

# Bournemouth & District Lawyer

Bournemouth & District Law Society Magazine



Bournemouth & District  
Law Society

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# AUTUMN 2020

**AUTUMN 2020** ISSUE 194

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### **BOURNEMOUTH & DISTRICT LAWYER – Bournemouth & District Law Society Magazine**

You will receive this magazine by post and also by email which will also include various enclosures ie details for events, lecture details etc.

These will be sent out quarterly as follows:

**Winter** December 2020 / **Spring** March 2021

**Summer** June 2021 / **Autumn** September 2021

The copy deadline for receipt at the BDLS office for the next edition – the Winter issue – will be the 2 November 2020

We welcome your firms' news and any advertisements. Please send to **office@bournemouthlaw.com**

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### **COVER INFORMATION**

Neil White, Senior Vice President, Sandra Graham, President with Emma Hamilton Cole, Junior Vice President

### **EDITORS**

Mandy Heath & Julie Reeves  
Bournemouth & District Law Society  
FirVale Road  
Bournemouth Dorset BH1 2JJ  
Tel 01202 587551  
Email **office@bournemouthlaw.com**

### **PUBLISHER**

**marqueeprint**

Unit 2  
20 Wharfdale Service Road  
Westbourne  
Bournemouth BH4 9BT  
Tel 01202 769077  
Email **sales@marqueeprint.com**





## THE NEW PRESIDENT'S COLUMN... AT LAST

### *Sandra Graham*



POSTPONED, ADJOURNED, CANCELLED! These are all words that we have become used to hearing over the last few months.

These have been coupled with a new vocabulary which was probably never even dreamt of as we entered 2020 and which has included new but now common place terminology such as social distancing, support bubbles, clusters, Zoom meetings and remote hearings. All of these, and more, will no doubt enter the Oxford English Dictionary this year. To add to this 'new speak' we have introduced acronyms such as SD, PPE and WFH (working from home).

Little did I realise when I agreed to be President in 2020 that it would encompass so many changes to the traditional arrangements and events in the BDLS annual calendar. I expect I am the first incumbent in this role required to enter the AGM wearing a mask, although some may say it improves my appearance!



Mark Kiteley handing over the mantle of BDLS President to Sandra Graham

The year will be an interesting one but no doubt faced with many unprecedented challenges. The European Conference, scheduled this year in Luxembourg, has sadly had to be cancelled, despite Sian's detailed organisation and fantastic events programme, and to the disappointment of many who had booked.

I look forward to the challenges ahead and new ways of working we face and will be focusing on the importance of keeping the BDLS a happy, healthy and prosperous society that embraces the change and hopefully emerges from the pandemic as a respected society that has served its members well through this storm.

In the past, Senior members have supported Junior members with the benefit of their knowledge and experience. We may now be strangely seeing the tables turn as the junior members are likely to be more computer savvy and able to teach the more senior members a thing or two on modern technology! I look forward to working with the support of the Junior Lawyers' Division!

AND FINALLY... May I express my gratitude to Mark Kiteley for holding the fort longer than originally intended, always with positivity and enterprising spirit. He will be a hard act to follow but I will do my utmost to serve the Society well in such a brave new world!

*Sandra Graham* BDLS President

## BDLS WELLBEING & DIVERSITY COMMITTEE

A new committee has now been formed to consider the above issues with the purpose of supporting people within local legal practices. Members of the Committee are Mark Kiteley, Mandy Heath, Edward Holmes, Sally Carmichael, Joanne Clarke, Sarah Unsworth, Rachel Murphy, Alan Turle and Sandra Graham.



### President

#### **SANDRA GRAHAM**

Trethowans LLP, 5 Parkstone Road, Poole, BH15 2NL  
Tel 01202 339002 Email [sandra.graham@trethowans.com](mailto:sandra.graham@trethowans.com)

### Senior Vice President

#### **NEIL WHITE**

Rawlins Davy, Heliting House, 35 Richmond Hill, Bournemouth, BH2 6HJ  
Tel 01202 558844 Email [neil.white@rawlinsdavy.com](mailto:neil.white@rawlinsdavy.com)

### Senior Vice President

#### **EMMA HAMILTON COLE**

Williams Thompson, Avon House, 4 Bridge Street, Christchurch BH23 1DX  
Tel 01202 484242 Email [ehc@williamsthompson.co.uk](mailto:ehc@williamsthompson.co.uk)

### Honorary Secretary

#### **JOANNE CLARKE**

Lester Aldridge LLP, Russell House, Oxford Road, Bournemouth, BH8 8EX  
Tel 01202 786161 Fax 01202 786150 Email [joanne.clarke@la-law.com](mailto:joanne.clarke@la-law.com)

### Treasurer

#### **LAUREN COONEY**

Letchers, 24 Market Place, Ringwood, BH24 1BS  
Tel 01425 471424 Email [lauren.cooney@letchers.co.uk](mailto:lauren.cooney@letchers.co.uk)

### Council Member

#### **TIM O'SULLIVAN**

The Law Society, 113 Chancery Lane, London, WC2A 1PL  
DX 56 London/Chancery Lane Tel 07733 256473 Email [tim.osullivan63@gmail.com](mailto:tim.osullivan63@gmail.com)

### BDLS Office

#### **MANDY HEATH & JULIE REEVES**

BDLS Office, Borough Chambers, Fir Vale Road, Bournemouth, BH1 2JJ  
DX 7616 Bournemouth Tel 01202 587551 Email [office@bournemouthlaw.com](mailto:office@bournemouthlaw.com)

## OBITUARY BRYAN KEEPING

It is with sadness that we report that Bryan has died. Bryan was educated at Poole Grammar School 1948-55 and went on, after National Service in the RAF, to read law at Balliol College, Oxford. On completing his articles in Bournemouth he joined Trevanions in 1963 and became a partner in 1965 – later becoming Senior partner. This firm merged with Humphires Kirk in 2007.

Although in recent times a retired member of our Society, he had always been an active member and was also former BDLS European Conference Organiser.

The Conferences were established in 1972/73 and Bryan organised his first Conference in 1977/78 to Moscow with 120 people attending. His favourite Conference was to Reykjavik – seeing the magnificent waterfall at Gullfoss and with absolutely nobody else there to spoil the magic.

He had been a keen member of Round Table then, when he reached 40, moving on to Rotary – he was President of the Rotary Club Poole 1990-91.



Ed Holmes presenting Bryan with award for his years of service to BDLS in 2019



## Local News

### BDS ANNUAL GENERAL MEETING

WEDNESDAY 26 AUGUST 2020 – MARSHAM COURT HOTEL, BOURNEMOUTH

This year's AGM was held in a very different format and slightly later than the usual April date. Who would ever have imagined this time last year that we would be hosting an AGM online using Zoom!



The pre-AGM talk – “Cyber Security and the New Abnormal” - was presented by Peter Wright of Digital Law. Peter highlighted the principal methods by which a cyber-attack is carried out including phishing, malware and ransomware as well as innocent and malicious insiders working in organisations. He then discussed the risks associated with the lockdown this year including working out of the office and using the home as a workplace. He described easy steps that you can take to make yourself safer and more secure online such as ensuring home wifi access is limited, using privacy screens on devices and laptops and using a VPN.

**Peter also provided details of sources of free help and guidance as follows:**

**Law Society Cyber Security website:**

[www.lawsociety.org.uk/topics/cybersecurity](http://www.lawsociety.org.uk/topics/cybersecurity)

**Law Society Online Scams Practice Note**

[www.lawsociety.org.uk/topics/cybersecurity/protecting-your-firm-if-you-fall-victim-to-a-scam](http://www.lawsociety.org.uk/topics/cybersecurity/protecting-your-firm-if-you-fall-victim-to-a-scam)

**National Cyber Security Centre "Exercise in a box" simulating a cyber attack response**

[www.ncsc.gov.uk/information/exercise-in-a-box](http://www.ncsc.gov.uk/information/exercise-in-a-box)

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**The AGM commenced shortly afterwards with the following appointments for the year 2020/2021:**

<b>President</b>	Sandra Graham	Trethowans
<b>Senior Vice President</b>	Neil White	Rawlins Davy
<b>Junior Vice President</b>	Emma Hamilton Cole	Williams Thompson
<b>Honorary Secretary</b>	Joanne Clarke	Lester Aldridge
<b>Honorary Treasurer</b>	Lauren Cooney	Letchers
<b>General Committee</b>	Ana Dilling	Trethowans
	Brendan Herbert	Laceys

*We hope that they all enjoy their terms of office with the Society.*

Sandra was elected the 101st President, slightly later than expected after the cancellation of our AGM in April. She thanked Mark Kiteley for holding the fort for longer than normal. He did kindly offer to hold on for another year – the last time this took place was 1926 – but in the end it was decided to adapt to the current situation and move on as best we could.

So how does the year ahead look with so much uncertainty? Sandra expressed a wish to find innovative ways to enjoy social interaction, even if traditional formats take a back seat. The first of such events will be “Around the World in 80 Minutes” at the Marsham Court Hotel, Bournemouth on Thursday 19 November. As travel is restricted, we will bring the world to us! This will be a socially distanced event, taking us to different stations within the hotel for food and drink from various parts of the world - perhaps with fancy dress and a quiz thrown in! Further details will be emailed to members shortly.

Sandra acknowledged Mark’s hard work during his presidential year in assisting those within our Society who are feeling stress and mental pressure, both pre and post Covid. Indeed, his Wellbeing Survey sadly revealed some disappointing statistics and which followed on from a JLD study indicating that 1/5th of those responding regularly felt unable to cope. His work is just the beginning and Sandra felt it an important issue that deserves long term commitment. She therefore proposes to focus on the importance of an inclusive supportive local legal community. Wellbeing and diversity is central to the future of the legal profession and Mark has highlighted issues which we can take forward. To start with, the Society will be organising a casual monthly “call ins” at local venues for those wanting a chat over either a drink or coffee informally with members of the committee; a chance to meet and avoid feeling isolated with one’s troubles.

*Mandy Heath BDLs Office Manager*



Sandra Graham, Mark Kiteley and Neil White



Neil White and Lauren Cooney



Emma Halilton-Cole and Ana Dilling



Peter Watson-Lee



# CANCELLATION

## EUROPEAN CONFERENCE 2020

9 -12 October - Luxembourg City

Sadly, due to the current situation a decision has been made to cancel this year's European Conference trip to Luxembourg. This is very disappointing and has been done with heavy hearts, but really there was no option.

However, we will be going ahead with the 2021 trip in October next year so watch this space for details.

Sian Smith  
Conference Organiser



## Local News

### YOUR NEW JUNIOR VICE PRESIDENT

*Emma Hamilton Cole*



It's customary (I'm told) to introduce myself to the membership and give some information about who I am, and why I have taken up the challenge of joining your leadership team within the BDLs.

I'm a family law solicitor, collaborative practitioner and accredited mediator. I'm a partner at Williams Thompson in Christchurch, where I've worked since 2015. I am lucky enough to love my work and have a great supportive team. My fellow partners are incredibly patient with my various forays into extra-curricular legal activities which include sitting on the Dorset Family Justice Board, local Resolution committee and of course the BDLs committee, so I have to thank them for encouraging me to take this challenge up.

When the idea was initially put to me the world was a pretty different place (although it was only the Autumn of last year). At first, I was unsure whether I was up for the challenge, but I was persuaded over a cappuccino by Mark Kiteley and Edward Holmes. The experience was described as 'unique'. That may well prove to be something of an understatement given what the profession (and public at large) now face following covid-19. But I'm not going to write about that because I suspect we have all had quite enough of it for now...

I enjoy listening to people tell me about their life and experiences and hope this is an opportunity to do more of that and to get to meet a wider circle of the profession

locally and further afield. I believe we can always learn something from what other people have to say.

So far so legal – and nothing my CV wouldn't tell you. Here's the 'not so legal' side – I like motorbikes, cake and shoes. Pretty much all music, growing my own fruit and veg and sunny holidays. Until this year, I've been a regular attendee of the Goodwood Festival of Speed and the British Moto GP as well as several Bournemouth Symphony Orchestra performances and other concerts. It's a somewhat odd mixture I accept, but it does offer a complete departure from 'legal life'. I've been working as a lawyer for long enough to know that the work can take over and having things to do outside the office to divert you can be crucial for wellbeing.

I know that this is a time of great challenge for our profession with increasing pressure on firms owing to the pandemic and redundancies which result. Support from our brilliant network of local professionals and supported by the local law society will be invaluable as we see what lies ahead.

Finally I should say that I was really honoured and delighted to be asked if I would consider this role and I'm really looking forward to seeing what the next few years bring – even if things look very different from what we all expected only last year.

*Emma Hamilton Cole BDLs Vice President*



# THANK YOU

Shami Duggal has been involved with the Society as a Committee Member, and from 2012 as our Assistant Honorary Secretary. The main part of this job involves attending committee meetings and taking the Minutes. In the past it also entailed attending Executive meetings as well before each committee meeting. Shami has served the Society well and we are grateful to all she has done. She is stepping down from this job now, but will still continue with her work as Chair of the Society's Careers Sub-Committee. This committee has grown in recent years and Shami has been joined by members in attending careers events at local schools and colleges. This is a very successful project and serves local educational establishments well. Many thanks go to Shami for her help.



Shami Duggal



Mark Kiteley

Mark agreed to remain as President of the Society until we were able to hold an AGM and elect a new President. He has given much time to support Mandy and consider how best for the Society to move forward. Mark is a very energising person and has been just what the Society has needed during the last difficult months.



Mandy Heath

A huge thank you to Mandy Heath and Mark Kiteley for keeping BDLS going during the lockdown.

To Mandy for working from home throughout the lockdown and keeping everything up to date. As lectures had to be cancelled, Mandy got going with webinars for members with a vengeance and in fact to date has put on 15! She continues to be thinking all the time of new topics and lecturers to invite to present for us.



## BDLS LECTURE PROGRAMME 2020

06.10.2020	14.00 – 17.15	<b>2020 Residential and Mixed Use SDLT Update</b> <b>Paul Clark</b> , Village Hotel
15.10.2020	10.30 – 12.45	<b>WEBINAR - Probate, Tax and Trust Update</b> <b>John Bunker</b>
20.10.2020	12.00 – 13.00	<b>WEBINAR - SRA Current Areas of Focus and How to Comply - AML Risk Assessment and Transparency Regime</b> <b>Tracy Thompson</b>
12.11.2020	14.00 – 17.15	<b>Residential Conveyancing Update</b> <b>Ian Quayle</b> , Village Hotel
18.11.2020	10.30 – 13.00	<b>WEBINAR - Courageous Conversations for Managers</b> <b>Dorset Mind</b>
26.11.2020	10.00 – 13.15	<b>Corporate Support for Property Lawyers</b> <b>Natasha Dunn</b> , Village Hotel
03.12.2020	14.00 – 17.15	<b>Health and Welfare Decisions</b> <b>Caroline Bielanska</b> , Carlton Hotel

For further details and booking forms please visit Bournemouth and District Law Society website [www.bournemouthlaw.com/lectures](http://www.bournemouthlaw.com/lectures) or contact the BDLS office at Borough Chambers, Fir Vale Road, Bournemouth, BH1 2JJ, Tel **01202 587551** Email [office@bournemouthlaw.com](mailto:office@bournemouthlaw.com)

### Payment for lectures

Please be aware that with online bookings, payment should be received at the office **before** the lecture takes place. Occasionally the level of bookings only just makes it possible to run a lecture and we therefore do need to be reassured that everyone will attend and pay.

## OFFER FOR FIRMS BOOKING MULTIPLE PLACES ON THE SAME COURSE

When a firm books 5 places on one course, we are able to offer a 6th place free of charge.

# SUMMARY OF UPCOMING LECTURES



**Tuesday 6  
October 2020  
14.00 – 17.15**

Topic:	<b>2020 RESIDENTIAL AND MIXED-USE SDLT UPDATE</b>
Speaker:	<b>Paul Clark</b>
Cost:	<b>£75</b> Member and Associate Members of BDLS/Trainee Solicitors - <b>£125</b> Non BDLS Members
Venue:	<b>Village Hotel, Bournemouth</b>

Since May 2019 HMRC has issued comprehensive guidance on dwellings, gardens and grounds; action has been taken against scores of conveyancers for failing to claim multiple dwellings relief; and many SDLT avoidance cases have been heard. In this three-hour session, Paul Clark will illustrate these and other SDLT principles by taking us through cases on which he has been asked to advise. He will also introduce some recently-developed flowcharts.

## Topics will include:

- Identifying dwellings and grounds
- Multiple dwellings relief
- Mixed use – an SDLT nightmare
- Transfers of equity
- Separation and the breakdown of relationships
- The section 75A trap

**Thursday 15  
October 2020  
10.30 – 13.00**

Topic:	<b>WEBINAR - PROBATE, TAX AND TRUST UPDATE</b>
Speaker:	<b>John Bunker</b>
Cost:	<b>£50</b> Member and Associate Members of BDLS/Trainee Solicitors - <b>£75</b> Non BDLS Members
Venue:	<b>By Zoom</b>

## This Webinar will cover:

- Trust Register and 5 MLD: what the draft regulations / new rules mean for will trusts and other express trusts that need to register on TRS, and how this will impact conveyancing and other teams.
- The OTS Review of CGT launched in July 2020 and an initial report to the chancellor ahead of the Autumn Budget.
- Advising clients ahead of the Autumn Budget and what is likely to be included.
- Probate applications: what should be happening with the new process?
- The Supreme Court decision in *Staveley*: what this decision (19 August) means for pensions and IHT planning.

**Tuesday 20  
October 2020  
12.00 – 13.00**

Topic:	<b>SRA CURRENT AREAS OF FOCUS AND HOW TO COMPLY - AML RISK ASSESSMENT AND TRANSPARENCY REGIME</b>
Speaker:	<b>Tracy Thompson</b>
Cost:	<b>FREE OF CHARGE</b>
Venue:	<b>By Zoom</b>

The SRA is currently actively reviewing firms compliance with the legislative requirements of the Money Laundering Regulations (2017) and SRA Transparency Rules and have openly stated that they expect to see evidence of full compliance when conducting their review and will take enforcement action against those firms who cannot demonstrate compliance.

## This short webinar aims to provide practical guidance to assist firms in understanding how to comply with obligations and will cover:

- Money Laundering Regulations (2017) Regulation 18 Firmwide Risk Assessment - key requirements and considerations.
- SRA AML practice visits - what to expect.
- SRA Transparency requirements - key requirements and considerations.

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# 50 YEARS AS A SOLICITOR, BRUCE CURTIS TURNER

I was a keen sportsman and played football for Bournemouth & Boscombe Football Club under 15's in the Pickford Shield. I was Head of Sports at Bournemouth School for 2 years and Hampshire Schools reserve left wing for England Boys. Spurs came to meet me, but upon speaking with my father, he said "Bruce is going to be a professional man and not a professional footballer".

I regularly played Real/Royal Tennis at Canford School for 35 years, to include away matches at Queens Club, Oxford University and Hampton Court.

My late father, Alfred Lawton Turner, was a veterinary surgeon. He wanted me to follow in his footsteps, ultimately to take over his practice in Bournemouth. From 6 years of age I assisted him in the surgery until I studied science and atomic physics at Wolverhampton College. (I also played a couple of football games with Wolves reserve team during this period).

I was inspired by the late Frank Jones, solicitor, who was a pal from the Canford Cliffs Hotel/pub and I gave him lifts when his car was "booked in for service". Frank, originally became a solicitor in the Brewing Industry in the Midlands and then opened an office in Canford Cliffs.

In 1964 my sister introduced me to Peter deValence Wetherall, Andrews Wetherall McQueen, solicitors who gave me the opportunity of entering a legal career.

During training I took Part I with the College of Law, Lancaster Gate, London. I attended the opening year at Braboeuf Manor;

Guildford (now University of Law). In those days, there was only 1 female (Miss Worthington-Eldridge) out of 120 male students.

On 1st July 1970 I was enrolled by Lord Denning, Master of the Rolls.

In 1972-74 I was Captain and Secretary of the Golf section of the Bournemouth Law Society.

The late Edward Percy Ward was a friend and neighbour to my sister's in-laws. I was introduced to Edward and joined E P Ward in 1973. E P Ward subsequently became what is now known as Ellis Jones LLP.

I opened Bruce Curtis Turner, solicitors in Broadstone in 1981 specialising in residential conveyancing. In 1990 we encompassed Commercial Law. I specialised in Care Homes.

I met my wife, Michelle in 1985 and I proposed saying "marry me and you will never have to work again". We now have three daughters and seven grandchildren. However, during the recession in 1990, Michelle returned to domestic conveyancing.

My practice merged with Nicolas Drukker, Fleet Street, London in November 2008 but I resigned shortly thereafter.

In February 2009 I completed a "full circle" insofar as I was offered and accepted a marketing position with Ellis Jones. Nigel Smith announced at an AGM, inter alia, "we welcome Bruce back to the firm".

In 2006-08 when I was heavily involved with the Care Home Industry, I discovered from engagement with Care Home owners and from online investigation of Banks the mis-selling of "Interest Rate Swaps". I continued investigative work on "Swaps". In 2009 it was splendid to meet a newly qualified solicitor, William Fox-Bregman of Ellis Jones who pursued actions against the main Banks for mis-selling swaps and other.

I take this opportunity of passing best wishes to all members of the Bournemouth & District Incorporated Law Society and the two splendid ladies that administer the Society, namely Julie Reeves and Mandy Heath.

*Bruce Curtis Turner*



Michelle and Bruce Curtis Turner

# THURSDAY 21 MAY & WEDNESDAY 3 JUNE 2020

## THE COUNCIL MEMBER'S REPORT

Tim O'Sullivan



As a consequence of the Covid-19 public health emergency, all Law Society meetings are now remote until 31 October 2020. At a special video meeting of the Council on 21 May after debate the Council approved a motion to extend the President, Vice President and DVP periods of office for three months and to defer the Society's 2020 AGM for a similar period from July until October ( votes; for 69, against, 14, abstention, 1.)

The Council next met in Cardiff over a video link with over one hundred participants on the 3 June. The technology worked well. The crisis was now entering its second stage as the country emerged from lockdown.

The Chief Executive updated Council in detail on The Law Society work in support of the profession. The President, Simon Davis, has had sometimes daily remote meetings with the Lord Chancellor and ministers throughout government, the senior Judiciary, the Bar Council, the SRA, the Law Societies of Scotland and Northern Ireland, the CBI and other stakeholders. The Society has surveyed the 50 largest firms, 250 large firms and 7,400 small firms and sole practitioners. The top concerns focussed on access to justice, member safety, regulatory compliance and business continuity.

Work undertaken by Law Society policy advisers include; practice eligibility for business continuity loans and speed of payment, business rates concessions, self employed furlough arrangements, extension of the furlough scheme, criminal legal aid advance payments, definition of a solicitor essential worker, covid-19 testing for solicitor essential workers, HMRC processes, HM Land Registry processes, police station interview protocols, jury trials and the growing backlog, cleanliness of courthouses, searches

on courthouse entrance and identity cards, PII, arrangement for the administration of oaths, Trainee solicitor examinations and training contract cancellation, redundancies and freelance working. The website has included guidance on; conveyancing special conditions, the business continuity toolkit, extension of Solicitors Indemnity Fund scheme and runoff, cybersecurity and fraud prevention, remote execution of documents, mental health and wellbeing, return to the workplace, and the SBA and the solicitors assistance scheme.

As with the profession the Society is reviewing its costs moving out of lockdown. Commercial and sponsorship income has reduced dramatically. An exceptional reduction in the Law Society element of the Practising Certificate fee for 2020-2021 potentially funded out of the reserves is under active consideration and a proposal will return to Council.

New Law Society Council member for Dorset. After nineteen years and three months on the Law Society Council, including three years as Treasurer of The Law Society and Chair of its Management Board, I decided not to stand for election for a sixth term. I am pleased to say that Peter Watson-Lee a former BDLS President and a Dorset Council member in the 1990s has been elected unopposed as my successor. Peter will take over from the Law Society AGM in mid-October. May I add that it has been an absolute pleasure to represent one of the finest and most respected local law societies in the country on Council. Thank you for your support and friendship over the last two decades and I look forward to continuing to support BDLS events after Covid.

*Tim O'Sullivan Law Society Council Member, Dorset*

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# A WARNING TO DELINQUENT COMPANY OWNERS & DIRECTORS SEVILLEJA V MAREX FINANCIAL LTD



Derek Marshall

It is the ultimate pyrrhic victory in civil litigation against an incorporated Defendant to win the case but find yourself holding a worthless piece of paper, a judgment against an insolvent company which has been asset-stripped by its directors, especially when you find yourself in a queue of other creditors with equally worthless claims. The Insolvency Act regime is designed to achieve fairness between the creditors and the controlling minds of the company will seek to avoid direct liability for the losses by arguing that the claims against them (if any) belong not to the creditor but to the company. The principle of “no claim for reflective loss” has long prevented wronged shareholder creditors from pursuing directors (*Prudential Assurance v Newman Industries* [1982] Ch 204) and this was given wider currency by the decision in *Johnson v Gore Wood* [2002] 2 AC 1.

The Supreme Court has now tackled head on the iniquity of a wronged non-shareholder creditor who has ended up with an empty judgment as a result of the owners of a company deliberately asset-stripping it to avoid paying up. In *Sevilleja v Marex Financial Ltd* [2020] UKSC 31 an application had been made to Knowles J to set aside an order giving permission for service of proceedings on Mr Sevilleja out of the jurisdiction. One of the arguments advanced by Mr Sevilleja in support of his application was that Marex did not have a good arguable case against him because the losses it was seeking to recover were reflective of loss suffered by two companies which had concurrent claims against him. The judge held that Marex had a good arguable case that its claim was not precluded by the “reflective loss” principle and therefore dismissed Mr Sevilleja’s application but the Court of Appeal disagreed and held that only 10% of the Marex claim was not precluded by the reflective loss principle. Since the original judgment was for 5.5 million US

dollars this represented a very big loss. Marex had been put into liquidation by its owner in what was described as “a device to thwart enforcement of a \$5m judgment against the companies that Marex won in the courts of England and the most blatant effort to hinder, delay and defraud a creditor this Court has ever seen.” Marex therefore pursued a direct claim against Mr Sevilleja in the law of tort.

The stage was thus set for a full (seven judge) panel of the Supreme Court to discuss at length the principles and objectives of company law and the rules against double recovery. Underlying the decision however must surely have been the Court’s distaste for the activities of the owner of this company and the obvious need to avoid an injustice to the creditor without inflicting serious injury on established law. By a convoluted route the Court held that whilst a shareholder’s loss in respect of a diminution in share value was not separate and distinct from the damage suffered by the company (and therefore unrecoverable), the rule in *Prudential* did not apply in the instant case since it did not concern a shareholder. Accordingly, Marex was entitled to pursue the entirety of its claim.

The following extract from the judgment of Lord helps to explain the Court’s thinking: “The reflective loss principle as stated in *Prudential* is a flimsy foundation on which to build outwards into other areas of the law.....Marex was not a shareholder in the companies, but their creditor.....a creditor of a company has not chosen .....to follow the fortunes of the company in the same way as a shareholder. Subject to the company having sufficient assets, whether the creditor gets paid or not does not depend on the decision of the directors, as payment of a dividend to a shareholder does: when armed with a court judgment the creditor can execute it against the assets of the company. Moreover, there is a clear mechanism available to meet the problem of possible double recovery against the defendant in respect of the loss suffered by Marex and the loss suffered by the companies. To the extent that Marex sues Mr Sevilleja and obtains recovery from him for the judgment sum, Mr Sevilleja can be subrogated to Marex’s rights against the companies or allowed a right of reimbursement in respect of them. If Marex’s debtor had been an individual and Mr Sevilleja had stolen all his assets with a view to preventing him paying the debt due to Marex, it would be possible for Marex to bring a...claim against him.....”. The lesson for delinquent directors is obvious for all to see.

*Derek Marshall Head of College Chambers, Southampton*



# 1000 MILE CHARITY CYCLE

Hopefully by the time you read this Fiona will have safely achieved the challenge that she set herself of cycling from Land's End to John O'Groats - 1,000 miles in 16 days – which is a long way for a social cyclist. Equally important is Fiona's aim to raise a meaningful amount of money for her chosen charities. As Fiona says, life is about challenging yourself and putting something back.

**WHY** – Fiona's Dad died unexpectedly of a heart attack in his sleep aged 80 which was a shock as he was otherwise healthy, living a full life and playing golf every week with my husband Charlie.

**CHARITIES** – As a heart attack can go either way, Fiona is supporting 2 related charities.

**BOURNEMOUTH HEART CLUB** – Based at Bournemouth Hospital, it is a fully fitted gym with classes for people locally as part of their physical recovery from heart conditions as well as providing the moral support of fellow members. Don was a member after his first heart attack 7 years earlier.

**CRUSE BEREAVEMENT CARE** – Provides support and counselling to anyone who has suffered a bereavement. Its vision is that all bereaved people should have somewhere to turn when someone dies. They offer telephone, email and website support. The Dorset Branch covers New Forest, Christchurch, Bournemouth and Poole.

Life President of **CRUSE** Colin Murray Parkes called grief the price we pay for love. He said 'We can't hope for a world without



Fiona Knight

grief, but we continue to strive to meet our vision that everyone who needs support after someone dies, will be able to find the help they need. In a changing uncertain world CRUSE will be here to help people understand their feelings, develop coping strategies, and return to everyday life, while remembering and celebrating the lives of those they have lost'.

**100% of ALL donations** go directly to the charities as Fiona is covering all the costs of the ride herself. She appreciates that times are difficult and we all have other charities and interests that we support in different ways. So there is no obligation. However if you were interested, Fiona says thank you very much.

**TO DONATE** – Visit Fiona's website [www.cycle4dad.com](http://www.cycle4dad.com) and click on the Donate button or a cheque payable to Fiona Knight can be sent to 7 Larch Way Ferndown Dorset BH22 9SS. Fiona can be contacted on 07715 493820.

If you have friends, family or contacts who you think might be interested in the charities and the challenge please pass these details on. Every little helps as a company once said mentioning no names!

*Fiona Knight BDLS Member*

# MEDIATION POST CORONAVIRUS

2020 has been a rollercoaster of a year from mid-winter storms and flooding to the ever emerging threat of Covid 19, court closures and social distancing. In the wake of coronavirus Lord Burnett of Maldon, the Lord Chief Justice, has made it clear that the court system will never again operate as it did before.

## Cases Post PGF II

Litigation Solicitors will be fully familiar with PGF II. In the wake of Coronavirus 3 further cases have come in quick succession penalising parties who failed to mediate, laying down a marker for more stringent times ahead. The Law Society commented that there is "a very real economic incentive for parties to say 'yes' to mediation, because the price of saying 'no' has become rather costly."

**In DSN v Blackpool FC [2020] EWHC 670 (QB)** which concerned a football scout Mr Justice Griffiths stated: "No defence, however strong, by itself justifies a failure to engage in any kind of alternative dispute resolution" echoing the words of the Court of Appeal in **N J Rickard Limited v Holloway & Anor [2015] EWCA Civ** (unreported)

where the Court of Appeal observed that "no dispute was too intractable for mediation."

DSN v Blackpool repeated the earlier observations of Sir Geoffrey Vos in

**OMV Petrom SA v Glencore International AG [2017] EWCA Civ 195** at para 39 where he stated:

"The regime of sanctions and rewards has been introduced to incentivise parties to behave reasonably, and if they do not, the court's powers can be expected to be used to their disadvantage. The parties are obliged to conduct litigation collaboratively and to engage constructively in a settlement process."

Likewise in **BXB v Watch Tower [2020] EWHC 656 (QB)** and **Wales v CBRE Managed Services**



Russell Evans

**Ltd [2020] EWHC 1050 (Comm)** cost sanctions were imposed for refusing to mediate.

The tide is certainly turning strongly in favour of mediation as the go to platform for parties and solicitors and a number of commentators have referred to this being a watershed moment although the writing has been on the wall for some time.

**In Thakkar v Patel [2017] EWCA Civ 117** Lord Justice Jackson at para 31 stated:

**“The message which this court sent out in PGF II was that to remain silent in the face of an offer to mediate is, absent exceptional circumstances, unreasonable conduct meriting a costs sanction, even in cases where mediation is unlikely to succeed. The message which the court sends out in this case is that in a case where bilateral negotiations fail but mediation is obviously appropriate, it behoves both parties to get on with it. If one party frustrates the process by delaying and dragging its feet for no good reason, that will merit a costs sanction. In the present case, the costs sanction was severe, but not so severe that this court should intervene.”**

More sanctions for the unwary will certainly follow. It has become increasingly clear that judicial efforts to get parties to negotiate rather than litigate have moved away from the carrot towards the stick. Commentators have described it as a **“relentless push towards mediation.”**

There is both judicial and political will to bring about a new way of doing things whether through telephone or video hearings or pro-active encouragement of negotiation and ADR.

His Honour Judge Bird said that parties will be expected to **“make all sensible efforts”** to avoid trial.

Coronavirus has descended upon us clothed in a cape of fear and uncertainty, disruptive, climactic, foreboding, ushering in a sea of change but also promising opportunities for transformation.

Mediation may help you shoulder the burden of client needs and expectations and move forward to a brighter and more productive future.

*Russell Evans Mediator*

**russell@resolveuk.co.uk**

*Mediation Expert of the Year in the United Kingdom - GAE Award 2020*

*Resolve UK, Ministry of Justice approved Mediation Provider*

## WELLBEING AND DIVERSITY SUB-COMMITTEE A REVIEW OF LAW CARE'S "FIT FOR LAW" FREE COURSE



Back in January LawCare, the charity promoting wellbeing for legal professionals, announced the launch

of “Fit for Law”, an online resource offered in partnership with the University of Sheffield and The Open University. Arriving as it did at a time in which our Society was processing the responses received to our Wellbeing Survey, a resource offering a strong academic base and offered at no cost seemed well worth a look.

Having created an Open University account, you are free to embark upon a 3 to 4 hour program comprising text, videos, activities and questions. I imagine it would be possible to complete the course in less time, particularly if one chooses to skip the more soul-searching questions, but to do so would rather miss the point. At the time of writing only the introduction and first module (“Managing and understanding yourself.”) are available. “Working with others” and “Employer and stakeholder toolkit” are listed as under development.

Given the course is offered by LawCare, it had been tempting to anticipate some form of First Aid kit for the frazzled professional. In fact, the stated aim of upskilling practitioners with an “evidence-based understanding of emotional competence” means that whilst stress and resilience are certainly addressed in the course, they are by no means the focus. Instead it may be more helpful to approach the materials as a missing section of

the PSC course, and our regulator should consider carefully why it has been left to a third party to take the initiative in this regard. Subjects addressed include exercising judgement, knowing limitations, responsibility and, inevitably, dealing with stress. I found the resources and exercises around exercising judgement the best of the bunch. Starting with a video from occupational psychologist Dr Rajvinder Samra explaining the difference between integral and incidental emotions, there follows an exercise in which the user is asked to identify times in which emotions were relevant to a decision and where they were not, and finally the section concludes with a selection of practical tips. Counting to 10 appears to remain good advice, but later reflection, seeking input from others and simply developing a better vocabulary to identify your feelings are all offered as helpful steps.

Fit for Law offers a convincing argument that those who have received some training in emotional competence are better equipped as lawyers than those who have not, and that may mean those who dismiss the whole affair as too “touchy feely” will find that they have missed an opportunity to gain a competitive edge. The SRA requires us to reflect upon the quality of our practice and identify any learning or training needs. This free and convenient resource is a very welcome aid in meeting them.

Please access this free course here:

**<https://www.open.edu/openlearncreate/course/view.php?id=3476>**

*Mark Kiteley Chair*





### BOURNEMOUTH'S LONGEST-ESTABLISHED LAW FIRM HAS ANNOUNCED A NEW ACQUISITION AND EXPANSION OF SERVICES.

Rawlins Day has acquired the specialist practice of Caro Taylor in a move that took less than four months to complete and gives the company a presence in Poole town centre for the first time.

It means Rawlins Day which is based in Richmond Hill, will now be able to offer a wide range of Family Law services to complement its existing expertise.

Martin Davies, Managing Director, said: "This is a hugely important moment for us and represents a significant growth in our business and the range of legal services we can offer."

Carolyn (Caro) Taylor, who set up her practice in 2007, becomes a consultant with Rawlins Day and the office in Poole High Street is being rebranded.

"We have been looking at the growth of Rawlins Day for some time and this was an opportunity we could not ignore."

Carolyn is a highly qualified collaborative lawyer with many years of experience. Her expertise is reflected in her membership of the Law Society's Advanced Family Law and Children Law panels.



Caro Taylor



### PARTNER RETIRES FROM THE FIRM AFTER 25 YEARS



Simon Steele-Williams

Bournemouth & District Law Society (BDLS) Past President Simon Steele-Williams has retired from Coles Miller after 25 years.

Simon joined Coles Miller in 1995 after training in London and working as a litigation solicitor for a West Dorset law firm.

He was made a Partner at Coles Miller in 2000 and became head of branch at the firm's Bournemouth office.

Simon was President of BDLS in 2014-2015. He also helped to found the Boardroom Network.

His outside interests include golf, football, travel and cricket – notably the BDLS cricket team (LEX XI) and the Bournemouth Evening Cricket League.

The Partners at Coles Miller wish Simon well in his future endeavours.

### LEADING RESIDENTIAL LEASEHOLD SOLICITOR 'HANGS UP HIS BOOTS'



Andrew Howard

Former Senior Partner at Coles Miller...and a lifelong Arsenal fan: Andrew Howard has retired after 42 years as a solicitor.

Andrew merged his business with Coles Miller in 2007. He spent the following decade leading the firm's Residential Leasehold Department. In recent years, he has used his considerable experience to support Coles Miller in a consultancy role.

But now he's decided the time is right to 'hang up his boots' so he can spend more time with his family. Retirement will also give him more time to improve his French, learn Spanish and enjoy walking in the Purbecks.

Coles Miller Partner and head of Residential Leasehold, Matthew Lewis said: "I would like to take the opportunity to wish Andrew all the very best. While we will, of course, be staying in touch, he will certainly be missed."





## COLES MILLER STRENGTHENS ITS FAMILY LAW DEPARTMENT



Anna Burton and Leanne Smith

Increasing demand for divorce and dissolution of civil partnerships has prompted Coles Miller to strengthen its family law team by recruiting solicitor Anna Burton and legal secretary Leanne Smith.

Anna is based at Coles Miller's Bournemouth office. She is experienced in dealing with all types of family matters. Anna regularly conducts advocacy in the Family Court. She is a member of Resolution, a national organisation of family lawyers committed to following a non-confrontational and constructive approach to resolving family issues.

Leanne previously worked for a law firm in South Africa where – aside from her legal secretarial/ personal assistant role – she was also responsible for: social media, building client relationships and sourcing new business. Before that, Leanne ran her own company conducting forensic, private and trademark investigations. She worked closely with brand holders, customs and border police to reduce the amount of counterfeit goods being imported into South Africa.

She was also involved in the property market and the conveyancing side of law for many years.



## WELCOMES TWO NEW EQUITY PARTNERS



Andrew Witt

Local law firm Dutton Gregory celebrates the appointment of two new Equity Partners, Head of Residential Property, Paul Sams, and Head of Litigation, Andrew Witt.

With both Partners joining the firm in recent years, both have had significant impact on their individual departments as well as the firm as a whole.

With over 27 years' experience, Andrew Witt specialises in commercial dispute resolution and mediation. Heading up the commercial litigation department, Andrew works with his team to provide efficient and successful solutions for their clients.



Paul Sams

As a nationally-recognised expert in residential property, Paul Sams' expertise as well as specialist knowledge in equity release and leasehold enfranchisement has been a huge benefit to his team and their clients, as well as the property developers and other professionals Paul works alongside.

## STRENGTHENS LITIGATION TEAM WITH NEW PARTNER ANNOUNCEMENT

Dutton Gregory is pleased to announce the appointment of Adrian Griffiths as Partner.

Adrian first began his legal career at Dutton Gregory, training and qualifying as a solicitor in 2004. He now returns after working with firms in London and Reading.

Joining the firm's Litigation team, Adrian brings a wealth of experience and expertise with him. Specialising in property litigation, Adrian offers expertise in matters such as disputes between commercial landlords and tenants including forfeiture, lease renewals and rent recovery as well as advising on issues concerning land and property.



Adrian Griffiths and Andrew Tilley,  
Managing Partner



Nigel Smith, Managing Partner  
with Neil Cook

## NEW PARTNER IN GREAT COMPANY

Neil Cook, who is a Solicitor and Head of Business Services at Ellis Jones has now been made a Partner at the firm.

Neil grew up in Bournemouth and qualified as a solicitor in 1981. He then worked in London before his expertise in mergers and acquisitions took him to New York where he worked for seven years, and qualified as a US Attorney in 1990. He returned to the UK in 1993 and worked 21 years for an insurance giant in the City before launching his own property development company. He also owned and operated a care home before returning to the legal profession with Ellis Jones Solicitors.

## SOLICITOR PROMOTED TO PARTNER JUST SEVEN YEARS AFTER QUALIFYING

A solicitor who had been working as a trainee at Ellis Jones over seven years ago has been appointed Partner. Paul Kanolik is the 17th Partner at the law firm which has six offices across the south coast.

His promotion brings the number of former trainees who have become Partners at Ellis Jones to seven. (Nearly half of the current 17 partners either started as trainees, or completed their training with the firm.)

Paul joined the Banking & Finance Litigation department at Ellis Jones in 2012 to finish his training before qualifying as a solicitor. At the time, the department was a team of four but this has now grown to 15.



William Fox Bregman, Paul Kanolik  
and Nigel Smith

## LEADING FAMILY LAWYER BECOMES PARTNER

An accomplished family lawyer has become a Partner at regional law firm Ellis Jones Solicitors. Ian Butterworth specialises in complex matrimonial finance cases and has been recommended for his expertise by the industry bible, The Legal 500.

Ian qualified as a Solicitor in 2010 after graduating with a Law degree from the University of Surrey and completing his LPC course with a distinction at the University of the West of England in Bristol. He joined Ellis Jones in 2012 and was made a Senior Associate in January 2018.

Ian is a Resolution Accredited Specialist in complex matrimonial finance cases. He often also advises on financial claims between unmarried couples, which is a highly complicated area of law and is becoming increasingly common. In recognition of his expertise, Ian sits on the Resolution Specialist Accreditation Committee for family lawyers.



Nigel Smith with Ian Butterworth



## DANI LUCAS JOINS GALES SOLICITORS AS ASSISTANT TO SENIOR PARTNER

Matthew Moore, Senior Partner at Gales Solicitors has welcomed new assistant, Dani Lucas to the team.

Matthew commented, "We are delighted to welcome Dani on board. She has much experience in the legal sector; particularly in family law. Her depth of knowledge is very much valued and her upbeat positive attitude is a real boost to the department and the firm."

Gales Solicitors was established in 1948 by John Gale. The firm has offices on Winton High Street and in Tuckton.



Dani Lucas with Matthew Moore



Chris Twaits, Roisin Fisher  
and Jennifer Rogerson

## STEELE RAYMOND WELCOMES NEWLY QUALIFIED COMMERCIAL PROPERTY SOLICITOR – ROISIN FISHER TO ITS TEAM

Dorset-born Roisin has been a key part of the 19 strong Commercial Property Team for a number of years. Roisin joined the team as a legal secretary in 2016 shortly after achieving a First Class Honours degree in Law at the University of Sussex. Roisin was quickly promoted to paralegal, before being offered a training contract. Roisin has worked closely with the team's partners prior to her Legal Practice Course which she completed with Distinction at Bournemouth University and during her training contract.

Roisin started her training contract with the firm in 2018 and qualified as a solicitor in 2020.

## DISPUTE RESOLUTION EXPERT JOINS

Associate Solicitor Amelia Williams has been appointed to strengthen the Dispute Resolution Team at Steele Raymond.

Dorset-born Amelia joins Steele Raymond from a regional law firm having trained in London and then subsequently practised in New Zealand.

Amelia works on a wide range of business and commercial issues, from significant, complex disputes through to working with individuals at landlord and tenant level.



Amelia Williams



Deborah West

## STEELE RAYMOND WELCOMES NEW HEAD OF EMPLOYMENT TEAM

Deborah West joins the Employment Team at Steele Raymond in Bournemouth.

With more than twenty years' experience, Deborah has significant employment law knowledge acting for employers ranging in size from international corporates and FTSE 100 companies through to SMEs, across a variety of both private and public industry sectors. Deborah is often called upon to give significant HR as well as employment law input at both strategic and practical levels, working alongside Boards, senior management, HR teams and owner-managers to achieve commercial, cultural and legal objectives across the full life cycle of the employment relationship.

Deborah joins Steele Raymond from a London-based firm and brings a wealth of practical experience across a variety of sectors including construction, retail and education.

## GENESIS SOLICITORS and TALKING LEGAL LAWYERS

Following the merger of Genesis Solicitors and Talking Legal Lawyers in 2018, it has now been decided to merge business names and trade from just one set of premises in the future.

So as from mid March 2020 the practices have used the moniker Genesis Legal. In addition the trading premises have changed to Units 2 and 3 The Barns, Longham Farm Close, Ferndown, Dorset. BH22 9DE. Email addresses will also be changing to refer to the contact name followed by "@genesislegal.co.uk".





Malcolm Niekirk

## INSOLVENCY GURU JOINS FRETTERS AS PARTNER

Fretters are delighted to announce that Malcolm Niekirk has joined the firm as a partner. He has set up a new Insolvency and Restructuring team and worked closely with the other well-established commercial teams since 1 March. Malcolm has some three decades of experience in insolvency.

Fretters are now one of only a handful of firms on the south coast who have a specialist insolvency team.



## LESTER ALDRIDGE Announces:



David Healy

## NEW PERSONAL INJURY PARTNER

Lester Aldridge is pleased to welcome David Healy, who has joined as a partner in the Personal Injury team.

David brings over 21 years' experience in the industry and has previously led the personal injury and medical negligence teams in various firms. Specialising in cases for those seriously injured, David has acted in many high profile cases, typically involving spinal cord damage, brain injury, amputations and/or serious burns.

He had been accredited with the Law Society Personal Injury Panel for over 10 years and has been an approved solicitor with both the Headway and Spinal Injuries charities.

## SEVERAL PROMOTIONS

Lester Aldridge is pleased to announce that there have been seven solicitor promotions across their Bournemouth and Southampton offices.

New Senior Associates include Edward Adamson (Corporate), Lana Farrell (Real Estate), Parisa Jones (Tax, Trusts, Wills and Probate), Rachel Gimson (Property Litigation) and Rebecca Humm (Real Estate). Further promotions include new Associates Fiona Brooke (Personal Injury) and Lucy Goff (LA Marine).

Matthew Barrow, Managing Partner, at Lester Aldridge commented "Everyone who has been promoted has demonstrated a commitment to hard work, business development, client service and teamwork and I am delighted at their success."



left to right: Edward Adamson, Lana Farrell, Parisa Jones, Rachel Gimson, Rebecca Humm, Fiona Brooke, Lucy Goff.





Rosemary Sharp

## NEW HEAD OF FAMILY TEAM

Lester Aldridge is delighted to announce that Partner Rosemary Sharp has been appointed to lead the firm's Family Team covering its practices in Bournemouth, Southampton and London.

Rosemary joined the Family Team in 2017 from Wilsons Solicitors in Salisbury and advises on all aspects of family law. In addition, Rosie's practice includes specialisms in business and complex income arrangements, pensions, farming assets, armed forces personnel, landed estates and trusts. She also regularly advises on wealth protection issues such as prenuptial and postnuptial agreements. Her practice compliments Jane Porter's who, after 21 years at Lester Aldridge, has recently retired from the partnership to be a Consultant to the team.

## NEWLY QUALIFIED SOLICITORS

Lester Aldridge, is pleased to announce that four trainees have completed their training contracts and are now qualified solicitors.

The firm congratulates Jade Hawsworth, Hannah Gilling, Erin Collins and Ashley Brown, and is excited to see what their future at LA holds. Jade and Hannah will be working in the Southampton Real Estate team, whereas Erin and Ashley will be based in the Bournemouth Litigation and Recoveries team.



Hannah Gilling, Lucy Stevens (Partner), Jade Hawsworth, Edward Foster (Partner), Ashley Brown, Erin Collins and Ann Lloyd (Partner)



## SITUATIONS VACANT

### Conveyancing Solicitor

Frettons is looking for a Residential Property Solicitor/FCILEx to join their team in Christchurch. This is full time permanent position. You will need to be IT literate and confident in learning new processes, be friendly and approachable, and take personal pride in your work.



**If you are a qualified solicitor or FCILEx with 3+PQE ideally, and wish to apply for this position, please send your CV and covering letter to Catharine Snow;  
Email: [csnow@frettons.co.uk](mailto:csnow@frettons.co.uk)**



## SITUATIONS VACANT



### Family Law Solicitor 2 years PQE

The ideal candidate will be a Family Solicitor (2+ years PQE) who has Legal Aid experience and is confident in dealing with a wide range of publicly funded matters including domestic abuse, divorce and private children law. You will be working under an experienced supervising Solicitor who will help develop your career.

The family law team also deal with the full range of private funded Matrimonial and Child Law including Divorce, Ancillary Relief, Civil Partnerships, Separation, Cohabitation Property Disputes, Pre-nuptial agreements and private and public children law including provision for children and their care and protection from violence in the form of Occupation Orders and Non-molestation Injunction orders. The current vacancy has an established ready made workload incorporating both private funding and legal aid files.

We offer:

- A good remuneration package
- Contributory Pension Scheme
- Free car parking
- Generous holiday allowance – including accrual of extra days for length of service.
- Attractive salary
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**Please forward your CV to Janice Singleton at Jacobs & Reeves, 153 High Street, Poole, Dorset, BH15 1AU, Email: [jsingleton@jacobsreeves.co.uk](mailto:jsingleton@jacobsreeves.co.uk)**



## SITUATIONS WANTED

### John Edrich

Looking for an experienced residential and commercial property locum, to cover holidays, maternity/paternity leave or spikes in market activity?

**Then, please call John Edrich, who has 35+ years as a solicitor under his belt and seven years' experience in our area, on 07515 852156 for further details, rates and availability**

### Julian Heath – Residential And Commercial Property Locum Solicitor

Do you need assistance with any of the following?:

- sickness, holiday or maternity/paternity cover
- cover between fee earner leaving and recruitment of replacement
- capacity/overload of work issues
- large or complex cases / "mental block" files

A property lawyer with over 30 years of post-qualification experience, I am now pleased to offer my services as a locum solicitor for long or short term cover, subject to availability, either from your offices or working remotely. A very competitive rate can be agreed with no VAT or agency charges. I am very IT literate and have had extensive use of case management software and digital dictation systems. If no secretarial support is available, then I can work self-sufficiently if required.

**For further information and/or to check availability please email me at [jjmheath@hotmail.com](mailto:jjmheath@hotmail.com) or telephone me on 07831 710951**

#### Areas of expertise include:

Residential property - freehold and leasehold sales and purchases (including new build and help to buy), remortgages, transfers of equity, matrimonial transfers, equity release mortgages, shared ownership, right to buy, lease extensions and enfranchisement.

Commercial Property - Grant, assignment and renewal of commercial leases, sales and purchases including sales of businesses, development including options, conditional sale agreement.



Julian Heath



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