Middlesex Law Society 50th Anniversary Dinner

Past Presidents' Tribute
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The Society met and dined on 6th Feb 2009 in the glorious surroundings of the Law Society Common Rooms to celebrate the 50th anniversary of the Middlesex Law Society. In attendance were many ex-presidents, current members and our guests of honour Lord Bach, Minister of Justice, Paul Marsh, President of the Law Society and Adrian Rees, CBE (Secretary to the Solicitors Benevolent Association) (see photos pages 14-17 taken by our Immediate Past President, Maria Crowley). Thanks to a change to the Bill, and for the splendid 50th anniversary dinner. It is a momentous time in many ways for us as we await the historic event in October 2009 with the opening of the UK Supreme Court in the renovated Middlesex Guildhall. The reform is intended to strengthen the rule of Law in the UK. It is also important for the role of law in a less grand way, to remember the contribution played by organisations such as the Middlesex Law Society, in that it is an example of both the voluntary sector and of the independent professions. These organisations should be treasured for the small role they play to ensure the continuity of good advice and the integrity of informed opinion in a world where the limitations of government and the tempest and pitfalls of the commercial market are obvious, particularly in these times of recession. We are blessed in the UK in having a very effective civil society that works to provide important services, opportunities and protection amongst the huge trappings of Government policy and market forces.

Our Law Society Council Member, Michael Garson and I attended a conference organised by the Devon and Somerset Local Law Society on 31 March 2009 to discuss the topic ‘Do Local Law societies work?’ It was apparent that we are a middle sized society with our membership of 400. In contrast are the small societies that meet occasionally and the bigger societies of 1,000 members or more that were formed by an amalgamation or merger of other adjoining societies such as Surrey and Holborn and Westminster, and the older societies in Birmingham, Manchester and Liverpool that have full time staff, premises and libraries. We received very admiring comments about the quality of the Bill of Middlesex, and many thanks to Robert Drepaul for his editorial work on the Bill, and for organising the splendid 50th anniversary dinner. What we have in common with other local law societies is a commitment in improving professional work through training events, we act as a useful means of communication and representation as is illustrated by the current consultation on the future of the organisation, regulation and conduct of legal practitioners. I thank Michael Garson for pulling together the views of MLS members and sending them onto Lord Bach who is conducting the consultation process on behalf of the Law Society.
Editorial

The Middlesex Brand

What comes to mind when someone says or google the word ‘Middlesex’? A county cricket club, a university or a non existent county. Having said that despite its disappearance as an administrative county as a result of the London Local Government Act 1963, Middlesex is still retained as a postal county to this date.

The Legal Services Act will introduce competition to the legal market over the next three years or so. It is reported that Tesco has confirmed again that it is not going to take advantage of the Legal Services Act. Hmm! The Automobile Association already offer legal services through a panel of law firms. The Man, or Woman on the Clapham Omnibus (or should that now be the Central Line) will have a choice where to get their legal services in the same way he or she for example chooses their bake beans. i.e. packaging and value for money.

How will firms in Middlesex promote themselves in the full glare of competition? A dynamic website for the internet age or a quality newsletter. Think legal services, think Middlesex Law Society for value, quality and friendly advice. It’s all in the branding or should that be brand name!

Robert S. Drepaul
rsdrepaul@vickers-solicitors.co.uk

APPLICATION FOR MEMBERSHIP

Surname _______________________________________________________________________________________Mr / Mrs / Miss / Ms ___________________________Forenames _________________________________________________________________________________________________________Name _________________________________________________________________________________________

Are you interested in joining the Committee? Yes/No

Would you like to apply for FULL / ASSOCIATE / FIRM Membership of the Society

If you have enclose herewith 5 roubles for the current year, made payable to ‘Middlesex Law Society’

Signature ____________________________________________________________ Date _________________________________________

Individual Subscription Rates

Full Membership: £50.00 per annum - 3 years since admission or academics

£15.00 per annum - Trainee Solicitors, ILEX members, Paralegals, caseworkers, fee earners and students of law

Firm Full Membership: Partners/Solicitors 2-5 £125 per annum 6-10 £250 per annum 11 or more £500 per annum

Please return completed form and remittance to: The Administrator, Middlesex Law Society, 55 Brookbank Avenue, Hanwell, London W7 1AA or Middlesex Law Society DX: 10144 Ealing Tel: 07930 386 798

CONTACT THE MEMBERSHIP SECRETARY TO CHECK IF YOUR SUBSCRIPTION IS UP TO DATE

Middlesex Law Society (est. 1959)

Annual Dinner

3 December 2009 6.30pm

Pillars Restaurant Thames Valley University, W5 5RF

Guest Speaker

By Avi Lasarow, managing director of Trimega Laboratories

It has long been acknowledged by the medical profession that a reliable test to detect alcohol and drug consumption is required. Addicts are often in denial or embarrassed about substance abuse and over half of heavy drinkers will underestimate, or lie about, their consumption of alcohol. A test of the traditional tests that exist (eg urine, blood, liver function) have severe limitations: even when accurate, they only relate to recent consumption.

Although relatively new, forensic toxicology testing of hair is fast-becoming the preferred method of determining someone’s alcohol and drug consumption. It has been enthusiastically adopted in the UK by Family Law specialists, social services, regulatory bodies, professions such as nursing and passenger transport (eg aviation) as well as being ordered by the Courts directly. The number of hair drug tests that are requested by Social Services, for example, is estimated to be around 4,000 a year, with one-in-three testing positive to substance abuse.

Whilst hair testing is not intended to replace ‘under the influence’ impairment type tests taken at the time of a particular incident, its real value is in its differentiating between social and excessive drinkers - or recreational and habitual drug users. Samples can be collected non-invasively and will provide an accurate record of any alcohol or drugs dependency over a three to 12 month period. From a practical point of view, hair is much easier to handle in the ‘chain of custody’ than blood or urine as it does not need to be stored under any special conditions. It also avoids the embarrassment of chaperones ‘observing’ urine collection. Plus, if a urine sample is in any doubt, it is always possible to take a fresh, identical hair sample and to eliminate any false positives or false negatives.

How It Works

Since hair growth is fed by the bloodstream, the ingestion of drugs or excess alcohol in the blood is revealed by analysing chemical markers absorbed by the hair. As the hair grows, it absorbs these markers into its structure, which remain in the hair indefinitely. These markers are only produced when there is alcohol or drugs in the bloodstream. The more markers there are, the more has been consumed. A tuft of hair about the diameter of a pencil is required and the industry standard is to test a length of 1.5 inches, which provides a 90 day history. If no head hair is available, body hair can be used instead. Samples must be taken by a trained collector or by a national nursing service to collect samples on behalf of clients. Results are generally available within 10 working days from receipt of the sample and can be provided in a standard ‘Section 9’ legal statement. This is accepted, if required, by all UK courts -

although in some cases it may be necessary to also provide ‘expert witness evidence’ to support the results. A significant breakthrough came earlier this year when the two most common types of tests – known as FAEE (fatty acid ethyl ester) and ESI (ethyl glucuronide) – were combined by Trimega Laboratories to provide ‘Gold Standard’ results for any case requiring unequivocal evidence.

Case Study

Merseyside law firm, Burd Ward Solicitors, has used hair alcohol testing in a successful bid to reunite children with their parents. In early January, hair samples were collected from both parents who had admitted excessive use of alcohol. Both adults reported abstinence in the four day period prior to hair samples being collected, but it was too short a timeframe for the hair alcohol test to yield a negative result. Further testing one month later did however give a negative result, showing that the donors had significantly reduced their alcohol intake. A third and final hair alcohol test carried out one month after that yielded a negative result of less than 4mg/ml, which is typical of total abstinence. This clearly showed that the parents had abstained from drinking in the three month period covered by all three tests.

Free CPD Training

Over the last 12 months Trimega Laboratories, the worldwide market leader in hair alcohol testing, has delivered more than 200 CPD courses in the UK, reaching a target audience of Magistrates, Baristers and Solicitors. Its courses, which can be arranged free of charge, cover the evolution and understanding of the need for medical technology, particularly in child protection cases and the need to understand if a parent is considered to be alcohol dependent.

By Avi Lasarow, managing director of Trimega Laboratories

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In just seven years since it was founded, a niche law firm has established itself at the forefront of its field, winning not only the respect of its clients but its peers too.

TPP Law – until recently known as The Projects Partnership – specialises in working with public authorities and not-for-profit organisations in areas which include education, housing, health and social care. It has recently won a Law Society Excellence award for its practice management standards.

Staff at TPP Law have proved that having the right systems in place can reassure public sector clients that the updated Lexcel Standard is not only required policies and plans to be put in place, but also that they are reviewed and updated at least annually and in certain areas, such as the business continuity plan, tested. The new standard places more emphasis on the technology that is needed in a modern law firm.

TPP Law's own disaster recovery plan was tested when the offices suffered a major power failure, but systems had been put in place to ensure data was saved – thanks to the pursuit of Lexcel accreditation.

The Law Department at Middlesex University's Department of Law has just been awarded a three-year Law Faculty Grant by the City Solicitors Education Trust (CSET). The grant provides 50% of the funding required for a new lecturership in law, with the University providing the balance. The new lecturership will focus on areas of contract law and tort (compensation and damages disputes), as well as adding to the Department's provision in core law subjects. The postholder is expected to play a vital role in mentoring and coaching students towards taking their first steps in the highly competitive professional world of law.

Professor Joshua Castellino, Head of Middlesex's Law Department, said: "At Middlesex we aim to provide the best most relevant teaching for our students. Gaining funding from CSET will help us do exactly that, by strengthening our provision in core subject teaching, and by providing added support to students in their journey towards careers in the profession. We look forward to developing our programmes with our CSET Lecturer, who will be appointed later this year."

The Law Department at Middlesex was established 35 years ago and has built up a high standing and reputation amongst law professionals for its academic teaching and research. Undergraduates may follow either LLB or BA qualifications, and each year around 150 students graduate from Middlesex in these subjects. As well as increasing its provision in contract, tort and other key subjects, the CSET funding award means that the Department can strengthen its practical support to students in their career development. The University plans to appoint a postholder with substantial experience of practicing law and mentoring younger colleagues, whose expertise can be used to coach students in the best routes to starting a successful career in law.

CSET was founded in 1989 and provides funding to university law faculties towards core and emerging subjects. CSET also runs a successful summer school. To date, CSET has provided grants of over £1m to more than 60 higher education institutions. Middlesex's CSET funding is one of eight Law Faculty Grants made to UK universities by CSET in 2008. Howard Jacobs, Chairman of CSET's Management Committee, said: "CSET is very pleased to be contributing to Middlesex's law provision, the application submitted by Middlesex's Law Department showed that careful thought had gone into how Middlesex could best meet the needs of its law students. We hope the CSET Lectureship will lead to a steady stream of graduates from Middlesex who will put their learning and expertise to use in the profession."

Anna Kyriatou, Dean of Middlesex University's Business School, commented: "The University is very pleased to be able to match CSET's generous Law Faculty Grant, to provide joint funding for this innovative 3-year post. The CSET Lectureship will undoubtedly enhance the experience of law students at Middlesex, particularly in terms of preparing them for careers in this often pressured profession. We look forward to seeing our graduates in key roles in the law profession of the future!"

For more details about Middlesex University's Department of Law, go to www.mdx.ac.uk/schools/bls/departments/Law/Law.asp
Middlesex University to train human rights lawyers in Uzbekistan, Kazakhstan and Kyrgyzstan

Lecturers from Middlesex University’s Department of Law and colleagues from London Metropolitan University’s Human Rights and Social Justice Institute have just begun a one-year pilot project, to develop the knowledge and skills of human rights advocates in Uzbekistan, Kazakhstan and Kyrgyzstan. The project is funded by Britain’s Foreign & Commonwealth Office, and aims to enhance practitioners’ skills and professionalism, drawing attention to the way civil society engages with national institutions in those countries, and working towards ‘best practice’ in dealing with human rights issues. Middlesex lecturers will deliver training on-site and will coach and mentor attendees.

The idea for the project stemmed from a training initiative which Professor Joshua Castellino, Head of Middlesex’s Law Department, worked on in Kyrgyzstan in 2008, where he coached human rights defenders from Uzbekistan and Kyrgyzstan in how human rights laws operate, and in how to develop effective strategies for dealing with human rights issues at international level. The emphasis of that programme was on empowering human rights defenders and this focus has been maintained and developed in the 2009 project, with other subjects and modules being added to create a broader programme.

The 2009 pilot project will involve groups from Uzbekistan, Kazakhstan and Kyrgyzstan. As well as creating information and resource networks in their own countries, attendees will also develop information and resource networks in neighbouring countries. This could lead to greater cohesion and a stronger voice for civil society in the region.

Over the next year, experts from Middlesex and the Human Rights and Social Justice Institute (London Metropolitan University), who all have experience covering countries in central Asia, will coach and mentor attendees. The College of Law has tapped into the growing popularity of e-learning by launching its multi-media distance learning programmes online.

Middlesex lawyers can now access the 76 programmes produced each year by College of Law Media across the full spectrum of practice areas directly on their desktops.

A recent survey of learning and development professionals revealed that e-learning is the fastest growing training method among major companies.

College of Law Media, formerly called LNTV, has been providing video training programmes to solicitors working in law firms and other organisations in all areas of practice for many years through its DVD service.

The new online service allows solicitors to gain CPD points by offering interactive test and feedback exercises to reinforce key points and ensure comprehension. Viewing a programme and completing the relevant exercises means one full CPD point per programme can be gained.

It also includes an automatically-updating diary feature for individual solicitors and supervisors to monitor the amount of CPD points earned. Lawyers can also add in CPD points earned from other sources.

The online launch of College of Law’s Training Programmes brings legal updates direct to Middlesex Lawyers’ desktops

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Jon Harman, College of Law Media director, said: “This is a fast and non-effective way to fulfil CPD requirements without the need to travel away from the office and miss out on valuable billing time. Learning and Development professionals are all currently facing tough strategic decisions on training spend. The attendance at last month’s Learning Technologies event in London had doubled on the previous year’s. We are seeing a re-awakened interest in technology learning solutions and people are realising how much this technology has progressed, coupled with new research in neurology about how the brain actually learns.”

“The College of Law has led the way with the multi-faceted use of e-learning across all programmes and is firmly placed to continue to lead the way with solutions for professional legal training. College of Law Media builds on these foundations and will continue to build.”

A recent survey of senior training professionals by Cegos, part of Europe’s largest learning and development organisation, revealed that e-learning was set to grow at a greater rate than any other training method. Nearly three-quarters (73 per cent) of organisations are planning to use e-learning for professional development in 2009, while 96 per cent say they will increase their e-learning efforts.

In addition the recent ‘Towards Maturity Benchmark Review’, undertaken in the UK between November and December 2008, shows a stark shift of thought to learning technologies as the country enters a difficult economic period. 64 per cent of respondents said they intended to transfer their training budgets to e-learning solutions, rather than traditional courses.

College of Law Media’s programmes provide topical training and legal updates across a range of practice areas: corporate/commercial; property; practicemanagement and compliance; employment; dispute resolution; local government; personal injury; family; private client, and crime.

They are professionally produced with high production values and feature advice from leading experts. The writers and producers are all qualified solicitors with substantial experience of the realities of legal practice.

The online programmes can be viewed both by individuals on their desktops and by groups via a projector.

For more information visit www.college-of-law.co.uk/cpctraining. To register for a free trial call the Customer Centre on 01483 216789 or email cpd@lawcol.co.uk.

For more information on Middlesex University, go to www.mdx.ac.uk/law
The University of Huddersfield School of Law

The School of Law is a progressive one that is committed to offering courses that are not only innovative in terms of structure but also in terms of delivery. The School was established in 1978 and was one of the first providers to be validated to run the Legal Practice Course (LPC) from 1993.

In 2008 commenced a radical new four year degree course combining the traditional law degree with the final stage for qualifying as a solicitor, normally completed through the LPC. At the end of the four years students achieve their LLB (Hons) plus a Master of Law and Practice. We were the second University in the country to be authorised to offer this course by the Solicitors Regulation Authority. The first time the SRA has approved such radical reform since 1992. Apart from the added value of obtaining a Master’s degree, students benefit enormously as all fees are deferred until they are in employment, there are no expensive “upfront” fees as for the LPC.

Our emphasis is giving students a sound educational experience supported by an “open door” policy for academic and pastoral care throughout the student’s period with us.

Our commitment to ongoing course development to meet the needs of tomorrow’s professionals is demonstrated in new course areas such as a Foundation Degree in Para-Legal Studies which will be available from 2009.

We also offer both full and part-time courses leading to the Common Professional Examination. Again this course is unique in that it is offered on a flexible and distance learning basis over the internet. This means that any student, anywhere in the world can complete this course and then move on to studying the LPC or the Bar Vocational Course.

In an era of economic uncertainty when significant re-structuring is taking place, not least in the legal professions, we are also able to provide appropriately qualified applicants a range of postgraduate courses to enhance their knowledge. For those who are professionally qualified or who have simply completed their LPC or BVC courses and are awaiting a training contract or pupillage we offer an LLM by open and distance learning. This requires the presentation of a 25,000 word dissertation. The research is usually carried out over an academic year, though this period can be extended. In addition we offer taught LLM degrees in Commercial and International Law on a full-time or part-time basis with either a September or January start.

Middlesex University Celebrates 35 Years

The re-launching of the Law Department at Middlesex University, under the leadership of Professor Joshua Castellino, is producing a staff group which recognises the potential of the Department for a future in which existing programmes can be improved, new programmes offered and research projects undertaken.

However in the midst of the excitement concerning the present and the future there began to emerge an interest in the past on which the present rests and the future will be built. University records were drawn upon, colleagues who had long service were asked to draw on their personal memories and provide both documented and oral accounts of this history. Former students, especially alumni were consulted. It was decided to hold a celebratory event on 12th May 2009 to bring together as many as possible of those who had been associated, as teachers, external examiners and, above all, students, with the delivery of law at Middlesex, in order to reminisce on the past and rejoice at the prospects for the future.

An immediate question was, “When and how did it all start?” We know that there had been law teachers at both Enfield and Hendon before these Colleges of Technology were brought together to form Middlesex Polytechnic. It is within “living memory” that law was taught at Hendon at least as early as 1960, in the context of post-experience programmes for managers (particularly trained personnel managers) and Higher National Diplomas in business studies. The development of law was strengthened in the late 1960s by the validation of a BA in Business Studies at both Hendon and Enfield and as a component in a Joint Honours degree in Humanities at Hendon, but the present celebration is based on the emergence of the law degree made possible by these earlier programmes.

The validation of the law degree was an exercise in private enterprise by the lawyers on the eve of the creation of Middlesex Polytechnic, rather than a part of the business plan for the new Polytechnic. By and large the staff at Enfield and Hendon did not want to work together: they regarded the union of their colleges in the Polytechnic as a forced marriage. However Hendon College had an Acting Principal, one Dr Garnett, who saw the contribution that a law degree could make to the Polytechnic, so he hinted to Hendon lawyers that they should pre-empt formal introductions and immediately set up a clandestine degree working party as a joint exercise with the Enfield lawyers. The lawyers needed no further encouragement and, on the eve of the formation of the Polytechnic, Enfield College administration sent the relevant (but still unauthorised) papers to the Council for National Academic Awards requesting it to validate a law degree. By the time this came to light the Polytechnic had been formally declared, Dr Garnett had moved on and Hendon campus was under the management of the Deputy Director of the Polytechnic. He was not pleased to learn what the lawyers had done, but he had to concede the proposal that had been put forward was strong enough to face a validation panel. CNAA visited Hendon and had no hesitation in validating a BA in Law for an intake of about 35 students there in September 1974. This established Hendon as the principal base for law in the Polytechnic though for a number of years law continued to be offered at Enfield in business studies and joint honours degrees.

The law degree has gone from strength to strength since that first modest intake of students, though it was several years before CNAA decided that every law degree it had validated should be known as an L.L.B. In Middlesex the law portfolio has grown to include many other programmes, including the CPE diploma for non-law graduates, a cluster of LLMs and supervision of MPhil and PhD programmes. Research has also become part of the department’s culture, building on an early funded project on health and safety law on offshore installations, staff have achieved a research record which includes many projects particularly in employment law and human rights. However the present celebratory event is to mark the giant step forward made by that first intake of law students some years ago. We hope that it will bring together many friends who will be able to celebrate the past, enjoy the event and contribute to the future.

Brenda Barrett, Emeritus Professor, Middlesex University Law Department

On the evening of May 12th Middlesex University Business School paid host to about 150 guests in a lively celebration marking the 35th year of the teaching of law at Middlesex. Guests included many former LLA BA law and Graduate Diploma in Law graduates, several of whom remain in the Middlesex area as practitioners working in law firms, barristers’ chambers, government, education and industry. Middlesex were extremely pleased to have as guest speaker Michael Mansfield QC who spoke about a wide range of subjects, including his work in recent controversial cases involving civil liberties and advice to new lawyers interested in civil liberties. Michael Mansfield’s remarks were followed by those of Nick Roche of Dewey and LeBoeuf, who is a Middlesex alumnus and acts for international clients in the field of insurance law. The event concluded with comments from Professor Joshua Castellino, Head of the Law Department at Middlesex University followed by refreshments in the stunning setting of the Sir Raymond Rickett Quad in the Hendon Campus of Middlesex University.

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MIDDLESEX LAW SOCIETY
50TH ANNIVERSARY DINNER
6 February 2009 at the Law Society Common Room, Chancery Lane

Top Table
Lord Bach, Under secretary of State for Justice
Paul Marsh, President of the Law Society
Shelia Marsh
Professor Malcolm Davies, President of the Middlesex Law Society
Pamela Davies
Maria Crowley, Immediate Past President of the Middlesex Law Society
Adrian Rees, Solicitors Benevolent Association, Chief Executive
Michael Garson, Law Society Council Member for Central and South Middlesex
Morag Goldfinch, Law Society Regional Secretary
Frances Goodman, President of the West London Law Society

3
Brian Regler (PP) - Colemans LLP
John Barry (PP) - Nicholls Christie & Crocker
Richard Huseem (PP) - Nicholls Christie & Crocker
Sandra Kurth - Nicholls Christie & Crocker
Dave Debeldin (PP) - Debdins
Miss Radia Gohin
Ariya Srijahan (PP) - Srijahans
Remo Srijahan
Irene Srijahan
Miles Srijahan

5
Edward Lock (PP) - Lock Marlborough
Caroline Lock
John Goldman
Lynda Goldman
Ian Clark
Lottie Clark
John Lackington
Barry Harwood
Sonia Singh
Sanjeev Bisauthsingh

6
Neeta Desor (PP) - Desor Co
Hardeep Dhillon
Anita Anthony
Rajinder Khosa
Darrell Webb
Amaaj Lali
Sarita Sharma
Ana Nanovski
Christine Dooley
Richard Bearman

7
Maralyn Hutchinson (PP) - Kagan Moss
Jeremy Stevens
Jane Stevens
Rowana Lustey
Philip Elliott Wright
Dina Elliott Wright
Philip Ellis
Linda Hunting
Chris Clarke
Crawford Edgar

8
Alured Darlington (PP) - Hanwell Chambers
Elizabeth Van Der Weit
Juliet McCammon
Gillian Travers
Susan Scott Hunt
Stephen Homewood
Dr Joseph Cokin
Dr Boaz Ben-Amitai
Dr Mariette Jones
Dr Nadia Bernaz

Photographs by Maria Crowley
Moving on from soliciting – the life of a local notary public

A few years ago I decided to abandon the joys of the daily Central line commute and find a way to work either from home or closer to home. A friend had just started the course leading to a Diploma in Notarial Practice run on a part-time basis over two years by Cambridge University, and suggested a possible career change which might work for me.

Notaries represent the oldest and smallest branch of the legal profession. A Notary Public is a legal officer of ancient standing; in Latin a ‘notarius’ was a clerk or secretary, a sort of legal scribe. Indeed part of the Diploma course requires a study of Roman law so that the notary has some understanding of subsequent legal systems based on Roman law. Most notaries have qualified and practised for some years as solicitors before moving on to include a notarial practice as part of their work portfolio.

The admission and regulation of general notaries in England and Wales is one of the functions of the Faculty Office of the Archibishop of Canterbury based near Westminster Abbey in London. Until 1533 notaries were appointed on papal authority by the Archbishop of Canterbury. Following the break from Rome, appointments continued to be made by the Archbishop of Canterbury – but on the authority of the Crown. So the Court of Faculties (now known as the Faculty Office) has its origins in the Ecclesiastical Licences Act 1533. Today the Faculty Office is presided over by the Master of the Faculties who is the most senior ecclesiastical judge and commonly also a judge of the Supreme Court. The functions of the Office are now the issue of marriage licences, the regulation of the notarial profession, and the awarding by the Archbishop of ‘Lambeth’ Degrees.

Scribner notaries (approximately 30 in number) are members of the Worshipful Company of Scriveners. The membership of the Company includes not only notaries but also members of several other professions. Scribner Notaries have their own separate governing and professional bodies, and they generally practise exclusively as notaries, mainly in London. Thus they are not usually qualified solicitors too. They are required to have a knowledge of foreign law and foreign languages as well as a knowledge of English law. This does not apply to general notaries although proficiency in one or more foreign languages can be helpful.

The Notaries Society is the representative society for the 900 or so Notaries Public practising in England and Wales. Scribner notaries are represented by the Society of Scribner Notaries.

A client may need a notary public for many things, such as selling or buying a house abroad, opening a foreign bank account or transferring money from it, giving a power of attorney, certifying copies of documents such as examination certificates or qualification certificates, opening a branch office of a UK company or business abroad, getting translations of documents certified, assisting with the paperwork for marriage abroad and so on. The need for a notary public is dictated by the requirements of the country where the document is to be used.

Being based in West London I see a number of Indian clients now resident in the UK. For example, if the client is not in India, but wishes to buy a property there, his Indian lawyer or other dose will require a power of attorney to deal with the purchase and registration of ownership and possibly the on-going management of the property. The client will appear in front of the notary who will confirm the client’s name and identity, observe the signature by the client before witnesses, and sign the document and seal it with his or her official seal.

The document then will usually need to be further authenticated by having the U.K. Foreign and Commonwealth Office confirm the validity of the notary’s signature and seal. This is done by legalisation or authentication – the FCDO attaches an official certificate to the back of the document, known as an apostille. This is internationally recognised in most countries due to the Hague Convention, and so nothing further is required from the consulate of the foreign country in question.

I operate a purely notarial practice from home. As it is not a full-time occupation, I combine it with part-time teaching at the Law School at Thames Valley University that I can be fairly flexible and see clients in the evening or at weekends if required as well as during the working week.

Rowena Lusty
Lecturer, Thames Valley University
The Law Society commissioned a review of regulation by Lord David Hunt in response to its experience of dealing since 2006 with governance of the separated Solicitors Regulation Authority (SRA) and Legal Complaints Service (LCS). It took account also of the development following the Legal Services Act 2007 of the establishment of the Legal Services Board (LSB) – the oversight regulator and, from 2010, of the Office of Legal Complaints (OLC) to replace the LCS and establish a new complaints handling system.

Members of the profession were invited to comment on their experiences to Lord Hunt, who as a solicitor in practice for many years and now active in Parliament, has been heavily involved in the passage of the Legal Services Act (LSA 2007) reforms and the design of the new regulatory landscape. Middlesex Law Society organised a submission through the members of its committee to reflect shared views from the perspective of high streets firms offering both general and niche services. There was also a training and education viewpoint expressed by our members who train entrants to the profession.

The implementation of the LSA 2007 led to the appointment of the chair of the LSB, David Edmunds, and the issue of a work plan setting out priorities in relation to LSB’s role of supervising regulators of the legal profession. The LSB is keen to promote alternative business structures as soon as possible.

The SRA has been in place for more than two years and the re-appointment of its Board is imminent. The Law Society has responded to feedback from the profession and many have expressed a view that regulation of practice is problematic and unduly burdensome. The larger city firms have submitted a collective view through the report of Nick Smedley and this has now been published. The report explains the ways in which the larger firms believe that the regulation of practices dealing with certain clients – broadly sophisticated clients on the global stage – could be handled rather differently by an SRA equipped with expert regulators. Many of the views expressed would be shared by practitioners across the country in all sizes of practice and the observations and suggestions could be adapted to meet the needs of other types of practice outside the city.

The submission for Middlesex looked at a number of aspects of regulation and difficulties of applying certain rules across all types of practice. Many have views based on a monitoring visit or other interaction, be it in connection with training, advice on professional matters or disciplinary procedure. It is widely felt that a number of improvements are needed to make application of the rules more proportionate and relevant. SRA should be more understanding of practicalities faced by practitioners and more mindful of the cost of the increased burden of regulation imposed in recent years. Much regulation is now somewhat ‘gold plated’ and aimed to be preventative, such as in relation to money laundering, or intended to protect the reputation of the profession with the public, such as in relation to mortgage fraud. It bears heavily on smaller firms who on a wide and ‘sympathetic’ view do not necessarily present a greater regulatory risk.

The SRA policy of ‘principle based’ regulation is applied on a risk assessed basis. This is not universally accepted or even fully understood. It involves weighing up the ‘risk score card’ devised by the SRA in relation to facts and matters that it deems relevant. This takes account of risks posed to the protection of the public and/or to the reputation of the profession. In some respects this assessment is seen as arbitrary and both uncertain and variable. This presents a problem to many of our members who have to organise their working lives on the basis of certainty not just to avoid risk of mistakes, but also to keep control of costs. Many members of the profession were trained to operate their offices within clearly defined rules backed by extensive guidance; this is no longer available in the same way as it once was. Overall it appears that there may be a lack of trust by on the part of practitioners concerning the SRA and a lack of experience or pragmatism of approach by SRA as regards the problems that arise in practice.

Members generally express the view that the independence of the profession and of legal advice from government is paramount. Also there are concerns at the imbalance between the regulated sector and those who are not so strictly regulated or not regulated at all and the inconsistencies should be ironed out. This affects will writing and the intrusion of referral fees into various aspects of legal practice.

The cost of regulation is high both in relation to constant changes to meet new situations and in the time needed to implement and monitor work carried out by others. This is an increasing concern with the advent of Legal Disciplinary Practices which are now allowed and also with the proposals for Alternative Business Structures (ABS). It remains to be seen how the LSB will approach the imposition of the profession’s high standards on non-solicitors who become members of LDPs and, in due course, businesses using the ABS model.

Some regions (our area included) have been affected by SRA disciplinary activity that has lead to a perception that some new and smaller practices are particularly vulnerable to adverse findings. Inspections lead to disciplinary procedures that larger or more established firms, might not suffer. It is possible that some newly formed firms with inexperienced partners would benefit from post qualification training or mentoring and this idea is being considered by the Society and it education and training members as a result of recent discussions.

Additional training for those who are considering embarking upon practice on their own account would seem a sensible initiative, if only to be better equipped to deal with the strict requirements of regulation. The downturn in economic activity has seen, and will continue to see, redundancies in the legal profession and for some the way to stay in practice is to strike out on their own.

Overall regulation of the solicitors’ profession is extremely strict and calls for high standards of conduct. Solicitors are expected to support the rule of law and government agencies for anti terror legislation, money laundering, tax collection and other anti-fraud policies. The benefit of this to government seems to go largely overlooked when considering the terms of which the profession operates.

The review will now proceed to its next stage with a consideration of all submissions made. This will include one from the Regulatory Affairs Board on behalf of the Law Society Council that deals with concerns as to the ways in which the SRA share its ideas and thinking in relation to the making of rule changes. There will be a series of road shows around the country which started in May.

Michael Garson
Council Member for Central & South Middlesex
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**Section 194 Pro Bono Cost Orders**

The legal profession has, for some time, sewn a rich vein of pro bono work into its history. Today that trend continues and looks set to grow thanks to the introduction of pro bono costs orders, otherwise known as section 194 orders.

Perhaps now, more than ever, pro bono legal work is more important with so many people being affected by the downturn seeking access to justice.

The Law Society is backing Lord Goldsmith, QC, the former Attorney-General's call to all lawyers carrying out pro bono cases to consider making a section 194 pro bono costs order to increase resources for access to justice.

Under the new process, where a pro bono assisted party wins its case, the court may now make a section 194 order in its favour. If the opposing party knows it will face a costs order, it has a real incentive to settle - and to settle on good terms.

The Access to Justice Foundation is approaching its first full six months in operation, and has received both funds from a modest first section 194 order, and some strategic donations from the legal profession. Lawyers have also reported achieving settlements in pro bono assisted cases due to the other party's potential liability to pay section 194 costs.

The effect of the recession on property work in particular was noted and there were very concerned that every effort be made to keep the practising certificate fee to a minimum and further steps of being considered which will inevitably mean there are difficult choices to be made.

The enduring problem of the pension fund is also likely to mean that there will be further demands on the profession in the next few years and despite savings made by the representative Law Society, it is anticipated that there will be a drop in the number of practising certificate fee next year and that this will have a considerable effect on income at a time when the demands are going to be far greater.

As part of the Legal Services Act (LSA), the profession must pay a significant proportion of the start up and the running costs of the Legal Services Board (LSB) and the Office for Legal Complaints (OLC); there will be no contribution whatever from government funds.

In addition to the costs of the OLC the profession will be required to ensure that the Legal Complaints Service is in a position to complete its outstanding work and for a period, it is likely there will be dual running of both services.

The SRA also anticipate increased spend as a result of the recession, Council were very concerned that every effort be made to keep the practising certificate fee to a minimum and further steps of being considered which will inevitably mean there are difficult choices to be made.

The effect of the recession on property work in particular was noted and there is a plan of work to support solicitors and ensure that they remain at the heart of the conveyancing process. Council remains extremely concerned about the effects of the recession and there are very concerned that every effort be made to keep the practising certificate to a minimum and further steps of being considered which will inevitably mean there are difficult choices to be made.

**Summary Report on Council Meeting of April 2009**

The Council remained extremely concerned about the effects of the recession on the profession. Although there is no accurate information available, it is anticipated that there will be a drop in the number of practising certificate fee next year and that this will have a considerable effect on income at a time when the demands are going to be far greater.

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The effect of the recession on property work in particular was noted and there is a plan of work to support solicitors and ensure that they remain at the heart of the conveyancing process. Council agreed that notwithstanding the current financial difficulties it would like to explore this further work and a requested that a detailed business plan be submitted to it.

**Law Society Council Member’s Report**

Michael Garson
Council Member for Central & South Midlands
Michael.garson@kaganmoss.co.uk

The legal profession has, for some time, sewn a rich vein of pro bono work into its history. Today that trend continues and looks set to grow thanks to the introduction of pro bono costs orders, otherwise known as section 194 orders.

Perhaps now, more than ever, pro bono legal work is more important with so many people being affected by the downturn seeking access to justice.

The Law Society is backing Lord Goldsmith, QC, the former Attorney-General's call to all lawyers carrying out pro bono cases to consider making a section 194 pro bono costs order to increase resources for access to justice.

Under the new process, where a pro bono assisted party wins its case, the court may now make a section 194 order in its favour. If the opposing party knows it will face a costs order, it has a real incentive to settle - and to settle on good terms.

The Access to Justice Foundation is approaching its first full six months in operation, and has received both funds from a modest first section 194 order, and some strategic donations from the legal profession. Lawyers have also reported achieving settlements in pro bono assisted cases due to the other party's potential liability to pay section 194 costs.

Lawyers in a position to apply for a section 194 order need to remember only six key points:

- They need to record their time just as they would for a paying client.
- They will need to tell the judge how many hours they worked and their usual rate - a costs schedule is a good way of doing this.
- Lawyers must always ask the judge to make a section 194 order where their client wins their case.
- They must tell the judge he can and should make an order in the same way as if it were an ordinary costs order - except of course that the funds will not go to the lawyer on the case but to the Foundation to support voluntary and not-for-profit organizations that provide pro bono assistance.
- Lawyers must tell the judge that he or she may choose from a summary or detailed assessment in determining costs. The judge can order all or part of the costs that would have been payable if it had been a fee paying case.
- Finally, the lawyer must send a copy of this order to the Foundation.

Pro bono work is vital in providing access to justice for those who cannot afford legal assistance but cannot get legal aid. However, it is vital that pro bono only compliments and does not substitute a publicly funded legal aid service.

The Law Society is committed to supporting the pro bono initiatives of the solicitors’ profession, which are recognised annually as part of National Pro Bono Week. For the solicitors carrying out pro bono work section 194 is another string in the pro bono bow.

Paul Marsh is President of the Law Society of England & Wales
Charity Quiz Night Photographs 2008

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In 1966, one of this country’s greatest if not its greatest director had to exit these shores under a cloud for the Land of Oz because the tabloid press was so “disgusted” with his profoundly disturbing Peeping Tom (1960) – now an acclaimed masterpiece – and this sadly, signalled the premature end of Michael Powell’s glittering career.

Australia in those days was a retreat where creatives escaped to when things were out of kilter here. Witness Anthony Aloysius Hancock and more recently TV celeb Michael Barrymore. It was a bolt of stickum for the heart, to lick wounds, safe in the knowledge, that a career may be salvaged by a grateful but supposedly less sophisticated audience.

Previously, all us non-Aussies knew about down-under movies was perhaps the film Hurry on Sundown and maybe the ubiquitous thespian Chips Rafferty. The... all that. Oz Film went from a dependent cottage industry to a thriving independent one with an international dimension.

Directors such as Peter Weir, Philip Noyce, Gillian Armstrong, to say nought of the kiwi Jane Campion now make movies that are both commercially successful, and critically acclaimed throughout the world.

In the vanguard of this explosion was the film BREAKER MORANT (1980), directed by Bruce Beresford and set during the second Boer War. A group of Aussie volunteers achieved a lot of success operating behind enemy lines and acting in a not so gentlemanly manner. HMG was looking for a way out of this costly South African venture, and in order to achieve a resolution, a sacrifice was needed to show good faith. Their senior officer conveniently dead, the three Aussies were ripe for offering up on the altar of appeasement. With their court martial set for the following day, an officer albeit a solicitor was ordered to defend the hapless trio, who faced the ultimate sanction should they be found guilty. Unfortunately for the three accused the newly elevated advocate’s only experience of Law was the buying and selling of real estate in the Australian outback and will drafting.

As you would expect he started off badly, and got steadily worse with his clients being less than impressed. But an Aussie is an Aussie and he got stuck in. If justice hadn’t had her advocate’s only experience of Law was the buying and selling of real estate in the Australian outback and will drafting.

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Wigs and Wherefores: A Biography of Michael Sherrard
Linda Goldman and Michael Sherrard
Wildy Simmonds and Hill Publishing
London (2008)

The law does not enforce itself. People do. They do so with a variety of influences upon them and in a range of contexts. The Good Law School will try to convey this reality by teaching law as more than just a set of rules, liabilities and duties.

But how do we do this?

It was once assumed that the best way was to teach the socio-legal context but this soon fell into the hands of those who love the grandsweeps of history or conspiracy...status, caste, privilege, birth sign or whatever trip the exponent was on. These accounts were not necessarily wrong.

But how to do this? It was once assumed that the best way was to do so with a variety of influences upon them and in a range of contexts. The Good Law School will try to convey this reality by teaching law as more than just a set of rules, liabilities and duties.

London (2008)

[1966] 3 All ER 52 at 56. It is for the
Re a Solicitor
there are three ways in which a party seeking to enforce a solicitor's undertaking can proceed (a) by an action at law; (b) by an application to the High Court; and (c) by an application to the Law Society. Summary judgment was therefore granted.

Having failed to secure the performance of the Defendant's undertakings to redeem the existing charges without resort to litigation, the Claimant invoked the summary jurisdiction of the court to enforce the said undertakings pursuant to its inherent supervisory jurisdiction over solicitors. The Defendant did not shirk away from the likelihood that ultimately it would have to perform the said undertakings (or make payments in lieu). However, it submitted that, had it sought to redeem the relevant charges at, or within a reasonable time after, the said undertakings were given, both Barclays and Close would have accepted a lesser sum than they are now seeking to recover.

However, the judge held in the circumstance that, due to the Defendant's breach of its undertakings, the sum 'now' required for those undertakings to be performed may be greater than if the undertakings had been honoured in due time. It was unfortunate for the Defendant but it cannot detrimentally affect either the position of the Claimant or the legal and equitable entitlements of the mortgagees of its clients' properties.

Pursuant to Udall before making its application for summary judgment the Claimant had made an application to the Law Society, which led to a delay in making its High Court application. Consequently, relying on observations of Mummery LJ in Taylor v Ribby Hall Leisure Ltd [1998] 1 WLR 400 at 409H-410B, the Defendant submitted that judgment ought not to be granted, and yet the judge in Udall held that the High Court should be slow to encourage premature resort to litigation before alternative methods of compelling performance of a solicitor's undertaking have been exhausted. Summary judgment was therefore granted.

This case has implications beyond those dealing solely with undertakings given by solicitors during the property transaction process. It is clear that if a solicitor is contemplating giving an undertaking it must first be sure of the extent of the risk by making suitable enquiries...prior committed itself accordingly. Otherwise, it runs the high risk of a sum or otherwise 'now' required for those undertakings to be performed failing to be the aggregate sum that the undertakings had been honoured in due time based on information sought and known prior to those undertakings having given.

Ryan Clement is a practising barrister at Conference Chambers and represented the Claimant in the above named case.
As the season changes, so will HIPs

The launch of new HIP regulations this month – combined with important changes in local authority and personal search charges – are set to make this a seismic Spring of Change, says Andrew Lloyd, Managing Director at SearchFlow.

The new HIP regulations introduced on 6th April are going to have a massive impact on the world of property search information. These latest changes come as a further response by the government to reform both the completeness and accuracy of the information contained in a HIP. In addition to the Property Information Questionnaire (PIQ) and the requirement for an agent to obtain a HIP before marketing a property, it’s the search content in HIPs that is getting the biggest shake up under these new regulations.

To begin with, Incomplete Answer Insurance, which has thus far allowed private search companies to insure against data that was “not available”, has now been removed from personal searches in the HIP. As a result, the practice of relying on data from derived sources that cannot be proven to be current – nor directly applicable to that address or geography – is simply no longer possible.

At the same time, local authorities are now also required to give access to private search companies for all relevant data, so that a complete personal search can be conducted across the country for a particular address. However, this change will only be true if this area is policed effectively by Trading Standards Officers and the Property Codes Compliance Board.

If both fail to show real teeth, compliance may be slow and some personal search companies may continue to rely on incomplete and/or inadequate information – albeit without the “safety net” of Incomplete Answer Insurance – thereby leaving consumers at risk of discovering something on completion that will affect the enjoyment and/or value of their new home. For law firms in particular, this is an important change, because sub-standard search information can clearly cause a number of serious problems down the road.

The second big change that came into effect on 6th April was the new pricing model for obtaining search information. Since December last year, local authorities have been able to charge for property search information on a cost recovery basis (i.e., not profit-making). These charges, however, are likely to vary widely, as each local authority is responsible for setting its own budget, based on its own individual cost of operation.

The Ministry of Justice, meanwhile, is expected to announce a rise in the fees that local authorities can charge personal search companies to access their data. These new fees (which may be twice as much as existing fees, according to some sources), combined with a variable charge across the country for the additional information required by the new regulations (such as Environmental Health and Building Control answers), will mean that the traditional price and operating models of the personal search businesses will have to change.

Not only will the impact on margins be significant, but it will be compounded by the variable charges for the extra information (which will need to be paid upfront), as well as the need for additional working capital. At the same time, these variable costs will mean that a personal search won’t necessarily cost less than a CON29, especially since many local authorities have yet to declare their prices. As such, some practices may prefer the certainty of the CON29 price, or – in the short term – to work with a supplier that can help smooth out these anomalies through an effective billing policy that accounts for this variability and lack of clarity on local authority pricing.

For all of these reasons, it will be very difficult for HIP providers and search companies to manage the variability of these charges and commit to a firm fixed price over a long period, until real clarity is achieved nationwide on the charging regime – especially as many local authorities have still not declared their prices.

Fortunately, there is a silver lining to all of this: the changes that came into effect on 6th April – if policed correctly – have the potential to improve the quality of a HIP by ensuring that it contains more comprehensive and reliable information, which means that HIPs will be more useful and offer better protection for the buyer. Not only that, but with more reliable information contained in a HIP, a lot of duplication will be eliminated as well, since the majority of law firms – 60 percent of those questioned, according to our most recent survey – still conduct an official local authority search even when a personal search has been completed.

Even more importantly perhaps, this new legislation has sparked a renewed interest in how we, as an industry, can work together to get important property information through the system more effectively. This renewed focus, combined with the recognition that property search and HIP information must be at a standard that is acceptable to all parties in the chain, will help to get house sales moving more quickly, which is an objective that I’m sure we will all like to achieve.
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*Please note: Client Care & Professional Standards Day 2* cannot be taken within the first 6 months of your training contract.

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