

THE WRIT

THE LAW SOCIETY
OF NORTHERN IRELAND



THE JOURNAL OF THE LAW SOCIETY
OF NORTHERN IRELAND

Spring 2020



Covid-19 Lockdown Ezine

**Interview with Covid-19
survivor Niall Murphy**

Lawyers in Lockdown
Articles on personal and
professional experiences

Wellbeing
Coping in this time of
unprecedented crisis



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The importance of keeping in touch with each other is something of which we have become acutely aware during this time of mandatory social distancing. At the Society, we have been trying to keep in touch with our staff by using Zoom videoconferences and a staff WhatsApp group. Keeping in touch with our thousands of Members is much more challenging, but we have tried to do this through our website and regular E-nformers.

This 'Lockdown Special' of The Writ is another way in which we can reach out and keep in touch with our Members. We decided that an E-zine would work better than a hard copy magazine on this occasion. While we plan to publish The Writ more regularly going forward, and to return to the hard copy format when circumstances permit, I hope that you will find the articles in this issue timely, interesting and relevant.

I particularly wanted to include some personal stories in this issue from 'Lawyers in Lockdown' and I am grateful to those who have shared their experiences with us. I am sure that these will mirror many of our own experiences.

We plan to issue another E-zine issue of The Writ later this Summer. In the meantime, please let me know what you thought of this issue and what you would like to see in future issues of The Writ.

David A Lavery CB
Chief Executive

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President's Message



To gauge just how fundamentally our lives as solicitors, as family members and as individuals have been turned upside down over the past few months, I need look no further than my message in the January edition of *The Writ*. At that already distant time, our immediate preoccupations were with matters such as Brexit, the operation of LAMS and the profile of our conveyancing colleagues. We were not familiar with the concepts of furloughing, lockdown, self-isolation or social distancing, nor did we have any real appreciation of the impact that the Covid-19 virus would have on health, wellbeing and the global economy. These have indeed been very dark days. And yet, we have had some reasons to be grateful, and occasionally cheerful. The mood of the entire profession was lifted recently by the news that our colleague Niall Murphy, so seriously stricken by the virus early in the pandemic, had been released from hospital. How fitting it is that he should contribute to this special 'Lockdown Edition' of *The Writ*. It is both a delight and a relief that he has been able to do so.

A renewed spirit of collegiality seems to be spreading through the profession as colleagues offer small pragmatic kindnesses to one another and are appreciative of those offered to them. (Is it just a coincidence that the theme of this year's Mental Health Week is kindness?) There is a sense that we are all in this together and will see the best outcomes if we work closely with each other for the benefit of our clients and our colleagues. That is reflected in the approach that the Council, Committee Members and staff of the Law Society have adopted. A huge amount of collective time and effort has been spent in engaging on key issues such as the operation of the criminal, civil and family courts, the Land Registry and the Legal Aid system, as well as in collating and disseminating to the profession information on the various business support measures which the Government has introduced. We have made good progress on a number of fronts. It has been inspiring to see the effective and impressive manner in which the Society is fulfilling its representative responsibilities in addressing the considerable difficulties confronting the profession.

As you know, the Society has itself introduced a wide range of support measures for trainees and Members. Our gratitude and thanks must go to our Chief Executive David Lavery for his exemplary leadership, to his Senior Management Team for their commitment and readiness to go the extra mile, to the Council of the Law Society for acting speedily, resolutely and with one voice whenever called upon to do so, and to the Chairs and Members of the practitioner Committees whose dedication and expertise has been invaluable in helping to steer a course through very stormy waters. It is a privilege to be working with them all through what may well be the most challenging episode our profession, and indeed society at large, has ever encountered.

We are, of course, by no means out of the woods yet but there are some glimmers of encouragement on the horizon. As I write, there is talk of a gradual easing of the lockdown restrictions, which will bring its own challenges and opportunities. We will undoubtedly take with us some of the new ways of working which we have had to learn in recent weeks. We are unlikely to abandon our increased reliance on home working and video conferencing or the greater flexibility in working arrangements generally. The Society has already initiated a business recovery programme to examine the likely needs of the profession in the coming months and one important aspect of this is a survey of each firm. It is intended to identify the impact which the pandemic has had on your firm and how you see its future. It is entirely confidential and should not take long to complete since most of the information requested in it ought to be readily available. A very high response rate is important so that we can be confident that the information we obtain is as diverse and complete as possible. If you are the individual in your firm in whose inbox the survey lands, I would urge you to spare the modest amount of time and effort needed to complete it.

I hope you will find this special edition useful, interesting and enjoyable. It has been expertly assembled and edited by the Society's Head of Library & Information Services, Heather Semple, within a very tight timescale. Our thanks are due to her and to the other members of the ad-hoc editorial board. It contains a wide range of features, guidance and updates on numerous aspects of lockdown, including the vitally important topic of wellbeing. Please also remember the Society's charity partner, Action Mental Health, which has a wide range of services on offer should you wish to avail of them.

I hope that you, your family and colleagues are, and will all remain, safe and well.

Rowan White
President

NIALL MURPHY – A SURVIVOR’S STORY



Do you recall what happened in the lead up to your hospitalisation?

I had been invited to speak at the annual Brehon Law Society St Patrick’s Day dinner on 8 March. Our office takes an intern from the Society every summer and we have developed a strong relationship. The dinner recognises the achievements of Judges and lawyers in New York of Irish heritage so it was an honour to be invited.

I picked up the virus whilst in New York, which has since become the global epicentre. On return home, I was in court and the office on Friday 13th March and I became ill overnight and on Saturday 14th my temperature was over 40 degrees.

I knew I had to self isolate which I did until 25th March when I was admitted to Antrim Area Hospital.

Have the doctors been able to give any clarity about how critical your condition was during your stay in hospital?

On attendance at Antrim Area Hospital I was triaged for temperature, blood pressure and oxygen.

My O₂ levels were dangerously low and I was immediately intubated and placed in an induced coma.

The doctors were amazing. I was totally confident in their advice and basically placed my faith in their experience and expertise.

This has been a life changing experience for you what are your plans moving forward?

In the immediate next weeks and months, it’s simply a case of rest and recovery. I’ve still a very reduced lung capacity with residue of pneumonia still in my lungs.

I’ve also issues in my shoulders and thighs from remaining in a static position whilst in ICU which will take time.

Thereafter it’ll be trying to get back to where I was.

Were you aware of the level of support from your colleagues within the legal profession?

I wasn’t at the time as I was in ICU for 16 days and a recovery ward for a further 10 days.

Since my discharge I have been humbled and inspired by the support. My partners have been exceptional, especially whilst I was in a coma, with supportive texts and phone calls to my wife.

My emails have been switched off and they’ve stepped in to manage any emergencies that would have been in my case load.

Gerard McNamara proposed the concept of an “Email for Niall”. Optimistic by its very tone and purpose, it encouraged messages of support that I could read during my convalescence. I haven’t been able to read them all yet but I know each message will be a great source of comfort through my recovery and also when I reflect on what could have been.

I feel humbled by the messages received from our wider legal family, many from those who, whilst often my professional adversary, took the time to show they are never an enemy. I cherish the messages I received from the PPS, CSO and police.

I also received personal messages from our judiciary. The kind words contained therein reinforce my confidence in the collegiality interwoven through out our legal professions. We should all pause and reflect on how much each of our careers have been improved upon by that camaraderie. I know I shall.

If and when they make a film of this story which actor do you want to play you?

I asked the wives of Joe McVeigh and Ciaran Toner (best man at my wedding) and they both suggested Matt Damon.

I don’t see the resemblance myself. He’d need to go on a special diet to get up to the appropriate weight!

What advice can you give in respect of dealing with COVID-19?

From what I have seen the disease can affect different people in different ways. I’ve been told it is likely I was exposed to a heavy viral load, “supersaturated” was the phrase used, which means I was likely in contact with it several times.

The air conditioning on the plane probably magnified it on the way home.

I would recommend immediate contact with your GP and to follow the guidelines.

If breathing becomes laboured and frightening then go straight to the hospital. Do not even think twice. I was probably too late in attending hospital.

Supporting our Members

In the following articles we hope to give readers a sense of how the Society has been working to support our Members at a time of unprecedented challenge for our profession and, indeed, the wider community.

As soon as we became aware that a pandemic was likely, I established a Contingency Planning Group within the Society to direct our response. The Group continues to meet regularly, initially in Law Society House and now by videoconference. Our President, Rowan White, has participated in all of our meetings and has ensured that the Presidential Team and other Members of Council are kept fully informed.

A Special Meeting of Council, held by conference call on 25th March, approved a range of Contingency Measures designed to provide immediate support to our Members through a Refund Initiative and adjustments to our Regulation and CPD Programmes.

Through our Refund Initiative, approximately £1.75m has been returned to over 460 firms, providing much needed liquidity in the early days of the lockdown.

One issue on which we have placed particular emphasis has been to ensure that Members are made aware of the various business support initiatives that are now available. In the following articles you can learn more about this initiative and the other work we have been doing to support our Members.

David A Lavery CB
Chief Executive

LEGAL AID IN LOCKDOWN



Peter O'Brien,
Deputy
Chief
Executive

The Society has been working closely with the Legal Services Agency to ensure the continuing delivery of core services by the Agency during the pandemic. Some of the issues considered are set out below:

Payments

• Monthly

In a difficult working environment the Agency succeeded in issuing £7.64million of payments during March and £8.19 million during April. At the start of May it had approximately 4 weeks' bills which it is continuing to process.

• Interim Payments Scheme

The Society responded to the Department of Justice's consultation on an Interim Payment Scheme (IPS). It was the Society's view that supporting firms in the short term was vital to keeping them in operation for the long term.

Whilst welcoming the initiative, the Society had raised a number of concerns with regard to certain exemptions from the IPS and the requirement for a Certificate to be in existence for 3 months. The principal objection however was to the low level of the fees proposed.

We are pleased to report that the IPS is now up and running with interim fees for volume work payable at levels significantly in excess of what was originally proposed. If fully utilised the LSA had estimated that the original pay out from the Scheme would have been £7.5million but with the increase in fees that could now be in excess of £12million.

The IPS has a limited life of three months, subject to review. Accordingly applications should be submitted as soon as possible. Members report that payments are being authorised quickly. To ensure smooth processing, the LSA has also provided a list of reasons which have led to the rejection of a

number of requests. Details can be accessed at <https://www.justice-ni.gov.uk/news/important-update-notice-legal-aid-suppliers-covid-19-interim-payment-scheme>

If anyone has any issues to raise with regard to its operation, please email your comments to peter.obrien@lawsoc-ni.org

The Society has also urged the Department to review the qualifying requirements for the Interim Payment arrangements contained in DoJ Directions Numbers 1-4 of 2017 for cases involving exceptional payments.

• Outstanding Queries on LAMS

The Agency advise that as at 5 May 2020 there were 1767 queries on LAMS with a value of £2.24million awaiting replies and re-submission to the Agency. Whilst in some cases some work had been undertaken by practitioners to respond to these queries, this had not been fully completed.

When a query is raised, the text of the query is duplicated as a message in the practitioner's messages' tab in order to provide an alert to the existence of the query. However the message facility should not be used to reply. The response should be by way of resubmitted query (see paragraphs 213-219 of the Supplier Manual).

Completing Declarations

The Society had responded to Agency requests for comments on the content of LSA Circulars 03/20 and 04/20 which make provision for delivery of legal aid services at this time.

Given some practitioners' concerns with regard to the requirements for signing of Applicant's declarations, we understand that the Agency will shortly be issuing a further Circular.

In summary, it will confirm that for Representation Lower and Representation Higher cases the regime in Circular 03/20 will continue to apply with the addition that if a request for payment is being made before a signed declaration can be obtained, then the solicitor can make representations as to why it cannot be obtained and the Agency will deal with this on a case by case basis.

The Circular also clarifies the requirements in relation to Advice & Assistance applications generally and in particular with regard to payment.

Change of circumstances

There is a duty on assisted persons to notify the Agency of a change in their financial circumstances. This takes on particular significance in current circumstances. If an assisted person is paying contributions and their circumstances change, they should immediately seek a redetermination of their contributions. A Change of Circumstances request should be submitted on LAMS along with all relevant supporting documentation which evidences the change. As failure to pay contributions will lead to the suspension of a certificate, a prompt request for a redetermination might well avoid this situation.

Victims of Domestic Violence

Given the heightened risk of domestic abuse at this time, practitioners are reminded of the existence of the Domestic Violence Scheme which allows legal aid to be made available to Applicants for Non Molestation Orders (NMO) who ordinarily

would be financially outside the scope of legal aid, subject to a contribution from capital and/or income and the merits tests being met.

In all cases where an Applicant's disposable weekly income exceeds £234 or their capital exceeds £3000, a Financial Assessment form should be completed. This can be found on the Agency's website on the 'LAMS legal aid supporting documents' page and then uploaded as a supporting document to the application on LAMS.

When seeking legal aid for a NMO, it's essential that the application sets out clearly how the parties are associated persons for the purposes of the legislation. The Agency cannot infer from the use of the word "partner" that the parties live or lived together so this must be set out explicitly on the application. If this is not done, a query will be issued which may render any Representation Lower Emergency Notification void.

Client Complaints in lockdown

John Mackell, Head of Client Complaints

The Client Complaints Department has been working remotely since 20th March 2020. A dedicated email address complaints@lawsoc-ni.org has been established to receive and action correspondence. The email address is fully operational, and we are continuing to receive emailed queries from members of the public and solicitors. All new queries are being acknowledged, reviewed and responded to in the usual manner.

During this period of lockdown we have received over 250 separate pieces of correspondence and despatched over 300 separate written pieces of correspondence. Complainants are being advised that as we are working remotely there will unfortunately be a delay in completing our investigations. We are happy to answer queries from solicitors and complainants as well as providing updates and assistance in any ongoing or new cases.

The Complaints Department also has access to hard copy post although practitioners are asked to use the complaints email wherever possible.

Client Complaints are subject to external regulatory assessment by the Legal Services Oversight Commissioner (LSOC) and the Office of the Immigration Services Commissioner (OISC). Both Regulators have been updated on the current work arrangements within the Complaints Department.

The Client Complaints Committee will continue to meet periodically to consider Departmental business updates and to ensure appropriate work planning arrangements are maintained.



The Regulation (Professional Conduct) Department in lockdown



Catherine McKay,
Deputy Secretary,
Head of Professional
Conduct

Since the restrictions imposed by Covid-19, the Regulation Department has implemented contingency arrangements to help us carry out our regulatory functions during this difficult, challenging time. These include a new Programme of remote monitoring and supervision of firms by way of Desk-Based Review. To minimise unnecessary burdens on

Members and firms, our Programme has been designed to enable simultaneous consideration of Members' compliance with their financial and other obligations under the Society's own Regulations and separately, their obligations and duties under the Money Laundering Regulations.

Our officers have contacted a number of firms selected to take part in a Desk-Based Review, as part of which principals have been asked to complete a Desk-Based Review Questionnaire, and to produce financial and other key information to the Society. Our officers will of course discuss any concerns or queries arising out of the Desk-Based Review process, and will support firms in this new environment in which we find ourselves.

The annual reports from statutory reporting accountants are still required. However, one of our immediate responses to Covid-19 has been to extend by three months the period by which reports due in March and April should be delivered to the Society, and put in place new filing procedures by which these may be delivered.

The Department continues to receive and process third party and inter-professional complaints, although given the impact of Covid-19 on all aspects of business, additional time may be required to deal with these.

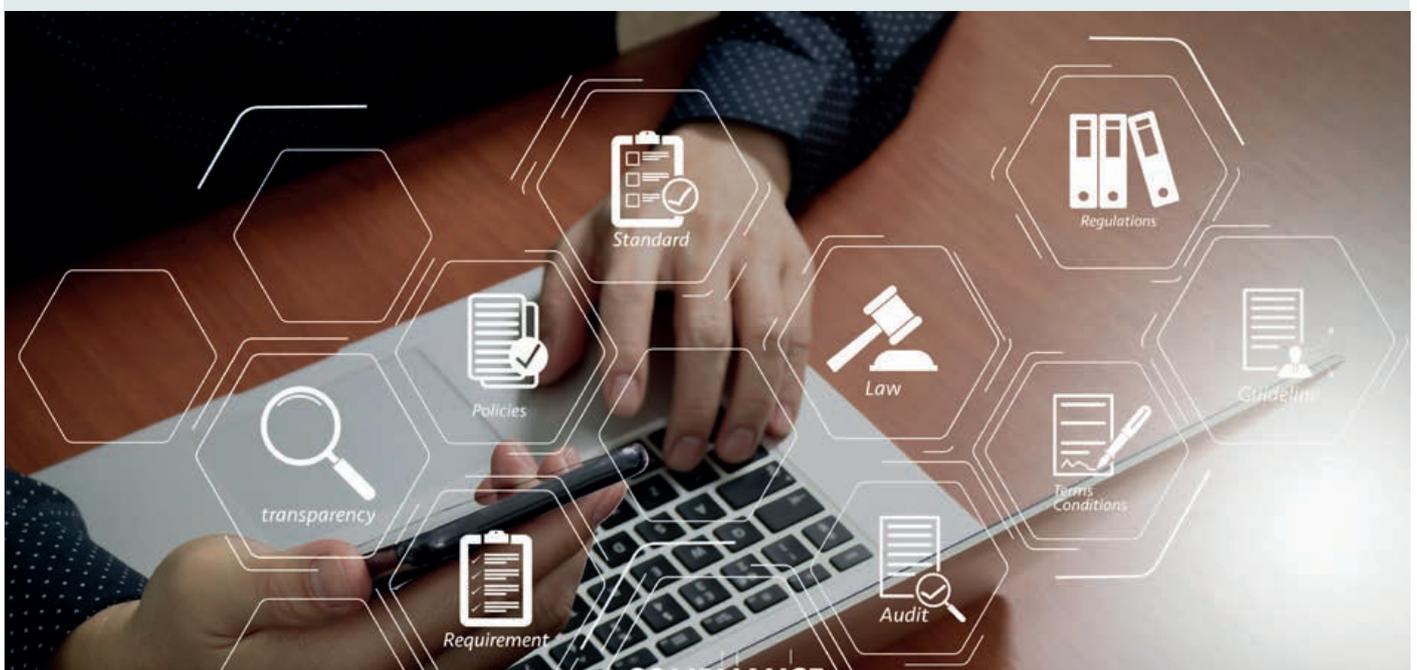
Some of the most common queries from Members about the implications of Covid-19

for their professional obligations have been summarised in a new Frequently Asked Questions section on our website. This will continue to be updated over time.

Unfortunately, the Society had to postpone our actual Continuing Professional Development events until later in the year. However, we are working with the CPD Department to ensure relevant material is available to Members through our website, to help Members complete their private study CPD requirements for this year.

As always, we work closely with our Communications Department which issues standalone alerts and other communications to Members on cybercrime and emerging areas of risk and compliance. Cybercrime remains an increasing, evolving risk for the profession, particularly given the move to home working and potential lapses around cyber security arrangements.

New Glossary Codes and Reporting Routes, issued by the National Crime Agency in respect of Suspicious Activity Reports have been uploaded to the website for Members' immediate use, where recently issued detailed Guidance and Support for firms in respect of AML/CTF compliance during Covid-19 is also found.



Education Department in lockdown



Anne Devlin,
Head of Education

Apprenticeship

Covid-19 has had a significant effect on all groups involved in training apprentices: Masters who are integral to the whole training scheme; Second Year trainees due to qualify in September 2020, currently completing their final 8 months training in the office; First Year Trainees who started their apprenticeship in September 2019 and who are currently in their year at the Institute of Professional Legal Studies and who are due to move to their offices in June 2020 for the summer; prospective trainees looking to start their apprenticeship training in September 2020 who received the results of the Admissions Test from the Institute and their conditional offers of places in the middle of March and who are looking to find Masters.

There are a number of significant challenges for all groups and for the Society arising out of the change in working arrangements, difficulties in delivering training, financial constraints and temporary furlough. The Solicitors Accounts Course & Exam for second year trainees scheduled for March and April has been postponed. For the First Years, face to face teaching at the Institute has stopped in accordance with QUB policy. The Institute had arrangements in place very promptly to deliver the teaching remotely by CANVAS, a Virtual Learning Environment which QUB is using. An alternative format has to be found for exams as the traditional examination hall arrangements would not fit with current public health requirements. The Institute is devising alternative arrangements.

In the Society we are looking at a number of options to provide additional support for Masters/ Trainees for the in-office portion of training through provision of remote training sessions and additional resources from the Law Society library.

The Solicitors Accounts Course is being redesigned for delivery in an online format, given current public health requirements.

Revised arrangements have been made regarding the solicitors' apprenticeship which is due to start in September 2020. These changes will affect Masters and prospective trainee solicitors. The closing date for registration of apprenticeship papers with the Society has been extended from Monday 24 August 2020 to Wednesday 30 September 2020. The start date of apprenticeship contracts for 2020 has also been changed from Monday 7 September 2020 to Monday 12 October 2020. The apprenticeship will run from 12 October 2020. It is hoped that the extension will allow additional time for firms to see how training can be facilitated and to complete a recruitment process thereby enabling trainees to take up a training place.

Education Department - CPD

The Council of the Society has agreed that the CPD requirements for CPD will be disapplied. (<https://www.lawsoc-ni.org/continuing-professional-development-2020>) Members are encouraged to complete CPD by private study. The Society has postponed CPD events until 31 August 2020. New Online Resources are now available for Members. These include:

- CPD Resources
- A Directory of Online Resources from Library and Information Services

CPD Resources are now available for Members to access via the Members' Section of the website. There is no charge for the resources. Additional resources will be added over the coming weeks, and online webinars are currently in development.

To access the materials, please sign in to the Members' Section of the Society website using your email address and password. The materials are available at <https://www.lawsoc-ni.org/members-services> click on Continuing Professional Development (CPD) 2020 for the individual resources or <https://www.lawsoc-ni.org/continuing-professional-development-2020>

If you had been interested in attending any of our postponed CPD events please note the following event resources are now available online:

- Ancillary Relief - Topics of interest to Practitioner - Master Sweeney – slides plus audio presentation
- Apartment Developments and Management Companies - Steven Cockcroft
- A 2020 Vision of Legal Practice Management in Northern Ireland - Cyber Security – Peter Hanna, Leaf, Customer Relationship Manager
- Injunctions in the Context of Social Media – Charlene Dempsey
- Risk Management 2020:
Letters of Engagement - Panel Solicitor
Anti-Money Laundering/Counter Terrorist Financing: 5th Money Laundering Directive - Joanne Cracknell, Willis Tower Watson

Resources for the following additional topics are also available:

- Aspects of Drafting Commercial Leases - Steven Cockcroft
- Capital Gains Tax - The New Regime - Suzanne O'Hara, Head of Moore (NI) LLP SDLT Advisory Service
- Commercial Property Service Charges - Steven Cockcroft
- Long Term Investment Leases - Steven Cockcroft
- Stamp Duty Land Tax: Hot Topics - Suzanne O'Hara, Head of Moore (NI) LLP SDLT Advisory Service

Resources will be added on an ongoing basis.

The Society would like to thank course speakers who have prepared materials and agreed to make them available to Members even though events may have been postponed. A number of speakers have also made additional material available for the benefit of our Members and we are very grateful for their assistance.

If you have any suggestions for topics or areas on which you would welcome online training or materials or if you have any queries regarding completion of CPD please email jennifer.ferguson@lawsoc-ni.org

Covid-19: Business Support and the Profession



Frank Geddis,
Head of Research and
Governance

While the health and wellbeing impact of the Covid-19 crisis has been apparent, the economic impact on firms providing key services and employment to the community cannot be understated. The sudden interruption of operations has created uncertainty, cashflow difficulties and significant constraints on the ability to provide legal services. This is not a situation which normal business forecasting could possibly have prepared for and the uncertainty for many in the legal sector and other professional services is palpable.

The pandemic has highlighted the interconnected nature of the economy, with disruption in one area creating a ripple effect in others. Weathering the current storm and preparing for recovery is occupying the minds of many in the profession and the Society. Promoting the continuing provision of excellent legal services and employment for the community through the pandemic and into the future is the objective.

In this regard, the Society has been keen to ensure members can access information on the various business support measures which have been made available by the UK Government and the Northern Ireland Executive. Awareness of the amount of support available has been important in helping members to at least partially mitigate the immense difficulties created by Covid-19. We are keen to hear feedback from members on their experiences of accessing business support.

The Society has also engaged with Government and stakeholders to press for assistance in a range of areas mentioned by colleagues elsewhere in this publication, including PII credit repayments, unlocking as much of the conveyancing process as possible and pressing for the establishment of an interim payments scheme for legal aid work. This is in addition to the support package put in place by the Society as set out by the Chief Executive, including a partial rebate on practising certificates and other practical measures. Our engagement recognises that business support includes both immediate need and ensuring as many blockages to the resumption of businesses are cleared as possible before the economy begins to recover.

The more intelligence we have from members about the challenges faced on a day to day basis the better informed those efforts will be. We have urged Government to ensure that appropriate funds continue to be made available to support businesses for the duration of the pandemic, including more relief on business rates. We pressed for improvements to existing schemes, including the Self-Employment Income Support Scheme and called for more accessible loan arrangements prior to the introduction of the 'Bounce Back' Loan Scheme.

The Northern Ireland Executive strategy sets out a phased, gradual withdrawal from the present lockdown. It will be important we get as much clarity at each stage as possible and guidance on the safe provision of services. It is also crucial that business support packages are not cut off abruptly, as there is likely to be a period in

which more limited and challenging working practices will continue. The Chancellor's recent announcement about the extension of the furlough scheme and the flexibility to use it on a part-time basis from the beginning of August is welcome. However, cost-sharing between businesses and government will need to be proportionate as businesses recover capacity. We await further details on how this will operate and will update members when this is available.

Our regular Information Notices on business support have sought to stay across updates on the schemes available against the context of a dynamic, fast changing picture. With guidance changing almost daily we have sought to provide consolidated guidance and highlight changes as they are brought in to allow members to track developments. Part of this is signposting to appropriate guidance in a context where government is itself refining schemes which were by necessity introduced in a hurried fashion. Members should note the launch of the Hardship Scheme for Micro-Businesses and further rates relief for July 2020 emerging this week (further information in grid below).

We hope these updates have been helpful for members making applications for support by bringing together a range of disparate information in one place. We will continue to monitor developments and provide information for firms to support their business planning in the weeks ahead. **A grid summarising some of the key initiatives is included on page 30, with a snapshot of important links for applications.** This should be read in conjunction with the latest government guidance and Information Notices to ensure members have the up to date position at that stage.

We know solicitors continue to work remotely and to provide services to clients under very challenging circumstances. The profession is rising to the challenge, but it must be recognised there are significant financial and human pressures on members during this pandemic. A number of members have been in contact and raised important issues, which the Society has been able to take forward in our planning and engagement.

If members wish to make any additional enquiries on business support, they should get in contact with myself or the Society team. We welcome the opportunity to learn more about impacts on the ground and to identify practical ways in which we can assist.

A message from Peter Madden, Chair, Criminal Law Committee



This is a short message to Members at a time of uncertainty and confusion. Hopefully the worst is over but optimism should not replace common sense.

We have to assess the current situation at a time when we are bombarded with mixed messages.

I have been meeting with Ann McMahon and the committee members two or three times a week during the pandemic. We have had meetings with the PPS and PSNI in relation to police interview protocols which at the moment involves telephone advice and some limited remote attendances at the interviews. We are attempting to get this expanded but at the moment it remains limited.

The PPS has been exploring ways of working remotely using the available technology and we have been giving our views on how this could work to benefit our Members. A programme of service of papers has been developed using secure email processes and delivery of papers where necessary. Members will have seen this changing on a daily basis.

We set up a remote video connection using Webex technology for solicitors to have contact with their clients in prisons. This was circulated to Members by Pearse McDermott by the very useful Solicitors Criminal Bar Association email address thread.

The court contact has been developed by the reorganisation of the courts and the use of *Sightlink* software. This is working slowly and more work needs done to get more courts covered, but it is proving a good alternative to attending court in person. I would ask solicitors using *Sightlink* to be aware that *everyone* waiting on the Court to start is able to hear the conversations exchanged between all those waiting on the Judge to commence the list. This includes non-legal representatives so please use the mute button!

I met the LCJ along with Peter O'Brien and the Chairs of some of the other Committees to discuss the prospect of continuing the work of the Courts, again remotely at present, but working towards full resumption. The primary concern is the health of our Members and their clients. We do not expect to get back to normal for some considerable time and we are learning how to cope with this every day. This will be a slow, careful process guided by the best medical advice available.

I have also attended Contingency Planning Meetings with the President, CEO and the chairs of the other committees to discuss the current situation and preparation for the gradual return to normalcy. This return will be dependent on the gradual reduction of the pandemic and on the safety of our Members and clients.

Last but not least, we had a primary input into the LSA interim payment scheme and hopefully this will help Members with cashflow.

We are much obliged to the Presidential team and the Law Society staff for their thoroughly professional approach at short notice, keeping everything going, in difficult times, much of it behind the scenes.

A message from Suzanne Rice, Senior Vice President, Chair, Family Law Committee



On 23 March 2020 when the Government published Guidance on "Staying at Home and Away from Others" the overnight changes this had on family life and how our Family Courts operate were unprecedented.

Although subsequent guidance sought to clarify how children separated from parents can still continue to move between home, and the Lord Chief Justice's Office's clarification about which Courts were open for urgent family cases, the reality on the ground for family solicitors continues to be a stressful and uncertain time for both us and our clients.

Now when a client asks "can you help me" we have to consider how that advice is safely given (by email, telephone call or video conferencing), how applications are safely prepared (by email, text or photographs) and most importantly how we can safely conduct our court cases (on papers, by video conferencing or none of the above).

From the outset of Covid-19 the Law Society's Family Law Committee have been working together – albeit remotely - each week, to identify key areas of concern and practical ways to help you.

We continue to watch closely developments with Covid-19 and focus on the wider implications for you in the weeks and months ahead.

We continue to meet regularly with Representatives from all areas of our Family Law Network from the Judiciary, Court Service and Family Bar Association to NIGALA, DLS and Legal Services Agency to press for court business to resume where possible and for quicker access to funding.

We also continue to work closely with other Law Society Committees to ensure your virtual office doors can remain open for business.

We are committed to looking at practical ways to help you with our new working lives. We have just published our Guidance Notes on urgent Non Molestation Applications and hope to follow with similar Guidance notes for Children's Order and Matrimonial cases.

It is hoped that, whatever clients are going through on a personal level, as family solicitors we can advise with a common sense approach together with a desire to keep the spread of Covid-19 to a minimum. We ask you all to remember to:

- Pick up your phone and speak directly to colleagues on issues
- Explore innovative ways with clients to maintain contact for children
- Try to progress cases where court business is not available yet

And remember..... together, we will all get through this.



A message from Brian Archer, Chair, Contentious Business Committee

“The Inns of Court were all shut up; nor were very many of the lawyers in the Temple, or Lincoln’s Inn, or Gray’s Inn, to be seen there. Everybody was at peace; there was no occasion for lawyers; besides, it being in the time of the vacation too, they were generally gone into the country.”

The above is an extract from Daniel Defoe’s account of one man’s experience of living in London in 1665 when bubonic plague struck the city and led to over 68,000 deaths. It is difficult to rationalise how the events surrounding the spread of Covid-19 and the imposition of the Lockdown measures on 23 March 2020 has affected everyone in our community, not least the legal profession. The Courts are closed to the public, the Bar Library is closed, defendants in custody appear via video technology from police stations and solicitors advocate for clients over virtual links to the court from their homes. This emergency is unprecedented in modern times and it is apparent that restrictions

imposed by the Government will be in place, albeit in a modified form, until next year at the earliest, when, by then, it is hoped science will deliver a much-needed vaccine.

However, it is anticipated that the Government will relax lockdown restrictions over the coming weeks and it should be possible with the imposition of social distancing measures and the expansion of technological solutions for solicitors and their staff to return to their offices should they wish to do so.

In respect of civil work in the High Court and County Courts, the Society has been in regular engagement with the Office of the Lord Chief Justice with a view to agreeing Guidance on the type of work which the Civil Courts will be able to accommodate in the “new normal” environment. The Queen’s Bench is undertaking an administrative review of cases and it is hoped not least by the profession that Case Management Reviews and cases where Directions are agreed may be listed by way of virtual hearings in June. The High Court has been able to deal with minor cases for approval where scarring is not an issue by way of a paper exercise in the absence of the minor and legal representative. The Chancery, Commercial and Judicial Review Courts have also conducted administrative reviews of cases to identify those cases where a review hearing is required.

In relation to the County Court, minor approvals can proceed in a manner similar to that in the High Court. The Court in other cases will issue decrees for settlement with solicitors lodging the 98A Court Rules Form. The County Court Judges will also be undertaking an administrative review of civil bills with parties being notified if it is determined that a review hearing should take place.

Unfortunately, it is not possible for the courts across all tiers to facilitate contested hearings involving witnesses and it is extremely unlikely that medical practitioners in the present circumstances will be available to provide medical legal reports or to attend court hearings as they are engaged in the frontline against the virus. This presents particular difficulties with regard to the progressing of clinical negligence actions.

It should also be noted that the Taxation Office remains open for the reception of new work as does the Probate Office, albeit staff levels are reduced and thus waiting times for the receipt of court orders is increased.

As Guidance in relation to the operation of Court Business is regularly updated by the Office of the Lord Chief Justice, I would urge colleagues to regularly check the Coronavirus Pandemic section of the Judiciary NI website – <https://judiciaryni.uk>

Further to Society representations, the Compensation Recovery Unit is once again issuing CRU certificates. Urgent requests will be dealt with by way of email applications within 28 days. Furthermore, the Legal Services Agency has launched an Interim Payment Scheme for all those cases having the benefit of a full certificate which is at least 3 months old. In these uncertain times this will obviously assist solicitors with the ever-increasing problem of ensuring cash flow.

I would urge you to refer to the Law Society’s E-Informers for any updates on any of these matters. I hope that that everyone stays safe and that we can return to our offices in the near future, whilst continuing to provide legal services to our clients in alternative and innovative ways.

The Northern Ireland Executive’s Approach to Decision-Making on lifting restrictions imposed in light of Covid-19 issued 12 May 2020.

<https://www.executiveoffice-ni.gov.uk/publications/coronavirus-executive-approach-decision-making>



Library services and legal information provision in lockdown



Heather Semple,
Head of Library
and
Information
Services

Library Services

The mission statement of the library service is;

“to anticipate and satisfy the information requirements of existing and potential users through the provision of a relevant, professional and specialised library and information service.”

So how does that work in lockdown? As the Covid-19 threat became more omnipresent during March it also became clear that the library was no longer going to be able to operate as a physical resource for Members in the short-to-medium term due to the pandemic.

However, we are pleased to report that the library enquiry service continues to operate remotely for our Members using the library@lawsoc-ni.org account. This has been operating since the Society closed its doors to Members towards the end of March. Library staff continue to be responsive to requests and can answer a large proportion of enquiries remotely. We have already negotiated vicarious access with legal information vendors to numerous legal databases and can continue to search and supply legal information digitally to Members. We have noticed that our precedent supply service has been heavily used during lockdown, and we would urge you to continue to use the library service as before. Library staff are happy to get back in touch where necessary to clarify your precise legal information requirements.

There will always be a number of enquiries which can only be resolved using the physical resources in the library, but this is also accommodated by me spending the odd day in the library knee-deep in books and during which I am, very possibly, at my happiest.

Free services

I am pleased to convey that, as part of the Law Society's business support initiatives for Members, it was agreed at the Council meeting in March that all library services are free of charge until further notice.

Law online

There may well be the increased temptation to go online to resolve your legal queries at this time. The caution that I persistently urge to those attending the Legal Research Courses run by the Library Service still stands. Be **extremely** cautious using free resources online where the provenance of the site is unknown. There is much information on the world wide web that is inaccurate, invalidated and unsubstantiated, and this is an industry which currently remains unregulated. To this end, the library has produced an Online Directory of Legal Resources which contains links to authoritative legal websites hosting reliable legal information locally, nationally and beyond. This can be accessed at <https://www.lawsoc-ni.org/directory-of-online-resources>

Proactive current awareness services

The library provides a monthly round-up of developments in local caselaw and legislation which is distributed on the last Monday of each month. It contains abstracts of cases from the High Court and Court of Appeal together with primary and secondary legislation, with explanatory notes attached.

Publications

The Law Society has an expanding publishing portfolio, and there are several books currently in the publication process. In addition, the Society produces practitioner-focussed journals twice a year;



- **Folio – the Northern Ireland Conveyancing and Property Journal**
- **Child and Family Law Update**
- **Journal of Elder Law and Capacity**

These journals are well-respected sources of local legal knowledge, containing material from eminent lawyers in these areas of law. They contain a mix of articles, caselaw and legal news from the relevant sectors.

We are also pleased to convey that these Journals will be placed on the Society's website free of charge for all of the editions produced in 2020. Hard copies will be produced in due course to Members who subscribe to these journals.

And finally

We look forward to welcoming all our users to the Library and Business Centre once it is deemed safe to do so. In the meantime, stay safe and please feel free to use the library service as normal.

Covid-19 Communications



Paul O'Connor, Head of Communications

Over the course of the last number of months the Society has continued to be responsive to the ever changing and developing Covid-19 situation by providing ongoing communications to its Members.

This has included the development and roll out of a number of communication support platforms including:

- **Covid-19 – General Ezine**

The Society has developed a dedicated e-zine communication which continues to be sent to all Members through their registered email address with the Society. The ezine contains important updates and information provided by the Society, Government, Judiciary and key stakeholders in response to the Covid-19 outbreak and the implications for access to justice, the rule of law and application of the law and impact on clients and firms in Northern Ireland.

- **Covid-19 - Business Support Ezine**

In response to the volume of business updates being provided by Government and others the Society has developed a separate Ezine communication which issues regularly and which centralise important Business support information updates for Members and their firms.

- **Covid-19 – Conveyancing Updaters**

The Society issues regular Conveyancing Updater Ezines in response to the impact of the current crisis on the commercial and residential property markets and conveyancing transactions. These

Ezines provide important information and updates from various sources including Land Registry, Lenders and Government in respect of a myriad of issues of importance to Members and their clients.

- **Development of dedicated sections on the Society website**

In order to centralise the volumes of information it is receiving, the Society has put in place a number of new sections on the public and Members section of its websites. These dedicated sections mirror the information and updates which are issued by the Society through its Ezines and co-ordinate the relevant information into accessible areas on www.lawsoc-ni.org. Members are encouraged to access <https://www.lawsoc-ni.org/covid-19-updates> and <https://www.lawsoc-ni.org/courts-business-covid-19> on a regular basis.

- **News sections and Social Media**

All timely, relevant and important information which is issued in the Society's ezines is mirrored on the Society's News sections as well as on its Twitter - @LawSociety_NI, Facebook and LinkedIn social media feeds.

Why are the Society's Covid-19 communications important?

The importance of the Society's communications during the ongoing Covid-19 crisis cannot be underscored enough.

The Law Society is the primary point of contact for key stakeholders who continue to provide important updates for Members.

If you are not receiving ezines or cannot access the Members section you should immediately contact Paul O'Connor, Head of Communications at paul.oconnor@lawsoc-ni.org.

The Society also recognises that maintaining a two-way communications process is very important moving forward. Whilst Law Society House remains temporarily closed, the work of the Society continues.

Members of the Senior Management Team are working remotely and will continue to be contactable through their existing individual email addresses.

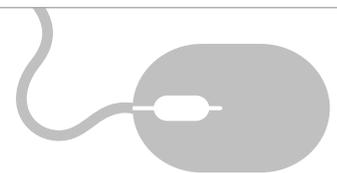
Additionally, staff at the Society can also be contacted through a number of generic email addresses.

These are as follows:

| | |
|---|--|
| Accounts | accounts@lawsoc-ni.org |
| Chief Executive | ChiefExecutivePA@lawsoc-ni.org |
| Communications | media@lawsoc-ni.org |
| Complaints | complaints@lawsoc-ni.org |
| Contentious/Criminal/Family | practice@lawsoc-ni.org |
| CPD | cpd@lawsoc-ni.org |
| Education | education@lawsoc-ni.org |
| Legal Aid | legalaids@lawsoc-ni.org |
| Library | library@lawsoc-ni.org |
| Non-Contentious Business | ncb@lawsoc-ni.org |
| Regulation | regulation@lawsoc-ni.org |
| Updating Contact Details | records@lawsoc-ni.org |
| For any other enquiry please email | enquiry@lawsoc-ni.org |

Please note that response times will be longer given that staff will be working remotely.

If you have any issues please do not hesitate to contact the Society using the email addresses indicated above.



Lawyers in Lockdown



Philip Armstrong, Solicitor

This year law practice owners are almost certainly faced with a larger existential threat than that which befell us just over a decade ago during the global financial crisis. This time around, however, I think we as a profession have adapted much faster, and provided that we can all get to the actual point where the stay at home period is relaxed and we can return to our offices in some form, I believe there is justification for guarded optimism for the future.

I am continuing to learn much about my business and industry as our voyage through the stay at home period proceeds without (at present) sight of dry land, but more so I have learnt a lot more about myself as a business owner, an employer, a conveyancer and yes, even as a person. Perhaps the most impactful lesson of all is what I've learnt about the importance of teamwork, not just in terms of our staff, but also in how the Law Society of Northern Ireland has responded, and most crucially of all, how my wife Mrs A (my bookkeeper, legal assistant and co-founder who is no less invested in our business than me notwithstanding her non-qualified status) and I have worked together to try to keep all of the plates spinning during this period.

What have I learnt since the enactment of the Health Protection (Coronavirus, Restrictions) Regulations (Northern Ireland) 2020 which came into force late one Saturday evening on the 28th March as I was starting to feel guilty about playing a game of football on the

Playstation4 in front of a full stadium of virtual non-socially distanced fans?

Lessons learnt can be broken down into the four roles I have mentioned above.

Business Owner

We, like all other firms, saw some form of lockdown coming our way, and we knew that the initial social distancing in our office would be shortly superseded by physically moving off site. For about a week and a half then, we started to source the additional IT hardware and software we would need to enable more than half of our staff to work remotely for an unknown period. The week and a half wasn't enough. Our IT set up is a curious mix of the outlandishly outdated (case management software) and the cutting edge bespoke (I designed our own conveyancing web app), therefore you can probably imagine what worked, and what didn't.

As solicitors in Northern Ireland – and especially in my case as a conveyancing solicitor – we work in an industry that is heavily paper based. Suggesting that 'the cloud' is the answer to all our problems is essentially giving us Arrival Point Z with us at Departure Point A, and not giving us the roadmap to get there. Working remotely at present, the very best that we can all probably muster (solicitors, statutory agencies, mortgage lenders, insurers etc.) is converting paper documents to pdf and allowing us to email them to each other. That's barely Point B on the roadmap. Rather than converting paper data (which many of us will print out again anyway when we receive it by email), the future of law in the cloud actually lies in digitalisation, where we are all creating data electronically, and we have common systems in place where we (or even better, AI) can manipulate and use that data to create even better, more streamlined and more client friendly experiences. Land Registry in England and Wales has tested a block chain conveyancing chain transaction over a year ago, and the concept is more than persuasive. As far as IT and working remotely are concerned, if we as a profession really want to embrace this culture (and I think we do and should), then we will have to engage with all of the other stakeholders (including Courts, Land Registry, insurers, surveyors *et al*) in our practice areas to **digitalise**, not just **digitise**, the data with which we are all working. **[Digitisation** is the process of converting information from a physical format into a digital one and **digitalisation** reimagines our products and services being delivered through

digital technology so that the very process of how we work and interact as lawyers (with clients and each other) is transformed (digital transformation)}. Covid-19 has shown this – and the fallacy of simple digitisation – very clearly.

As a business owner, working away from the office has meant two things. First, I still have periodically to visit the premises for insurance purposes, and it's no great fun to walk around a large empty building into which we've invested so much, and which should be full of staff. Secondly, it is easy to say "we're open for business", but it's sometimes hard to back that up when your front doors are closed. Our presence on social media and having a reasonable website where visitors can interact with us and our services have both been invaluable, and we'll be investing yet more in this as we continue to source work in the 'new normal' of social distancing.

Employer

As employer, working away from the office has meant two things. First, we have furloughed two thirds of our staff with whom we are still engaging in an attempt to ensure that they continue to feel part of the team, valued, and confident that they will be coming back to work at some point. If I'm honest, I needed to do more of that engagement, but often the urgent takes priority over the important. Must do better.

Secondly, staff working remotely is difficult for us and them. As far as remote working goes, personally, we're running our house like the sub office Mrs A and I used to run when we worked for another firm; we follow the same daily routine as in our physical office, including tea break (paid in the office, unpaid at home!) at 11am away from desk, an hour for lunch (NEVER take that in the office), and trying to finish around 5pm (again, doesn't happen in the office). Commute can be a problem, tripped over a slipper yesterday.

With regards to staff working remotely, I have two further concerns. First, it is a constant challenge for us and them to maintain the consistency not of service levels, but of compliance and best practice. Without access to all paper files, checklists and important hand written notes may be at risk of going unheeded (mitigated in part by infrequent and socially isolated –not just distanced!– trips to the office to collect/deliver said paper files), and that's obviously an issue in terms of administration, due diligence and potentially PII.

My second, and biggest, other concern is the more immediate issue of how my colleagues work on their own, away from the emotional support / banter/ guidance of the rest of our team. Yes, this can be offset by remote meetings (and we've had a couple of zingers on Zoom), but I fear for the well-being of my staff when they are being put under incredible pressure from clients, estate agents and/or mortgage advisers (a tag team from hell) to complete conveyances which cannot legally/practically/technically be completed: and they are subject to this harassment (near abuse) in the 'comfort' of their own home. In the office environment, there's a lot more support and the opportunity collectively to 'vent' and receive validation from colleagues that it is indeed not just "me", it's definitely "them".

I may have termed this paragraph "Employer", but really I should have said "Team Leader" and at the moment I am a leader without a team.

Conveyancer

As a conveyancer, I haven't so much learned lessons as had previous observations and beliefs vindicated.

In terms of the position of residential conveyancing in Northern Ireland at the present time, I simply point to the number of Conveyancing Updaters that the Society has issued over the past 3 or 4 weeks. They have been invaluable, yet barely scratch the surface of the amount of work that the Society and its Committees have carried out for the protection and benefit of the Members (and I am privileged to have been party to only a modicum of that effort). Having no recollection of any practical support from the Society during the 2008 crisis, I believe that the guidance and support from the Society during this global crisis has been an invaluable and crucial sustenance to all Members, not only conveyancers.

From a residential conveyancing point of view, public intervention by the Society to interpret, clarify and (at times) mitigate the ramifications of Land Registry's operational difficulties has been immeasurably important, bringing much needed support and vindication for Members across Northern Ireland who have at times been put in impossible situations by eager vendors and purchasers who have been recklessly misinformed by other stakeholders in the process.

The current crisis has served to highlight something that every residential conveyancer

knows well; our service is neither understood, nor valued, nor appreciated, and a client's expectations are invariably wildly unreasonable before we are even instructed to act. Alone it is impossibly difficult to turn the tide of unreasonable expectations (whether shaped deliberately or recklessly by others, or 'organically' by the client themselves), and I feel that the Society's guidance to Members, Conveyancing Updaters and media engagement has provided reassurance to us as individual practitioners that we're not alone as we sit taking heavy fire in the comfort of our own front rooms.

There is no doubt, however, that as solicitors, we must communicate better with our clients, especially at the outset of the case to manage expectations, but also that we must as a profession try to educate the public in terms of the importance of our role in the process; we are so much more than the tick box process as conveyancing seems now to be perceived and we must do better to ensure that legal advice is afforded the overriding importance and attention it requires. Moving house is a legal process.

Individual

You're probably expecting me to recount a journey of self-discovery and spiritual awakening over the past few months. Well that hasn't happened. The stay at home period has served to amplify my strengths and more so my myriad failings. The lack of day to day work has definitely given me the time and focus to plan for the future and how we deliver legal services going forward from this point – my over-riding interest. I've increased my exposure on social media, I've guested on podcasts and live webinars, and I've massively grown the visibility of 'my' brand as a residential conveyancing solicitor. I've had more Zoom meetings than I've met real people this year, and I've made great new contacts. We've identified the roadmap for how we're going to deliver conveyancing (and other) services in a post-Covid-19 age, and I'm really excited about how clients are going to experience legal services. I've also played my new piano for the past 135 days in a row, showing that deliberate actions can become good habits. LinkedIn is ambivalent to my performances, but then again, I never learned how to read music so my expectations are modest.

This period has also served to heighten those aspects of my make-up which are less constructive. I'm an impatient, introverted, anxious control freak who has had to contend

over the past 6 months with innumerable events which are entirely outside my and anyone's control. For better or worse, I have always tended to define my self-worth with the success or otherwise of my business, and I can tell you that locking up our empty office building at the end of March felt like a massive personal failure. For better or worse, I feel a personal responsibility for each and every member of my team, and I have probably put more pressure on myself as a result.

The rational side of me knows that business will come back (after all, there has been no property crash this time around); that people will want to move house after the stay-at-home period (either due to family expansion, family breakup, or wanting a garden for any future lockdown), and that the market is more in a state of torpidity than chaos. My team is keen to return – either from furlough or spare bedrooms, and I can't wait to get everyone together again (in a responsible socially distanced sort of way).

All of which brings me to my final thought on what I've learnt about myself (or had reinforced). The majority of firms in Northern Ireland are small firms, and a majority of those are family run firms. This crisis has put pressure on all families and households, but perhaps this is particularly the case for families where all financial eggs are in the one basket. There is no doubt in my mind that our survival has been supported by the Government's employee retention scheme, by the Law Society's partial reimbursement of practising certificate fees, by rates relief, and by our business bank trusting us once again to navigate responsibly through choppy waters. Most of all though, it's the people in our lives who will bring us through this crisis. At times of weakness, Mrs A has been there to support me and remind me of the positives that I have talked about and then forgotten, at times of over-confidence she has brought me back to reality, and at times of overwhelming stress she's shown me that as a team we are greater than the sum of our parts.

It's no different with the legal profession. I have observed significant levels of co-operation (bar a few outliers) in the conveyancing sphere over the past few months and there is no doubt that a profession united in the immediate goal of survival, the medium-term goal of returning to our offices, and the longer-term goal of adapting to the new normal that a post-Covid-19 world will bring, will come out of this a much stronger sector, with unity of purpose, with a clearer message of our role, and more in touch with a Law Society which has recently shown itself to be as representative as it has been regulatory.

Updated guidance on the execution of wills during the Covid-19 crisis



Andrew Kirkpatrick, Head of Non Contentious Business

The Society's Non Contentious Business Committee has published the following updated guidance in relation to execution of wills during the Covid-19 crisis. It is recognised that Members have seen an increase in the amount of wills that they are making as a result of this crisis. Caution should be exercised by Members when taking instructions, particularly from new clients, when it is likely that face to face meetings are not possible.

The starting point for execution of wills is that the law has not changed in terms of valid execution so Members do need to exercise caution. Members should also note that it is thought that the virus can live on paper for around 12 hours (or perhaps longer) so any documents need to be handled with care accordingly. Consideration should be given to Government guidelines on this matter and the protective steps that are recommended by Government.

Members are approaching the current problems in a number of ways and there are a range of methods open to you depending upon your firm's policy and also the situation of the particular client. This is not intended as a definitive list but is intended to assist Members in their thinking:

1. Members are still seeing clients face-to-face but with strict social distancing and personal protection measures being put in place. Government guidance on how to do this safely should be considered by solicitors before doing this. Under guidance issued by the Ministry of Justice, solicitors

who are having wills executed come within the definition of keyworkers.

2. Members are sending out wills for execution by the client without the solicitor being physically present for execution. The correspondence from the solicitor should have clear instructions on how to have the will validly executed and who can or cannot be a witness. Some solicitors are then using Facetime, Zoom or Skype or other similar platforms to talk the client through the execution process while the solicitor watches to ensure, as best as they can in the circumstances, that the will has been executed validly. Members must be mindful of undue influence and also of any beneficiary (or spouse or civil partner of a beneficiary) witnessing given that the client is likely to only be seeing close family relatives at this time.

3. Members are also becoming creative in some ways such as witnessing through a window. The Society cannot give any guarantees on whether this method would be effective but there is old case law *Casson v Dade*¹ in which it was suggested that it may be sufficient to have two witnesses who are in line of sight but not in the same room. Members may also wish to consider the recent case of *Man Ching Yuen v Landy Chet Kin Wong (2020 2016/1089)* in the First Tier Property Tribunal. In that case, a transfer deed that was signed in Hong Kong and witnessed by one proprietor's solicitor in London via Skype, was held not to have been validly executed. This is not a binding decision and relates to execution of a deed, not a will but should be considered by Members.



4. Members may wish to consider directed signatures as this has helped a number of colleagues with getting wills signed in atypical ways.
5. One other option may be a statutory will application if, for example, you can get instructions but having the will signed becomes absolutely impossible. This may become more difficult if there is a reduction in the operation of the Courts.
6. Members may also wish to consider advising clients who have executed wills in some of the ways set out above to come back after the current crisis has passed to have the will executed in a more traditional manner. This may allay concerns about undue influence, capacity or execution.

It is hoped that the Courts would take a pragmatic view on the validity of execution in the current circumstances however Members of the Society cannot rely on this and no assurances can be given in that regard at this time. Members should endeavour to keep full records of the circumstances of the execution of the will so that representations can be made to a Court in due course if required. If Members can provide as much proof as possible then it would be hoped that the Court would take a sympathetic view given the current emergency situation.

Members must also be aware of the difficulties of any death bed will for a client who has Covid-19 as there are much tighter restrictions on visiting in hospitals than in normal times. Similar issues apply for residents of care homes which are now fully locked down to visitors and there will be issues around obtaining instructions, assessing capacity and having the will executed properly.

Members are also reminded of the requirement to keep good notes and records generally in relation to the instructions and the execution of a will. Members may also find it useful to consider whether they would be able to fully reply to a *Larke v Nugus* letter if required. Members can access the *Larke v Nugus* guidance and precedent letter through the link below:

<https://www.lawsoc-ni.org/larke-v-nugus>

¹ 1781 21 ER 399

A Commonwealth Perspective on The Legal Profession and the Lockdown



Brian Speers,
President, Commonwealth
Lawyers Association

One of the most noticeable things about the Covid-19 pandemic is how similar has been the response of countries around the Commonwealth. There is a familiar vocabulary of “lockdown” and “social distancing” and a similar experience of businesses stopping suddenly.

While geographically, and in many other ways, there are differences between the different jurisdictions in the Commonwealth, our common humanity has united us as we deal with a global health emergency.

As President of the Commonwealth Lawyers Association I have now taken part in online discussions with colleagues in the Africa region and in the Asia region. I have engaged with colleagues from Namibia to Bangladesh and from Pakistan to Kenya. Ghana in West Africa and Rwanda in central Africa have shared experiences as have colleagues in Sri Lanka and Hong Kong.

It is clear that lawyers have experienced an economically catastrophic downturn in business.

Not all Commonwealth jurisdictions have had the State step in to offer furlough arrangements to employees. A very high percentages of those with whom I have interacted fear for the viability of continuing to practice as a lawyer going forward.

While this economic impact is significant, what is hugely impressive is how committed lawyers across the Commonwealth are to the Rule of Law. Colleagues have observed that despite the pandemic there should be no compromise to professional standards, to professional independence and to upholding the Rule of Law.

Concerns have been expressed about the impact of the lockdown restrictions on the freedom to practice religion. There are concerns about the taking of emergency powers which then become embedded in the system even once the health emergency has passed.

Belonging to an international community where these experiences can be shared and people can learn from each other has been both humbling and a privilege.

When stepping outside of the legal issues one is struck by how some jurisdictions not only are locked down, but are subject to very strict curfews.

The quality and cramped nature of housing and the unavailability of clean water and food has led to people being tempted to break lockdown and curfews with a resulting heavy-handed approach from authorities.

All colleagues report a prioritisation of cases in Court. Urgent criminal matters will be dealt with as best as circumstances permit. As will urgent child protection cases. Civil cases are largely shelved for the meantime.

A colleague in Bangladesh reported how the Courts were poorly prepared in terms of technology to facilitate E-Hearings or applications. Whereas in other jurisdictions such as Singapore and Malaysia there appears to be highly developed use of Court technology.

A colleague in Kenya reported how their Supreme Court seemed to be functioning well but that was likely because the arguments they heard were on the papers. At lower Courts, particularly in rural locations, matters were rather different with people being unable to travel to Court, lawyers being unable to consult with clients because of the lockdown and many clients not having the necessary technology to be able to provide instructions. Delays and a back log of cases seem inevitable.

There are concerns that statutory limitation periods if rigidly applied could prevent cases being filed in time. Some jurisdictions like Sri Lanka are considering legislation which might have to have a retrospective applicability.

What has been revelatory has been the ability to upscale use of IT and technology. Just four or five weeks ago very few Zoom or Skype calls had been undertaken and now they are a matter of daily everyday occurrence.

This enables contact and provides some face to face communication which is reassuring.

An enduring legacy of the pandemic is likely to be that remote voice and visual telephone communications rather than face to face meetings in many cases are entirely satisfactory.

As we struggle in our jurisdiction it has been humbling, reassuring and inspiring to learn of the circumstances in these other jurisdictions and to share experiences.

LawCare

Supporting the Legal Community

Wellbeing during lockdown

Included in this ezine is a series of articles provided by Elizabeth Rimmer, CEO of LawCare, offering advice and tips of both a personal and professional nature during lockdown. LawCare offers a free, confidential emotional support service to all legal professionals, their staff and families.

Why we need kindness in the law

The last few weeks have been difficult, to say the least, but it has also brought out the best in us. Law Society President Rowan White wrote to Members before Easter to reiterate the importance of mutual consideration, kindness and concerns as an essential quality in these difficult times. We have no doubt that many lawyers will rise to meet that message and support their colleagues and themselves. Children's drawings of rainbows in windows, thousands of people signing up to be GoodSAM NHS volunteers, neighbours offering to do each other's shopping, Captain Tom and his unbelievable fundraising efforts and the weekly #clapforcarers have shown just how much kindness matters in a crisis.

Our positive connections and interactions with people are one of the greatest predictors of our happiness. Our nervous systems respond positively to kindness, helping other people and connecting with them signals feelings of pleasure, safety and warmth to our brain. Humans have evolved to behave in ways that promote the survival of our species and kindness and looking out for others has been crucial. From around 18 months old young children have a natural instinct to be kind, to pick something up someone has dropped or give hugs or kisses to someone who looks sad, for example.

Kindness may not always be seen as a priority in the legal workplace, especially as it contrasts with the cut and thrust and competitive nature of the law. In the past few weeks you may have experienced some kindness from your colleagues or you may not. At LawCare, we have seen two sides of the coin. On the one hand we have heard from legal professionals who are concerned at having to work in the office environment, and others who have had little to no communication or reassurance from their managers. On the other hand, some of us have had the opportunity to see people we work with in a different light, on zoom calls, in more casual clothes with photos of their kids, pets

or books on a shelf behind them, they may have seemed more approachable, more human, and you may have felt closer to them. Colleagues may have been more understanding about deadlines or times of meetings, asked you how you are coping or spoken about their own situation at home more. Many organisations have made sure to check on members of staff, or offer virtual opportunities for connection and chat outside of work calls.

We know that many lawyers are not happy – all the research and data produced over the last few years from a range of sources suggests that stress and anxiety are common. Could more kindness in the legal profession be the answer to tackling some of these issues and creating happier workplaces? A study from the journal *Emotion* showed that kindness in the workplace can create a ripple effect throughout the whole organisation resulting in a happier workforce, with employees experiencing greater job satisfaction, autonomy and feeling more competent at their jobs.

So what does being kind in the workplace look like and how can we practice it?

Respect

Musician Jon Batiste said "You're never too important to be nice to people." It doesn't matter how busy or stressed you are, you should always treat colleagues and juniors with respect, listening, saying please and thank you, sometimes picking up the phone rather than sending emails. Sadly, we know at LawCare this just doesn't happen in some legal workplaces – we often hear from tearful or anxious lawyers who have been shouted at, ignored, undermined or talked down to. Being respectful in the workplace benefits everyone, and the research supports this. Recent Harvard Business Review research¹ found that respect was the most important quality in a leader and other research has shown that the most likable leaders who expressed warmth were also the most effective leaders. Treating people well means they will be more likely to want to work for you and do well for you – and civility is contagious, so if leaders model this behaviour it will filter down to the rest of the organisation resulting in a happier, healthier, more motivated workforce and better retention rates.

Compassion

Compassion is a huge part of kindness. Learn how to step into someone else's shoes for a moment and understand that everyone is dealing with a wide variety of issues at work and at home that you might know nothing about. These are challenging times so ask people how they are feeling, how they are coping with their workload, what you can do to help. When something goes wrong try to find out why in a sensitive way rather than blaming, and forgive people for their mistakes. We all make them!

Praise and gratitude

Lawyers are often very competitive, detail-focused, and legal work is often about winning or losing. We frequently forget to celebrate our successes and instead focus on what went wrong, even if in many cases it's very minor. At LawCare we often get calls from legal professionals who are still thinking about a mistake they made years ago. To try and address this we all need to make sure we are giving credit where credit is due, saying 'well done' or 'thank you' beyond just giving a bonus. This will help people feel truly valued and help prevent workplace-related anxiety building which can occur when staff are not getting positive feedback from their colleagues or managers.

Help others

One of the greatest ways to demonstrate kindness is by helping others. In the workplace, that might look like volunteering to help with a project to someone that's overwhelmed, offering to show someone how to do something technical, suggesting a five minute brainstorm to a colleague who seems to be at a dead end, or sometimes it might take the form of mentoring or reaching out to build a connection with someone. We have seen the significant and positive impact of lawyers acting as mentors and the best of the legal profession. We all have unique skills that can help others, and it also benefits us to help other people, making us feel valued and giving us a sense of purpose.

Making kindness a priority in the workplace will make the law a happier and healthier place to work. LawCare is currently working with the Law Society of Northern Ireland to consider how best to promote awareness of wellbeing within the legal sector in Northern Ireland. We have included some further thoughts on the challenges of conducting legal work in the crisis and looking after one's wellbeing in the process. This work is important both for intrinsic moral reasons and for the business impact more productive, happy lawyers provide. Kindness is contagious, frequent acts of kindness at every level in the workplace will lead to more engaged and connected staff. Try being friendly, generous or considerate today, kindness matters more now than ever.

If you need to talk call our free, independent and confidential helpline on 0800 279 6888, email support@lawcare.org.uk or visit www.lawcare.org.uk. You can check out our new wellbeing hub at www.lawcare.org.uk/wellbeing

Also see pages 29 and 32.

¹ <https://hbr.org/2014/06/the-power-of-meeting-your-employees-needs>

Lawyers in Lockdown

Catherine Sides, DMC Solicitors



At the beginning of lockdown, like all firms, our first priority was ensuring that our clients knew that we remained open for business. We used our website and social media platforms to ensure that all of our clients were reassured that we remained contactable. All of our solicitors are working remotely and interacting with our clients via telephone and email and, if needs be, a Zoom/video meeting can be arranged.

We, like so many others, continue to provide advice and assistance to all our clients. We are now operating from five different locations but all remain connected via technology.

We have learnt over recent weeks that whilst "our normal" has changed beyond recognition, many clients' "normal" remains. Many still struggle with balancing their children's contact dealing with the emotional and financial effects of the breakdown of their relationships.

The Courts are only dealing with urgent business – divorce and ancillary relief do not fall into this category and as a result a huge part of our job has been managing client expectations. To reclassify a divorce as non-urgent seems ridiculous when so many are desperate for a conclusion to the issue. We have had to reassure our clients that work has not ceased on their case.

We continue to chase matters, deal with discovery and correspond and discuss issues with the solicitor acting for their estranged partner.

We have had sometimes daily interaction with our "contact" clients. Whilst contact issues are not deemed urgent by the court, they are of course most urgent for concerned parents. Calls have flooded in from non-resident parents not having their allotted contact and in equal numbers from resident parents worried about sending children for contact in these dangerous times. Clients do appear, however, to be heeding advice. Even in many cases where it is simply not possible for the parties to communicate directly with each other, we continue to communicate on their behalf through open dialogue with our colleagues.

For those families where social services are involved this is a particularly worrying time. Parents are only able to see their children by indirect means. They remain concerned about how their children are coping with the loss of contact with their birth family. The Trust remains very much open for business. Individual social workers and their legal teams have been available if necessary. Those emergency applications continue and Emergency Protection Orders, Applications via *Sightlink*, are a regular occurrence across the Province. We have been attending Looked After Children Reviews, Pre-Proceedings

meetings and Case Conferences using Zoom and other methods, when only a very short eight weeks ago many of us had not even heard of the App.

Domestic violence remains a very concerning issue for us as an office. We have reached out via our social media platforms to ensure that everyone is aware that all solicitor firms remain open for business. We are just at the other end of the phone/email if an urgent application to the court is required. The Law Society's Family Committee has been instrumental in ensuring that the format for applying to the Court has been streamlined and can now be delivered in a cohesive way across Northern Ireland. Guidance has been drafted and approved by the Judiciary, which allows solicitors to apply for orders whilst ensuring the protection of everyone's health and safety.

We are conscious that some potential new clients may be delaying contacting a solicitor about matters until lockdown is over. We anticipate that we will have many families emerging from lockdown seeking advice about separation and divorce. We anticipate a high demand for family law specialists over the next many months, and have been using this time to prepare for that so as to ensure the best service for them.

No one could have ever anticipated we would find ourselves locked in our homes, out of our businesses and away from our loved ones. This new "normal" has been very uncomfortable and challenging, with all of us adapting and changing to fulfil the needs of our clients and business. We can all only but hope that this time away from our desks has helped us all readjust and then to return to what will most definitely be a different world.

Elaine Larmour, the Law Society Finance Officer and a member of North Down and Ards Scrubs for NHS Facebook Group, has been busy making scrubs for local Hospitals and Trusts. The Group has provided over 1,500 sets of scrubs and Elaine herself has also made over 30 laundry bags and masks. Keep up the good work Elaine!





What about Brexit? The Time is nigh as negotiations resume

Helena Raulus, Joint Brussels Office

Like all national Governments, the European Commission has been severely impacted by the Covid-19 pandemic. This has included progress on the negotiations with the UK for the future relationship, with the last major milestone being the publication of the EU's draft legal text for the Free Trade Agreement (FTA), published on the 18th March. Key aspects of this negotiation from a legal services standpoint include finding workable arrangements for the recognition and enforcement of judgments and negotiating access to the legal services market throughout the EU. The latter aspect covers both provisions for short-term business visitors across the EU and access to wider rights for legal practice. The outcome will in part depend on the extent to which individual Member States exercise their right to insert reservations (preserving certain restrictions on access to their individual markets) within any agreement.

This should be distinguished from the important work going on bilaterally between jurisdictions, including the Law Society of Northern Ireland entering into a Memorandum of Understanding with the Law Society of Ireland on continuity of practice on the island of Ireland. Nothing in any UK/EU agreement or in the terms of their future relationship should have any bearing on the ability of national regulators to determine access to their home profession. In the NI/Ireland context, the mutual commitment of both sides to continuity and the historical relationship between the jurisdictions underpins this initiative.

Covid-19 leads to calls for an extension of the transitional period

With several of the negotiators from the UK-EU Taskforce, including Michel Barnier, forced to self-isolate due to Covid-19, the FTA negotiations got off to a bumpy start. While informal discussions continued, the formal face-to-face rounds were inevitably postponed for most of March and April.

It was agreed that formal negotiations would restart in the week commencing the 20th April, via video conference, and there would be two further rounds of negotiations, ahead of the planned stocktaking exercise in June.

The delays do though mean that the already ambitious timetable, by which to agree and ratify

an FTA in time for the 1st January 2021, looks even tighter.

This limited availability to negotiate has led to various calls for an extension to the transitional period, including by MEPs from the European Parliament and the head of the IMF Kristalina Georgieva, who has called for both sides not to add to the current economic uncertainty.

The UK Government remains confident, though, that further progress can be made, with UK Chief Brexit negotiator David Frost informing the EU negotiating team that "the UK does not intend to ask for an extension to the transition period, which ends on December 31 this year." Under the terms of the Withdrawal Agreement, the UK-EU Joint Committee has until 1 July to agree any extension and it remains to be seen if the current timetable will endure.

Some comments on the EU text

The publication of the [draft legal text](#) by the European Commission on the 18th March was an important milestone, setting out the EU's opening offer. This builds on the EU Mandate for the FTA negotiations, adopted on the 25th February, and the Political Declaration of October 2019.

While the text does not include national reservations, due to be set out within the annexes at a later date, it does contain a number of key chapters and provisions relating to legal services and judicial cooperation. A version of the text was widely leaked in advance, but the official version contains some important differences.

At a broader level, the proposals support the argument that it is now the EU which is pushing for 'CETA-plus' (Canada-EU Trade Agreement) economic arrangements with some provisions going beyond a typical free trade agreement. Examples include their asks on Level Playing Field and State Aid, where it is proposed the European Commission is granted legal standing before UK courts and tribunals to seek enforcement by UK authorities.

With the UK Government currently declining requests to publish its draft legal text, it is difficult to compare specific proposals, but it is widely expected that the UK negotiating team will push back on these types of arrangements, which depart clearly from precedent in terms of existing FTAs.

For legal services in particular, the draft text contains expected provisions on market access for Services and it will be critical to see how the

general provisions are impacted by national reservations. The provisions on entry and temporary stay for business purposes are largely similar to the EU-Japan FTA, albeit it with extra caveats regarding Most Favoured Nation (MFN-rules whereby countries or blocs commit to open their market to existing partners to the same extent they do in subsequent agreements). On Mutual Recognition of Professional Qualifications, the Commission is due to be granted a more influential role than was the case with CETA, in order to coordinate and finalise any Mutual Recognition Agreements implemented under the Treaty framework.

Encouragingly, the provisions on criminal judicial cooperation would ensure coordination between authorities, including Europol and Eurojust, but the UK would have to rely on the Mutual Assistance Convention in order to obtain information which can be relied upon in court proceedings. The security partnership is also contingent on the UK's continuing adherence to the ECHR, reflecting EU concerns on the need for shared values on this issue.

It is possible that Covid-19 may also impact the progress of other decisions which are critical for the future relationship, for example the UK's accession to the Lugano Convention on civil judicial cooperation and the adequacy decision on data. Initially it was planned that many of the equivalence assessments would be completed by July but this now looks unlikely. On Lugano, this is crucial, as it appears to be the only credible route to a workable solution on recognition and enforcement of judgments under current negotiating positions.

The UK Law Societies are continuing to explore how the provisions can best benefit legal services and facilitate judicial co-operation. We are engaging with a range of the key institutions with an influence on negotiations on behalf of practitioners in Northern Ireland, England and Wales and Scotland.

The Law Society of Northern Ireland will be issuing a further Brexit Information Pack later this year to Members in which it is hoped to include the finalised MOU with the Law Society of Ireland and key updates to Members. The UK Law Societies' websites also include a range of Brexit information, including the joint Law Societies' and UK delegation position papers and various articles written on the topic.

MEDIATION IN AND AFTER LOCKDOWN



Brian H Speers,
Chair, Law Society
Mediation Service and
Ann McMahon,
Head of Practice and Policy

We all agree that we are in unprecedented times. As a consequence, the justice system as we know it will not be in a position to operate in its usual way for quite some time. When the current restrictions are eased or removed, Courts could be overwhelmed by cases which had been “parked” during the pandemic, as well as litigation arising as a result of the chaos and constraints of Covid-19.

The prospect of lengthy delays in civil matters will focus the minds of practitioners to explore different ways of doing business and meeting the needs clients. Disputes do not have to be put on hold – there are ways to resolve them. The time is right to consider mediation in court-based disputes and other contentious situations. Research shows that recourse to mediation has a high success rate. It is faster than going to court, more flexible in meeting the needs of the clients and, importantly, can result in preserving the business relationships between the parties for the future.

Mediation can be attempted at any stage of a dispute and the Courts are likely to permit or direct adjournments if there is a chance that mediation could resolve the dispute. If the mediation fails, the parties are free to proceed with litigation without prejudice to their legal rights. And where a legal Aid Certificate has been granted that Certificate can cover approved costs of an agreed mediation.

Types of disputes

Mediation is suitable for a huge variety of disputes. Solicitors are well suited to dealing

with family dynamics in disputed inheritances or land ownership. Divorce separation agreements can be resolved in mediation and as business owners, solicitors are familiar with the multitude of issues affecting business from interpersonal relations to cash flow, to unequal contributions and exit strategies. There is likely to be an opportunity for mediation to assist in resolving some clinical negligence cases. This will chime with the national mood of support for the NHS by encouraging a swifter and more effective means of resolving NHS claims and thereby helping to reduce delay and the overall cost.

LSMS

The Society launched the Law Society Mediation Services (‘LSMS’) in the autumn of 2019. LSMS mediators may only be solicitors and must have completed a course of training which includes specific core elements of dispute resolution. All LSMS mediators are insured, agree to a LSMS Code of Conduct and to the European Code of Conduct for Mediators. Members of LSMS may display their profiles on the Law Society’s web site, clearly setting out their qualifications, training and areas of practice or experience. LSMS mediators are particularly well placed to assist parties who are willing to attempt to resolve their dispute through mediation during these difficult times when commercial, professional and personal relationships are strained. Mediation is affordable, accessible, speedy, fair and proportionate. Mediation is also an ideal way

to progress matters to resolution. Clients will be most appreciative if a resolution can be achieved in this manner.

Technology in mediation and a new era

As the lockdown continues, we are all rapidly adjusting. Our use of technology has increased and expanded. How did we ever do without Zoom, Skype or Teams? In the current pandemic the mediator will be able to facilitate a mediation session by video conferencing. A new era, a new set of challenges and new technologies can result in new opportunities. Now is the opportunity to bring online mediation to your attention.

And finally

When the administration of justice returns to full operation, it is inevitable that clients will wish to have their business adjudicated upon at the earliest opportunity. Unfortunately, everyone will have the same desire, resulting in considerable delay for all. Do not forget to offer mediation to your clients. The benefits will be immeasurable both to clients and solicitors. Mediation could assist in bringing about a satisfactory resolution to your case, enabling final fees to be charged, clients to be satisfied and cases moved on.

Why not consider mediation using an LSMS mediator?

Should you wish an LSMS mediator to assist in the resolution of the legal disputes of your clients please contact ann.mcmahon@lawsoc-ni.org





Lawyers in Lockdown

Janice Spence, DMC Solicitors Working From Home (WFH) - Extracts of a diary of the first 3 weeks in lockdown

WFH day 1

So WFH?? Well it isn't straightforward is it?

For every one action in work to do something it takes 3 at home! I not only took calls, answered emails and drafted documents but in the middle of that I corrected an English essay, walked a dog, got the post, did an emoji quiz and read my book. Self-discipline for work is something I have never worried about. I am diligent, focused and hardworking. After today's initial challenge of WFH I maybe need a rethink.

#WFH

1. Apparently, I am THE loudest typist ever.
2. I talk to myself (I know I do; it's how I do my best work).
3. I talk far too much flimflam on the phone (it's called being social).
4. I am apparently technically inept.

It goes without saying that Mr and Mrs Spence may yet be a divorcee statistic after the 12-week period. Tune in tomorrow for all of the challenges I face working with my beloved at home. And remember- keep smiling even if it is through gritted teeth.

#officepolitics

2. The receptionist - I answered all my own calls
3. The secretary - I typed my own letters
4. The apprentice - I copied a brief
5. The bookkeeper - I did a few transfers
6. The office manager - I ordered ink for the printer
7. The cleaner - I tidied the office and washed the coffee cups.
8. And most important of all HR manager- I had to deal with a disgruntled member of staff/family.

#asolicitorsworkisneverdone

WFH day 2

I'll start this by saying: I love my husband very much. Not only is he lucky to have me as a wife but we are also business partners. We are currently sharing an office - our "good room" (which in reality is where the kids watch Netflix and usually hang out.)

He is WFH, as well. As you can imagine there are a few challenges to this:

WFH day 3

Well Mr Spence was late to work this morning. He told me it was traffic on the stairs but there were no reports on Radio Ulster about it! He came to work with a smile and a novel way of combatting what he calls the keyboard hammering. He wore his EarPods all day. I reckon though he had them on silent so that he could listen to me talk more film flim whilst dispensing solid sound and useful legal advice.

First week done and still friends so maybe we will be ok? Maybe

#familybusiness

WFH day 5

Everyone is talking about the slow down, the lack of calls, lack of new business, and no Court work. The crashing realisation hit me last night. If this becomes a reality am I actually now going to have to do all of the things I have said I would do over the past say 10 years, if I ever got the chance? Is that day finally going to arrive?

You know that day - the one where you have your desk cleared, your dictation done and a clear diary. So, you are free to:

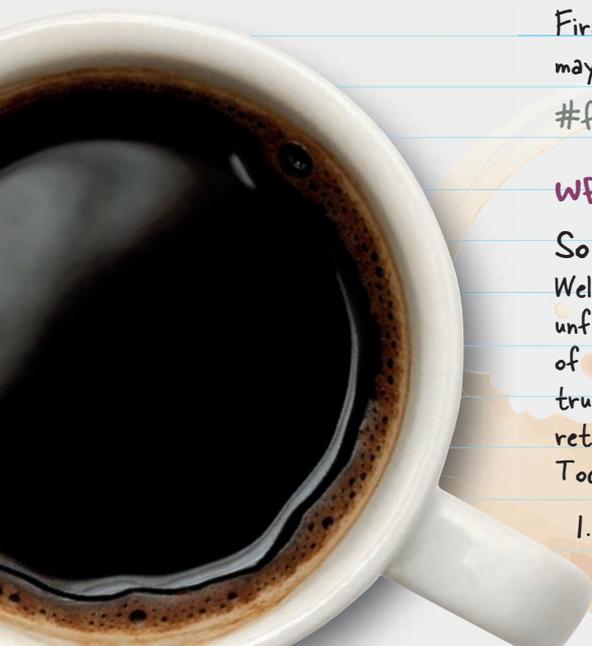
1. Chase red bills
2. Chase legal aid
3. Tidy your files. Put those letters and emails in the actual treasury tags in the file.
4. Separate out your pleadings, your discovery and your post on each and every file.
5. Tidy your desk
6. Tidy your room
7. Clear out the dead files room?

WFH day 4

So what did I learn today?

Well I know lots of people have unfortunately lost their jobs because of the pandemic and for that I am truly sorry. Me? I appear to have retained mine and gained several. Today I was:

1. The office junior - I did the post



I thought I would never really ever have to get to this point. I trusted in the tried and tested reality that if you weren't busy then you must be either retiring and working out your consultancy or leaving to start your job on the Bench.

There is always something to do... now where did I put those treasury tags

#theslowdown

WFH day 6

Well, somehow, I lost a day this week. I know it is Thursday night because we have just done our clap for the NHS but I cannot see how we have worked 4 days this week.

On the positive side my other half told me that the noise level of my typing has reduced. I didn't like to tell him that he should really be thinking about starting a hearing loss claim. The typing hasn't got quieter, his ears have just closed up in horror.

He told me today that we are close to working in shifts, such is the level of his distress at my talking to myself and my hogging the only printer.

Then he surprised me in the afternoon with a wonderful gift (it is our wedding anniversary on Saturday -17th). It was a Splitter cable for the printer. Now, when you want to print you have to hit a button as opposed to glowering menacingly at your opposite number until they concede their control of the printer. We may yet make it to the 18th anniversary!

#awonderfulhusband

WFH day 7

I received a written request this morning from a senior member of staff asking to be furloughed. My specialty of choice is matrimonial law. My decision to specialise at an early stage in my career taught me one thing -

always remember what you are good at and never stray into areas where you are not the expert.

My immediate reaction was to say no. This is a valued member of staff who is a high fee earner and who has clearly the most advanced technical skills in the firm. I know enough however to realise that I had to consider it and consult a specialist.

So yesterday evening I Face Timed the most talented employment lawyer I know and we had a virtual consultation (glass of wine). She explained the ins and the outs. We discussed the advantages and disadvantages. We put forward a costs analysis versus the personal benefits to me and the firm. She was fantastic - helped me finish the bottle of wine, and make a decision. So, Mr Spence the answer is "no" and I will see you Monday as we continue to WFH.

#alwaysseekexpertadvice

WFH day 9

Today I had a 2-hour client consultation by phone. Not only was it exhausting for both me and the client but for my co-worker across the table. I'm so used to sitting in a room alone, usually with the door open but so used to having my own space to talk, advise and listen. Doing it with an audience has been something very different. It's interesting to receive feedback regarding your work - suggestions about how you explain things differently to clients, feedback about how you speak and interact with your client and how you listen to them. Most of us (certainly those of my age) have not been in an assessment situation for many years. Perhaps the last time was at the Advanced Advocacy course? I would say later yesterday afternoon I had another conference call. He went and got me my pair of EarPods! And due order was restored to the office.

#constructivecriticism

WFH day 10

A lot of the work I do is in the area of domestic violence, abusive and coercive behaviour. We had all expected a rise in the numbers once Lockdown really started but I think I speak for many when I say how shocking the emerging figures are. There is a system in place to help those that need a non-molestation order or an order to remove their spouse/ partner from the home. It's not ideal but it is working.

I wanted to use this post tonight to advise anyone who is reading it and who is suffering at the hands of a partner that you DO NOT have to suffer in silence.

There are very many local solicitors who are WFH and who can assist and help you. It will only take a phone call and a bit of work on your part to get proofs of benefits and/or wage details to get legal aid funding. It is really important as well to emphasise that if you feel you can't afford help, I am glad to say you are mistaken. There is a DV scheme run by the Department of Justice which means that anyone who needs help will get it. There will be a contribution to pay but it is limited and gives you access to justice.

So, if you are worried or in danger, do not hesitate to reach out. Stay safe.

#dv #domesticviolence #nmo

WFH day 11

We have all had the strangest Easter break over the past few days. I love holidays but find it really hard to switch off. I constantly check my phone, read emails and reply to clients. It drives Mr Spence up the walls. I was really keen to see how I would fare WFH during this prolonged break. I thought I would be sneaking into the office to answer a few emails, make a few calls and do some long overdue filing.



Well it didn't quite work out like that. My co-worker turned the server off! No emails, no outlook, no ALB, no legal aid. The result though was a thorough rest, a fantastic few days with the kids and back to work totally refreshed and ready to go. Only downside was the increasingly sad face across from me when the emails just kept coming through this morning when the server went back on.

#restandrelaxation #mindfulness

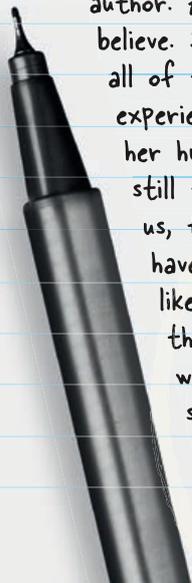
WFH day 12

Has anyone else noticed how cold it is WFH? Our heating is on in the morning first thing then in the afternoon and then in the evening. Our heating in work on the other hand is on all day long.

I have never understood this - probably because I am never in one place long enough to get cold. That has changed. Now that I don't see clients, don't go to court, only do meetings by Zoom and can't go out to the local coffee shop I just sit ALL day long at my desk. And it is freezing.

#safeworking

WFH day 16



A friend showed me an article tonight written by an anonymous author. A solicitor in England, I believe. She was writing about all of the issues I have been experiencing and more. She and her husband, like us are both still working full time. Like us, they have children and so have to work in shifts. She, like me, is working harder than she ever has before whilst still supporting her staff and dealing with work related crises.

It's good to know you aren't alone in doing what you are doing but it also brought into stark focus for me just how much of an effect this will have on all of us and our health. This week, apart from the nearly broken nose, I have a sore throat, headaches and am feeling very tired. I know thankfully it's not Covid-19 but it is in some part to do with exhaustion and a too heavy work load. Both of these causes are by no means a stranger to any solicitor/business owner but tonight the world to me seems ill divided.

#lookafteryourself

WFH day 17

At the start of lockdown, I was so concerned that when you went out walking people were so closed down, with no one smiling, no one waving and no one saying hello. Things have changed quite a bit.

Today I went out to post letters and in the 3km it took me to walk to the post office and back I played "Covid Chicken" the whole way.

Let me mansplain how it works. You walk along the footpath until you see someone approaching from the opposite direction. Then you engage in an internal discussion whereby you condemn the person approaching for not stepping out into the road or onto the verge. You stare them out. You assess their situation. Have they kids? Have they a dog? Who is at bigger risk here? Until you are 10 feet away and someone makes the first move.

Today I took a different approach - I walked in the cycle lane. Now all I have to do is avoid the angry cyclists! And in LISBURN that's no mean feat!

#covidchicken

WFH day 19

WFH brings its own challenges, amongst them dealing with video calls and consultations. Today we had one such Zoom moment. I was consulting with Counsel and an expert in a case. We were all referring to our mutual client by his first name - Donald (all names changed to protect client confidentiality). Suddenly a little laughing 5-year-old voice piped up to tell us Donald was in fact a duck. Stunned silence, followed by an explosion of laughter from us all.

Can I tell you the client's real name (and the subsequent cartoon name) makes the story even funnier?

#getyourlaughswhereyoucan

WFH day 20

Today the rain arrived. None since 17th March and then 42 days later it looks much more like we are used to. Today I had the most productive day working from home yet. I wonder are the 2 linked? I think they might be.

#rainydays

**TEMPORARILY
CLOSED
DUE TO COVID-19**

WFH day 21

Shocking isn't it?
The sign?

Thank goodness there isn't any medical reason why we closed today. We both thought that the Spence Branch of DMC could do with some rest and relaxation following the challenging weeks of working through the pandemic. We read articles every day which tell us to look after ourselves, take time out for ourselves and look after our mental health. Today the Spences practised what I preached.

This article was previously posted on LinkedIn.



Shutdown, Frustration & Property Contracts

Douglas Stevenson, BL

It is perhaps trite to say it, but the Covid-19 outbreak, and the Government's subsequent shutdown of large sections of the economy, has had a profound impact on the way in which we live our lives and the way in which business can be conducted. At the time of writing, there is no immediate prospect of an end to the shutdown; it seems that we will be living with its consequences, and perhaps ongoing restrictions, for a considerable period of time to come.

This fundamental change in circumstances means that many parties find that the obligations they assumed under contracts, or the benefits they expected to obtain from contracts, are not what they originally envisaged. These drastically changed circumstances, and parties' inability to meet their contractual obligations, raises the question of the potential frustration of those contracts. The purpose of this article is to briefly consider the doctrine of frustration as it applies to property contracts.

A contract may be discharged on the grounds of frustration when something occurs after the formation of the contract which renders it physically or commercially impossible to fulfil the contract or which transforms the obligation to be performed thereunder into a radically different obligation from that envisaged at the point the contract was formed.¹ When the doctrine of frustration applies, the contract ends automatically; the frustrating event operates to 'kill' the contract and discharge the parties from further liability under it. The frustrating event must be something extraneous; a party cannot establish that a particular event is a frustrating event when that party has been the author of the event in question.²

The precise juristic basis for the doctrine of frustration remains a matter of debate; different cases have invoked different rationales for the doctrine. Latterly, the Courts have not sought to rely on any one rationale, saying that they all 'shade into each other'.³ Whilst the juristic basis may be unclear, what is clear is that the Courts are reluctant to find that a contract has been frustrated.⁴ Courts understandably want to see that parties are held to their contractual bargain, particularly where there is no suggestion of any fault on the party seeking to resist a claim for frustration. They do not want to allow the doctrine to be used by a party to escape what may be a bad bargain for that party.

A class of cases where the doctrine has been applied, and where the unforeseen event is perhaps most closely aligned to the current circumstances, are war-time frustration cases. In those cases, legislative intervention by Government which forbade certain activities was held to be a frustrating event. By way of example, in *Metropolitan Water Board v Dick Kerr & Co Ltd*⁵ a contractor entered into a contract in 1914 to construct a reservoir by 1920. In 1916, and under the restrictions imposed by the Defence of the Realm Act, the contractor was obliged to cease work. The House of Lords held that the contract was frustrated. The interruption was '*of such a character and duration that it vitally and fundamentally changed the conditions of the contract, and could not possibly have been in the contemplation of the parties to the contract when it was made*'. It is important to note that in *Metropolitan*, the frustrating event related directly to the substance of the contract itself - the legislation specifically prevented building work being carried out. Further, and importantly for the purposes of this article, the case did not concern a contract for the sale of land.

Turning then to consider the application of the doctrine to property contracts, as noted above, the Courts are generally reluctant to invoke the doctrine, but they are especially reluctant in the case of contracts concerning land. In the case of leases, for many years there was uncertainty as to whether the doctrine could ever apply to leases.⁶ In *National Carriers Ltd v Panalpina (Northern) Ltd*⁷ the House of Lords by a majority held that the doctrine could, in theory, apply to the leases but that it would 'hardly ever' be applied. In that case a road closure order made premises demised under a 10 year lease unusable for 20 months. That was held not to be a frustrating event.

In the case of contracts for the sale of land, Chitty goes as far as to state "*It is doubtful whether the doctrine of frustration could ever apply to a contract for the sale of land, though it has been suggested that it might if the frustrating event prevented the vendor from transferring any estate whatever to the purchaser*".⁸ Two cases will illustrate the Courts' approach. In *Hillingdon Estate Co v Stonefield Estates Ltd*⁹ a contract for the purchase of development land was held not to be frustrated notwithstanding that a compulsory purchase order was made in respect of the land in sale between the date of contract and completion. In *Amalgamated Investments & Property Co v John Walker & Sons*¹⁰ a contract was in place for the sale of property which had been marketed as being suitable for development and which the vendor was aware the purchaser intended to develop. The day after the contract was concluded, the property in question was listed as a building of special architectural interest. The listing severely restricted the development potential of the property in sale thereby reducing its value from £1.7m to £200k. Nevertheless the contract was held not to be frustrated.

It is therefore likely to be extremely difficult for a purchaser to argue that a contract for the purchase of a property has been frustrated. By way of example, in the case of a contract which is unconditional as to finance, a purchaser's inability to obtain a mortgage offer at present, when he or she might have had good prospects of obtaining a mortgage offer prior to the shutdown, is highly unlikely to be regarded as a frustrating event. The fact that a party can no longer afford to complete, does not mean that it is physically or commercially impossible to fulfil the contract (a party with money could complete) nor does it transform the contractual obligations into something radically different.

¹ Chitty on Contract- 33rd Edition - Chapter 23 Paragraph 23-001

² *Lauritzen AS v Wijsmuller BV (The Super Servant Two)* [1990] 1 Lloyd's Rep 1

³ Per Lord Wilberforce in *National Carriers v Panalpina (Northern) Ltd* [1981] AC 675 at 693

⁴ In *The Super Servant Two op. cit.* Bingham LJ said frustration is not to be 'lightly invoked' but must be kept within 'very narrow limits and ought not to be extended'

⁵ [1918] 1 AC 119

⁶ In *Cricklewood Property and Investment Ltd v Leightons Investment Trust Ltd* [1945] AC 221 the House of Lords was evenly divided on whether it could apply to leases.

⁷ [1981] AC 675

⁸ *op. cit.* para 23-057 c.f. *Wong Li Yang v Chinachem Investment Co Ltd* [1980] 1 WLUK 406 where a landslide which caused a three year delay in the construction of apartments was held to be a frustrating event.

⁹ [1952] Ch 627

¹⁰ [1977] 1 WLR 164

More interesting questions arise where the shutdown has made certain contractual conditions impossible to satisfy. For example, it is not uncommon for a contract to be made subject to a Building Control completion certificate being provided by the developer/vendor. At the time of writing, the Local Councils are not carrying out Building Control inspections and completion certificates cannot be obtained. As detailed above, it is debatable whether frustration could ever apply to a contract for the sale of land, and therefore a temporary inability to obtain a building control certificate would not be regarded as a frustrating event. Where does that then leave a vendor who cannot meet a contractual condition through no fault of its own?

The answer to this may lie in the concept of a partial excuse for breach of contract. This is an underdeveloped doctrine, but the broad principle behind it is that the occurrence of some unforeseen and unforeseeable event may excuse, perhaps temporarily, the performance of a particular obligation without frustrating the whole contract.¹¹ For example, in *John Lewis Properties plc v Chelsea*¹² a tenant covenanted to redevelop premises, but was unable to do so in the manner envisaged as the premises in question were listed after the grant of the lease. The Court held that the listing, which had rendered the covenant incapable of performance, meant that the tenant was not in breach of covenant. However, the Court held that if the listing were removed, that the tenant would then be obliged to observe the covenant in question.

To apply this to the Building Control certificate example above, the doctrine may temporarily excuse the vendor from its failure to obtain the certificate. That is, the vendor would not be regarded as being in breach of contract. The more difficult question is the effect it may have where a purchaser is seeking to extricate itself from a contract and serves a notice to complete, hoping to rely on the lack of a completion certificate to prove a vendor is not ready willing and able to complete. It could be argued by a vendor that as the obligation to provide a completion certificate is suspended, then so too is the related obligation to complete, and that both obligations will be resuscitated when Building Control inspections recommence. Alternatively, the vendor might argue that it is ready willing and able to complete as it can meet the obligations it is obliged to meet *at that point in time*. Such arguments are not without difficulties, and much will depend on the wording of the clauses in individual contracts, but at the very least they should give a purchaser pause for thought.

The 2007-08 financial crisis gave rise to a spate of property cases. One imagines that the drastic change in economic circumstances caused by Covid-19 could well give rise to another run of property litigation. Despite how narrowly the doctrine of frustration has been drawn, there is every chance we will hear more of it and the concept of partial excuse in the months and years ahead.

¹¹ Chitty *op cit* at para 23-066

¹² (1994) 67 P&CR 120



Law Society (NI)
Financial Advice

A BITE-SIZED GUIDE TO FINANCIAL PROTECTION

Make protecting yourself a priority

1 PROTECT YOUR INCOME

An **Income Protection** policy will pay you up to about 60% of your salary in the event of you being unable to do your job due to sickness, illness or an accident. It will pay out monthly until you return to work or you come to the end of the term. The term is generally set to your retirement age, and on most policies you can claim multiple times. It ensures that no matter what happens, you will have a guaranteed income.

Income protection policies have what's called a 'deferred period', which is a specified period of time before the policy begins to pay out, and this can be matched to the sick pay arrangements you have with your employer. If you are self-employed, you need to establish how long you could survive without an income.

Our Top Tip - Ensure you have the "Own Occupation" definition on your policy

2 PROTECT YOUR DEBTS

Protecting debts such as mortgages is essential, and this can be done by using a **Life & Critical Illness** policy. If you die or are diagnosed with a specified Critical Illness within the term, a lump sum will be paid out to pay off your mortgage.

The importance of having Critical Illness cover alongside your life cover can't be stressed enough, as statistically, you are 6 to 7 times more likely to be diagnosed with a critical illness than you are to die before the age of 65. It is not, however, a replacement for Income Protection, as although your mortgage will be paid off if you are critically ill, you will still need an income.

Our Top Tip - The list of critical illnesses covered can vary with different providers

3 PROTECT YOUR FAMILY

One way to help your family to meet the continuing cost of living if you were to die is to use a **Family Income Benefit** policy. This policy runs for a set term, often until your children are financially independent. If you die within this period, it pays out a regular tax-free income until the term ends. Critical Illness cover can also be added to the policy.

Many people choose this type of policy as it can be a cost effective way of ensuring financial safety for your family in the event of your death.

Our Top Tip - Review your existing cover, as insurance costs have reduced over time



FAQS

I'VE GOT HEALTH PROBLEMS, CAN I GET COVERED?

Regardless of whether it is Income Protection or Life & Critical Illness, there are many companies that will be able to cover the majority of people. However, if the illness is undiagnosed or very serious, there may be exclusions on the policy or occasionally no cover can be offered.

AM I COVERED FOR COVID-19 OR SIMILAR ILLNESSES?

Income Protection will pay out if you are too ill to work for longer than your deferred period, and this would apply to Covid-19 the same as any other illness. A Life policy would pay out if you were to die from the illness, but it is unlikely a Critical Illness policy would pay out for Covid-19 unless it led to a diagnosis of a condition stated on the policy conditions.

HOW MUCH DOES ALL THIS COST?

Premiums are generally based on your age, health, level of cover and if you are a smoker this will increase the premiums. If you would like a quote please get in touch with one of our financial planners.

Any member of the Law Society of Northern Ireland may receive an exclusive discount on protection policies taken out with Law Society Financial Advice.

Professional advice based on the facts of each case is essential. Law Society (NI) Financial Advice Limited is authorised and regulated by the Financial Conduct Authority.

For further information please email ryan.crozier@lsnifa.com

Lawyers in Lockdown



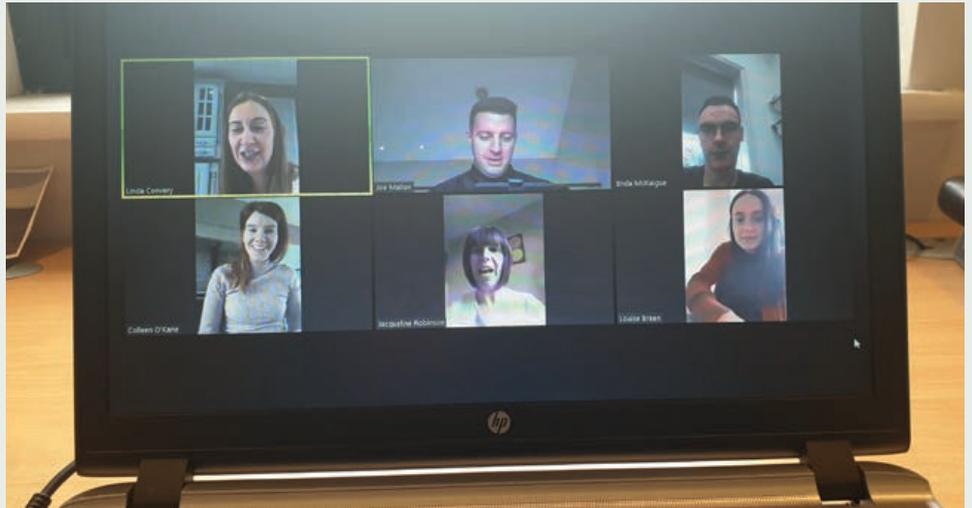
Joe Mallon, Mallon McCormick

When Heather Semple from the Law Society called me to say she wanted a country solicitor perspective on life in lockdown for the Writ I was sitting in what has become my home office – a room in our house which was known as the lego room – with a desk given to me by my brother-in-law from a site he was working on and tapping on a laptop that my friend and computer genius Stephen McPeake hastily set up for me on the 16th March – all the while looking down the Glenshane Pass over the view my home enjoys.

So yes, just like everyone else during this Covid-19 crisis my “normal life” has been turned upside down. Our office normal has been seeing clients face to face every day in our newly refurbished offices in Maghera. Suddenly the handbrake has been pulled on that for me and for all colleagues.

Downstairs from this new working environment is the Mallon Home School led effortlessly by my wife Caitriona as she puts our 4 children (13 down to 6) through their paces. Instead of my 10am coffee with my colleagues in the office, we have done the “PE with Joe” (Wicks that is!) as a family every day. Yes bizarre times but as has been the way living through this crisis, some of the small changes have had a positive effect on daily living.

At the beginning of the crisis we had to quickly get laptops to all our staff and get them all connected to our network as we began to see what life out of the office would look like. Microsoft Teams and Zoom – programmes heretofore never heard of – suddenly became part of our daily lives. Our staff have been incredible and we have managed to maintain



a level of productivity during this lockdown that has blown me away.

During that first few weeks we had a slew of Wills to prepare and had the challenge of getting those properly witnessed whilst respecting the new social distancing guidelines. Our office reception lent itself perfectly for doing this and we were very happy to be able to provide this service in such a time of fear and uncertainty for all. My colleague Enda McKaigue and I visited a client (in separate cars of course) and witnessed a Will through the kitchen window – a Will prepared following my colleague Louise Breen taking instructions via a Skype video call with the client. Is this the “new normal” everyone is talking about?



Since then we have settled into a rhythm in the firm of doing what we can do. I have had Skype, Zoom, Teams and WhatsApp conference calls with clients. We have had consultations with Counsel, accountants and architects via these mediums. This week we had our monthly Maghera Development Association meeting via Zoom. If you had said to me before St Patrick’s Day that this is how daily life would look like by the May Bank Holiday I would have refused to believe you. Going to work in shorts and t-shirt every day has been great though!

These have been very challenging times for not only me and our firm but for all colleagues. Dealing with clients daily who are afraid their particular transaction is in jeopardy due to the crisis and not being able to give any definite assurances or timeframe is of course tough. Everyone has the same worries and issues they had 2 months ago but these are exacerbated by the crisis.

We have endeavored to remain open for business as best we can to try to provide a constant for our clients and will continue to do so.

The positives I will personally take is spending more time at home with my family – cooking more (God help them!) and enjoying the good weather that has made lockdown in the countryside very bearable. A daily run to “shir the head” has been essential.

My thoughts and prayers are with anyone who has lost a loved one due to Covid-19.

I am looking forward to the day our office re-opens and we begin to see what life post-Covid will bring. Until then, I hope everyone stays safe and keeps well.

Covid-19 – The Cyber Threat

D/Con Samuel Kinkaid,
Cyber Protect Officer, PSNI Cyber Crime Centre

As I am sure many will have experienced over recent weeks, the current Covid-19 pandemic and rules around social distancing has dramatically changed how many of us are working. Whether it's juggling home working with childcare or working out your Zoom from your Microsoft Teams, the new 'normal' means for many, working online will be an increasing aspect of our daily working day for some time to come and with that comes an increased exposure to online threats.

To date, the PSNI Cyber Crime Centre, like its counterparts across the United Kingdom, has not seen a dramatic rise in overall cyber-attacks against the business sector. Instead there has been a repositioning by online criminals to use the current pandemic to their advantage, for example using Covid-19 as a core theme to phishing campaigns, malicious websites and online scams.

Ongoing threats to businesses such as **Ransomware, Phishing, Home Working and Cyber Frauds** continue to exploit commonly known user vulnerabilities such as weak passwords, lack of two factor authentication (2FA), backups or a failure to patch or update software. While it may seem obvious to some and repetitive to those who have attended cyber awareness sessions in the past, we can't emphasise enough how many incidents - be that compromised email accounts or servers - can be traced back to weak passwords or a failure to utilise free services such as 2 factor authentication.

To help support local organisations and employees, a number of new resources are being supported by the PSNI Cyber Crime Centre and our partners.

Together with ScamwiseNI, the PSNI Cyber Crime Centre have adopted the Little Book of Cyber Scams from the Metropolitan Police Service. Aimed at both individuals and businesses, this publication provides an overview of online threats, current advice and signposting to advice channels be that our partners in the National Cyber Security Centre, ScamwiseNI or the recently launched Northern Ireland Cyber Security Centre. To access the online version of the Little Book of Cyber Scams please see www.psni.police.uk/crime/cyber-crime/what-is-cyber-crime

To help support businesses and individuals improve on areas such as creating a strong and secure password, the National Cyber Security Centre have launched '**Cyber Aware**' (www.cyberaware.gov.uk), an advice channel on how to stay secure online during Covid-19. Ideal for organisations with employee's home working, Cyber Aware provides easy to follow advice a lot of which is vendor specific. Alongside the NCSC Small Business Guide and Call, Check and Confirm guidance from the Law Society, ensuring everyone within an organisation practices the cyber behaviours covered by 'Cyber Aware' will help to reduce the risk posed to those working from home and your organisation.

In addition to Cyber Aware, for those receiving suspicious emails, the National Cyber Security Centre (www.ncsc.gov.uk) have launched a new **Suspicious Email Reporting Tool**. By taking the simple step of forwarding the email to report@phishing.gov.uk, businesses and individuals can help inform the national picture on current threats and provide the NCSC with the information required to disrupt phishing campaigns, websites spreading malware and online scams that might otherwise successfully target others. As an example of its potential, the new reporting service received over 25000 reports in its first week, leading to 395 phishing sites being taken down. Anyone losing money / information as a result of an email or suspecting it results from a compromised email account, should continue to ensure they take appropriate action be that reporting to their bank, relevant authorities or Action Fraud.

Further information in relation to cyber support for local organisations can be obtained by contacting cyberprotect@psni.pnn.police.uk



Covid-19 Scams

Paul O'Connor,
Head of Communications

It is not surprising that scammers and fraudsters are using the Covid-19 crisis as a means to deceive the public and businesses throughout the world.

The Society continues to keep a 'watching brief' on the typologies of scams and to issue its scam alerts as it needs to Members and their staff.

It remains critically important that all solicitor firms take the necessary steps to protect their firm, staff and most importantly their clients from the real dangers posed.

It is important that firms ensure that their:

1. **IT systems** have the necessary and Up-to-date security protections and protocols in place to protect their network and data.
2. **Staff** are aware of the threat posed by scammers and fraudsters and that they always 'double-check' with senior staff and colleagues before releasing data or transferring money.
3. **Data** is secured as any breach by scammers will need to be reported to the Information Commissioner for Northern Ireland.
4. **Email** is provided through a secure or dedicated network and that 'free' email services are avoided as the primary means of communication.

If you have been the victim of a scam it is important that you contact the Society using the [new Scam Report Form 2020](#).

It is critically important that if you or your firm have been affected by a scam that you update the Society to ensure that the typology of the scam can be circulated widely to prevent further successes by scammers.

Members can report the scam to the Society using the new form or by simply emailing media@lawsoc-ni.org providing as much detail as possible.

It important that all firms and staff remain vigilant of new scams during the Covid-19 crisis.

Wellbeing during lockdown

Working from home

Many of us will have been working at home for a while which can be challenging. Being out of the office and a change in our routine combined with limited social interaction in these difficult and uncertain times might cause feelings of worry, fear and loneliness. At LawCare we don't have an office space and all our team work remotely, so here are our tips from our own experiences to help you look after yourself when working at home.

Set up your space

It's important to try and create boundaries between work life and home life, and having a dedicated area to work in can help. Not all of us will have an office or spare room to work in, but try and find a quiet area of the house where you can set up a desk area.

Stick to a routine

As tempting as it is to stay in your pyjamas all day or sit at your laptop at 10pm it's important to get dressed and try and stick to a regular routine and your usual working pattern, where possible. This will help you

stay focused and keep work separate from home life.

Boundaries

If you have to change your normal working hours or work flexibly due to childcare or other commitments set boundaries where possible. Perhaps you and your partner can do shifts, or you can work early in the morning or late at night in order to take some time off in the day. You might want to have a set time of day where you can't be disturbed. Let other colleagues know about your routine and boundaries so you can manage their expectations.

Reach out

Keep in regular contact with colleagues, friends and family using phone, Skype, Facetime rather than just sending emails and texts. It can be isolating working at home and we all need to feel connected to each other. It's especially important to look out for those who live alone, make sure you are checking in with people.

Disable notifications

Avoid constantly checking your emails, WhatsApps and news feeds. It's very easy to get distracted and sometimes too much information will trigger feelings of worry. Turn off alerts and check them every few hours so you can stay focused.

Prioritise self-care

It's easy to let healthy habits slip when we are at home but make sure you eat well, get to bed at a reasonable time and find time to do some exercise. Take regular breaks and get plenty of fresh air.

Sickness

It can be harder to call in sick if you are at home anyway, and many of us will be tempted to do a few hours work even if we are unwell. If you are ill, you really should rest, follow any medical advice and not work at all to protect your future health.

Be mindful

Mindfulness is about being in the present moment. None of us know what the future holds so try and focus on the here and now rather than the bigger picture.

Seek support

We're all in the same boat, but these difficult, uncertain times will affect some of us more than others. If you're finding it hard to cope, just talking to someone can make you feel less worried.

If you need to talk call our free, independent and confidential helpline on 0800 279 6888, email support@lawcare.org.uk or visit www.lawcare.org.uk. You can check out our new wellbeing hub at www.lawcare.org.uk/wellbeing



Government Business Support Available to NI Firms

| Scheme | Eligibility | Application Process and Key Dates |
|--|---|--|
| <p>Coronavirus Job Retention Scheme (Furlough Scheme)</p> <p>A grant to cover 80% of furloughed workers' wage costs (employees are kept on the payroll rather than being laid off) up to £2,500 per employee per month (The applicable period for the scheme in its current form is from 1 March until the end of July 2020).</p> | <p>UK-Wide</p> <p>Employers with a PAYE scheme on or before 19 March 2020.</p> | <p>Online portal and guidance here.</p> <p>Online calculator for claims here.</p> <p>Key Dates: Current form of the scheme to last until the end of July 2020.</p> <p>The Government has indicated that from the beginning of August until 31 October, the Scheme will allow businesses to bring workers back part-time and share the costs of the 80% with the Government. Further details of the amended scheme are due at the end of May 2020.</p> |
| <p>Small Business Support Grant Scheme</p> <p>A grant of £10,000 for all small businesses who are eligible for the Small Business Rate Relief Scheme.</p> | <p>NI-Only</p> <p>All NI Businesses with a rateable value up to £15,000.</p> | <p>Automatic payment for direct debit ratepayers. Online portal for other ratepayers to register details here.</p> <p>Key Dates: The Scheme closed on 20 May 2020.</p> |
| <p>NI Micro-Business Hardship Fund</p> <p>£40 million hardship fund offering emergency funding for micro-businesses (employing between one and nine employees at 29 February 2020, including where sole employee owner). The final amounts awarded will depend on the number of successful applications. It will extend to up to £10,000 for business ratepayers and £5,000 for non-ratepayers.</p> | <p>NI-Only</p> <p>The business must have a reduction in turnover in excess of 40% since 1 March 2020 as direct result of Covid-19 or associated government restrictions</p> <p>Those who have received a £10k grant under the Small Business Support Grant Scheme are excluded.</p> | <p>Further information on eligibility can be found here.</p> <p>Information on applying here.</p> <p>Guidance on information required here.</p> <p>FAQs here.</p> <p>Key Dates: Online portal for applications opening 6pm on 20 May 2020.</p> |
| <p>Self-Employment Income Support Scheme (SEISS)</p> <p>A taxable grant worth 80% of your average monthly trading profits, up to a maximum of £7,500 to cover a three-month period. A single payment is made to cover the three-month period.</p> | <p>UK-wide</p> <p>All self-employed individuals or members of a partnership (Trading profits must be no more than £50,000 and at least equal to your non-trading income).</p> | <p>Guidance here.</p> <p>Online eligibility checker here.</p> <p>HMRC's calculation methods here.</p> <p>Link to make a claim here.</p> |
| <p>Bounce Back Loan Scheme (BBLs)</p> <p>The BBLs is designed to help small businesses borrow between £2,000 and £50,000. The Government will guarantee 100% of the loan to lender (the borrower remains liable for repayment).</p> <p>There are no fees or interest in the first 12 months. There are no repayments due in the first 12 months. The interest rate after 12 months is 2.5%.</p> | <p>UK-Wide</p> <p>List of accredited lenders</p> | <p>Make contact directly with accredited lenders (online application forms). List of lenders can be filtered for NI here.</p> <p>Guidance here.</p> <p>Key Dates: Scheme currently scheduled to run until 4 November 2020.</p> |
| <p>Coronavirus Business Interruption Loan Scheme ('CBILs')</p> <p>Loans up to £5m, guaranteed to 80% of the value to the lender by the Government. The first 12 months of the loans are interest and fee-free.</p> | <p>UK-wide</p> <p>(Scheme limited to businesses with up to £45m turnover with a separate scheme for large businesses).</p> | <p>Delivered by a list of accredited lenders which can be searched for Northern Ireland here.</p> <p>Guidance here.</p> <p>The scheme has been established initially for six months.</p> |

Government Business Support Available to NI Firms (continued)

| Scheme | Eligibility | Application Process and Key Dates |
|--|--|--|
| <p>Business Rates Holiday</p> <p>No rates will be charged for April, May, June and July 2020.</p> | <p>NI-Only</p> <p>All NI Businesses</p> | <p>Automatic</p> |
| <p>Income Tax Deferral for the Self-Employed</p> <p>Income tax payments due by 31 July 2020 under the Self-Assessment System may be deferred until 31 January 2021.</p> | <p>UK-wide</p> <p>All self-employed individuals UK-wide.</p> | <p>Automatic- you do not need to inform HMRC.</p> <p>Guidance here.</p> |
| <p>VAT Payments Deferral</p> <p>Businesses have the option to defer certain VAT payments falling due between 20 March to 30 June 2020. VAT refunds and reclaims will be paid by the government as normal.</p> | <p>UK-wide</p> <p>All VAT-registered businesses</p> | <p>Automatic- No application. If this is being paid by direct debit, this should be cancelled with the bank.</p> <p>Guidance here.</p> |
| <p>Coronavirus Statutory Sick Pay Rebate Scheme</p> <p>This refund will cover up to 2 weeks' Statutory Sick Pay per eligible employee who has been off work due to Covid-19 on or after 13 March 2020 (those who have the virus or are self-isolating) or on or after 16 April 2020 (for those shielding with a letter from a GP or NHS).</p> | <p>UK-wide</p> <p>Businesses with fewer than 250 employees as at 28 February 2020.</p> | <p>The online system to reclaim SSP will launch on 26 May 2020.</p> <p>Guidance here.</p> |
| <p>Time to Pay</p> <p>If a tax payment is missed because of COVID-19 contact HMRC- you may get more time to pay or able to agree repayment by instalments.</p> | <p>UK-Wide</p> | <p>Call the HMRC Coronavirus Helpline on 0800 024 1222.</p> <p>Guidance here.</p> |

Members should consult relevant government guidance, the Information Notices on business support available from the members' section of the website and the NI Business Info website to get more detail on the full range of support available. A number of changes have been made to schemes and new schemes have been introduced at different stages throughout the pandemic, so it is important to continue monitoring for updates.

Some additional links are included below for schemes which members or their clients may be interested in.

[£25k Grant for Retail, Hospitality, Tourism and Leisure Businesses](#) [here](#).

[Coronavirus Future Fund](#) [here](#).

[Coronavirus Large Business Interruption Loan Scheme](#) [here](#).

[Covid-19 Corporate Financing Facility](#) [here](#).

For any queries in respect of our business support guidance, please contact frank.geddis@lawsoc-ni.org.

Lawyers in Lockdown

Shaun Fisher, Fisher Law

The last seven weeks have brought into sharp focus the glaring inadequacies of my time management. I will happily accept that, in the office, I am not as highly organised as I aspire to be, tending to easy distraction by incoming email traffic, telephone calls, impromptu visitors, and prioritising tasks that I enjoy rather than “eating the frog”. Equally, I am prepared to allocate blame to the systems that have become habit and custom for most of us, be it meetings about meetings, superfluous court reviews, or unstructured client consultations. I suspect there are few of us who disagree that solicitors in this jurisdiction are time-poor, even those who consider their personal management to be exemplary.



Without the distractions which the office presents, my productivity at home has burgeoned. I have developed a routine whereby the frog is

consumed, indigestion-free, with the first coffee of the day. Other work is completed in record time throughout the morning, and a walk at lunchtime is always cathartic. Telephone messages (taken by an outsourced service) and emails are returned/responded to in the afternoon unless urgency dictates otherwise. Administrative tasks and then a session on the cross-trainer follow. Once the office can safely open, I am resolved to spend less time in it.

With the passing of time, however, I admit that routine has become drudgery. Each day melds into the next: weekends tend to replicate weekdays. A Friday or Saturday outing to Kingspan Stadium, or my local rugby

club, or a restaurant for dinner, or the North Coast, or a visit to or from friends was the reward for the diligence of the week that had passed. Nowadays the only reprieve is the twice-weekly trip to the office to collect post (most of which has already materialised in soft copy) or hard copy files, or to tackle the very modest number of assignments which cannot be undertaken remotely. Under the spotlight, the practice’s case management system is proving clunky, and post-Covid investment will be a priority.

Face-to-face social and professional interaction is the most fundamental absentee, and I cannot convince myself that using videoconferencing platforms to engage with clients, colleagues and counsel are much solace or substitute. However, they will doubtless feature significantly in the new norm and I readily concede that they immeasurably improve our efficiencies.

In Northern Ireland we have a profession of which we can be justly proud. I have no doubt it will emerge from this crisis, better, stronger and more collegiate than ever.

LawCare

Supporting the Legal Community

Wellbeing during lockdown

Social connection in isolation

One of the biggest challenges for us all during this period of isolation is the lack of social contact. For most of us, our everyday lives provide lots of opportunities to connect and be around people – sometimes when we’d much rather be on our own! Humans are tribal and social and emotional support, and the role of individuals, families and communities in delivering this, are vital to managing wellbeing. Over the coming period we must continue to actively create that engagement for ourselves.

Move your social life online

Many of us have embraced technology and are having regular FaceTime, Google Hangouts, Zoom, Skype or House Party calls with friends and family, but don’t stop there. How about having a virtual dinner party or office pub quiz? If you have a book group can that be moved online? Could you exercise with a friend over Zoom or get your pal to DJ for a group of you on a Saturday night? How

about a Netflix watch party or watching a theatre streaming together? Organise different events throughout the week – but make sure you have some down time as well; you don’t want to get FaceTime fatigue!

Little and often

Not every call has to be a marathon, short and sweet check ins with friends and family are just as valuable if not more so. A quick call can give you a boost in your day – and don’t worry if you don’t have to have anything in particular to say.

You don’t have to do everything in real time. Some of us might be feeling overwhelmed with all the group chat requests – but you don’t have to engage in real time if you’re busy with work or not in the mood. Try sending voice memos or short videos to loved ones when you have the time. It can create a greater connection than just writing a text.

Limit Covid-19 chat

For most of us we need social interaction to get away from what is happening on the news so resist the urge to talk too much about Covid-19, and you might want to think twice about sending round robin texts about it too. It can make the worriers in your circle more anxious.

Think about children too

Children will be missing the social interaction they have at school, and younger ones without their own phones or social media accounts will benefit from virtual playdates for them. A class Zoom call, a FaceTime with a friend, playing a game together online, or doing an YouTube lesson like Joe Wicks PE can give some variety in their day (and give you ten minutes’ peace.)

Prioritise those who live on their own

Make a list of loved ones who live alone and make sure to check in with them every few days – your contact is especially important to them. Think about colleagues and neighbours who live alone; is someone regularly in contact with them? Could you give them a call or share your number with them?

If you need to talk call our free, independent and confidential helpline on 0800 279 6888, email support@lawcare.org.uk or visit www.lawcare.org.uk. You can check out our new wellbeing hub at www.lawcare.org.uk/wellbeing

COVID-19 NORTHERN IRELAND LEGISLATION

PRIMARY

Coronavirus Act 2020

2020 c.7

An Act to make provision in connection with coronavirus; and for connected purposes.

SECONDARY

The Employment and Support Allowance and Universal Credit (Coronavirus) Regulations (Northern Ireland)

2020 SR 33

These Regulations provide the Department with discretion to disapply the seven waiting days that would otherwise apply to a person who has made a claim for an employment and support allowance and the discretion to decide that a person who makes a claim for, or is entitled to, universal credit or employment and support allowance may be treated as a person having limited capability for work. The Department also has discretion to disapply the minimum income floor where it applies to claimants who are self-employed.

The Statutory Sick Pay (General) (Coronavirus Amendment) (No. 2) Regulations (Northern Ireland) 2020 SR 37

These Regulations provide that a person who is isolating himself from others in accordance with advice on coronavirus disease effective on 12th March 2020 is deemed to be incapable of work. These Regulations amend that date to 16th March 2020.

The Discretionary Support (Amendment) (COVID-19) Regulations (Northern Ireland)

2020 SR 44

These Regulations provide for a grant for short-term living expenses to assist claimants affected by COVID-19 or who are advised to self-isolate because of it and to exempt such cases from the restriction of only one grant in twelve months.

The Social Security (Coronavirus) (Further Measures) Regulations (Northern Ireland)

2020 SR 53

These Regulations apply a number of measures in relation to the minimum income floor (MIF) which applies to self-employed claimants in universal credit and to modify the standard allowance for universal credit. They also provide that the NIHE must determine a local housing allowance. Claimants for universal credit of the new style Job Seekers Allowance are not subject to work search requirements for 3 months after the Regulations are made. Persons infected with the virus, in isolation or with caring responsibilities will not have these days counted towards a period of sickness and will not lose jobseeker's allowance. Carer's allowance will not be affected by temporary in income due to isolation.

The Statutory Sick Pay (Coronavirus) (Suspension of Waiting Days and General Amendment) Regulations (Northern Ireland)

2020 SR 54

These Regulations suspend the limitation, set out in section 151(1) of the Social Security Contributions and Benefits Act (Northern Ireland) 1992, that Statutory Sick Pay is not payable for the first three qualifying days in a period of entitlement. They also specify when a person is isolating by reason of coronavirus is deemed to be incapable of work.

The Health Protection (Coronavirus, Restrictions) Regulations (Northern Ireland)

2020 SR 55

These Regulations require the closure of businesses selling food or drink for consumption on the premises, and businesses listed in Part 2 of Schedule 2, to protect against the risks to public health arising from coronavirus, except for limited permitted uses. Businesses offering goods for sale or for hire listed in Part 3 of Schedule 2, are permitted to remain open. The Regulations also prohibit anyone leaving the place where they live without reasonable excuse, and ban public gatherings of more than two people.

The Single Use Carrier Bags Charge (Coronavirus Amendment) Regulations (Northern Ireland) 2020 SR 56

These Regulations amend the Single Use Carrier Bags Charge Regulations (Northern Ireland) 2013 so that the requirement to charge for a carrier bag does not apply to bags used solely to carry goods supplied by a seller for home delivery as part of a grocery delivery service. Such bags are exempt from the requirement to charge from 1st April to 30th September 2020.

The Social Fund Funeral Expenses Payment (Coronavirus) (Amendment) Regulations (Northern Ireland)

2020 SR 62

These Regulations amend the Social Fund Maternity and Funeral Expenses (General) Regulations (Northern Ireland) 2005 (S.R. 2005 No. 506) to increase the amount paid for funeral expenses additional to those listed in the Regulations from £700 to £1,000 for deaths which occur on or after 8th April 2020.

COVID-19 NORTHERN IRELAND LEGISLATION (continued)

The Social Security (Coronavirus) (Prisoners) Regulations (Northern Ireland)

2020 SR 63

These Regulations make various provisions for individuals on temporary release from prison due to the outbreak COVID-19 in Northern Ireland in relation to accessing means tested benefits during the period of that release.

The Taxi Licensing (Amendment) (Coronavirus) Regulations (Northern Ireland)

2020 SR 64

These Regulations amend the Taxi Licensing Regulations (Northern Ireland) 2015 (“the 2015 Regulations”) in order to ensure that the renewal of existing taxi licences can continue during the current COVID-19 (coronavirus) public health emergency.

The Police Trainee (Amendment) (Coronavirus) Regulations (Northern Ireland)

2020 SR 65

These Regulations amend the Police Trainee Regulations (Northern Ireland) 2001 to allow the Chief Constable to impose different requirements as to the period of service and training for police trainees in response to COVID-19.

The Statutory Sick Pay (General) (Coronavirus Amendment) (No. 3) Regulations (Northern Ireland) 2020 SR 66

These Regulations amend the Schedule to the Statutory Sick Pay (General) Regulations (Northern Ireland) 1982. The Schedule sets out categories of persons who are deemed to be incapable of work by reason of coronavirus.

The Discretionary Support (Amendment No. 2) (COVID-19) Regulations (Northern Ireland)

2020 SR 67

These Regulations amend the Discretionary Support Regulations (Northern Ireland) 2016 (S.R. 2016 No. 270) (“the 2016 Regulations”). Regulation 2 amends regulation 15 of the 2016 Regulations to increase the annual income threshold by increasing the number of hours per working week from 40 hours to 45 hours. This will increase the amount of earnings a person can have while still being eligible for discretionary support. This will provide additional access to support to those whose income is affected by COVID-19.

The Working Time (Coronavirus) (Amendment) Regulations (Northern Ireland)

2020 SR 68

These Regulations provide an exception relating to the effects of coronavirus to the bar on carrying forward untaken leave under Regulation 15 of the Working Time Regulations (Northern Ireland) 2016 (“WTR”).

The Maternity Allowance and Statutory Maternity Pay (Normal Weekly Earnings etc.) (Coronavirus) (Amendment) Regulations (Northern Ireland)

2020 SR 69

These Regulations amend the Statutory Maternity Pay (General) Regulations (Northern Ireland) 1987 and the Social Security (Maternity Allowance) (Earnings) Regulations (Northern Ireland) 2000 in relation to furloughed employees.

The Statutory Paternity Pay, Statutory Adoption Pay and Statutory Shared Parental Pay (Normal Weekly Earnings etc.) (Coronavirus) (Amendment) Regulations (Northern Ireland)

2020 SR 70

These Regulations amend the Statutory Paternity Pay and Statutory Adoption Pay (General) Regulations (Northern Ireland) 2002 (S.R. 2002 No. 378) and the Statutory Shared Parental Pay (General) Regulations (Northern Ireland) 2015 (S.R. 2015 No. 94) in relation to furloughed employees.

The Health Protection (Coronavirus, Restrictions) (Amendment) Regulations (Northern Ireland)

2020 SR 71

These Regulations amend the Health Protection (Coronavirus, Restrictions) Regulations (Northern Ireland) 2020 to remove the requirement to close burial grounds to members of the public.

The Planning (Development Management) (Temporary Modifications) (Coronavirus) Regulations (Northern Ireland)

2020 SR 72

These Regulations make temporary modifications to the Planning (Development Management) Regulations (Northern Ireland) 2015 to remove the requirement for a public event to be held as part of the pre-application community consultation procedures during the “emergency period” as defined in these Regulations.

The Local Government (Coronavirus) (Flexibility of District Council Meetings) Regulations (Northern Ireland)

2020 SR 74

These Regulations make provision regarding the running of district council meetings by making amendments to the Local Government Act (Northern Ireland) 2014 and The Local Government (Executive Arrangements) Regulations (Northern Ireland) 2015.

THE LAW SOCIETY
OF NORTHERN IRELAND



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