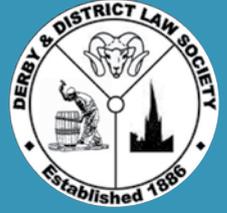


D&DLS Bulletin

Derby & District Law Society



www.derbylaw.net

Nov/Dec 2018

The Launch of... the University of Derby Student Legal Advice Centre



Also in this issue: Words of Wisdom: Consent Applications • EWI Conference

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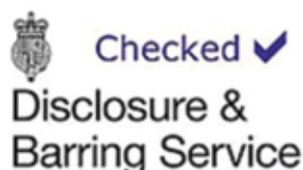
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Editorial



The run up to Christmas is upon us and, somewhat depressingly, we are already (mid November) inundated with Christmas adverts and that strange modern invention Black Friday!! Always sounds rather sinister to me.

In this issue I am pleased to say that Fiona Aphorpe has taken up the Words of Wisdom baton and provided us with the benefit of her many years of experience (hee hee) about getting Consent Applications past the District Judge. Contributions on any area of law gratefully received for future issues.

The eagle eyed amongst you will notice that there are no courses yet planned for Spring. We had several courses this Autumn which CLT tell me did go ahead so please let me have your requests. I am happy to try and find "good value" speakers for any given topic.

The Quiz (sponsored by Severn Trent Searches) will have taken place by the time that you read this but I am pleased to report that the take up for this event has been excellent – a near sell out – so readers you are obviously 'out there' somewhere!

Ben mentions the awards at the Annual Dinner – nomination forms are ready to be sent out as you return to work in January so start thinking about who to nominate. This is a new venture for DDLS and we hope that you will support it, but be warned - even if we have ONE

nomination per category we will be handing out those awards.

I was pleased to attend the Past President's (anyone know what movie they were in???) Dinner in October, which, although was attended by a select few, was enjoyed by all.

The Debate Competition is in full preparation mode. It has gone from strength to strength this year with more Derby City Schools taking part. The University of Derby Law students put on an excellent mock debate for the new participants. That event was judged by last year's winners who then did an impromptu Q and A session with the new children which was most useful. Once again, our young lawyers did a fantastic job of representing the profession when visiting the schools. The law student mentors are now working with the children to prepare for the main event which starts after Christmas. Thank you once again to all my Solicitors who have volunteered to judge. The Final is on the 6th March 2019 from 4pm at the Copperbox Building. Please make a note to attend if you can.

You will see that we have an informal Christmas Social planned for the 5th December – just turn up for a pint and a gossip.

Wishing you a wonderful Christmas and a Happy New Year.

Julia Saunders
admin@derbylaw.net
01283 734989

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Vice-President* Martin Salt Simpsons Solicitors Tel: 01332 424511 martin.salt@rightprobate.com	Andy Cash Cartwright King, Derby Tel: 01332 346111 andy.cash@cartwrightking.co.uk	Administrator / Bulletin Editor Julia Saunders, 14 Risborrow Close, Etwell, Derby DE65 6HY Tel: 01283 734989 Mobile: 07964 358042 Email: admin@derbylaw.net.	Nikki Spencer (0115) 932 4101
Deputy Vice-President* Julie Skill, Elliot Mather LLP Chesterfield Tel: 01246 231288; julie.skill@elliottmather.co.uk	Andrew Cochrane Flint Bishop, Derby Tel: 01332 340211 Via nikki.rennie@flintbishop.co.uk	Sub-Committees <i>(Secretary in italics)</i>	Christine Hinkley (01332) 836666
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(*+) attend Committee by invitation	Manesha Ruparel Alexander & Co mr@aandco.co.uk Tel: (01332) 600005	Ben Lawson	
	Stephen Woolley Stephen.woolley5@gmail.com	Manesha Ruparel (01332) 600005	
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President's Page



It has been an incredibly busy few months since the last Bulletin, both in my role as a family solicitor and as president. I am very lucky to be supported by great colleagues and the fabulous Julia. However, like most, my job would be much more difficult without an ever-increasing use of technology. Whether that is the use of e-bundles at Court, voice recognition

for typing, or any of the other new systems and tools that we now have at our disposal. But how can we best utilise these tools to ensure we stay ahead of the game and deliver the best possible service to clients? In July this year, Christina Blacklaws became the 174th president of the Law Society of England and Wales. In her inaugural speech Christina spoke at length about the future of law and legal technology so what better person to come and discuss her thoughts and ideas with us. Christina has kindly agreed to come and talk to us about her ideas on 7 February 2019. If you would like to attend, please get in touch.

It was pleasing to see so many local practitioners attend the launch of the Student Advice Centre at the Derby Law School. For those who attended, I am sure you will have been impressed with the presentations from both staff and students. As local practitioners we can all help the students by supporting the Centre and in doing so, we will be helping those who I have no doubt will benefit from advice that is no longer available without charge. Not only will the Centre provide free advice for many who could not afford to see a lawyer, it will also provide students with 'real-life' experience which, as a local profession will benefit us as we look to hire the next generation of lawyers. In my speech at the AGM, I spoke about championing our local profession and I believe the Legal Advice Centre adds to all that we already achieve locally and beyond. With that in mind, I am now pleased to announce early in the new year, nominations will be open for our first Derby and District Law Society Legal Awards in the following categories:

1. *Lawyer of the Year: more than 5 years PQE;*
2. *Junior Lawyer of the Year;*
3. *Small Firm of the Year; and*
4. *Large Firm of the Year.*

The nomination forms and further details will be provided in the next Bulletin and the winners will be announced at the annual dinner on 26 April 2019.

There has already been a positive response to my plea for cyclists also but there is always room for a few more, so if you are

interested in helping to raise money for the Derbyshire Children's Holiday Centre, please get in touch. The cycle is planned for 29 March and I will shortly be arranging a meeting for all those who have already got in touch to discuss the details further.

Finally, the Committee and I would also like to invite you all for a drink or two on Wednesday 5th December 2018 at the Pitcher and Piano, Friargate from 5:30pm.

Ben Lawson,
President, 2018-19

SAVE THE DATE

Thursday 7th February 2019
from 5pm in Derby a talk from
the Law Society President
Christina Blacklaws about
the use of technology in legal
practice. She will also be doing
a Q and A session and there will
be a three course meal.

More details to follow by e-mail.

A business card for Elizabeth J. Soilleux, MA, MB, BChir, PhD, FRCPath, Consultant Pathologist. The card is green with white and yellow text. It lists her qualifications, experience, and contact information. A red circular logo is visible on the right side.

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The Launch of the University of Derby Student Legal Advice Centre

An exciting new venture for the University of Derby, the local legal profession, fellow pro bono providers and the community of Derby....



What more apt time to launch the Centre than during National Pro Bono Week!

On 24th October 2018 the Derby Law School held an event to launch the Student Legal Advice Centre.

The event was attended by many local legal professionals, fellow pro bono providers, the Mayor of Derby and of course some of the students who are involved in the development of the Centre.

The event gave Sue Jennings, Head of the Law School and Kaye Howells, Student Legal Advice Centre Lead, the opportunity to present the vision of the Centre to all who attended, with four of the Law School's third year students also having the opportunity to explain what the development of the Centre means for the students of the Law School. It was an excellent opportunity for all students who attended to experience a networking event.

The support of all who attended was overwhelming and gratefully received.

For those who were unable to attend, just a few words on the Student Legal Advice Centre.

The Student Legal Advice Centre will provide free legal advice and assistance to the community of Derby. Third year students of Derby Law School will be client facing. Fear not, any advice provided will be under the supervision of a suitably qualified member of staff!

The vision for the Centre is three-fold....

1. To provide the students of Derby Law School with clinical legal education
2. To provide the community of Derby with free legal advice and assistance
3. To signpost in circumstances where the Centre is unable to assist.

The emphasis is upon the students having the opportunity to learn through clinical legal education, coupled with the high quality academic teaching they receive at the Law School.

Initially the Centre will provide advice in relation to family law and CICA, with a plan to then introduce immigration law.

As emphasised to the students, we cannot run before we can walk! Therefore we are limiting the areas of advice at this stage. However, as time progresses we plan to

develop the areas of law the Centre will offer advice on.

The idea of having a "Centre" as opposed to a "Clinic" is for the Centre to be an umbrella for other projects to develop. An example of this is a student led project to develop a litigant in person help desk at our local court. Discussions are underway regarding this, with our first step being to visit Leicester with a task group set up by our students to look at a similar project that is underway there and thereafter we will meet with our local judiciary to progress the project.

Training is being delivered to the students this semester with a view to opening our doors to the public in February 2019.

Many thanks to those from the local legal profession for taking the time to join us at the Launch. Moving forward, we welcome working with the profession in the development of the Centre.

If anyone is interested in being involved in the Centre or has any ideas you would like to share with us please contact Kaye Howells (k.howells@derby.ac.uk 01332 591645)

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- Our LLM course combines academic and theoretical knowledge. You will develop your understanding of the interaction between law and policy at an international level, enabling you to contribute to organisations and commercial enterprises operating across the global policy arena
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Derby & District Law Society Christmas Social

WEDNESDAY 5TH DECEMBER 2018 AT THE
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DERBY FROM 5.30PM

COME AND JOIN THE PRESIDENT AND MEMBERS
OF THE COMMITTEE FOR A CHRISTMAS CATCH-UP
AND MAYBE A LITTLE TO EAT.

Any questions contact Julia - admin@derbylaw.net



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Words of Wisdom - Consent Applications: Tips and Traps for the Unwary Practitioner.

I sit regularly as a Deputy District Judge approvingand, just as frequently, rejecting.... consent applications. Many applications are rejected for quite avoidable reasons. With the disclaimer that I do not, and cannot, profess to speak for my fellow judges I offer the following tips to practitioners which will improve the chances of getting applications approved first time and avoid the inherent delay of a rejected application in a system which we all know is stretched to breaking point.

THE BASICS

If you need to contact the Court try not to telephone. If you write in remember the basics – who do you act for and what do you want the Court to do with your letter?

Remember the Judge is not a rubber stamp, send the relevant number of copies, print one sided it is much easier and quicker to read and make any amendments in **RED**. The Court does not have to approve the Order. It is a matter of judicial discretion. Help the Judge to understand what you have agreed and why.

The Court's powers

The proposed order must be
a) fair by reference to s25; and
b) an order the Court has power to make.

THE FORM A

You cannot dismiss that for which you have not applied. Send a Form A with your application. If you are the Respondent then it is the only application and there is no way round it. If you are the Petitioner then the court won't now have the Petition on the financial file as the files for divorce and finances are separate so the court will not know if there is an application.

Tick the boxes! All except MPS. Make sure the form is signed and dated by the Solicitors on record.

CHECK DECREE NISI HAS BEEN PRONOUNCED!!

FPR r29.15

A judgment or order takes effect from the day when it is given or made, or such later date as the court may specify.

Pounds v Pounds 1994 1 FLR 775 CA

UNREPRESENTED PARTIES

Does there have to be a Hearing if one party/ both is unrepresented? You can use something like the following to try and avoid a hearing.

Petitioner/Applicant/Respondent to confirm

in writing that s/he has been advised to take independent legal advice, that s/he have been afforded the opportunity to take that advice and either (a) that s/he has taken advice or (b) that s/he chooses not to do so and in either case that s/he fully understands the terms of the proposed order and that it is intended to be binding and final and that s/he wishes the matter to be dealt with on paper without an attendance at court.

FREE STANDING ORDERS FOR SALE

Remember that the court has no power under the Matrimonial Causes Act 1973 to make a free standing order for sale. The order must therefore deal with the matter by way of agreement or undertaking in the recitals or be dependent upon an order under section 22ZA or sections 23 or 24 of the Matrimonial Causes Act.

UNDERTAKINGS

For an order/undertaking to be approved by the court it must be:

(a) clear as to its terms; and
(b) enforceable.

Must be compliant with FPR PD33A paras 2.2 and 2.3 and/or Part 37 PD37 paras 2.1 and 2.2.

- Part 33 PD33A paras 2.2 and 2.3 deals with the payment of money
- Part 37 PD37 paras 2.1 and 2.2 deals with the requirement to do or abstain from doing an act.

If both types of undertaking are given then two separate undertaking warning notices and undertakings are necessary.

CLEAN BREAK

Check that the Clean Break in the draft Order reflects the recitals in the Consent Application.

PENSIONS

Do not apply for the Decree Absolute at the same time as the consent order! If the pension holder dies post DA but before 28 days post order: the order fails and your client is no longer next of kin. Plus Court may reject the consent application and your client will have no protection against their now former spouse's death. There are clauses in the Standard Orders to help avoid this error.

A Pension Sharing Annex must be approved by the Trustees of the scheme, delete the correct boxes, include any previous names of the parties, check the percentage, who is paying the fees, can they come out of the fund and whose, make sure you have enough copies sealed.

STATEMENT OF INFORMATION: THE BASICS

Make sure the form is legible, signed and dated. Also signed to say you/ your client have seen the other party's completed and signed Statement of Information. Answer all the questions and make sure that the figures are added up correctly!! Don't leave any boxes blank.

In deciding whether, and if so in what manner, to exercise its powers under ss 23 to 24 of the Matrimonial Causes Act 1973 the court has an overarching duty to consider the factors set out in section 25 of the MCA to ensure that any order it approves is both just and fair. The Statement of Information must be fully completed for the court to perform this function.

Specifically, either provide a cash equivalent valuation of the pensions or provide details of the current income derived from any pension in payment.

The Statement of Information requires the figures as they are now pre- implementation of the consent order not as they will be post order and certainly not a mixture of the two.

Explain the net effect of the proposed order. Where the consent order refers to transfers without providing figures it is impossible to assess the pre and post consent order distribution of assets. Provide a clear explanation showing the pre and post consent order distribution of assets explaining why the proposed settlement is fair taking into account the relevant factors in section 25 of the Matrimonial Causes Act 1973 including how the parties' needs and those of any children will be met.

PRE MARITAL ASSETS

S 25 of The Matrimonial Causes Act does not exclude consideration of pre- and/or post- acquired assets.

Explain why the court should treat such assets differently in this case by reference to the s25 factors and in particular the needs of the parties and any children.

I hope this helps! Please feel free to contact me if you would like a copy of the full set of slides.



Fiona M. K. Apthorpe
Secretary
Derby and District Law
Society Family Committee



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Derby Junior Lawyers Halloween



On 31st October 2018, the Derby Junior Lawyers, had their Halloween event at the Slug and Lettuce for some drinks and food and then went onto do an escape room in separate teams! There were two escape rooms –

You'll need to break into the office of the CEO to reveal the history and secrets of a company with a scandalous past. With just 60 minutes to unlock the truth, does your team have what it takes to bring the company to justice?

and...

Following a virus outbreak from a secure government facility, you and your team have just 60 minutes to find the cure to prevent a pandemic.

This was enjoyed by all, we would like to say a huge thank you to Slug and Lettuce for our drinks and nibbles and to the Escape Room Guys for their lovely hospitality!



Doughnotts



We had a fantastic networking event with lots of different young professionals; we decorated 3 doughnuts with all different toppings and sauces. It was really good fun, and everyone enjoyed the savoury nibbles and then the sweet doughnuts to finish off – although they couldn't be eaten in one go!

Thank you to Pitcher and Piano for our fantastic drinks after!

UPCOMING EVENTS –

Christmas 2018 at the Cosy Club
fully booked

January 'Blues' Quiz 17th January 2019
raising money for The Stroke Association





Japanese Knotweed Indemnity Policy Now Available

Whilst the presence of a garden is often something that buyers look for, not all plants are friendly to home owners.

Buyers and especially lenders will always be rightly concerned when a seller's replies to a Property Information Form indicate that there is a risk that Japanese Knotweed ("Knotweed") may be present on a property. This previously ornamental plant has been reported to grow up to 10cm a day in summer and be powerful enough to break through concrete and undermine foundations. Consequently many lenders will refuse to lend or will impose strict conditions when there is a danger that Knotweed might raise its ugly head in a property.

Stewart Title's new **Residential Japanese Knotweed Indemnity Policy** now gives lenders and buyers the confidence they need to proceed with a purchase.

Covering residential properties for a period of 5 years for buyers and the term of a loan for lenders, this new policy provides up to £20,000 of cover against remediation costs necessary to comply with a remediation notice.

The Residential Japanese Knotweed Indemnity Policy is available where the sellers are not aware if Knotweed is present and even where it has previously been treated.

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We recently added both a Japanese Knotweed Policy and Fraud Solution Policy to the more than 150 policies that can be ordered via Stewart Online Solution.

It takes just three easy steps to generate a policy for most title issues. For a more customised solution or any help, our Team can easily be contacted through the system.

For more information, visit stewartsolution.com or contact us at 020 7010 7821 or solution@stewart.com.

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WHY IS STAMP DUTY LAW SO CONFUSING?

and could your clients be due a refund?

Stamp Duty Land Tax is commonly known as Stamp Duty or SDLT and was introduced in 2003. It was initially a relatively straight forward duty to calculate, administer and collect until Parliament started to make changes to it.

The first significant change was in December 2014 and a subsequent change came into effect in April 2016 when the 3% surcharge on the purchase of second homes and buy-to-let investments was introduced. These changes have created uncertainty and complexity when calculating the duty due and so overpayments arise. Overpayments can be recovered from HM Revenue & Customs ("HMRC") provided a claim is submitted within the required time frame which is generally 13 months after the purchase date.

What if one house has an annexe, or detached property in the grounds?

There are complex rules surrounding the purchase of properties that include an annexe, basement flat, or other residential property in the grounds such as a detached holiday cottage, an apartment above a garage or even staff accommodation. Therefore, mistakes with the calculation are made and opportunities to claim statutory reliefs and allowances are overlooked. Take the following example:

Mr & Mrs Davies purchased a 3-bedroom house in June 2017 for £675,000. Attached to the house was a garage; the upper floor of which had been converted into a bedsit. The bedsit was not occupied on the purchase date but was suitable for use as self contained living accommodation. The couple did not own any other residential property and were advised to pay Stamp Duty of £23,750 on their purchase. We subsequently reviewed the purchase for them and confirmed the Stamp Duty charge should have been £13,750. Statutory reliefs and allowances were overlooked, and we were able to help the couple claim a £10,000 refund from HMRC.

We are more than happy to have a conversation with those that fear their clients have overpaid and want our help to assist with claiming a refund on their behalf. If you also have clients that are about to embark on a similar purchase please get in touch so we can ensure you advise your clients to pay the right amount of Stamp Duty. Not too much and not too little.

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What is the dispute *really* about?



Chris Makin

When for some years I headed up a team of forensic accountants in my old national firm, as a matter of policy I always recruited people who were brighter than me. They kept me on my toes and were great problem-solvers. They also worked extremely hard; the customary valediction on a Friday evening was not "Have a good weekend" but "Have a weekend", on the assumption that not working through was the exception.

And we had great fun together, whilst getting the job done. At one stage, we devised ten mock rules of litigation; typical was the one which said that the case reached its critical stage when the ringbinder was on the point of bursting. Familiar? Another was that the claimant's idea of quantum was the amount which would repay all his debts.

Which brings me to my topic: what does the party really want out of this case?

If we are acting as straightforward forensic accountants and expert witnesses – still the bulk of my practice – we don't get to find out, since a litigation case, with minor exceptions, deals only in terms of money. The winner gets an award of damages and (most of) their costs, and the loser's blood is on the carpet. But does that always satisfy the true needs of the parties?

In litigation we will never know, but in mediation we are in a totally different ball-game. We must explore what the parties really want out of the case, and what they can live with. Taking an extreme example, with a really horrific case of negligence or maltreatment by the NHS, the parents of the deceased or severely handicapped child are not really interested in damages; what they yearn for is an apology and an assurance that systems have been improved so that other parents will not have to go through the vale of tears which they have endured.

The fascination in mediation is finding out the true needs of the parties, and using those needs to build a settlement, to help the parties to reach a solution they can live with. Unless those true needs are identified, the mediation

is likely to be a waste of time; if they are identified, the parties can reach a settlement and know that their trauma is over.

A term of my mediations is that both or all parties deliver to me a mediation position statement with key documents five working days before the allotted day. They rarely come on time, but that's another matter. But I do study these documents very carefully when they eventually arrive, and I plan which topics to explore and which will likely lead to a settlement.

Except it never works out that way! I'm not saying that my careful planning is always a waste of time, but there is always something more, something which even the parties didn't think was important, which will come out of discussions during the day. And the real skill of the mediator is to be alert to that "something else", and work on it to bring the parties together.

I am reminded of this quite forcefully from a mediation I did some time ago in Edinburgh. Mother and Son were in partnership in an old-fashioned coal business in Perth, where Son heaved the coal, then collected cash from the customers on Friday teatime (before all the wage ended up in the pub!) and tipped up the cash to Mother, who did the banking, kept the books, ordered the coal, and so on.

Son became convinced that Mother was creaming off much of the cash, so he compiled a financial statement using National Statistics – impressive – to demonstrate that his mother had stolen £253,000 from the business. Mother was very old and frail, and she brought along her other son (who was useless) and her son-in-law. Now, he was a real asset, because he was a tax manager at a firm of accountants. So I set him up in a side room to mark Son's homework, and errors were found which caused the value of the claim to fall. But he couldn't get it any lower than £100,000.

This was serious, because the case was listed for trial very shortly, and the legal costs would have been huge. By this time Son had spent £10,000 with a posh firm in Edinburgh; Mother had spent a modest sum with a local firm.

As the discussions went on, the true needs of the parties emerged.

Son remained convinced that Mother had stolen partnership cash and was determined to hurt her financially. Mother wanted two things: she wanted to go home because she was frightened of what might happen at court and – crucially – she explained to me that she hadn't seen her 15-year old granddaughter for about three years, and that Son had even sent back her Christmas card.

So Son wanted money and to hurt Mother; Mother wanted an end to the nightmare and a chance to rebuild the family.

Discussions went on and on, but eventually just before midnight a settlement was reached. With no admission of liability, Mother would pay £9,000 to Son. So she could go home to Perth, and it had cost Son £1,000 to take £9,000 off his Mother. In a funny way, they had both won, and their true needs had been met.

I happened to meet Mother's advocate when I was next in Edinburgh, giving a lecture to the

Faculty of Advocates. He asked if I knew what had happened to Son, and of course I said no. He then gave me the news: Mother and Son continued their coal business in Perth, but about a month after our mediation a coal truck ran away in the yard, and crushed Son to death.

Which makes one think: however important the dispute may be at the time, and however one may feel that the mediation satisfied the true needs of the parties, you never know what might be just around the corner.

Biog: Chris Makin was one of the first 30 or so chartered accountants to become an Accredited Forensic Accountant and Expert Witness. He is also an accredited civil & commercial mediator and an accredited expert determiner. He has given expert evidence at least 100 times and worked on a vast range of cases over the last 30 years. For CV, war stories and much more, go to his newly relaunched www.chrismakin.co.uk - with videos!

Chris Makin
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Peter Lodge

Internationally Renowned Surgeon

Professor Peter Lodge MD

FRCS FEB has been involved in legal work for several years. This has included defending very senior surgeons at the GMC (the UK medical regulatory body) and carrying out investigations for the GMC. In addition, he carries out detailed reviews of surgery services and individual surgeon reviews for the Royal College of Surgeons of England and the Association of Surgeons of Great Britain and Ireland. This involves making recommendations about how to improve the service offered to patients.



Prof Lodge has been instructed approximately 60% for defence and 40% for claimant with an emphasis on complications from abdominal surgery; cholecystectomy, bariatric procedures, laparoscopy.

Prof Lodge understands that lawyers and the Courts have to work to tight deadlines and he aims to be always on time and working within reasonable financial constraints.

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 Fax: +44 (0) 113 2185987
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Dr Dealga O'Callaghan FICFor., F Arbor A, MISA

Chartered Arboricultural Consultant

Tel: +44 (0) 151-494 5606
 Mob: +44 (0) 7595 530720
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THE EXPERT WITNESS CONFERENCE 27TH SEPTEMBER, CHURCH HOUSE, WESTMINSTER, LONDON SW1.

A review by **Elizabeth Taylor** and **Phillip Taylor MBE** of Richmond Green Chambers

It was another first-class expert get-together which took place at Church House, Westminster in September 2018.

Our leading experts from the Institute met to have a natter and be briefed on new case law from colleagues, judges and lawyers. This time the theme was specifically about "judges under the microscope" and it was well-attended by EWI members eager for the legal updates which are now an annual feature of the Conference.

Chaired as amiably and effectively as ever by Amanda Stevens from Hudgell Solicitors, the keynote speech was delivered by Sir Ernest Ryder, Senior President of Tribunals. He reviewed how experts assist the court process in their respective role. Sir Ernest did not disappoint! You can read his speech in detail on the judiciary website. Attendees took the point that judges in future will have a much stronger lead role in the management of contentious cases from the outset. Then, an entertaining, but equally serious, presentation from Andrew Ritchie QC on "expert evidence and the seven deadly sins" giving us a quick trip round recent decisions with the theme of the seven sins which we won't remind you of.

The session was heavy on detail (but not too heavy) and delivered with that lightness of touch we expect of a silk with well-devised PPP slides, and Andrew stayed for the Q and A afterwards with useful information from Mike Napier.

Sir Martin Spencer gave an important speech after one year as EWI chair. A challenging time with EWI staff changes and Martin's new job as a High Court judge on circuit which he spoke frankly about- his speech will also be available on the EWI website. He talked also of the exciting developments with EWI in Singapore - a recurring theme during the day. The continuing importance of member engagement, membership support and the Expert Certification programme were useful updates for members.

Later sessions covered a presentation on EWI Singapore with contributions from Sir Vivian Ramsey, Dr Thomas Walford and Chris Easton. The event concluded with the usual lively "questions" session which have become an important feature of EWI

Conferences in recent years led by Dr John Sorabji with some most realistic views on the development of certification from Sandy Mackay whom we were able to chat to earlier during the lunch break as he explained the need for change.

The sad passing of Sir Louis Bloom-Cooper (1926-2018) was announced. Louis, known to many throughout the legal world and beyond for his indefatigable support in some many areas of legal controversy. Louis was a leading figure throughout his life, called to the Bar at Middle Temple, and he with played a major role in the EWI, the Press Council and Amnesty amongst others. He was a founder of Doughty Street Chambers and will be greatly missed by all.

EWI members will meet in September 2019 in the post-Brexit British era so keep that date in your diary. EWI Conferences remain an excellent day out to update both experts and lawyers which you cannot miss.

DR GORDON WILLIAMS MB FRCP FACC
Consultant Cardiologist
 YORK TEACHING HOSPITALS NHS TRUST



Dr Gordon Williams has been providing expert witness Cardiological medico-legal reports since 1985 completing in the region of 30 reports annually.

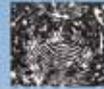
In addition to General Cardiology Dr Williams has sub speciality expertise in:

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- Heart Failure
- Hypertension
- Coronary Artery Disease
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- Sudden Cardiac Death
- Aviation Cardiology

Dr Williams is a Fellow of the Royal College of Physicians, a Fellow of the British Cardiovascular Society and a Fellow of The American College of Cardiology.

All Medico-legal communications to **The Spire Hospital Leeds**
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In brief: Identifying those who need a psychological assessment.

In considering this, solicitors and barristers need to understand that a defendant's past tells us so much about their ability to manage the criminal justice system, as does the make-up of the current prison population.

Hence, 7-to-10% of those in prison would have been suitable for special education, including attending a special school; placing them into the lowest 1% of the community population. We also know that 65% of younger offenders have speech, language, and communication difficulties, and that the average IQ of a prisoner is just 87, whereas the average for the mainstream, community population is 100. This puts prisoner into the lowest 20% compared to those in the community. Such prisoners, those with behavioural

problems, do not understand what we are saying when they get to court; they simply comply.

If we consider those with mental illness, we know that one-in-six have seen mental health services prior to attending prison. This is especially interesting when one also considers that the latest research shows one-in-three mental health assessments leads to a misdiagnosis.

This information is not difficult to find, being supplied in 'The Bromley Briefings,' representations to the Ministry of Justice by 'The Royal College of Speech and Language Therapists,' The Bercow Report, and journals such as 'Psychological Assessment.'

Childhood difficulties do not

simply disappear because someone reaches adulthood; for the majority, their difficulties persist. Indeed, adult support services only address the needs of the most extreme, because the funding is simply not available to allow support to continue from childhood, into adolescence and then into adulthood. Youths, then young adults, and then the middle aged, remain vulnerable to the actions of others.

Nevertheless, all the above can be identified if you know what to ask.

1. "Have you ever attended a special school or special facility?"
2. "How old were you when you left school?"
3. "How many GCSE's did you pass at C grade or better?"
4. "Did you ever have help, such as a classroom assistant, at school?"

Only the most complex children/ youths (less than 1%) access special schools/facilities.

98% of students achieve GCSE's so achieving none, makes the person rare. Not finishing school is rare and indicates they were not expected to pass. Not achieving any C grade is also rare.

Being provided with help in the classroom puts the person into the lowest 10 to 15% of students.

These four questions, and understanding their relevance, identify adults in need of a psychological assessment, and support, within the criminal justice system.

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Graham Rogers is a Consultant Psychologist with over 27 years fully qualified experience. In an ever developing practice he and his associates address the needs of those with learning disabilities and mental health problems.

His own work as a psychologist and expert witness has taken him to many courts, including **The High Court** and **The Central Criminal Court**, as well as to high profile cases, where his insight has assisted courts in enabling vulnerable people to access proceedings. He first gave live evidence in 1991 and has continued to do so since that time.

A highly experienced psychologist who, prior to entering private practice, was head of department with responsibility for 18 qualified psychologists. His past includes working with complex cases involving health, education and social services and as such, he has experience of multidisciplinary working and undertaking complex assessments.

He is also experienced in the use of Cognitive Behaviour Therapy, having attained a wide range of qualifications during his time working within the NHS.

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Any approach to gaining CPD points is valid so long as the legal professional can demonstrate that it contributes to the service they are offering. Today, participants are overwhelmed with choice as there are a host of activities to choose from, including webinars, coaching / mentoring, courses, research and events – so how best can a solicitor invest their time in CPD?

Geodesys – part of Anglian Water and a leading provider of conveyancing searches for residential and commercial properties throughout England and Wales – regularly hosts a series of complimentary CPD events for conveyancers across the country.

Worth three CPD points, the popular, interactive events feature industry experts like property market analyst and commentator Kate Faulkner and provide highly informative seminars looking at a mixture of topics such as the threats the modern conveyancer is exposed to and the best tools for remaining compliant. **Jane Moir**, Associate Solicitor for Sprake and Kingsley claimed one of the events to be: *"The best CPD event I've attended!"*

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Free wills have a time and place, but it's not all we need to talk about

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By **Rob Cope**, Director of Remember A Charity

At a recent legal sector conference, I was struck by how many lawyers and solicitors assumed that – because I worked for a charitable campaign – what I'd be looking for from them was to coordinate free will-writing services. And yet I believe that there are far more important conversations to be had.

A TIME AND PLACE FOR FREE WILLS

Charitable campaigns like Will Aid and Free Wills Month have a critical place in the market, encouraging those to write a will who they might not get around to it otherwise. This was certainly the case for me: I'd been meaning to get around to it for months, when I remembered that I could write my will for the cost of a small donation through Will Aid.

Quite simply, the timing was right; I knew how I wanted to divide my will and who would benefit. It was relatively quick and easy for me to get it done, and that included three charitable causes that are particularly closely connected to me and my family – not least the children's hospital that saved my daughter's life.

Essentially, the ability to write a will without incurring hefty costs triggered me into action. And this is where free charitable wills work so well. They can be an effective tactic and trigger for action. But that doesn't mean that they should be the main strategic approach for interactions between the legal and charitable sector.

While I'm a believer that professional will-writing services should be accessible for all, free or even cheap services are not always the way to go. My fear is that – particularly in an unregulated market - we run the risk of a race to the bottom, where the only conversation between the legal and charitable sector is through free or heavily discounted wills. And many of these wills do not include a charitable bequest at all.

If charitable will-writing is synonymous with 'free', the danger is that this will become the norm, when professional will-writing services and often more complex decisions and estate arrangements are worth paying for and getting right. In other words, while free will campaigns

can be a great spur into action, they should not necessarily be the default position for charitable wills.

INCREASING VOLUME OF DISCOUNTED WILL-WRITING SERVICES

Even beyond the free charity wills movement, the challenge is of course that there is a large and growing range of discounted will-writing services on the market, both online and offline. All of which offer assurances that the necessary checks will be carried out.

While the legal sector awaits news of how the future will-writing environment might change post the recent Law Commission consultation, the vetting procedures, legal checks and professional advice for each service can vary immensely. This can cause confusion and runs the risk of people preparing a will that either may not be legally-sound or that fails to take account of their full financial circumstances and wishes. What's more, the scope for legal disputes is greater if there hasn't been sufficient rigour in the will-writing process.

When it comes to highlighting the option of giving to charity, it's a lottery: some advisers always mention it, while others choose never to talk to clients about it, further adding to the disparity between will-writing services.

While there are merits to offering discounted wills – this should not come at the expense of people failing to access the support they need when writing their will or indeed lawyers not being funded to fulfil a proper service. A cheap price can devalue the importance of will-writing, meaning that the public isn't always getting the comprehensive advice they need or the service that solicitors want to deliver.

WHAT SOLICITORS & CHARITIES DO NEED TO TALK ABOUT

From our perspective at Remember A Charity, we're working to create an environment where everyone has the option to include a gift to charity in their will. For this to happen, people need to know that this choice is available, they don't have to leave a particularly large sum and – most importantly – that they can still look after their loved ones when they do so.

Free charitable will campaigns may indeed help generate such discussions, but charitable conversations cannot be reserved for these outlets alone. A standard professional approach is what I believe will make the biggest difference of all.

While solicitors aren't expected to be fundraisers, we hope that they will always raise the issue with relevant clients, along with the full range of options available to them. These conversations simply wouldn't happen at all from many an off-the-shelf or online will-writing service.

So I'll end with a plea; don't reserve conversations about charitable will-writing for designated charitable campaigns. When the option is included in all comprehensive will planning services, your advice can have a transformational impact on good causes across the UK and your clients' affairs.



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Celebrating new footpath in Leicestershire

The Open Spaces Society was founded in 1865 as the Commons Preservation Society and is Britain's oldest national conservation body. In its early years it saved many commons and other open spaces in and around London: Hampstead Heath, Epping Forest and Wimbledon Common for example.

The 1932 mass trespass on Kinder Scout was a catalyst for greater access and the society lobbied for laws giving us greater freedom to roam throughout England and Wales.

The splendid county of Derbyshire is rich in open land, and it is thanks to the Open Spaces Society that so many of its commons and green spaces are still unspoilt and available for public enjoyment.

In 1895 the society's founders created the National Trust as a landholding body. The society then established local committees who raised money to buy threatened properties for the Trust. An example is Mow Cop, an elevated, romantic ruin in Staffordshire which the

society rescued from quarrying; it raised £400 to restore it as a jubilee memorial to George V in 1935.

Today the society champions common land: as a statutory consultee it scrutinises every application for works there. Commons are important to their local communities and it is vital that the society examines all the applications for works. In 2010 the society published guidance to land managers, Finding Common Ground, on how to ensure that they take account of all those with a stake in the common before they proceed with plans which might alter its appearance or ecology.

We also advise communities on protecting their green spaces, by registering them as town or village greens. This gives local people the right of recreation there and protects the land from development.

It is more difficult to claim land as a green now that the Growth and Infrastructure Act has been passed, outlawing the registration of greens where land is threatened with development. So we are promoting

an alternative means of protecting land, by applying for its designation as Local Green Space in the local or neighbourhood plan.

Our history of defending public paths in Derbyshire goes back a long way. We encouraged the formation of local groups to protect public paths; the Derbyshire Footpaths Preservation Society was founded in 1894 and was affiliated to the Open Spaces Society for more than a century before it dissolved in 2011. Today the society is notified of all proposed changes to public paths in Derbyshire and our volunteer local correspondents study them carefully, objecting if they believe the change is against the public interest. This means that we may need to appear at public inquiries and hearings. We generally cannot afford legal representation so we make use of our in-house expertise from staff and volunteers with long experience.

Our South Derbyshire representative has pressurised the county council

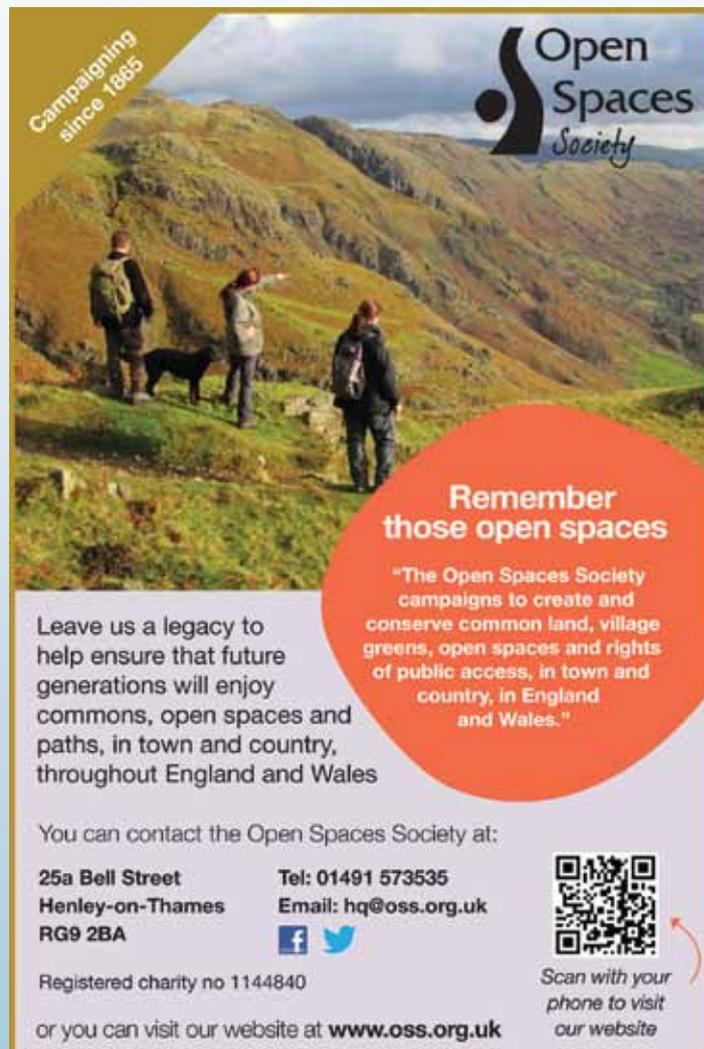
to maintain a strong team of rights-of-way staff. He has been pressing for improved signposting of paths where they leave the road, and is researching unrecorded paths with the aim of having them included on the official map of public paths. He comments on every planning application affecting public paths, commons and village greens and every proposal to alter the route of a public path. His work is replicated by other local correspondents throughout the country.

We take up hundreds of cases each year and we lobby parliament for better, tougher laws. We have no public funding; we depend on legacies and donations to support our vital work.

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Open Spaces Society

Campaigning since 1865

Remember those open spaces

"The Open Spaces Society campaigns to create and conserve common land, village greens, open spaces and rights of public access, in town and country, in England and Wales."

Leave us a legacy to help ensure that future generations will enjoy commons, open spaces and paths, in town and country, throughout England and Wales

You can contact the Open Spaces Society at:

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 RG9 2BA**

**Tel: 01491 573535
 Email: hq@oss.org.uk**

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Trying to Source Care in Rural Areas is Difficult

The most recent census found that 9.3 million people (17.6% of England's population) live in rural areas. This number will include older people and people with a disability who need to live with care support. Many people have local relatives, friends, advocates who though willing are unable to provide the regular, care support that is needed.

The major problem is that a lack of information surrounds all areas of the care sector with people living in rural areas finding information hardest to access. Sadly, without information, many people make choices that are later regretted. Sons and daughters visiting older parents realise they need to find out about local care services, to source additional facts, an older spouse wanting to support a wife or husband needs to know what to do to sustain their lifestyle. Many people believe that their local surgery will have the answers, but this is rarely the solution.

What care support is available, how much does it cost, are there any State Benefits that can be claimed, is there a local support group, what is NHS Care Support, what is social care, etc? Where do they get such information?

Tens of thousands of villages have no newspaper delivery, have no local shop, no local post office, no library, so how

does information get through about what is available in the care sector?

There is public media advertising about smoking, obesity and eating 'five a day' but no public media advertising about where to go for information when care support is needed.

There are many charities which have quality information which is easily available once you know who to contact. Similarly, there are charities with volunteer services supporting people who need their help, but who are they?

There are thousands of care providers who have a wide range of services which can be individualised and are available in rural areas but where are they found, what questions should be asked?

Knowledge is power, and steps should be taken to have a comprehensive public campaign to offer directions to both urban and rural communities with reference to care provision in the UK.

Written by: **Angela Gifford.**
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Why Quill's software development team invests heavily in Interactive Documents

By Julian Bryan, Managing Director, Quill

The legal profession is never static. With always-evolving legislation, increasingly demanding clients and growing numbers of aggressive competitors, change is never far afoot. To thrive in such challenging conditions, law firms rely more than ever before upon technology.

One constant thread in this sea of change is the written word. You see, the law is all about the written word. Every single task performed by a solicitor involves the written word in some form. Law firms are document-intensive by nature and every fee earner is a content factory generating document after document as they progress through live matters, be it a client care letter sent to a new customer, completion statement in a commercial conveyancing matter, divorce petition for a matrimonial case, last will and testament for a private client or anything in between.

It thus follows that the primary role of technology is to help legal practices manage the written word effectively. Software's role is to apply as much automation as possible to generating, storing, transmitting and finding the written word including time recording throughout each of these stages. Speed and accuracy are absolutely essential.

The quicker and easier it is to produce, save, share and locate this expanding library of documents, the better for everyone, from the lawyer who can concentrate on client-facing work thereby boosting earning capacity to the compliance officer who can plan for business continuity thereby meeting Code of Conduct obligations.

Because of this, no legal software supplier can afford to be complacent about development. At Quill, software development is something we take really seriously and invest considerable resources in doing. We have 12 dedicated employees in our software development team. Led by our IT Director, Richard Salt, it's their responsibility to research new technologies and industry trends then develop our applications in order to keep Quill at the forefront of innovation and enable our clients to control the written word to the best of their ability.

Our R&D staff understand the pressures faced by today's law firms and continually enhance our Interactive Cloud and Interactive Documents software – comprising case management, legal accounts and document management features – to empower them to work more efficiently, save administration time, spend longer earning fees, reduce operating costs and a whole raft of other benefits which drive both greater productivity (so your clients are happy!) and profitability (so your partners and investors are happy too!).

With regards to the written word, Interactive Documents – our intuitive document management module – provides tight integration between Interactive, Word and Outlook – called our Add-Ins – which allows you to spend your working day in familiar Microsoft applications with full links to Interactive's database, templates and document store.

Technology that constantly advances is a must-have tool for any forward-thinking law firm. Not only because of the productivity advantages delivered, but also for safety reasons. Without ongoing security patches and bug fixes, you're vulnerable to the rising volumes of threats from hackers and cybercriminals whose sole purpose it is to disrupt (even ruin) your business. Software development, then, is a future-proofing promise that, whatever changes and challenges come your way, your software supplier's got your back.

At its core, our Interactive Documents gives unique integration between Interactive Cloud, Word and Outlook saving users re-entering data as a key, but by no means only, benefit. But more recently a myriad of new features have been introduced to Interactive Documents and we're going to describe just a few of them here.

We've created conversion to PDF and attachment as PDF functionality. As you'll no doubt know, PDF is a secure file format. Documents of this type can't be edited by recipients. In Interactive, it's a one button task; job done.

Using the Interactive Add-Ins in Outlook makes tasks such as this really straightforward. By simply hitting the 'New Quill Email' then 'Attach From Quill' buttons located in the top toolbar of Outlook, single or multiple documents can be attached as PDFs even if you haven't previously converted files to PDF format. At this point, you haven't formally logged in to Interactive itself either; you're using the well-known Microsoft interface instead which you're at liberty to do all day long, should you please.

We've established an entire series of document and precedent templates comprising everything from credit control letters and identification forms to requests to extend time and receipt of money acknowledgements. These templates are supplied as standard with Interactive Documents. You can also choose to set up your own bespoke templates, link to merge fields in Interactive then auto-populate content direct from your database.

In the same vein, popular forms packs can be purchased too as an optional extra. Linked closely to Interactive, these forms offer even more auto-database population for documents related to each of the common steps in particular matters.

This has to be one of the biggest draws of document management software – the ability to generate documents and letters in minutes. Where Interactive Documents is concerned, the same applies to emails. Ready-made email templates allow emails to be written, recipients selected from handy drop-down lists, documents attached and the entire communication saved straight back to case effortlessly, all from within Outlook itself.

In fact, you can even now do so from within Word. Auto-email the document you've been working on directly to the client, opposition, expert witness

or any combination without switching between systems.

Integrated attendance notes are another enhancement. Either when saving a just-completed document, receiving a document or later, the notes field permits the addition of attendance notes – that's a description of discussions, meetings or events that have taken place – relating to that specific document.

There are two main advantages of attendance notes. One, the important notes are logged both for future reference and to support your accompanying time record so there's no chance of forgetting further down the line. Two, entering your attendance notes as you go along saves you an extra task and negates the need for double billing which assists with client satisfaction.

Time recording generally is worth a mention. Our overhauled Interactive Documents lets you make time entries at various touchpoints when writing, uploading or dispatching case-related documentation and correspondence. With the ability to perform these stages quickly, you can record more units of time than the task has actually taken to bill clients appropriately for actions completed and boost chargeable time in the process. In other words, do less and earn more.

These are just a few of many improvements to Interactive Documents. To refer to some others, you can set up calendar events from Word and Outlook with reminders to ensure defined milestones are met; maintain a full audit trail with version-control-stamped documents; assign colours, labels and preview before opening to locate the right documents with ease; access your cloud-stored documents from anywhere with an internet connection to become more mobile; tailor sub folders to your preferences so Interactive mirrors how you work; store unlimited quantities of documents, emails and images without taking up valuable space on your own servers; protect your vital records with industrial-strength security measures and in-built disaster recovery planning; and much, much more besides.

The combination of these multiple features means you can run your legal practice competitively, with minimum support staff, at low cost. A 'Lite' version of Interactive Documents is provided as part of your Interactive licence fee. Alternatively, an advanced 'Professional' version is charged at just £17 per user per month for full integration with the Microsoft Office suite. Exploit our heavy financial investment in Interactive Documents without breaking your bank. The written word; sorted.



Julian Bryan joined Quill as Managing Director in 2012 and is also the Chair of the Legal Software Suppliers Association. Quill is the UK's largest outsourced legal cashing provider with 40 years' experience supplying outsourcing services and software to the legal profession.

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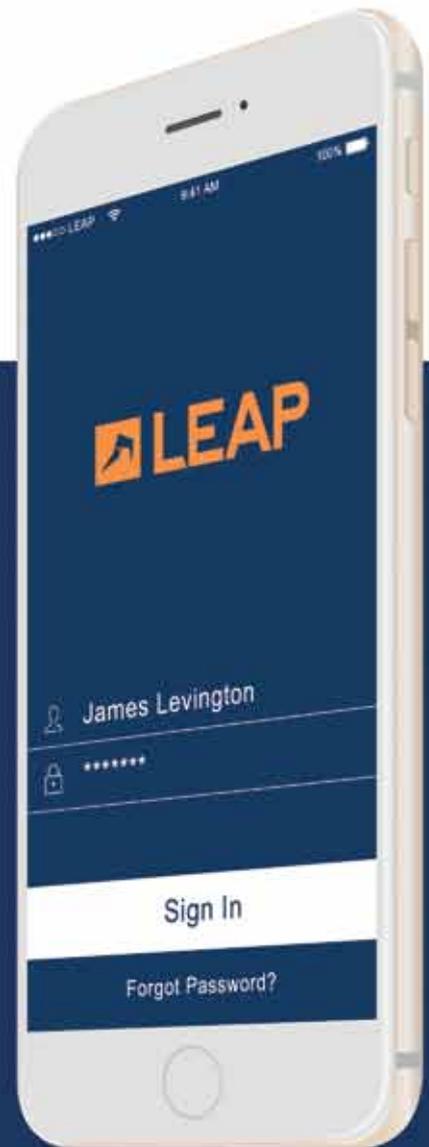
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