

# LEGAL | NEWS



## CPD Courses

14th and 21st October - see pages 10-11

OCTOBER 2009

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**A thought for autumn evenings: Is the speed of dark the same as the speed of light?**

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## **Cardiff and District Website News**

You may have noticed that the Cardiff & District Law Society's excellent website - [www.cardifflaw.org](http://www.cardifflaw.org) - has continued to improve with more content and more services added in recent months. The Society fully understands and embraces the opportunities provided by new technology and the world wide web and so is pleased to announce that plans are well under way to bring even more enhancements to the site including:

- Online Membership Applications
- Events Registration
- Member Solicitors Database
- Members Area
- Public discussion Forum
- Site search engine
- Email newsletter

Keep reading Legal News and watch the website for further announcements!

**Kevin Greer, Web & Technology Officer**

# PRESIDENT'S LETTER

STUART HUTTON, PRESIDENT

**It was in 1944 that the then Lord Chancellor Viscount Simon wrote to Peter Mandelson's grandfather, Herbert Morrison, who was then Home Secretary, informing him that he was setting up a committee to consider the provision of legal aid in the Civil Courts.**

There was concern about the issue of legal representation for the poor. This had been provided on a haphazard basis by charities and there was an impetus to make this provision state funded.

At about this time someone wrote "legal aid is the service which the modern state owes to its citizens as a matter of principal. It is part of the protection of the citizen's individuality which, in our modern conception of the relation between the citizen and the State, can be claimed by those citizens who are too weak to protect themselves...the State is responsible for the law...which is made for the protection of all citizens, poor and rich alike. It is therefore the duty of the State to make its machinery work alike for the rich and the poor". (The poor man's lawyer March 1940 Dr E. J Cowan). Thus, the Rushcliffe Committee sat as an all party and no party committee comprising judges, barristers, solicitors, social workers

and politicians. The committee reported in May 1945 and almost all their recommendations were included in the Legal Aid and Advice Act of 1949. The Act no longer required lawyers to conduct cases for the poor without remuneration, and generally speaking, a fair remuneration for their services was established.

The greatest change was that the system was no longer based on charity but on "people's social and legal rights".

Nowadays it seems that much has become forgotten; the State in its unceasing search for value and its desire to pay the minimum has created great unfairness. The consequence has been the gradual erosion of access to justice and the disenchantment of the profession. Fair remuneration has become an irrelevance and has no place on any Governments agenda. The Legal Aid Commission whilst being described as independent cannot in reality be independent as the Department for Constitutional Affairs is in control of everything.

The lawyer's bargaining position is non-existent. The State is the largest buyer of legal services in our country and is taking advantage of its dominant position to pay around a quarter of the market rate. This echoes of the early days of the last century when the master took advantage of the servant.

As a profession, most of whom are driven by vocation and a sense of duty to care for others; we are an easy group to be taken advantage of.

To address this imbalance the Government's mindset must be changed. Lawyers need fair remuneration to stay in business and ensure that another generation is in place to follow for the "protection of all citizens, poor and rich alike". My view is that there should be a wholly independent body which sits between our profession and the LSC so that the issue of fair remuneration can be independently brokered. This campaign should be placed high on our agendas and voiced at every opportunity so that change can be brought about.

The Association of Personal Injury Lawyers (APIL) has recently made a stand, walking out of talks concerning fixed costs in personal injury cases. One fears that everything is a done deal and that discussion and argument will have little effect. The same is arguably true concerning the Government's campaign to get rid of the indemnity principle when a payment out of central funds has been made in favour of successful defendants. Here the authorities want to pay legal aid rates only and not the fees that have been privately incurred.

Since my last article I have met Ruth Marks who was appointed last year as Commissioner for the Elderly In Wales. The Commission

is designed to protect the elderly from discrimination, prejudice and provide input to influence future policies for older people in Wales. One has to bear in mind that our population is aging and that as it does Ruth's role will assume increasing importance. We all wish her well.

I had the pleasure of attending a dinner in aid of Prime Cymru which is a charity established in 2001 at the instigation of the Prince of Wales. He believed that the success of the Prince's trust could be duplicated for mature entrepreneurs and with the prince's initiative for Mature Enterprise (PRIME Cymru), he has been proved right. The charity helps people over the age of 50 in Wales to become economically active. The charity is aimed at people who through redundancy or enforced early retirement need help to re-establish their lives. So far about 5000 people have received free help and advice. Over 1200 of these people have gone on to set up their own businesses creating over 2000 jobs in the process. The dinner was hosted by HRH at Highgrove and was a most enjoyable evening. There is no doubt that we should all be aware of the existence of Prime Cymru and where possible try to help or at least bear in mind its existence for the benefit of clients and others who may be in need of the real help and support that Prime Cymru can provide.

**Stuart Hutton**

To book in to our next edition, please contact our Account Manager, Alison Jones:  
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# FIGHTING FRAUD

Financial hardship is a motivator for fraud so an increase can be expected from the present recession. Fraud is, however, always present and it could be argued that it is easier to commit during the good times, whilst recessions merely bring more to light. An obvious example is the audacious \$65bn Madoff investment fraud, which was committed over more than a decade. The recession exposed the fraud as the funding line eventually dried up, though the reality is Ponzi schemes tend to collapse eventually under the weight of their own logic.

The majority of frauds from the present recession have not yet been detected, let alone brought to trial. The recent convictions of former senior managers of Alfred McAlpine Slate were for offences pre-dating the recession. The fraud involved misrepresenting production volumes and sales over a number of years up to 2007. It is fair to say that it will be some time before the full extent of fraud from the present recession is known.

The approaches to fighting fraud have changed. The sharing of intelligence between those combating financial crime is now common place. This is supported by legislation which has created offences for failing to report suspicion of money laundering, which almost always accompanies fraud. Prosecuting authorities can also recover the proceeds of crime from fraudsters, disrupting the criminal community and providing funds for the fight against fraud.

## **GOVERNMENT: AN EASY TARGET?**

Organised criminals and fraudsters have been successful in targeting large Government schemes. These are often complicated and implemented before fraud prevention regimes can be fully developed. For example, the massive and complex tax credit

system has been a fertile area for fraud. HM Revenue & Customs estimated annual error and fraud of up to £1.84bn in recent figures, representing 9.2% by value. The recent "carousel" VAT fraud on the carbon trading scheme is another example. A well-intentioned green scheme proved vulnerable to VAT frauds, which had to be prevented using emergency legislation.

The sharing of information between Government departments combined with increasingly sophisticated computer detection programmes will help combat fraud, but the Government will continue to be targeted by fraudsters.

The impending budget cuts in the public sector may also present an opportunity for the fraudster. A recent Audit Commission publication warns that controls to prevent and detect fraud will come under pressure as Councils look to reduce costs.

Nevertheless, the establishment of the new anti-fraud agency, the National Fraud Authority, indicates how serious the Government considers the fraud problem to be.

## **THE PRIVATE SECTOR**

As with other forms of financial impropriety, prevention is better than cure, but surprisingly few organisations proactively manage the risks. Fraud risk management has a hard cost which is often seen as non-essential when budgets are set. However, companies need to recognise the increased risk of fraud in the present environment and ensure they operate robust systems, both for employee and management fraud and external fraud. Key to this is providing staff with appropriate training to enhance their level of fraud awareness.

Companies must also recognise

the importance of intelligence from whistleblowers. It is surprising how ingenious fraudsters can be in circumventing controls and the majority of internal organisational frauds are detected by other means, such as tip offs from whistleblowers.

An imminent Act of Parliament, aimed at reforming the UK's anti-bribery laws, will have a significant impact on companies. It is expected to create criminal liability for organisations that do not make demonstrable efforts to mitigate the risk of bribery and corruption. The new laws will have sanctions for "denial" or "turning a blind eye" ranging from unlimited fines to potential imprisonment for culpable individuals, including senior management who may be found vicariously liable. It will be important for companies to demonstrate that adequate procedures are in place to prevent bribery being committed on its behalf. The Serious Fraud Office has published guidance on what it expects from businesses in relation to overseas corruption.

## **Insurers in the Firing Line**

Insurers are considered by many to be a victimless target and the term "fair game" is often used. Most insurers are reporting a significant increase in fraudulent claims. However this might be attributable to better detection of fraud, rather than an increase.

Almost all major insurers are involved in the Insurance Fraud Bureau (IFB), set up in 2006, primarily to tackle organised fraud. The IFB gathers and analyses data to identify organised frauds and postcode fraud hotspots. This allows for precious investigative resources to be deployed more effectively. The IFB also works with law enforcement agencies and runs a "cheatline" to encourage the reporting of suspicions of fraud.

Insurers have invested in highly sophisticated counter-fraud techniques. An example is the use of voice risk analysis technology and advanced telephone interviewing techniques to help identify fraudulent insurance claims.

## **Mortgage Fraud**

Detected mortgage fraud has reached record levels in the past year and investigations are on the increase. These frauds vary in nature from the simple inflation of income to secure a larger loan, to organised fraud rings involving criminal gangs who, by co-opting developers and professionals such as solicitors and property surveyors, engineer complex transactions that defraud lending institutions of tens of millions of pounds. Many frauds went undetected during the economic boom, as rising property prices provided effective cover. Lending institutions have taken steps but have not as yet created an equivalent body to the IFB.

## **SUMMARY**

Given the strategic changes afoot and the current economic environment, fraud should be high on the agenda of both the public and private sector. Both face increased threats at a time when resources for fighting fraud are under pressure. The tools and skills available to help fight fraud have improved, with intelligence-led investigations proving to be effective. However, there is no room for complacency as the criminals raise their game in an attempt to seize back the initiative.

**Fred Brown is an Associate Director in forensic services at Grant Thornton UK LLP, a leading accountancy firm.**



## ILEX UP-DATE

In September 2008 ILEX introduced a new Level 3 route to qualification which enables Students to gain qualifications by way of different Units. Each Unit is an award in its own right and can be built up to achieve a Level 3 Certificate, and then a Level 3 Diploma.

To follow on from the Level 3 Diploma, ILEX has introduced a new Level 6 route to Membership which commences September 2009. Again this is made up of Units in Law and Practice to achieve a Professional Higher Diploma.

To accommodate the new unitised qualifications, ILEX has changed its membership categories from September 2009 as follows :-

Student Member - no legal qualification

Affiliate Member - at least one

ILEX Level 3 qualification Associate Member – completed ILEX Level 3 Diploma in Law and Practice (this entitles the Member to use the designatory letters “A.Inst.L.Ex” and the Member must undertake 8 hours CPD) Graduate Member – completed both ILEX Level 3 and Level 6 Professional Higher Diploma in Law and Practice (this entitles the Member to use the designatory letters “G.Inst.L.Ex” and must undertake 12 hours CPD). Fellows – remains unchanged – a Graduate Member will have completed a period of qualifying employment (designatory letters are “F.Inst.L.Ex” and must undertake 16 hours CPD).

It is hoped these changes will enable Members to gain a recognised qualification and employers can benefit from the varied units provided to ensure their employer can qualify in a way to best suit their practice.

## RHYMNEY VALLEY

The Rhymney Valley Law Society Annual Dinner will be held at Caerphilly Castle on Friday, 6th November 2009. Tickets will shortly be available from Mr Stephen Jones (Caswell Jones 02920 864888). The President this year is Mrs Frances Edwards and her guest speaker is Sir Wyn Williams. This is always a popular event in a very prestigious setting and your support will be very much appreciated.

## ILEX SOUTH WALES BRANCH

ILEX SOUTH WALES Branch are arranging a Seminar on 19th October with 1.5 CPD points. Venue to be confirmed but it will be based in Cardiff with a complimentary glass to wine after the Seminar. Further details of speakers and topics will be confirmed in the ILEX Journal and anyone interested can contact Frances Edwards or the Branch Chairman, Mr Wayne Phillips (see below).

**Frances Edwards (Vice Chairman)**  
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## URGENT NOTICE

## Are you acting on behalf of someone who has been resident in a care home before April 2003?

If any of your clients or their relatives have been resident in a care home from 1996 to 2003 they may be eligible to reclaim the fees they paid.

This is the case even if the resident has since passed away.

The Welsh Assembly Government has announced that applications for recovery of care home fees must be submitted by 4 December 2009.

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# PRESIDENT'S REPORT

**Do you ever find yourself musing about life's imponderables? You know the type of thing -finding a single shoe in a remote place (what rich or tragic fragment of the tapestry of life led to its solitary exile?) or the fact that solely absent from a pocket full of every one of the coins of the realm, is the 20p piece necessary for the car parking machine.**

Or even the inexplicable misplacing of the newspaper which contains a piece on which you intended to begin your regular article for the only Welsh Legal magazine (Oh yes! I do actually research and collect thoughts and news pieces before I plunge headlong into these frantic compilations of utter tripe!).

Anyway, the loss of said snippet sent me scurrying out to the front gate of Asparagus Towers to trawl through the orange "paper and plastic bottle only" recycling bag that Pembrokeshire CC so kindly provide its citizens with, it being rubbish day and your humble scribe having carted the trash out the night before. Not a particularly edifying sight, clad, as I was, in my tatty old dressing gown and slippers, for any passing early morning commuter.

Hair askew, muttering darkly, flinging half a rain forest's worth of newsprint into the still West Walean morning air, in a desperate bid to locate one small passage, before the Refuse truck hove into view, to deny me the springboard for this missive.

Happily, on this occasion the search was fruitful (albeit the

Daily Telegraph from Monday 14th September had wormed itself into the very bottom of the bag, beneath the Narberth and Whitland Observer of April- another imponderable to add to my Dementia ridden brain).

"So." You will no doubt be thinking, "What has the old twit found to rant about that caused this frantic 7am impersonation of Edna the inebriate woman sifting the content of a bin bag?"

Just this. Sandwiched on the page 14 "In Brief" column, between "Togs to say farewell to Wogan in song" and "£8,000 from bank of Mum and Dad" (my three have done a darned sight better than that!), was:-

"Ministry staff overpaid by £1.5m justify Officials at the Ministry of Justice (!!!!) have been overpaid more than £1.5 million. More than half the money has been written off. In one case a civil servant was given an extra £18,500 on top of annual earnings of £22,000. The errors were discovered when a new payroll system was brought in after the department was created out of part of the Home Office and the Department of Constitutional Affairs."

I sincerely hope that this induces in you the same incandescent explosion of anger and bitterness that it did in me.

Imagine, and it really isn't difficult, a situation where a small private practice with the dubious "privilege" of having a Legal Aid Franchise, had been overpaid.

Would this be "written off"? Would it hell as like. The faceless Recovery Mandarins (probably the same ones who have received this same windfall) would be

camped outside the dilapidated office door of "Head, Just and Barelyabovewater, Solicitors", within milliseconds of the discovery. Probably accompanied by a SWAT team from the SRA and half a hundred anti-terrorist armed police.

And the hypocrisy of whatever Head of Department to actually consider writing off such a sum! £750,000 and more. That would provide at least two years survival for about five small practices.

And I know that this is just the tip of an iceberg, one I sincerely hope will fatally rip a hole in SS Brownstuff next spring. How much did the "Creation" of the vaunted "Ministry of Justice" cost? How many private "Consultants" fees were paid to numpties who were engaged in months of toil to determine how much bog-roll would be required to satisfy Health and Safety regulations? Or which type of biscuit would be politically correct for the little darlings who have the weight of our poor old country's legal system on their overworked shoulders? Let alone the cost of designing a suitable logo and crest for the headed notepaper!

On top of this Lord Roy Morgan, our indefatigable "Tilter at Government windmills", tells me that the Ministry of Justice has awarded pay rises of between 14 and 22% to many of its senior civil servants! Unbelievable!

Gordon has probably got a slimey spin phrase for this like "Unpredictable event resource re-alignment policy at MinJustice" or some such. To the Solicitors profession it is simply rank INjustice.

I found myself caught up in the debate about alternative methods

of dealing with heroin addiction last week. You will all have read or heard about the pilot schemes in London, Brighton and Darlington, where addicts (about 100 of them) are receiving medically supervised doses of heroin from the NHS free of charge, instead of having to depend on dodgy street supplies.

There were, of course, dozens of "Outraged from Sidcup's" wittering on about how it was disgraceful, sending the wrong message and "Put 'em in a concrete blockhouse on Benbecula for six months" stuff. But one very senior and experienced Police Inspector posed a really good question to an educated addict whose life has been blighted by his addiction for over twenty years- "Has any thing the police have done helped you in any way?" The answer was, naturally, "No".

The number of registered addicts stood at some 25,000 in the mid 1970's. The "War on Drugs" policy that was invoked then, and has continued unabated since, has seen that number rise to over 250,000. Back then (when criminal lawyers were actually paid a decent rate) addicts were able to get drugs on the NHS. The proportion of drug related crime was at about 10 to 20%. (It now stands at about 85%) When this policy of NHS supply stopped, it opened the floodgates to Drug Barons, whose really dangerous products, and their ability to "groom" a new, and larger, consumer base made the situation far, far worse.

By driving the "trade" underground, it had the twofold effect of making drugs scene attractive because of its illegality and anti authoritarian position, and worse polluting the supply. It meant that the addicts had to pay for

# COURT - OCTOBER 2009

their drugs, and since most were unable to do so through their own incomes, fostered a culture of theft, deception and robbery to raise the necessary funds.

The results from these three pilots has been amazing- the participants have taken charge of their lives, the incidents of criminal behaviour has plummeted, there are fewer street dealers. And the risk of dirty needles being picked up by kids has been reduced.

Now I know that supplying heroin through state agencies has a cost to the taxpayer, and that the eventual price for those of the quarter of a million poor souls who are addicted would be high. But if by all employed folk paying another £50 a year to take the drugs off the streets of our towns and cities, if it means that the retail prices in the big stores were to stop rising due to teams of addicts pursuing commercial shop-lifting giving up, or that only one vulnerable person doesn't get mugged for their mobile or burgled and beaten in their home by an addict desperate to fund his or her next fix, then in my view it will be worth the cost. The saving in terms of prison numbers and drug induced psychosis, not to mention the lifting of the numbers in A & E for polluted supplies would be immense.

By the time you read this, the Cardiff Magistrates will have seen the retirement of its senior resident District Judge.

Gerwyn Watkins has been in place for a long time. He has never been flamboyant, as a couple of his predecessors have been, but neither has he ever been prone to outbursts of anger.

I believe that he has been the

most scrupulously fair judge in all regards. His courtesy to all advocates, his attention to all issues during trials, his patience in dealing with all of us "treading the boards" (even when we are indulging in the most outrageous flights of legal fancy) and his even handed sentencing (virtually unappealable!) will be sorely missed. He has been a great friend to the Advocates of South Wales, always supportive and approachable. I wish him the happiest of retirements.

Those of you who read this column on a regular basis know of my association with Cardiff Academicals Football Club. You have read of its beginnings and its links to Solicitors and Barristers. I have bored you all with the highs and the lows of their fortunes.

In this, the thirtieth year of our existence, we have been paid a high honour indeed. Due to our long association with tours to Holland, we were invited to travel to Amsterdam to play the mighty Ajax Veterans.

And so on Saturday 12th September, seventeen elderly Accies (Yes! Me too!) boarded the KLM Citylink aeroplane at 6am. It was a wonderful day, and boy, were we nervous. Our anxiety was hardly helped by the news from my journalist son Gwilym, who had been surfing the web, and had discovered that on the previous weekend, Ajax had beaten Groennigen Vets 12-0, with a certain Dennis Bergkamp (of Arsenal and Holland renown) scoring a hat-trick.

Undeterred we arrived at the Amsterdam International arena, and were shown to our palatial changing room. Brand new sky

and maroon kit laid out, with numbers and names on the back. A vast white board to write tactics on. A physiotherapists couch (sadly no physio), and a socking great kettle of tea. A superb state of the art playing surface. Ely Racecourse it wasn't. (We rather missed the abandoned burnt out stolen car and the pile of used Diamond White cider cans.)

After a couple of rousing Churchillian speeches, we ran (well hobbled quickly) out. They had a couple of former Dutch Internationals on show, and to play, you had to have featured for Ajax in the league. No pressure then. (Happily Mr Bergkamp was commentating on a live game somewhere (Man City 4 Arsenal 2 actually!), so we didn't have to deal with him!)

It was not the greatest of starts. We conceded a goal after 2 minutes. I started as centre forward, and had not touched the ball apart from kicking off twice, when I was "rotated" after 20 minutes (quick fag in the sumptuous dug-out). Cue the opening of the floodgates? Not so, dear reader.

Despite the obvious gulf in class, 3-0 was the final score, much credit to us. And an invitation to play them again next year! They also want to come and play us in Cardiff. We will have to hire the Millennium.

There is, I am afraid to report, one sour note. Since it was SUCH a big occasion, our Director of Football (honest-we have got one) the irrepressible Gareth Cook (Cardiff City Council Accountant), deemed that we should be properly attired. Dominic Niglazzio, one of six Cardiff Solicitors in the party, had designed a very classy new Italianate tie. We were asked to wear a dark

suit, white shirt and decent shoes. And we all did. Well, all but one.

Once again, the name of Leo Abse and Cohen has been blighted by Andrew "Supremo" Owen. Pembrokeshire hangs its head. Solva sobs for its errant prodigal son. Yes. The man who last season suffered a Spanish nightmare, did it again. Not for him the sartorial look. No. He, it was, who sported a very light grey crumpled linen sports jacket, which he admitted, nay BOASTED, that he had bought in a charity shop (the cost of having it dry cleaned was more than the price that he paid for it), a pair of light grey chinos from Peacocks (completely different hue from aforesaid jacket), and a pair of dark battleship grey matt surgical shoes, without the callipers.

That he had an absolutely magnificent match, box to box, tigerrish tackles, astute passes, brave headers, is simply not enough. Charges have been laid, evidence gathered, expert witnesses subpoenaed. The trial, as they say, continues!

On the Confederation front, we have decided to keep open the free membership to all comers for the next year. The CPD programme is in full swing. We hope to have a winter "bash", of which more anon.

Until the next time.

**Mumf**

# YET ANOTHER LOTTERY!

PETER DAVIES, VICE PRESIDENT, CARDIFF & DISTRICT LAW SOCIETY

By the time you read this, hopefully all of you will have successfully renegotiated your PII cover. However, this year has been a bit of a roller coaster and as I put pen to paper, I hear and read of many examples of downright shoddy treatment of solicitors practices by the so-called panel of approved underwriters who have signed up to the minimum terms and are thus acceptable to the SRA.

Headlines in the legal press over the last few weeks include:

- Firms close the doors as they cannot renew their PII cover.
- Premiums spiralling.
- Underwriters sit on applications or refuse to renew terms despite early applications.
- Firms no longer "fitting the model".

You will recall that this time last year, this magazine published an article

in which I warned of difficult times to come and that the profession as a whole would need to stand together, hopefully with the support of the Law Society and to look afresh at the arrangements for underwriting solicitors' PII cover.

Whereas reviews, discussions and consultations have taken place, little, it seems, has changed. New insurers have entered the market – XL, Hanover re and Allianz, but the underwriters have been allowed to become more selective in firms that they choose to take on as acceptable risks.

What underlines this sorry saga? Brokers advise that underwriters have become concerned at the prospect of multiple claims with some possibly linked to fraud as a result of the banking crisis – with

commercial and domestic lenders looking at external valuers and solicitors as a source of recompense.

It seems that firms that deal with conveyancing, whether in part or in whole, are facing the brunt of the backlash. I spoke to one local firm last week, who despite having 10 partners and whose practice is Lexcel accredited and there being no change in their profile over the last three years, had been asked to pay a 50% more for their premium – and this without there being any hint of claims as a result of conveyancing undertaken over the last two years.

Why should the profession pay for the reckless lending policies of banks and building societies?

This is unacceptable and it is time that the profession began to

fight back. The insurers who have underwritten our PII cover have received upwards of £200 million in premiums over the last few years or so and that is expected to rise by about 30% this year.

The setting up of a Law Society helpline is a start for practitioners – renewal advice can be obtained on 0207 320 9545 or email [pii@lawsociety.org.uk](mailto:pii@lawsociety.org.uk). Your local Law Society is again collating and submitting evidence to the Law Society and the SRA on what we believe is unacceptable conduct by the insurers.

**If you would like to share this information with us – whether on a confidential basis or otherwise, please contact me on [peter@jpeterdavies.co.uk](mailto:peter@jpeterdavies.co.uk) or call me on 029 2022 5472.**

## The Work-Life Quiz

Anything The Law Society Gazette and The Lawyer can do, Legal News can do better (and probably before, as Allen Oliver used to have a 'Getting to Know you' Column in Legal News in the late 1990's) so here's the first of our renamed Work-Life Quiz featuring the recently appointed Cardiff & District President:-

**Name:** Stuart Hutton

**Firm:** Hutton's

**Title:** Senior Partner

**Lives:** Vale of Glamorgan

### Education:

The King's School, Gloucester  
The College of Law, Guildford,  
Surrey and Lancaster Gate London

### Work history:

Articled Clerk (Trainee Solicitor)  
Ingledew & Sons, Cardiff  
Assistant Solicitor 1975, Partner  
1976 Edwards, Geldard &  
Shepherd (now Geldards)  
1986 Established Hutton's

### If you weren't a lawyer, what would you have been?

A vicar or a film maker  
or a politician.

### What is your favourite film?

There are so many favourites but the one I enjoyed the most when I first saw it was The Wizard of Oz.

### Why did you become a solicitor?

I have a really strong sense of justice and saw the law as an obvious means of helping people troubled by the anxieties of life.

### Why did you become a solicitor rather than a barrister?

Solicitors have direct access to clients and can spend time getting to know their clients and their problems in a meaningful way; this has given me a better insight and taught me so much about myself: it was this that tipped me away from wanting to be a barrister.

### What is the best thing about your job?

The opportunity to meet and help people from all walks of life: there is more that unites people than there are differences. A common theme is that everyone wants to be wanted and liked.

### What is the longest you have worked without sleep?

I remember some while ago when

I was on 24 hour call as a duty solicitor I had no sleep at all as it was just so busy. It was horrible and not something to repeat.

### What do you hate most about people?

Hate is too strong a word: I have no admiration of people's lack of tolerance, self-importance and feather preening, lack of trustworthiness, self interest and I do dislike gossip. I prefer people to be straightforward and reliable in their dealings but then don't we all.

### What do you like most?

Spending time with my family and friends.

Any person who would like (is prepared!!) to be interviewed should contact Richard Fisher but be warned you might be chosen at random!!!

# Your future, your choice

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# The Confederation of South Wales Law Societies

*In association with The Law School, University of Glamorgan*

## CIVIL LAW REVIEW

The Park Inn, Llanedeyrn, Cardiff North.

14th October 2009, 9.00am-5.00pm. 6.5 CPD Hrs.

Members £125.00 Non-Members £175 (including Buffet lunch and free parking).

Introduced by Stuart Hutton, President of Cardiff & District Law Society.

### TOPICS

- Overview of the DCJ
- Sports Law Injuries
- Personal Injuries
- Clinical Negligence
- Pre Action Protocols
- Recent Developments in Costs
- Civil Update, Services including recent cases

### SPEAKERS

- His Honour Judge A. Seys-Llewellyn QC (DCJ)
- District Judge J. Regan,  
*Cardiff Civil Justice Centre*
- Tim Musgrave, *Huttons Solicitors*
- Simon Cradick, *Partner*
- Cenric Clement-Evans *Partner, Hugh James*
- Glenn Newberry, *Head of Costs Unit, Eversheds Solicitors*
- Michael Imperato, *Managing Partner, Russell Jones & Walker*

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I/We should like to book \_\_\_\_\_ place/s for the Civil Law Course to be held at the Park Inn Cardiff North and I enclose a cheque in the sum of £\_\_\_\_\_ made payable to The Confederation of South Wales Law Societies.

**N.B. PLEASE ENCLOSE PAYMENT, AS BOOKINGS CANNOT BE ACCEPTED WITHOUT IT.**

Return to: Michael Walters, 34 Ty Fry Gardens, Cardiff, CF3 3NQ  
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# Autumn 2009 CPD Courses

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## CRIMINAL LAW UPDATE

Glamorgan Business Centre, Main Campus, University of Glamorgan, Pontypridd.

21st October 2009, 9.00am-5.00pm. 6.5 CPD Hrs.

Members £125.00 Non-Members £175 (including Buffet lunch and free parking).

Introduced by Roy Morgan, Chairman, Legal Aid Practitioners Group.

### TOPICS

- Criminal Law in the Crown Courts
- Best Value Tendering - BVT
- Crime & the Legal Services Update
- Problem Solving – Dealing with offenders
- Article 6 'Right to a fair Trial' in delayed Cases
- Managing Quality & Cash in a Legal Aid Practice

### SPEAKERS

- His Honour Judge J. Curran,  
*Merthyr Crown Court*
- Simon Mumford, *President of The Confederation of S. Wales Law Societies*
- David Richmond, *Barrister, Justices' Clerk for Mid & South Glamorgan*
- Hilary Williams, *Criminal Justice Liaison Manager Legal Services Commission*
- Tom Atherton, *Head of Complex Casework CPS*
- Wayne Williams LLB, MBA, CPM21,
- Roy Morgan, *Morgans Solicitors*

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# NLIS DELIVERS FAST RESULTS

Of late we have seen a lot of discussion centering around Home Information Packs, be it the variance in quality of the personal searches or the likelihood of a Conservative Government abolishing them altogether or changing their format. As regulator of the National Land Information Service (NLIS), Land Data's view is in line with the Law Society and RICS, searches should be sourced directly from the Local Authority (LA) by the purchaser's conveyancer, at a point where they can be relied upon throughout the purchase process. Based upon feedback received, the reality appears to be 95% of 'secondary' searches (those ordered by a buyer's conveyancer to replace the personal searches within a HIP) are official Local Authority searches every time.

## Reliable and Accurate Data

Land Data believes that land and property searches are only of benefit to the consumer if they are of the appropriate standard and quality. They should be current and from a reliable and accurate source i.e. sourced directly from the Local Authority. If the widely held belief that HIPs are to be either scrapped or the contents greatly reduced following next years election comes to fruition, it will create a dilemma for those companies who supply data using alternative

sources of information and who interpret the answers themselves, be they personal search or non-local authority data providers. We therefore expect to see a rise in the level of press coverage criticising Local Authorities for being slow to respond to personal search requests and requests for other land and property information. Recent coverage has cited lack of cooperation between the LA and alternative data collation company as the main reason for perceived delays. However, it is not the Local Authority that should be blamed for being slow, in our view the fault lies with the time consuming, labour intensive manual data collection methods that these alternative providers use to gather information. Time is taken up sending a person to the Local Authority, setting up appointments with different departments, trawling through data, as well as waiting to obtain data that is not available via a public register.

## NLIS Searches take 4.5 days

National Land Information Service (NLIS) data shows the very same LAs accused in recent press reports of taking a month or more to deliver information manually, turned around the same information, over the same period, electronically via NLIS in under 5 days. In fact, looking at data from all Local

Authorities over the past 12 months, we can see the average turnaround of NLIS electronic searches has been 4.5 days.

Official conveyancing search data delivered electronically is not only the fastest way to obtain searches it is also the most secure, and the benefits do not stop there.

NLIS is the only regulated electronic land and property information process in the market. The NLIS channels operate under strict licence agreements which protect the users, clients and the data providers, this creates an environment which is secure, robust and fully supported. NLIS electronically connects essential data providers such as Local Authorities, water companies and the coal authority via the NLIS Hub to the licensed channels. Conveyancers can easily connect to a licenced NLIS channel via their desktop. Where a Local Authority returns its search transaction electronically, results can arrive in a conveyancer's case management system within minutes. Searches can also be tracked with reports, (depending upon the Conveyancer's internal IT set up), being sent onto customers resulting in better communication and enhanced customer service.

Through its channels, NLIS

operate a fully electronic payment system, meaning a Conveyancer's professional time and that of his legal and financial support staff can be spent effectively elsewhere. NLIS channels also offer a host of other search services, many connecting to other specialist data providers, giving Conveyancers a one-stop shop for all search requests.

## NLIS Hub charges reduced by 50%

From 1st October this year, NLIS Hub is reducing its transactional fees by over 50%, thereby making the benefits of ordering an electronic search through NLIS even more attractive. SearchFlow has confirmed they will pass this saving on to Conveyancers ([www.searchflow.co.uk](http://www.searchflow.co.uk)) and other new NLIS channels will be offering the cost saving as well. Announcements shortly will provide further details about the new NLIS channels who we believe will offer a great choice of products for Conveyancers. With lower costs, speed, quality, reliability, and greater choice, the NLIS online property search market has never looked better.

**For further information please go to [www.land-data.org.uk](http://www.land-data.org.uk), [www.nlis.org.uk](http://www.nlis.org.uk)**



**Make sure it's electronic.  
Make sure it's NLIS.**



## The price of an electronic NLIS search just got cheaper

**Make sure it's electronic. Make sure it's NLIS.**

From 1 October 2009, the price of an electronic NLIS search will be reduced.  
So...you no longer have to choose between price or quality for your next property search.

NLIS connects you directly with key data providers across England and Wales in particular all Local Authorities – the official and authoritative data providers for Local Land Charges – so you can be sure you are getting the most up to date information for your customer via a secure and regulated environment (the only one in the UK).

What's more, by using NLIS licensed channels you will benefit from competitive pricing, no lost paper searches, streamlined reconciliations and a full account of where the liability lies for the information supplied.

Don't waste time on poor imitations. Make sure it's electronic – make sure it's NLIS.

**Go to [www.nlis.org.uk](http://www.nlis.org.uk) to find out more  
or email [info@nlis-hub.co.uk](mailto:info@nlis-hub.co.uk)**



# MARKETING? We can't afford to do that!

Traditionally the legal sector has relied heavily on word of mouth, repeat business and the occasional round of golf to promote their services. Times are changing though and firms of all sizes are now taking a more considered approach to marketing and differentiating themselves from their competitors.

In a tighter economic climate spend on advertising is often the first thing to be reduced or stopped altogether, but successful marketing includes a range of activities which cost little or nothing.

## 1. Existing Clients

For the majority of firms their biggest asset is their existing client base. It's often quoted that the cost to acquire a new client is five times greater than the cost of retaining one and therefore ensuring that your clients come back to you should be a priority for every firm. A client's decision to use your services will depend on a range of factors, but it is likely that in many cases 'legal expertise' will not be the deciding reason. If we consider a residential conveyancing transaction the client will not judge the firm on their intricate understanding of land law but more likely: were they kept informed, were telephone calls returned and did they meet their expectations on timescale. This has no bearing on the quality of the legal advice given, but will influence greatly the client's perception of the firm. There are a myriad of areas to consider when evaluating your client retention, but at the core of this is the need to exceed clients' expectations. If you can achieve this then you can expect

not only for them to return to you, but also to recommend your services in the future.

## 2. Cross selling

Growing your business doesn't have to mean growing your client base, an important but often overlooked area is cross selling your services to existing clients. This is possibly the most effective way of increasing your revenue, without the cost of acquiring a new client. For example if a client has recently bought a property they should consider reviewing their Will, and as part of a Will review, it would make sense that they speak to their financial adviser.

## 3. Track your clients

The easiest way to find out what works when promoting your firm is to ask clients where they heard about you! This should be recorded and monitored on a regular basis. Over time you'll build up a picture of where your clients are coming from and you can use this information to make more informed decisions regarding advertising, sponsorship and referral relationships.

## 4. PR

PR is often viewed with less cynicism by the general public than advertising and a great deal can be achieved without any financial outlay. You don't need to become an expert to make this work for your firm; however you will need to develop a list of media contacts. You should at least include local newspapers, magazines and radio stations. The second step is to habitually send press releases whenever you move, expand, hire management level employees, offer a new service, win an award, host an

event that is open to the public, or are chosen for a speaking engagement. In addition you can write short articles on your area of expertise and send them to local publications. Promote yourself as an expert source and let local media know you're available for interviews.

## 5. Enlarge your networking circle

Joining professional and social groups to network with other people can be an excellent way of promoting your firm. You can also volunteer to speak at local seminars and charity events. Two simple steps to get the most of any event – make sure you have plenty of business cards and after the event follow up on any contacts you've made, even if it's only a friendly email!

## 6. Bargaining

If your firm currently advertises in any media make sure you never buy any advertising at 'rate card' prices. Ask your local newspaper if they can contact you when any last minute slots become free. If an advertiser withdraws at the last minute they'll be looking to fill the space as quickly as possible and will offer a discount if you can take advantage of the timing.

## 7. Client Feedback

Finding out what your clients think of your services can help with the above suggestions. A good questionnaire can clarify where the client has come from and can also be part of your cross selling strategy, reminding them that you can provide access to all legal services. If you track the feedback from your questionnaires you may be able to use this in press

releases, for example if you are consistently being rated excellent by 99.9% of your clients then let everyone else know too!

## 8. Connect2Law

As a member of the Connect2Law network you should never need to turn a client away or send them to a local competitor. This helps in protecting your existing client base and also provides a further source of revenue. Connect2Law is a mutually beneficial free national referral and support network run by solicitors for solicitors.

Connect2Law was established by Pannone LLP in 2001. In 2007 Hugh James were appointed as the Hub firm for South, West and Mid Wales. Connect2Law helps firms to retain clients and increase revenue through a variety of means. Free CPD seminars are offered and savings can be made via the exclusive Connect2Law buying group. With over 1300 Connect2Law members nationally the buying group known as CostController has an annual spend of over £14 million and can reduce firms' overheads and daily outgoings.

If you would like to discuss the free Connect2Law network further please contact Helen Griffiths or Ruth Bennett on 02920 660 559 or email us on [connect2law@hughjames.com](mailto:connect2law@hughjames.com)

**Article by Paul Coombes  
BDM, Connect2Law,  
Pannone LLP**

**CONNECT2LAW™**

# LORD BACH VISITS

Lord Willy Bach, the Under Secretary of State for Justice, came to South Wales on 17th September 2009 and during his visit called in to see Morgans Solicitors at their head office in St Mary Street, Cardiff.

Lord Bach was in Wales for the day in his capacity as the government's Legal Aid Minister and included a visit to Morgans to learn more about the Community Legal Advice Service, a government funded service providing free legal assistance to members of the public via telephone helplines, the internet and advice centres.

A contract was awarded to Morgans Solicitors in 2006 to provide advice covering the areas of Debt, Welfare

Benefits, Housing and Employment law via a telephone helpline together with follow up casework, reflecting the extensive experience Morgans already has in those areas. The availability of this assistance is proving to be of particular importance in these difficult times and Morgans is currently taking on approximately 700 new clients per month in these categories.

Building on the experience and success of the first CLA contract, Morgans Solicitors also recently won a contract to provide a Community Legal Advice service offering Family law advice. Based in one of their Swansea branches, this new service went live on 10th August 2009 and has also proved staggeringly popular, with 470 new

client matters opened in its first month.

During his visit, Lord Bach was very interested to see how the CLA Service works in practice and enjoyed talking to Hannah Ménard, the Head of Morgans' CLA, as well as some of the legal advisors operating the Helpline. As a legal aid barrister for 25 years before his move into politics, Lord Bach's continuing commitment to the ethos of public funding is clear. In a recent interview with The Guardian, he commented "If there's one thing I want to do in this job, it's to promote Social Welfare Law. Its about vulnerable people, and that's who legal aid is there to help."

Morgans was founded in 1985

by Roy Morgan, who continues as Principal today. It has always been committed to providing advice and assistance to those least able to afford it, via public funding, and the practice has now extended into other areas including family law; social welfare law; employment law; community care and mental health law, prison law and the provision of debt advice in prisons as well as civil, conveyancing and private client departments.

As one of the founding members of the Legal Sector Alliance, Morgans welcomes the opportunity to be at the forefront of new ways of delivering legal advice and sees the environmental benefits of encouraging communication with clients via non-traditional methods.



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Our approach is backed by real experience. All the consultants in our dedicated South Wales and South West team have a legal background and extensive recruitment experience. They are highly regarded in the legal market for their personal approach, professionalism and expert knowledge.

**Property Insurance Litigation To £50K**

**Bristol:** A chance to get involved in property damage litigation on behalf of insurers and their policy holders. Really interesting and varied work and certainly this is a role with potential as the right person will have the opportunity to carve quite a niche for themselves working within this very strong team. The ideal candidate will be able to offer perhaps a couple of years experience of these sorts of claims but there can be some flexibility.  
matthewgoodwin@chadwicknott.co.uk

**Civil Litigation £To Partner**

**S Wales:** Outstanding opportunity with a firm of repute and increasing prowess in the market. A small and bustling law firm with a good all round service and client base. You'll be an experienced civil litigator with a broad range of expertise and have at least 5 or so years behind you in this area.  
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**Banking Litigation £Excellent**

**Cardiff:** Highly acclaimed firm has an opening for an experienced banking litigator. You will be dealing with a wide range of disputes for household name banks and financial institutions. Working alongside a leading Partner, this well-established team offers quality work in a friendly approachable firm where you can really develop your career.  
sarahwood@chadwicknott.co.uk

**Claimant PI Paralegal / Executive To £30K**

**Bristol:** A popular choice for Paralegals and Legal Executives who want first rate experience and fantastic training. The firm encourages the continuous development of its fee earners and offers a great remuneration package and additional benefits. The role is predominantly RTA and would suit a candidate with previous experience in handling a volume caseload. Ideally you will work unsupervised but full training will be provided.  
nicolasmith@chadwicknott.co.uk

**In-house Employment Lawyer To £70K**

**Wiltshire:** In this exciting varied role you will advise on a range of non-contentious employment issues. Working with a large commercial legal team you will be putting compromise agreements in place, building TUPE clauses into agreements, training the HR department on legal procedures and managing a panel of external advisors. Fantastic opportunity for an ambitious lawyer looking to make an impact.  
carlymcgill@chadwicknott.co.uk

**Corporate Defence £Competitive**

**Bristol:** My client is a leading commercial law firm with a wealth of expertise in this area and is now seeking to capitalise on their strength in this area. You'll have a few years in this area and be seeking an exciting and varied role that includes health and safety, compliance and regulatory work.  
jannicabackwell@chadwicknott.co.uk

**Lead Employment/Litigation Role To £52K**

**Cardiff:** Looking for something different? One of the largest and longest established firms in Cardiff is seeking an experienced solicitor to build up a solid practice of challenging Litigation and Employment work. You will be a highly commercial individual with excellent technical skills. A great opportunity to move your career up a gear.  
alicecarpanini@chadwicknott.co.uk

**Defendant PI Paralegal £15K+**

**Newport:** A fantastic opportunity to join a firm with an excellent culture and a fun and friendly working environment. The work will be fast track defendant RTA and ideally you will have some experience of handling claims of this nature. Training and supervision will be provided but you should be able to work on your own where needed. There are great opportunities for career progression as your experience grows.  
genetterawle@chadwicknott.co.uk

**Contentious Employment To £45K**

**Bristol:** Great opportunity to begin to specialise dealing with a purely contentious caseload although still acting for both employers and employees. This regional firm are very keen to appoint another Employment Litigator for their Bristol based team and the work will include unfair dismissal, breach of contract, unlawful deduction from wages and a full range of discrimination claims.  
matthewgoodwin@chadwicknott.co.uk

**Catastrophic Claimant PI To £60K**

**Bristol:** This heavy-weight practice is seeking an experienced catastrophic PI lawyer to play a strategic role in their Bristol office. You will be dealing exclusively with claims including head, brain and spinal cord injuries in excess of £1m. Superb firm with fantastic growth plans.  
cathrynholmes@chadwicknott.co.uk

**Construction £Excellent**

**Cardiff:** With an enviable client base, this firm is looking to build on recent successes, and further strengthen its position in the market by recruiting an associate to undertake a variety of high quality contentious and non-contentious work. Great career prospects!  
cathrynholmes@chadwicknott.co.uk

**Commercial Litigation £Excellent**

**Cardiff:** Great opportunity to join one of the best litigation teams around. Top 100 firm seeks a bright enthusiastic assistant to carry out a broad range of high quality work, servicing both a public and private sector client base, advising on contractual dispute, procurement, IP/IT, and professional negligence. Great team, outstanding partners. Fantastic career move.  
sarahwood@chadwicknott.co.uk

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