent professional. Do you miss points of detail under stress? Do you struggle when work leads into complex financial calculations? Do you have detailed specialist knowledge but not the breadth to be confident in a number of fields? These are not in themselves risk factors unless the practitioner fails to recognise them and to seek assistance or second opinions where necessary.
- Are you knowledgeable about your staff? Do you understand their strengths and weaknesses in the light of the work that needs doing? Do their methods of working present unnecessary risks?
- Do you know who your clients are? Do you know how clients find out about your services? Are your clients referred from reputable sources? What expectations do the clients have of the service you are going to provide?

Knowledge alone however will not enable a firm to reduce its exposure to risk. Knowledge should be the platform for the action taken to manage risk. Action plans should be developed from a sound basis, not from guesswork, and then tailor made to the specific practice by ensuring that all partners have an in-depth knowledge of the environment in which they work and the risks that they face.

This column was prepared by Frances Dewhurst, a consultant with AFP Consulting, a Division of Alexander Forbes Risk Services UK Limited which is authorised and regulated by the Financial Services Authority. A Lloyd's Broker. Tel: 0845 600 2729. www.afpconsulting.co.uk

CWHLS LECTURES

PROBATE AND TAX UPDATE: Rachel Rodrigo

22 June

This lecture will concentrate on the following topics:

- Practical and procedural points including the new excepted estate regulations and the wording on an oath.
- Inheritance tax - valuing household and personal goods and joint property (including the case of Sillars v IRC 2004)
- Gifts made under an Enduring Power of Attorney - including the recent case of McDowall & Others v IRC, 2004
- Stamp Duty Land Tax in the probate context
- A brief reference to pre owned assets in the probate context.

JUDICIAL REVIEW IN THE ERA OF HUMAN RIGHTS: Richard Gordon

6 July

The lecture will include the following topics:

- Key cases
- The constitutional debate
- Key practice points

These lectures will be held at the offices of Lawrence Graham LLP, 190 Strand, WC2. They begin at 6.15 pm with refreshments available from 6.00 pm. One hour of CPD is available (ref: JC/CWHLS) – please give your roll number when attending.

TO: Mrs E J Beesley, CWHLS, 25 Rotherwick Road, London NW11 7DG

DX 33801 Golders Green

Please send tickets for the following lectures: £20 per ticket for members and £30 per ticket for non members

Member

Non member

PROBATE AND TAX UPDATE

JUDICIAL REVIEW IN THE ERA OF HUMAN RIGHTS

I enclose a cheque for £ _____ payable to the City of Westminster and Holborn Law Society

Name

Name of Firm

Address

DX

Signature

Date